

DATED **2025**

BY

(1) BERKELEY HOMES (CAPITAL) PLC

AND

(2) SAFEWAY STORES LIMITED

TO

(3) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK

Unilateral undertaking pursuant to section 106 of
the Town and Country Planning Act 1990
and other powers in relation to

DEED

**relating to land known as The Aylesham Centre, Rye
Lane, Southwark, London SE15 5EW**



Pinsent Masons

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THIS DEED is made on [] 2025

BY:-

- (1) **BERKELEY HOMES (CAPITAL) PLC** (Company Number 04486271) whose registered office is at Berkeley House, 19 Portsmouth Road, Cobham, Surrey, KT11 1JG (the "**First Owner**"); and
- (2) **SAFEWAY STORES LIMITED** (Company Number 00746956) whose registered office is at Hilmore House, Gain Lane, Bradford, West Yorkshire, BD3 7DL (the "**Second Owner**");

TO:-

- (3) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK** of 160 Tooley Street London SE1 2QH (the "**Council**").

BACKGROUND:

- (A) The Council is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The First Owner owns the freehold interests in part of the Site and is registered as proprietor of that part 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 Numbers 246721, SGL423569 and TGL141579 at the date of this Deed.
- (C) The Second Owner owns the freehold interests in part of the Site and is registered as proprietor of that part 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 Numbers SGL500941, TGL108801 and TGL114989, TGL143060 and leasehold title TGL143056 at the date of this Deed.
- (D) Pursuant to the Application the First Owner applied to the Council for planning permission on 15 July 2024. The First Owner lodged the Appeal in respect of the Application on 20 May 2025.
- (E) The Developer has entered into this Deed to secure the obligations in this Deed with the intention that the same should be binding not only upon the Developer but also upon their successors in title and any persons claiming title through under or in trust for them unless otherwise specified in this Deed.
- (F) The obligations in this Deed are conditional on the Inspector confirming that they comply with CIL Regulation 122.

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 In this Deed:

- "1990 Act"** means the Town and Country Planning Act 1990;
- "Actual Development Costs"** means all costs reasonably incurred in the Development including the delivery of the Replacement Morrisons Supermarket to a tradeable standard to facilitate the release of the Phase 2 including reasonable costs incurred prior to the relevant Review Date and which shall be supported by evidence including (but not limited to) details of payments made or agreed to be paid in a building contract, receipted invoices and costs certified by the Developer's quantity surveyor, costs consultant, agent or solicitor;
- "Actual GDV"** means the sum of:
- (a) the total receipts from the sale of the Residential Units;
 - (b) the total receipts from the sale of the Commercial Units;
 - (c) the value of the Replacement Morrisons Supermarket; and
 - (d) the amount of any received Public Subsidy;
- at the relevant Review Date and for the avoidance of doubt excludes any proceeds achieved as a result of a fraudulent transaction
- "Additional Affordable Housing"** means Social Rented Housing, Intermediate Housing and Community Land Trust Housing which may be required to be provided as part of the Development in addition to the Affordable Housing Units as a result of an Early Stage Review or Mid Stage Review subject to the Affordable Housing Cap in accordance with Schedule 1Part 3 and/or Schedule 2 of this Deed and "Additional Affordable Housing Unit(s)" shall be construed accordingly;
- "Additional Affordable Housing Scheme"** means a scheme to be prepared by the Developer and submitted to the Council in accordance with paragraph Part 2 and/or Part 3 of Schedule 1and/or of Part 2 and/or Part 3 of Schedule 2 of this Deed detailing the Additional Affordable Housing and:
- (a) which confirms which Market Housing Units are to be converted into Social Rented Housing and/or Intermediate Housing and/or Community Trust Land Housing including which Phase the converted units will be delivered in;
 - (b) which confirms which Intermediate Housing Units (if any) are to be converted into Social Rented Housing;
 - (c) where the equivalent of 35 per cent by Habitable Rooms is achieved as Affordable Housing improves the tenure mix of any Additional Affordable Housing up to 35 per cent as far as possible in accordance with the tenure split requirement in Policy P1 of the Southwark Plan 2022;
 - (d) where 35-50 per cent by Habitable Room of the Residential Units is achieved as Affordable Housing, improves the tenure

mix of the Affordable Housing between 35-50 per cent as far as possible towards a minimum tenure split of 30 per cent Social Rented Housing and 20 per cent Intermediate Housing PROVIDED that Community Land Trust Housing is prioritised over traditional form of Intermediate Housing;

(e) ensures that at least 10 per cent of the Additional Affordable Housing is accessible for wheelchair users across a mix tenures and unit sizes;

(f) sets out the amount of Surplus that would remain following delivery of the Additional Affordable Housing (if any);

"Administration Cost – Phase 1"

means the sum of £10,000 (ten thousand pounds) Index Linked to be paid by the Developer to the Council for the reasonable costs incurred by the Council in administering this Deed in relation to Phase 1 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;

"Administration Cost – Phase 2"

means the sum of £10,000 (ten thousand pounds) Index Linked to be paid by the Developer to the Council for the reasonable costs incurred by the Council in administering this Deed in relation to Phase 2 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 Housing"

means Residential Units provided as affordable housing in the form of Social Rented Housing and Intermediate Housing attainable for purchase and/or rent (as applicable) by Households who cannot afford to buy or rent (as applicable) equivalent homes anywhere in the Borough at market housing prices;

"Affordable Housing Cap"

means a cap on the maximum provision of Affordable Housing to be provided overall following the Viability Reviews being the equivalent of 50 per cent (by Habitable Room) of the Residential Units comprising either delivery of Residential Units and/or a Late Stage Review Contribution and where the delivery is by Residential Units these shall be in a minimum tenure split of 25 per cent Social Rented and 10 per cent Intermediate Housing for any Affordable Housing up to 35 per cent (by Habitable Room) and a tenure split of 30 per cent Social Rented Housing and 20 per cent Intermediate Housing (by Habitable Room) for any Affordable Housing between 35 – 50 per cent across all Affordable Housing Units in the Development;

"Affordable Housing Monitoring Contribution"

means the indicative sum of:

(a) £7,500 (seven thousand five hundred pounds) in respect of Phase 1; and

(b) £4,050 (four thousand and fifty pounds) in respect of Phase 2

where the total contribution shall be calculated in accordance with the following formula

"£150 x AHU = £AHMC Index Linked"

WHERE

AHU is the number of Affordable Housing Units to be provided in the Development

"£AHMC Index Linked" is the Affordable Housing Monitoring Contribution (Index Linked) which is to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 and paragraph Part 1 of Schedule 2 and applied by the Council towards the cost of monitoring Affordable Housing in the Development

"Affordable Housing Survey"	means an affordable housing survey which may be submitted by the Council to the Developer and/or the Registered Provider and/or Community Land Trust and which may include a request for information as to the tenure, occupants, the eligibility of the tenant to occupy the Residential Unit and/or such other information as the Council may reasonably require in order to monitor and ensure the satisfactory provision of Affordable Housing within the Borough and which the Developer and/or the Registered Provider and/or Community Land Trust shall respond to within 28 days of written request;
"Affordable Housing Units"	means the 77 Residential Units (349 Habitable Rooms) to be provided as Affordable Housing being the provision of 12 % of the Habitable Rooms in the Development to be constructed as part of the Development pursuant to the Phase 1 Affordable Housing Mix Schedule and the Phase 2 Affordable Housing Mix Schedule and, if applicable, any Additional Affordable Housing and "Affordable Housing Unit" shall be construed accordingly;
"Affordable Retail"	means such part of the Affordable Workspace as may be required to be delivered as affordable retail pursuant to Parts A and C of Part 6 of Schedule 2
"Affordable Retail Specification"	means Completed to shell and core with a shop front and with access to capped off services;
"Affordable Workspace"	means up to 303 sq. m GIA of Workspace which may in whole or part be delivered as affordable workspace pursuant to Parts A and B of Part 6 of Schedule 2;
"Affordable Workspace Lease"	means a lease of the Affordable Workspace consistent with the heads of terms set out in Annex [xx] of this Deed or such other terms as may be agreed by the Council;
"Affordable Workspace Marketing Period"	means (as applicable): <ul style="list-style-type: none"> (a) initially a period of not less than 6 (six) months prior to the Completion of the Affordable Workspace; and (b) subsequently 3 (three) months prior to the end and/or termination of any lease and/or licence of the Affordable Workspace or any part thereof;
"Affordable Workspace Provider"	means a provider of affordable workspace nominated by the Developer and approved by the Council;
"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 [xx] of this Deed or such other minimum requirements as may be agreed by the Council;
"Affordable Workspace Strategy"	means a strategy in respect of the delivery and provision of the Affordable Workspace and which includes but shall not be limited to the elements set out in Part 6 of Schedule 2;
"Appeal"	means the appeal in respect of the Council's non-determination of the Application submitted by the First Owner to the Planning Inspectorate on 20 May 2025 and given reference APP/A5840/W/23/3366760
"Appeal Decision"	means the written report of the Inspector issued in relation to the Appeal;
"Application"	means the application for planning permission submitted by the Developer to the Council and received by the Council on 15 July 2024 to carry out the Development on the Site (local planning authority reference 24/AP/2074);
"Application Energy Statement"	means the document titled [X] dated [X] submitted with the Application;
"Archaeology Contribution – Phase 1"	means the sum of £7,195.50 (seven thousand one hundred and ninety-five pounds and five pence) Index linked to be paid by the Developer to the Council in accordance with paragraph 0 of Schedule 1 for application by the Council towards archaeological monitoring, research, investigation and protection within the vicinity of the Site;
"Archaeology Contribution – Phase 2"	means the sum of £7,195.50 (seven thousand one hundred and ninety-five pounds and five pence) Index linked to be paid by the Developer to the Council in accordance with paragraph Part 1 of Schedule 2 for application by the Council towards archaeological monitoring, research, investigation and protection within the vicinity of the Site;
"Balance"	means a figure calculated in accordance with the following formula: $\text{GDV} - (\text{Development Costs} + \text{Benchmark Land Value} + \text{Target Profit}) = \text{Balance}$
"Benchmark Land Value"	means £29,353,500 (twenty-nine million three hundred and fifty-three thousand and five hundred pounds);
"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;
"Biodiversity Condition"	means any condition of the Planning Permission relating to the delivery and management of any biodiversity and landscaping at the Site;
"Biodiversity Gain Plan"	means the plan submitted to, and approved by the Council, to satisfy the Development's Biodiversity Net Gain requirements on a phased basis;
"Biodiversity Management Period"	means the period of thirty (30) years following the date of Completion of a Phase of the Development;
"Biodiversity Metric"	means the statutory biodiversity accounting tool published by DEFRA or Natural England from time to time that can be used to measure the

	biodiversity value or relative biodiversity value of habitat or habitat enhancement for the purposes of Biodiversity Net Gain;
"Biodiversity Monitoring Fee"	means the sum of £12,874 (twelve thousand eight hundred and seventy-four pounds) Index Linked to be paid by the Developer to the Council toward the Council's costs of monitoring compliance with the relevant HMMP and any Biodiversity Condition in respect of the Development;
"Biodiversity Net Gain"	means an increase in Biodiversity Units (as measured using the Biodiversity Metric) for a Phase of the Development to satisfy its requirement to create or enhance biodiversity under Schedule 7A of the 1990 Act;
"Biodiversity Unit(s)"	means the quantum of biodiversity as measured by the Biodiversity Metric;
"Blue Pencil Schedule"	means the table at Schedule 4;
"Borough"	means the London Borough of Southwark;
"Building"	means a building forming part of the Development;
"Building Safety Regulator"	means the regulator set up pursuant to the Building Safety Act 2022 and forming part of the Health and Safety Executive;
"Bus Station"	means Peckham Bus Station located at Peckham High Street, London, SE15 5EF and shown on the plan [X];
"Bus Passenger Infrastructure Improvements Contribution – Phase 1"	means £40,000 (forty thousand pounds) Index Linked to be paid by the Developer to the Council for the Council to pass on to TfL to make access to buses more accessible by undertaking works such as bus stop improvements;
"Bus Passenger Infrastructure Improvements Contribution – Phase 2"	means £40,000 (forty thousand pounds) Index Linked to be paid by the Developer to the Council for the Council to pass on to TfL to make access to buses more accessible by undertaking works such as bus stop improvements;
"Bus Station Improvement Works Costs Cap"	means the sum of £650,000 (six hundred and fifty thousand pounds) Indexed which includes a 15% contingency and shall be the maximum costs of the Bus Station Improvement Works set out in the Bus Station Improvement Works Scheme;
"Bus Station Improvement Works Framework"	means the framework details of the Bus Station Improvement Works attached hereto at Appendix 2;
"Bus Station Improvement Works Scheme"	means a scheme of improvement works in accordance with the Bus Station Improvement Works Framework to deliver the Bus Station Improvement Works and which shall have been agreed with TfL prior to submission to the Council in accordance with Part 7 of Schedule 1 and which shall include the anticipated costs of the Bus Station Improvement Works including costs of physical works, costs of preliminaries, costs of fees and contingency and timescales for delivery of the Bus Station Improvement Works PROVIDED THAT the costs of the Bus Station Improvement Works shall not exceed the Bus Station Improvement Works Costs Cap;

"Bus Station Improvement Works"	means works to the Bus Station to improve access through the Bus Station to be agreed pursuant to the Bus Station Improvement Works Scheme;
"Carbon Targets"	means the target net CO2 emissions (equivalent to a 65% reduction over a Building Regulations 2021 Part L1A baseline compliant development for domestic parts of the Development and a 37% reduction over a Building Regulation 2021 Part L2A baseline compliant development for the non-domestic parts of the Development) as set out in the Application Energy Statement and summarised in the Annex to Part 11 of Schedule 1 for Phase 1 and in the Annex to Part 12 of Schedule 2 for Phase 2;
"Carbon Offset Contribution – Phase 1"	means in respect of Phase 1 the sum of £455,761.50 (four hundred and fifty five thousand seven hundred and sixty one pounds and fifty pence) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by the Council towards carbon mitigation measures and which may be increased/reduced, at the discretion of the Council, to reflect any deterioration/improvements to the Carbon Targets secured by the Council as part of the Pre-Occupation Energy Review;
"Carbon Offset Contribution – Phase 2"	means in respect of Phase 2 the sum of £455,761.50 (four hundred and fifty five thousand seven hundred and sixty one pounds and fifty pence) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 2 for application by the Council towards carbon mitigation measures and which may be increased/reduced, at the discretion of the Council, to reflect any deterioration/improvements to the Carbon Targets secured by the Council as part of the Pre-Occupation Energy Review;
"Car Club Operator"	means the Council's car club partner appointed from time-to-time or such other car club provider as may be approved by the Council;
"Car Club Scheme"	<p>means a car club scheme to be submitted by the Developer to the Council for approval and which shall include but not be limited to:</p> <ul style="list-style-type: none"> (a) a scheme to enable Occupiers of the Residential Units and of the Commercial Floorspace to rent a car through a car share scheme; (b) the strategy to promote the Car Club Scheme to Blue Badge holders; (c) the proposed agreement with the Car Club Operator (including any financial arrangements); and (d) the detail of the provision of free membership to the Car Club Scheme for all first Occupiers of the Residential Units for a period of at least 3 years from first Occupation and which shall be transferable to subsequent Occupiers where possible;
"Car Club Space"	means a car club space to be delivered in accordance with the Car Club Scheme;
"CCTV Contribution – Phase 1"	means the total sum of £53,341.46 (fifty three thousand three hundred and forty one pounds and forty six pence) Index Linked to be paid to

	the Council for application by the Council towards CCTV measures in Phase 1;
"CCTV Contribution – Phase 2"	means the total sum of £53,341.46 (fifty three thousand three hundred and forty one pounds and forty six pence) Index Linked to be paid to the Council for application by the Council towards CCTV measures in Phase 2;
"Charge"	means a mortgage, charge or other security or loan documentation granting a security interest in the Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) in favour of the Chargee;
"Chargee"	means any mortgagee or chargee of the Registered Provider and/or Community Land Trust of the Affordable Housing Units or the Additional Affordable Housing Units (or any number of them) and any receiver (including an administrative receiver) and manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator;
"Children's Play Space Contribution – Phase 1"	means the sum of £56,550 (fifty six thousand five hundred and fifty pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by the Council towards providing new or maintaining existing play space for children aged 12+ within the vicinity of the Development;
"Children's Play Space Contribution – Phase 2"	means the sum of £56,550 (fifty six thousand five hundred and fifty pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 2 for application by the Council towards providing new or maintaining existing play space for children aged 12+ within the vicinity of the Development;
"Clifton Estate Route"	means a potential pedestrian route to be provided by the Council at no cost to the Developer from the Development to the Clifton Estate the delivery of which is contingent upon consultation with residents of the Clifton Estate in respect of any detailed proposal and only delivered in the event that the majority of the said residents express support from the majority of residents of the Clifton Estate is forthcoming;
"Clifton Estate Route Land"	means the land shown on the Clifton Estate Route Land Plan to be safeguarded by the Developer for the Clifton Estate Route in accordance with Part 7 of Schedule 1
"Clifton Estate Route Land Plan"	means the plan showing the Clifton Estate Route Land annexed hereto at [X];
"Closure Notice"	means notice by the Developer of the date the Developer anticipates all units in the Shopping Centre will be required to be vacated;
"Closure Notice Date"	means the date on which the Developer serves the Closure Notice in accordance with Part 5 of Schedule 2 and "Closure" shall be construed accordingly;
"CLT Homes"	means one or more Residential Units to be delivered as Community Land Trust Housing (if applicable) in accordance with the Phase 2 Affordable Housing Plan and the Phase 2 Affordable Housing Mix Schedule;

"Commence"	means the commencement of Development as defined in section 56 of the 1990 Act and "Commencement" and "Commencement of Development" shall be construed accordingly;
"Commercial Floorspace"	means the flexible retail, leisure, commercial uses (Use Class E(a-g)/Sui Generis) totalling 3,812.7 sqm GIA;
"Commercial Unit"	means a unit of Commercial Floorspace and "Commercial Units" shall be construed accordingly;
"Community Land Trust"	means a non-profit democratic organisation within the meaning of the Social Housing Regulation Act 2023 (and any amendment re-enactment or successor provision) made up of a local community organisation which owns, develops, maintains and acts as a steward in respect of Affordable Housing which is identified on the Community Land Trust Network map or as otherwise approved by the Council;
"Community Land Trust Housing"	means a form of Intermediate Housing being homes for sale or rent within the Development and provided by a Community Land Trust to a Household within the Borough and which meets at the point of first disposal and subsequently the requirements of Intermediate Affordability in respect of Shared Ownership Housing;
"Completion"	means in respect of any discrete section (element), Building or Phase of the Development completed separately from the other discrete sections (elements) Buildings or Phases 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), Building or Phase by the appointed architects or other project consultant designated by the Developer for that purpose; and in respect of the Development as a whole, the issue of a certificate of practical completion of the Development by the appointed architects or other project consultant designated by the Developer for that purpose and "Complete", "Completed" and "Completion Date" shall be construed accordingly;
"Component"	means a part of the Development including but not limited to: <ul style="list-style-type: none"> (a) Market Housing Units; (b) Affordable Housing Units; (c) Additional Affordable Housing Units; (d) Commercial Units;
"Connection Notice"	means a written notice served on the Developer by the Council pursuant to Part 11 of Schedule 1 or Part 12 of Schedule 2;
"Construction Apprenticeships"	means apprenticeships operating under a statutory apprenticeship agreement to be provided in Construction Employment during the construction phase of each Phase;
"Construction Employment"	means employment 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;

"Construction Employment and Training Report"	means a quarterly report to the Council about the work of the Construction Employment Contact including, but not limited to, information about progress toward achievement of the targets outlined in Part 8 of Schedule 1 and Part 9 of Schedule 2, such report to be written in a format approved by the Council's local economy team or such team as shall be assigned the work of the local economy team from time to time;
"Construction Employment and Training Shortfall Contribution"	means the sum as calculated by the Council in accordance with the formula in Part 8 of Schedule 1 and Part 9 of Schedule 2 and if payable by the Developer to the Council applied by the Council in the support of Unemployed Borough Residents, including but not limited to, the provision of appropriate training, in order for Unemployed Borough Residents to access Sustained Construction Employment;
"Construction Employment Contact"	means a named individual who is either an employee of the Developer or an employee of the lead contractor appointed by the Developer (if any) and who shall be based within 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 Employment in accordance with the Construction Employment Contact Methodology;
"Construction Employment Contact Methodology"	means a methodology to secure the appointment of a Construction Employment Contact and which specifies the responsibilities of the post as outlined in Part 8 of Schedule 1 and Part 9 of Schedule 2 and the method by which the key outputs of the post will be achieved;
"Construction Employment Contact Period"	means a period of time from Implementation to Completion of each Phase (as applicable) or such other period as may be agreed by the Council;
"Construction Environmental Management Plan and Demolition Environmental Management Plan Monitoring Fee – Phase 1"	means the sum of £17,840 (seventeen thousand eight hundred and forty pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by by the Council towards monitoring the terms of the construction environmental management plan pursuant to condition [x] and the demolition environmental management plan pursuant to condition [x];
"Construction Environmental Management Plan and Demolition Environmental Management Plan Monitoring Fee – Phase 2"	means the sum of £17,840 (seventeen thousand eight hundred and forty pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 2 for application by by the Council towards monitoring the terms of the construction environmental management plan pursuant to condition [x] and the demolition environmental management plan pursuant to condition [x];
"Cycle Hire Docking Station"	has the meaning determined by the Inspector under row 1 of the Blue Pencil Schedule
"Cycle Hire Docking Station Contribution"	has the meaning determined by the Inspector under row 2 of the Blue Pencil Schedule
"Cycle Hire Scheme"	has the meaning determined by the Inspector under row 3 of the Blue Pencil Schedule

"Cycle Improvement Scheme Contribution"	means the sum of £161,850 (one hundred and sixty one thousand eight hundred and fifty pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by the Council towards transport improvements along Rye Lane;
"Date of Deemed Service"	<p>means, in each instance where a Chargee has served a Default Notice under Clause 7.4.1:</p> <p>(a) in the case of service by delivery by hand of the Default Notice the date on which the Default Notice is so delivered; or</p> <p>(b) in the case of service by using first class registered post the second Working day after the date on which the Default Notice is posted (by being placed in a post box or being collected by or delivered to Royal Mail) PROVIDED THAT the Chargee is able to evidence that the Default Notice was actually delivered to the Council (by Royal Mail proof of delivery or otherwise)</p>
"Default Notice"	means a notice in writing served on the Council by the Chargee under Clause 7.4.1 of the Chargee's intention to enforce its security over the relevant Affordable Housing Units and/or Additional Affordable Housing Units
"Defects Period"	means 12 months from the date of grant of the Provisional Certificate;
"Defects Liability Period"	means such period of time following Completion of the Development in which a contractor may remedy defects as may be included in the building contract for the Development;
"DEFRA"	means the public body known as the Department for Environment, Food & Rural Affairs or any successor body which acts as the Government's advisor for the natural environment, food or rural affairs in England;
"Delivered"	<p>means the relevant Affordable Housing Units have been constructed on Site and made ready for residential occupation in a habitable state and fully fitted out but excluding white goods, window dressings, furniture, fitted wardrobes, loose fittings and equipment in accordance with Part 2 of Schedule 1 and/or Part 2 of Schedule 2 (as applicable) AND</p> <p>(a) the Developer has entered into a binding agreement to grant a long lease or leases for a term of at least one hundred and twenty five years of the Affordable Housing Units to a Registered Provider or a Community Land Trust (as applicable) and evidence of such agreement has been provided to the Council; and</p> <p>(b) handed over to a Registered Provider or a Community Land Trust (as applicable) upon their Completion; and</p> <p>(c) a Gateway 3 Application has been submitted in respect of the relevant Affordable Housing Units</p> <p>PROVIDED THAT the requirements of (a) and (b) shall not apply if the Developer provides reasonable evidence to the Council to demonstrate that it has been unable to dispose of the relevant Affordable Housing Units and such evidence may include the following;</p>

	<ul style="list-style-type: none"> (i) written evidence of its attempts to secure a Registered Provider or Community Land Trust to take on the Affordable Housing Units for the relevant Phase; (ii) where applicable written evidence from those Registered Providers or Community Land Trusts declining to take on the Affordable Housing Units for the relevant Phase; (iii) any other documentary evidence it may consider relevant.
"Delivery and Servicing Management Plan"	means the plan to be submitted to the Council for approval for each Phase pursuant to a condition on the Planning Permission;
"Delivery and Servicing Monitoring Fee – Phase 1"	means the sum of £1,395.00 (one thousand three hundred and ninety five pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by the Council towards monitoring the terms of the Delivery and Servicing Management Plan for Phase 1;
"Delivery and Servicing Monitoring Fee – Phase 2"	means the sum of £1,395.00 (one thousand three hundred and ninety five pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 2 for application by the Council towards monitoring the terms of the Delivery and Servicing Management Plan for Phase 2;
"Demolition"	means the taking down of the existing buildings on 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;
"Developer"	means the First Owner and the Second Owner;
"Development"	means the development on the Site comprising the Demolition of existing buildings and phased redevelopment to provide a replacement supermarket and associated service yard and car parking (Use Class E(a)), flexible retail, leisure (including drinking establishment), and commercial accommodation (Use Class E/Sui Generis), dwellings (Use Class C3), landscaping and associated works and any variation thereof;
"Development Costs"	means the sum of the Actual Development Costs and Estimated Development Costs;
"Development Viability Information"	means where the Developer has given the Council notice prior to the relevant Review Date on an open book basis and including in each case supporting evidence (including: (a) receipted invoices; certified costs; certified copies of sales contracts; best estimates of costs yet to be incurred and value of any unsold space and any other evidence reasonably required by the Council to show any revenue and/or cost incurred in relation to the Development; (b) a solicitor's certification (such solicitor to provide the Council with a formal duty of care) confirming that a sale, lease, assignment, sub-letting, grant of a licence giving control to any person of or otherwise demised of the floor space forming part of the Development were arm's length third party bona fide transactions and not: (i) designed to reduce the revenue received from sales of the floor space forming part of the Development; (ii) confined to transactions between the Developer and subsidiary companies of the Developer; (iii) transactions between the Developer and its employees

or (iv) transactions including deferred consideration coverage or loans or finance deals from the Developer) (accompanied by a fully testable and editable electronic software model which explicitly shows the calculations and assumptions used in the Application) to the Council's reasonable satisfaction;

"Direction on Rent Standard"	means the direction given by the Secretary of State to the Regulator in relation to rent pursuant to section 197 of the Housing and Regeneration Act 2008 and which at the of this Deed is dated 2019 and any replacement thereof;
"Director of Planning 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;
"Discount Market Sale"	means Affordable Housing which on first sale is provided to eligible persons for an amount that is no more than 70% of market value and which on first sale meets the requirements of Intermediate Affordability;
"Disposal"	<p>means:</p> <ul style="list-style-type: none"> (a) in respect of the Site the grant of any legal interest; or (b) in respect of a Component of the Development: <ul style="list-style-type: none"> (i) its Sale; (ii) the grant of a lease of a term of less than 125 years; or (iii) the grant of a tenancy agreement or lease; <p>and "Dispose" means and "Disposed" shall be construed accordingly</p>
"District Heat Network"	means a strategic combined heat and power network which the Council may implement to serve existing and new developments;
"District Heat Network Strategy"	means a strategy prepared by the Developer setting out its proposals for the provision of energy for the Development and which shall contain as a minimum the details set out at Part 11 of Schedule 1 and Part 12 of Schedule 2 in respect of the evaluation of the ability of each Phase to connect to a District Heat Network;
"Early Stage Review"	means an Updated Viability Appraisal at the Early Stage Review Date to determine whether Additional Affordable Housing can be provided on Site as part of the Development;
"Early Stage Review Date"	means the date of the submission of the Development Viability Information pursuant to Part 3 of Schedule 1;
"Eligible Person(s)"	means Households in need of affordable housing whose Household Income is no more than the GLA Income Cap and who meet all other product specific eligibility requirements;
"End Users"	<p>means start-ups, independent businesses operating from no more than 3 sites and small businesses with 50 employees or less including but not limited to:</p> <ul style="list-style-type: none"> (a) charities, voluntary and community organisations or social enterprises;

	<ul style="list-style-type: none"> (b) public health services; (c) creative and artists workspace; (d) rehearsal and performance space and makerspace; (e) occupiers from disadvantaged groups starting up in any sector; (f) occupiers in support of educational outcomes through connections to schools, colleges or higher education; and (g) such other businesses identified by the Affordable Workspace Provider and/or approved by the Council;
"End Use Employment Contribution"	means the sum as calculated in accordance with the formula in Part 9 of Schedule 2 and if paid to be applied by the Council towards supporting Unemployed Borough Residents into Sustained Employment;
"End Use Employment Default Contribution"	means a financial contribution of £55,500 (fifty five thousand five hundred pounds) Index Linked which may be payable by the Developer to the Council in accordance with Part 9 of Schedule 2 and if paid for application by the Council towards supporting Unemployed Borough Residents into Sustained Employment;
"End Use Employment Period"	means a period of 12 months from first Occupation of the Development;
"End Use Employment Plan"	means a plan which shall operate during the End Use Employment Period to secure Sustained Employment for up to 10 Unemployed Borough Residents in the Development and which includes the matters outlined in Part 9 of Schedule 2;
"End Use Employment Plan Report"	means a quarterly report to the Council about the implementation of the End Use Employment Plan including, but not limited to, information about progress toward achievement of the target outlined in Part 9 of Schedule 2 such report to be written in a format approved by the Council's local economy team or such team as shall be assigned the work of the local economy team from time to time;
"Equal Value Basis"	means that the total overall value of delivering the CLT Homes should be no less than the value to the Developer of delivering the same number of Shared Ownership Housing units at the point of sale or where the value is less a smaller number of CLT Homes may be delivered to achieve an equal value provided always that the overall delivery of Affordable Housing Units shall not fall below 12% on a Habitable Room basis;
"Equalities Impact Assessment"	means the document titled [X] submitted with the Application;
"ESCO"	means an energy service company being a supplier of heating and other ancillary services from the District Heat Network;
"Estate Management Plan"	means a strategy to be submitted by the Developer to the Council for approval and which shall include but not be limited to the arrangements to maintain green spaces, green and brown roofs, green walls, nest boxes, planters and habitats created on Site, details of the management and maintenance and signage of all Public Realm, roads

	unadopted shared surfaces, pedestrian routes and signage for cyclists and refuse storage areas within the Development;
"Estimated Development Costs"	means all costs yet to be incurred including for any Early Stage Review the delivery of the Replacement Morrisons Supermarket to a tradeable standard to facilitate the release of the Phase 2 and which shall be supported by evidence including (but not limited to) details of payments made or agreed to be paid in a building contract, receipted invoices and costs certified by the Developer's quantity surveyor, costs consultant, agent or solicitor and/or where applicable comparable evidence or an explanation as to why they are a reasonable cost to be included in the Updated Viability Appraisal;
"Estimated GDV"	<p>means the estimated sum of:</p> <ul style="list-style-type: none"> (a) the unsold value of the Residential Units; (b) the unsold value of the Commercial Units; (c) the unsold value of the Replacement Morrisons Supermarket; and (d) the amount of any received Public Subsidy <p>at the relevant Review Date</p>
"External Consultant"	means the external consultant(s) appointed by the Council and paid for by the Developer, to assess the information submitted pursuant to Part 3 of Schedule 1 and/or Part 3 of Schedule 2;
"Existing Retail BMTs"	means the tenants of brick and mortar premises at the Site who do not qualify as Existing Small Shop Tenants and who are listed in Part B of the LIO Schedule;
"Existing Small Shop Tenants"	means a Local Independent Operator who occupies a Small Shop at the date of the Planning Permission and who continues to occupy that Small Shop Unit on the date the Final Relocation and Small Shops Strategy is approved by the Council and as at the date of this Deed the Existing Small Shop Tenants are identified in the table at Part B of the LIO Schedule;
"Feasibility Study"	<p>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:</p> <ul style="list-style-type: none"> (a) the capability of the District Heat Network to supply sufficient 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 heating and power 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 Relocation and Small Shops Strategy"	means the final strategy to be submitted by the Developer to the Council pursuant to Part 5 of Schedule 2 of this Deed and which shall as a minimum include the matters outlined in Part 5 of Schedule 2 of this Deed;
"Final Certificate"	means a certificate issued on behalf of the Council certifying that following inspection the Public Realm Works 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 Realm Works only and as many times as is necessary until satisfied with the entirety of the Public Realm Works;
"Free of Challenge"	means the Planning Permission not being the subject of a claim for judicial review or statutory challenge or, in the event that it is, the final determination of the relevant court proceedings resulting in the validity of the Planning Permission being upheld;
"Gateway 2 Application"	means an application for 'Gateway two' building control approval submitted to the Building Safety Regulator;
"Gateway 3 Application"	means an application for 'Gateway three' building control approval submitted to the Building Safety Regulator;
"GDV"	means the sum of the Actual GDV and Estimated GDV;
"GLA"	means the Greater London Authority and any successor in statutory function;
"GLA Be Seen Web Portal"	means the GLA's 'Be Seen' reporting webform templates located on the GLA's website at https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/london-plan-guidance-and-spgs/be-seen-energy-monitoring-guidance);
"GLA Income Cap"	means a purchaser(s) with a Household Income that does not exceed the annual gross income limit for the relevant tenure product as set out within the most up to date London Plan Annual Monitoring Report and which at the date of this Deed is £67,000 in respect of intermediate rental products and £90,000 in respect of intermediate sale products;
"Grant Funding (CLT)"	means any funding which may be awarded by the GLA for the delivery of CLT Homes;
"Grant Funding (General)"	means any funding which may be awarded by the GLA for the delivery of Affordable Housing;

"Habitable Rooms"

means a room with at least one window within a Residential Unit that is intended to be used for sleeping, living, cooking or dining, regardless of what it is actually used for. This excludes enclosed spaces such as bath or toilet facilities, corridors, landings, hallways, lobbies, utility rooms, and kitchens with an overall floor area of less than 11 sq. m. Any floor area where the ceiling height is less than 1.5 metres will not count towards the habitable floorspace;

For Affordable Housing purposes habitable rooms under 28 sq. m will be counted as 1 habitable room. Habitable rooms exceeding 28 sq. m will be counted as set out in the table below:

Area (sq. m)	Habitable Rooms
0-28	1
28.1-42	2
42.1-56	3
56.1-70	4
70.1-84	5
84.1-98	6
98.1-112	7
112.1-126	8
126.1-140	9
140.1-154	10

"Habitat Creation and Enhancement Works or HCEW"

means the habitat creation and enhancement works set out in the HMMP (excluding any management or monitoring activities specified in the HMMP);

"Habitat Management and Monitoring Plan or HMMP"

means a plan prepared by a qualified Ecologist which includes:

- (a) a non-technical summary;
- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) the planned HCEW to create or improve habitat to achieve the Biodiversity Net Gain in respect of a Phase of the Development in accordance with the approved Biodiversity Gain Plan;
- (d) the management measures to maintain the habitats in accordance with the Biodiversity Gain Plan for a period of thirty (30) years from the Completion of a Phase of the Development;
- (e) the monitoring, methodology and frequency in respect of the created or enhanced habitat to be submitted to the Council;

	<p>(f) HCEW required to achieve the Biodiversity Net Gain in respect of a Phase of the Development;</p> <p>(g) management and monitoring activities required during the Biodiversity Management Period; and</p> <p>(h) any other information that the Council may reasonably require,</p> <p>and any variation or replacement to it agreed between the Developer and the Council (with necessary supporting evidence certified by a surveyor);</p>
"Handcart Operators"	means the persons trading from handcarts at the Site and who are listed in Part B of the LIO Schedule
"HCEW Commencement Date"	means the date upon which the HCEW are commenced in respect of a Phase of the Development;
"HCEW Completion Date"	means the date upon which the HCEW has been completed in respect of a Phase of the Development;
"HCEW Completion Date Notice"	means written notice from the Developer to the Council of the HCEW Completion Date;
"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;
"Household"	means in relation to a person "A", A and all other persons who would, after purchasing or renting a Residential Unit share that unit with A and one another as the only or main residence of both A and such other persons;
"Household Income"	<p>means:</p> <p>(a) in relation to a single Eligible Person the gross annual income of that Eligible Person; and</p> <p>(b) in relation to joint Eligible Persons, the combined gross annual incomes of those Eligible Persons;</p>
"Housing Delivery Monitoring Table"	means the housing delivery monitoring table in the form of the table located at Annex B of Part 2 of Schedule 1 and Annex B of Part 2 of Schedule 2 or such other form as may be adopted by the Council for the purpose of monitoring the delivery of housing in the Borough;
"Implementation Date"	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 Deed 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;

"Independent Business Advisor"	means Tree Shepherd or any other replacement organisation appointed to satisfy the obligations in Part 5 of Schedule 2;
"Index"	<p>means:</p> <p>(a) the BCIS General Building Cost index published by the Royal Institution of Chartered Surveyors (RICS) in respect of the Bus Passenger Infrastructure Improvements Contribution – Phase 1, the Bus Passenger Infrastructure Improvements Contribution – Phase 2 and the Cycle Improvement Scheme Contribution;</p> <p>(b) the RPI all items excluding mortgage interest (RPIX) published by the Office for National Statistics in respect of all other payments</p> <p>or in the event such indexes cease to exist such index as may be adopted by the Council for the purpose of calculating planning obligations to be applied in accordance with Clause Error! Reference source not found.;</p>
"Index Linked"	means increased (if applicable) in accordance with Clause Error! Reference source not found. ;
"Inspector"	means a planning inspector appointed by the Secretary of State to consider the Appeal under delegated powers;
"Intention Notice"	means a notice in writing served on the Chargee by the Council under Clause 7.5 that the Council is minded to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units;
"Intermediate Affordability"	means that annual housing costs, including rent, mortgage payments (assuming reasonable interest rates and deposit requirements) and Service Charges, shall not exceed 40% of net household income and net household income is defined as 70% of Household Income as applied to the GLA Income Cap in respect of Shared Ownership Housing and Community Land Trust Housing;
"Intermediate Housing"	means Affordable Housing to be provided in the form of Shared Ownership Housing or other discounted market housing (in the form of London Living Rent, Discount Market Rent, Key Worker Housing, Community Land Trust Housing, Discount Market Sale or any other form of Intermediate Housing introduced by the government which is acceptable to the Council);
"Intermediate Housing Mix Proposal"	means the proposed mix of the Intermediate Housing Units to be provided in Phase 2;
"Intermediate Housing Units"	means 27 Residential Units (2 one bed and 25 two bed ([98 Habitable Rooms)) (or such upwardly revised number as may be submitted to the Council in accordance with Part 2 of Schedule 2) to be shown on the Phase 2 Affordable Housing Plan and to be provided as Intermediate Housing in Phase 2 in accordance with the Phase 2 Affordable Housing Schedule;
"Late Stage Review"	means an Updated Viability Appraisal at the Late Stage Review Date to determine whether a Late Stage Review Contribution is payable;

"Late Stage Review Cap"	means the amount of the Late Stage Review contribution that is required to achieve the Affordable Housing Cap;
"Late Stage Review Contribution"	means a financial contribution for the provision of off-site Affordable Housing in the Borough the precise value of which shall be calculated following the Updated Viability Appraisal which shall be subject to the Late Stage Review Cap;
"Late Stage Review Date"	means the date on which 75 per cent of the Residential Units have been Occupied;
"LIO Schedule"	means the Schedule of Local Independent Operators attached at Appendix 3
"Local Independent Operators" or "LIOs"	<p>means those businesses listed in Part B of the LIO Schedule and who must continue to meet all of the following criteria on the date that the Final Relocation and Small Shops Strategy is approved by the Council:</p> <ul style="list-style-type: none"> (a) operate with 50 employees or less and/or do not trade from more than 3 locations including restaurant operators, café operators and market stall holders; and (b) lawfully hold a lease or licence with the Developer including any sub-letting or assignments which have been made with the approval of the Developer; (c) occupy any part of the Site at the date of the Planning Permission and continue to occupy any part of the Site at the date the Final Relocation and Small Shops Strategy is approved by the Council; and (d) are not in arrears under the terms of their lease or licence (as applicable);
"Local Market Rent"	<p>means the estimated amount for which the following or any sub-division thereof could be leased:</p> <ul style="list-style-type: none"> (a) the Affordable Workspace in accordance with Part 6 of Schedule 2 (b) Affordable Retail in accordance with Part 6 of Schedule 2; (c) the returning Existing Small Shop Tenants to Small Shop Units (if applicable) in accordance with Part 5 of Schedule 2
"Longstop Date"	means the date being the end of the period of 36 months from but excluding the date on which the Planning Permission is Free of Challenge;
"Market Housing"	means Residential Units which may be disposed of on the open market;
"Market Housing Units"	means any of the Residential Units comprised within the Development which may be disposed of on the open market;
"Marketing Period for Wheelchair Units"	means a period of at least 6 months prior to Completion and 6 months post Completion of the Wheelchair Units during which the Wheelchair Units shall be marketed in accordance with the provisions of Part 4 of Schedule 1 and Part 4 of Schedule 2;

"Market Place"	means the independent food hall comprising individual street food vendors, bar and event hire space located on the site at Unit 10 and that is trading as Market Place Peckham;
"Market Place Operators" or ("MPOs")"	means those businesses who as at the date of this Deed trade from space at Market Place and who are listed in Part B of the LIO Schedule
"Mid Stage Review"	means an Updated Viability Appraisal at the Mid Stage Review Date to determine whether Additional Affordable Housing can be provided on Site as part of the Development;
"Mid Stage Review Date"	means the date on which 75% of the Residential Units on Phase 1 are first Occupied;
"Moratorium Period"	means, in each instance where a Chargee has served a Default Notice under Clause 7.4.1, the period from (and including) the Date of Deemed Service on the Council of the Default Notice to (and including) the date falling three months after such Date of Deemed Service (or such longer period as may be agreed between the Chargee and the Council);
"Mortgagee"	means an established corporate body within the finance industry regulated by the Prudential Regulation Authority or the Financial Conduct Authority or similar and acting as a bona fide lender;
"Nomination Agreement"	means an agreement between the Council and the Registered Provider which provides the Council with nomination rights in respect of the Social Rented Units for the duration that the Development or any part of the Development remains Occupied;
"Non-CLT Intermediate Housing"	means the Intermediate Housing Units which are not CLT Homes and "Non-CLT Intermediate Housing Units" shall be construed accordingly;
"NVQ Starts"	means the commencement of a full National Vocational Qualification or equivalent vocational qualification outside of a statutory apprenticeships;
"Occupation"	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 relation to references to Occupation of Market Housing Units in the case of the sale of the freehold or leasehold interest to a third party or any other Disposal occupation commences on the date of Disposal and the phrases "Occupy" and "Occupied" shall be construed accordingly;
"Option"	means the option to be granted to the Council (and/or its nominated substitute Registered Provider or a Community Land Trust (as applicable)) in accordance with Clause 7.5.1 for the purchase of the Affordable Housing Units and/or the Additional Affordable Housing Units
"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 and "Party" shall be construed accordingly;
"Phase"	means either Phase 1 or Phase 2 of the Development as shown on the Phasing Plan including any Sub-Phases and " Phases ", " Phase 1 " and " Phase 2 " shall be construed accordingly;
"Phase 1 Affordable Housing Mix Schedule"	means the approved mix of Affordable Housing Units to be delivered in Phase 1 both in terms of tenure, location within the Development, size and, in respect of Wheelchair Units, fit-out as set out in located at Annex A of Part 2 of Schedule 1;
"Phase 1 Affordable Housing Plan"	means the plan showing the Affordable Housing Units to be delivered in Phase 1 and submitted under paragraph Schedule 1Part 21.1 of Schedule 1Part 2 of Schedule 1;
"Phase 2 Affordable Housing Mix Schedule"	means the approved mix of Affordable Housing Units to be delivered in Phase 2 both in terms of tenure, location within the Development, size and, in respect of Wheelchair Units, fit-out as set out in located at Annex A of Part 2 Schedule 2 and which may be updated in accordance with Part 3 of Schedule 1 and/or Part 3 of Schedule 2;
"Phase 2 Affordable Housing Plan"	means the plan showing the Affordable Housing Units to be delivered in Phase 2 and submitted under paragraphSchedule 2Part 22.1 of Part 2 Schedule 2;
"Phase 2 MPO Retail Units"	means the Commercial Units in Phase 2 that are to be made available for Retail Use and/or sui generis use and which are available for Occupation by the MPOs under the obligations in paragraph Schedule 2Part 510 of Part 5 of Schedule 2;
"Phase 2 MPO Retail Units Floorplan"	means a proposed floorplan of the Phase 2 MPO Retail Units including at the Developer's discretion any Sub-Divided MPO Retail Units that are available to the Market Place Operators;
"Phasing Plan"	means the plan submitted with the Application illustrating the Phases of the Development and the sequence in which the Developer intends to construct the Development titled [●] and dated [●] and which may at any time be updated with the Council's prior written approval to show Sub-Phases;
"Planning Permission"	means the planning permission for the Development granted by the Inspector pursuant to the Appeal;
"Pre-Occupation Energy Review"	means: <ul style="list-style-type: none"> (a) an independent assessment commissioned by the Developer to determine whether or not the Carbon Targets have been achieved; and (b) the completion of form titled "<u>0 Pre-Occupation Energy Review</u>" located on the Council's website [insert link] by the Developer to enable the Council to monitor the energy performance of the Development;

	and submitted to the Council in accordance with Part 11 of Schedule 1 and Part 12 of Schedule 2;
"Protected Characteristics"	means one of the characteristics identified in section 4 of the Equality Act 2010;
"Provisional Certificate"	means a provisional certificate issued on behalf of the Council certifying provisionally and pending the issue of the Final Certificate that following inspection the Public Realm Works have been completed to the reasonable satisfaction of the Council and for the avoidance of doubt the Council may issue such certificate in respect of part of the Public Realm Works only and as many times as is necessary until satisfied with the entirety of the Public Realm Works;
"Public Realm"	means that part of the Site shown hatched [xx] on the drawing located at Annex [xx] and labelled [xx] and the Clifton Estate Route (if delivered);
"Public Realm Phasing Plan"	means the plan to be submitted by the Developer showing the phasing (which may include sub-phases) and sequencing of the delivery of the Public Realm;
"Public Realm Works"	means works to the Public Realm approximately consisting of the provision of 10,240 sq. m of public space plus land for the Clifton Estate Route (if delivered by the Council) including but not limited to paving, benches, street furniture, street lighting, bins in accordance with SSDM Standards; hard and soft landscaping, planting sufficient to establish effective habitat (at least 30% of which shall be native species), the creation of green corridors, the provision of routes through the Site, bollards to prevent vehicle access except emergency vehicles, children's play space designed in accordance with Play England's Designed for Play: a guide to creating successful play spaces the detail of which is to be approved by the Council pursuant to the Public Realm Specification;
"Public Realm Specification"	means a detailed specification in respect of the Public Realm Works 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 to be approved by the Council subject to a condition on the Planning Permission;
"Public Subsidy"	means any Grant Funding (CLT) or Grant Funding (General) from the Council and/or the GLA together with any additional public subsidy from other sources which may include Homes England and secured by the Developer to support the delivery of the Development;
"Registered Provider"	means a registered provider within the meaning of the Housing and Regeneration Act 2008 (and any amendment re-enactment or successor provision) which has been: <ul style="list-style-type: none"> (a) drawn from the list of Registered Providers attached hereto as Schedule 4 and which has not been removed from the register; or (b) approved for the purposes of this Deed by the Council; or (c) otherwise approved by the Council;

"Regulator"	means Homes England and the Regulator of Social Housing (as applicable) and any successors in statutory function;
"Relocation Fund Contribution"	means the sum of £200,000 (two hundred thousand pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 2 and to be held by the Council in a "Relocation Fund" for the purposes of assisting Local Independent Operators with financial support towards the costs associated with relocating their business from the Phase 2 Site in accordance with the Relocation Strategy;
"Relocation Strategy"	means the strategy submitted by the Developer to the Council as part of the Application and which will be subsequently updated by the Final Relocation and Small Shops Strategy in accordance with the provisions in Part 5 of Schedule 2;
"Replacement Morrisons Supermarket"	means the replacement Morrisons supermarket and car park to be provided within Phase 1;
"Rent Standard"	means the rent standard for social rented housing set by the Regulator (including any associated explanatory notes, statements or policy guidance) from time to time pursuant to a Direction on Rent Standard;
"Reportable Unit (Energy Centre)"	means either a connection to third-party District Heating Network, a self-contained energy centre serving multiple residential/non-residential properties (within the Site) or a self-contained energy system serving multiple residential properties (within a block or building);
"Reportable Unit (Non-Residential)"	means a building with a single occupier/tenant (including block of flats' communal areas) or a building with multiple tenants;
"Reportable Unit (Residential)"	means an individual block or building of multiple tenants or five or more flats or a group of five or more houses;
"Residential Unit"	means any residential units constructed upon the Site and "Residential Units" shall be construed accordingly;
"Retail Uses"	means uses under Use Class E(a-g)
"Review Date"	means the Early Stage Review Date or the Mid Stage Review Date or the Late Stage Review Date (as the context requires);
"RICS Red Book"	means the RICS Valuation - Global Standards (Red Book);
"Sale"	means: the sale of the freehold of a Component; or the grant of a lease of a Component with a term of 125 years or more;
"SCSC"	means the Southwark Construction Skills Centre located at Surrey Quays Road, London SE16 7PJ which provides training and upskilling opportunities in the construction sector;
"Service Charge"	means all amounts reasonably incurred by the Developer, Registered Provider, Community Land Trust or resident of an Affordable Housing Unit (as the case may be) and payable by an owner or tenant of an Affordable Housing Unit as part of or in addition to the rent and directly or indirectly for services, repairs, maintenance, improvements, insurance and/or the landlord's costs of management directly and reasonably related to the relevant Affordable Housing Unit and in addition any relevant estate charges PROVIDED THAT respect of the

	Intermediate Housing the Developer shall use reasonable endeavours to ensure the said charges meet the Intermediate Affordability or such other limit imposed by Government regulation and/or direction (whichever is the lower)" and "Service Charges" shall be construed accordingly;
"Shared Ownership Housing"	means Affordable Housing provided to Eligible Persons to be occupied partly for rent and partly by way of owner occupation on shared ownership arrangements as defined in section 70(4) of the Housing and Regeneration Act 2008 (or any amended or replacement provision) where the shared ownership lessee for the time being has the right to carry out Staircasing and dispose of the unit on the open market once the unit has been fully Staircased and which meets at the point of first disposal and subsequently the requirements of Intermediate Affordability;
"Shopping Centre"	means the existing Aylesham Shopping Centre which is currently located on the Site and shown on drawing [XX] submitted with the Application;
"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 The Aylesham Centre, Rye Lane, London shown edged red on plan [X] attached hereto;
"Site and Development Contributions"	means the Administration Cost – Phase 1, Administration Cost – Phase 2, Affordable Housing Monitoring Contribution, Archaeology Contribution – Phase 1, Archaeology Contribution – Phase 2, Carbon Offset Contribution – Phase 1, Carbon Offset Contribution – Phase 2, Bus Passenger Infrastructure Improvements Contribution – Phase 1, Bus Passenger Infrastructure Improvements Contribution – Phase 2, CCTV Contribution – Phase 1, CCTV Contribution – Phase 2, Children's Play Space Contribution – Phase 1, Children's Play Space Contribution – Phase 2, Cycle Improvement Scheme Contribution, Delivery and Servicing Monitoring Fee – Phase 1, Delivery and Servicing Monitoring Fee – Phase 2, Relocation Fund Contribution, Travel Plan Monitoring Fee – Residential – Phase 1, Travel Plan Monitoring Fee – Residential – Phase 2, Travel Plan Monitoring Fee - Workplace
"Small Shop Units"	means 381 sqm (GIA) of the Commercial Floorspace to be provided as Small Shops in accordance with Part 5 of Schedule 2;
"Small Shop Unit Specification"	means Completed to shell and core with a shop front and with access to capped off services;
"Small Shops"	means market stalls or shops each measuring less than 80sqm GIA in floorspace (excluding storage) and "Small Shop" shall be construed accordingly;
"Social Rents"	means the rent for Social Rented Housing which reflects the pattern produced by the formula rent set out in the Rent Standard and subject to the rent caps, rent flexibility level and limit on changes to rents as set out therein from time to time;
"Social Rented Housing"	means Affordable Housing owned and let by local authorities and Registered Providers for which Social Rents are determined through the national rent regime (meaning the rent regime under which the

	social rents of tenants are set by the Regulator with particular reference to the Direction on Rent Standard);
"Social Rented Units"	means the 50 Residential Units (17 x 2 bed and 15 x 3 bed 18 x 4 beds (251 Habitable Rooms)) to be shown on the Phase 1 Affordable Housing Plan to be provided in the form of Social Rented Housing in Phase 1;
"Southwark Education Business Alliance"	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;
"Southwark Works"	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;
"SSDM Standard"	means the standards extracted from the Southwark Streetscape Design Manual (Rev February 2024) and attached hereto at Appendix [X];
"Staircasing"	means the purchase by the owner of additional equity in a Shared Ownership Housing unit on either a gradual or standard basis and "Staircased" shall be construed accordingly;
"Sub-Divided MPO Retail Units"	means at the Developer's discretion any Phase 2 MPO Retail Units that are shown on the Phase 2 MPO Retail Units Floorplan as cable of being sub-divided into a smaller unit(s) and where the Developer may attach conditionality to such sub-division so as to ensure the units remain of a lettable standard and area;
"Sub-Phase"	means any sub-phase within Phase 1 and/or Phase 2 as applicable as shown on the attached plan titled [REDACTED] and "Sub-Phases shall be construed accordingly;
"Substantial Implementation"	<p>means the Development has been Implemented and the following has occurred:</p> <ul style="list-style-type: none"> (a) those works excluded from the definition of Implementation have been completed (if applicable); (b) the letting of a building contract or contracts for the Development; and (c) the basement floor slab of the Replacement Morrisons Supermarket sitting beneath blocks L, M, P and Q has been constructed;
"Substantial Implementation Target Date"	<p>means in respect of Phase 1 the earlier of:</p> <ul style="list-style-type: none"> (a) the date 24 months from but excluding the date of the grant of 'Gateway 2 Approval' being the building control approval required pursuant to regulation 3 of the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023/909 and; (b) the Longstop Date
"Sums Due"	means all sums due to a Chargee of the Affordable Housing Units and/or the Additional Affordable Housing Units pursuant to the terms of

	its Charge including (without limitation) all interest and reasonable legal and administrative fees costs and expenses;
"Surplus"	means the amount of the Balance calculated and identified as such within an Updated Viability Appraisal, representing any additional profit generated by the Development in excess of the Target Profit as at the time that the relevant Viability Review is carried out and which shall be split 50/50 between the Developer and the Council and in respect of which the Council's share shall be applied to the provision of Additional Affordable Housing;
"Sustained Construction Employment"	means Sustained Employment related to the Development during the construction phase including but not limited to Construction Employment;
"Sustained Employment"	means a period of continuous employment of not less than 26 weeks for an Unemployed Borough Resident;
"Target Profit"	means: <ul style="list-style-type: none"> (a) 20% profit on the GDV of the Market Housing Units; (b) 6% profit on the GDV of the Affordable Housing Units; (c) 15% profit on the GDV of the Commercial Units; and (d) 10% on the Replacement Morrisons Supermarket gross development value;
"Tenant"	means any person with an interest in the Site at the date of this Deed other than the Developer;
"TfL"	means Transport for London and their successors in statutory function;
"Travel Plan"	means the travel plan(s) to be approved pursuant to a condition on the Planning Permission;
"Travel Plan Monitoring Fee – Residential – Phase 1"	means the sum of £1,395.00 (one thousand three hundred and ninety five pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by the Council towards monitoring the Travel Plan for the Residential Units in Phase 1 in years 2 and 5 following full Occupation;
"Travel Plan Monitoring Fee – Residential – Phase 2"	means the sum of £1,395.00 (one thousand three hundred and ninety five pounds) Index Linked to be paid by the Developer to the Council in accordance with Part 1 of Schedule 1 for application by the Council towards monitoring the Travel Plan for the Residential Units in Phase 2 in years 2 and 5 following full Occupation;
"Travel Plan Monitoring Fee – Workplace"	means the sum of £2,790 (two thousand seven hundred and ninety pounds) Index Linked to be paid by the Developer to the Council in accordance with paragraph [xx] of Schedule [xx] for application by the Council towards monitoring the Travel Plan for the workspace Building in block D and the Retail Uses in years 2 and 5 following full Occupation;

"Unemployed Borough Residents"	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;
"Updated Viability Appraisal"	means an open book appraisal of the costs, values and financial viability of the Development at the time of such updated open book appraisal being undertaken and prepared using Argus Software to determine the Balance and which shall include fixed costs inputs of; <ul style="list-style-type: none"> (a) Benchmark Land Value (being a fixed item in the appraisal); (b) finance costs at 8% (eight percent); and (c) Target Profit (being the figure that the Balance is compared against to demonstrate whether a Surplus exists);
"Valuer"	means an independent valuer approved by the Council;
"Viability Review"	means an Early Stage Review and/or a Mid Stage Review and/or a Late Stage Review (as the context requires);
"Wheelchair Units"	means the 78 (seventy eight) Market Housing Units, and 5 (five) Social Rented Units to be provided as part of the Development;
"Working days"	means any Monday, Tuesday, Wednesday, Thursday and Friday except bank or public holidays; and
"Workspace"	means [X] sqm (GIA) of the Commercial Floorspace to be provided as workspace.

- 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 Deed 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 Deed.
- 1.7 Any reference in this Deed 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 a use class shall be construed as references to the relevant use class as 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 Deed a party includes more than one person any obligation of that party shall be joint and several.
- 1.12 Any plan strategy or similar required to be submitted pursuant to this Deed may be updated from time to time with the approval of the Council and any such revised plan strategy or similar shall be capable of being enforced by the Council pursuant to the terms of this Deed as if it were the original.
- 1.13 Any reference to an approval is to the approval of the Director of Planning and Growth unless otherwise stated.
- 1.14 Where in this Deed the Council is required to give an approval, consent or agreement the approval, consent or agreement shall not be deemed to have been given unless in writing.
- 1.15 Where the agreement, approval or consent is required by the Council under the terms of this Deed that agreement, approval or consent shall not be unreasonably withheld or delayed.

2. STATUTORY PROVISIONS

- 2.1 This Deed is made pursuant to section 106 of the 1990 Act. The obligations contained in this Deed 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 7 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.

3. LEGAL EFFECT

- 3.1 This Deed shall come into effect on the date thereof but the obligations contained in the Schedules shall not, unless the context otherwise requires, be enforced by the Council until Commencement of Development.
- 3.2 In the event that any new planning permission(s) are granted by the Council pursuant to section 73 of the 1990 Act the Developer acknowledges that:
 - 3.2.1 the obligations in this Deed 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 Deed 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 Deed shall be endorsed with the following words in respect of any future section 73 application:

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

PROVIDED THAT the Council when determining any application submitted under section 73 of the 1990 Act relating to the Site shall not be restricted from requiring that any consequential

obligations of an appropriate nature (so far as they are materially different to those contained in this Deed) be secured by way of a new deed pursuant to section 106 of the 1990 Act.

4. APPEAL

4.1 If the Inspector determines in the Appeal Decision that any obligation (or any part of an obligation) contained within this Deed is not:

4.1.1 necessary to make the Development acceptable in planning terms; and/or

4.1.2 directly related to the Development; and/or

4.1.3 fairly and reasonably related in scale and kind to the Development; and/or

4.1.4 compliant in all other aspects with Regulation 122 of the Community Infrastructure Levy Regulation 2010 as amended,

then the Developer shall not be bound by such obligation (or part of such obligation) and the relevant obligation (or part) shall immediately (without any further act by the Parties) cease to have any effect and the Agreement shall be read as if such planning obligation were not included.

4.2 Notwithstanding the generality of Clause 4.1 where an obligation in this Deed is stated to be by reference to the decision of the Inspector in a row of the Blue Pencil Schedule that obligation shall be read as determined by the Inspector in the Appeal Decision.

4.3 In the event Planning Permission is granted and for ease of reference the Developer shall complete the final column of the table in the Blue Pencil Schedule to denote the decision of the Inspector in relation to each row and shall affix a copy of the same to the completed copy of this Deed for information purposes only.

4.4 In the event that the Inspector imposes a condition upon the Planning Permission instead of one or more of the obligations in this Deed, then the said provisions of this Deed shall thereafter have no legal effect to the extent determined by the Inspector in the Appeal Decision.

5. OBLIGATIONS OF THE DEVELOPER

5.1 The Developer warrants that it has full power to enter into this Deed in order to bind its land interests referred to in Recitals (B) and (C)

5.2 The Developer covenants to observe and perform or cause to be observed and performed the obligations contained in Schedule 1 and Schedule 2 to this Deed at the times and in the manner provided therein.

5.3 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 Deed that are required to be fulfilled before Implementation or Occupation have been complied with.

5.4 The Developer shall contact the S.106 and CIL Team (cil.s106@southwark.gov.uk) at the Council to arrange payment of the Site and Development Contributions.

5.5 The Developer covenants:

5.5.1 not to permit the Implementation of the Development by any Tenant 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;

- 5.5.2 unless otherwise agreed by the Council not to Implement any part of 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 relevant part of the Site;
- 5.5.3 unless otherwise agreed by the Council having regard to the enforceability of the obligations in this Deed, not to revoke or withdraw any notices served upon any Tenant pursuant to Clause 5.5.2;
- 5.5.4 in the event that having used reasonable endeavours the Developer cannot comply with Clause 5.5.2 above, unless otherwise agreed by the Council, the Developer shall not Implement the relevant part of the Development 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 Deed for the purpose of further securing that the obligations in this Deed are binding and enforceable against each and every Tenant with an extant demise, legal or equitable interest in the Site or any part thereof.

5.6 The Developer covenants:

- 5.6.1 not to carry out the Development other than in accordance with the approved Phasing Plan and for each subsequent amendment to the Phasing Plan to confirm to the Council whether the proposed change is likely to give rise to new or different environmental impacts from those assessed with the Application and, if so, carry out an assessment of any such environmental impacts arising from the proposed change.
- 5.6.2 to enter into new agreement or undertaking pursuant to section 106 of the 1990 Act in the event that any new or modified planning obligations are required as a direct consequence of any changes to the phasing of the Development.

6. **DEVELOPER TO NOTIFY COUNCIL AND TFL**

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

- 6.1.1 within 5 Working days of Substantial Implementation by written notice;
- 6.1.2 of its intention to pay the administration fees and contributions referred to within this Deed 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;
- 6.1.3 within 5 Working days of Completion of the Affordable Housing Units by written notice;
- 6.1.4 within 5 Working days of the occurrence of the Occupation of 75% of the remaining Residential Units by written notice;
- 6.1.5 within 5 Working days of the occurrence of the Occupation of 85% of the remaining Residential Units by written notice;
- 6.1.6 within 5 Working days of the occurrence of Commencement of Phase 1 and separately of Phase 2 by written notice;
- 6.1.7 within 5 Working days of the date which is 6 months prior to the date a lease termination notice is served on the first Local Independent Operator.

6.2 The Developer shall notify the Director of City Planning at TfL at 5 Endeavour Square, Westfield Avenue, London E20 1JN (or such other office as may be the headquarters of the TfL planning division) and spatialplanning@tfl.gov.uk of:

6.2.1 payment of the Bus Passenger Infrastructure Improvements Contribution – Phase 1 and the Bus Passenger Infrastructure Improvements Contribution – Phase 2;

6.2.2 submission of the Bus Station Improvement Works Scheme;

6.2.3 delivery of the Bus Station Improvement Works.

7. **ENFORCEABILITY OF OBLIGATIONS**

7.1 The obligations contained in this Deed shall not be 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 or as adopted highway.

7.2 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed 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).

7.3 The obligations contained in Part 2 of Schedule 1 and Part 2 of Schedule 2 (Affordable Housing) of this Deed shall not be enforceable against:

7.3.1 any Mortgagee of a residential tenant or any Mortgagee of a person to whom a Registered Provider grants a lease of a unit of Intermediate Housing;

7.3.2 any receiver appointed by such mortgagees; or

7.3.3 a person who is a successor in title to or derives title through or under or at the direction or requirement of any such mortgagees or receiver appointed by such mortgagees.

7.3.4 any tenant who has exercised any statutory right to buy (in respect of a particular Affordable Housing Unit) and any person or persons deriving title through or under any such tenant and any successor in title thereto and their respective mortgagees; or

7.3.5 any tenant of an Affordable Housing Unit who has Staircased to 100% equity pursuant to the terms of the lease of that Affordable Housing Unit and any person or persons deriving title through or under any such tenant and any successor in title thereto and their respective mortgagees; or

7.3.6 any Chargee who has complied with the requirements of clauses 7.4 to 7.9 below

7.4 In order to benefit from the protection granted by Clause 7.3.6, a Chargee must:

7.4.1 serve a Default Notice on the Council prior to seeking to dispose of the relevant Affordable Housing Units and/or any Additional Affordable Housing Units as follows:

(a) delivery by hand to the Council's offices as per the details in clause 15; and

(b) using first class registered post to the Council's offices as per the details at clause 15;

- 7.4.2 when serving the Default Notice, provide to the Council official copies of the title registers for the relevant Affordable Housing Units and/or Additional Affordable Housing Units; and
 - 7.4.3 subject to Clause 7.8 below, not exercise its power of sale over or otherwise dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units before the expiry of the Moratorium Period except in accordance with Clause 7.5 below.
- 7.5 In the event the Council serves an Intention Notice on the Chargee between the first day of the Moratorium Period and (but excluding) the date falling one calendar month later, then not later than 15 Working days after service of the Intention Notice (or such later date during the Moratorium Period as may be agreed in writing between the Council and the Chargee), the Chargee will grant the Council (and/or the Council's nominated substitute Registered Provider and/or Community Land Trust (as applicable)) an exclusive option to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units which shall contain the following terms:
- 7.5.1 the sale and purchase will be governed by the Standard Commercial Property Conditions (Third Edition – 2018 Revision) (with any variations that may be agreed between the parties to the Option (acting reasonably));
 - 7.5.2 the price for the sale and purchase will be agreed in accordance with Clause 7.6.2(a) or determined in accordance with Clause 7.7 below;
 - 7.5.3 provided that the purchase price has been agreed in accordance with Clause 7.6.2(a) below or determined in accordance with Clause 7.7 below, but subject to Clause 7.5.4 below, the Chargee will give the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) may (but is not obliged to) the opportunity to exercise the Option and complete the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units at any time prior to the expiry of the Moratorium Period;
 - 7.5.4 the Option will expire upon the earlier of (i) notification in writing by the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) that it no longer intends to exercise the Option and (ii) the expiry of the Moratorium Period; and
 - 7.5.5 any other terms agreed between the parties to the Option (acting reasonably).
- 7.6 Following the service of the Intention Notice:
- 7.6.1 the Chargee shall use reasonable endeavours to reply to enquiries raised by the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) in relation to the Affordable Housing Units and/or the Additional Affordable Housing Units as expeditiously as possible having regard to the length of the Moratorium Period; and
 - 7.6.2 the purchase price for the relevant Affordable Housing Units and/or Additional Affordable Housing Units shall be the higher of:
 - (a) the price reasonably obtainable in the circumstances having regard to the restrictions as to the use of the relevant Affordable Housing Units and/or Additional Affordable Housing Units contained in Part 2 of Schedule 1 and Part 2 of Schedule 2 (as applicable); and
 - (b) (unless otherwise agreed in writing between the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) and the Chargee) the Sums Due.

- 7.7 On the date falling one calendar month after the first day of the Moratorium Period, if the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) and the Chargee have not agreed the price pursuant to Clause 7.6.2(a) above:
- 7.7.1 the Chargee shall use reasonable endeavours to agree with the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) the identity of an independent surveyor having at least 10 years' experience in the valuation of affordable/social housing within the London area to determine the dispute and, if the identity is agreed, shall appoint such independent surveyor to determine the dispute;
 - 7.7.2 if, on the date falling 15 Working days after service of the Intention Notice the Chargee has not been able to agree the identity of an independent surveyor with the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)), either party may apply to the President for the time being of the Royal Institution of Chartered Surveyors or his deputy to appoint an independent surveyor having at least 10 years' experience in the valuation of affordable/social housing within the London area to determine the dispute;
 - 7.7.3 the independent surveyor shall determine the price reasonably obtainable referred to at Clause 7.6.2(a) above, due regard being had to all the restrictions imposed upon the relevant Affordable Housing Units and/or Additional Affordable Housing Units by this Deed;
 - 7.7.4 the independent surveyor shall Act as an expert and not as an arbitrator;
 - 7.7.5 the fees and expenses of the independent surveyor are to be borne equally by the parties;
 - 7.7.6 the independent surveyor shall make his/her decision and notify the Council, the Council's nominated substitute Registered Provider and/or Community Land Trust (as applicable) (if any) and the Chargee of that decision no later than 14 days after his/her appointment and in any event within the Moratorium Period; and
 - 7.7.7 the independent surveyor's decision will be final and binding (save in the case of manifest error or fraud).
- 7.8 The Chargee may dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units free from the obligations and restrictions contained in this Schedule which shall determine absolutely in respect of those Affordable Housing Units and/or Additional Affordable Housing Units (but subject to any existing tenancies) if:
- 7.8.1 the Council has not served an Intention Notice before the date falling one calendar month after the first day of the Moratorium Period;
 - 7.8.2 the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) has not exercised the Option and completed the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units on or before the date on which the Moratorium Period expires;
 - 7.8.3 or the Council (or its nominated substitute Registered Provider and/or Community Land Trust (as applicable)) has notified the Chargee in writing pursuant to the Option that it no longer intends to exercise the Option.
- 7.9 The Chargee shall act reasonably in fulfilling its obligations under this Clause 87.

8. **REGISTRATION**

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

8.2 The Developer acknowledge[s] that this Deed is a public document and that a un-redacted copy may be placed on the planning register, the Register of Local Land Charges and/or otherwise published and/or made available.

9. **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.

10. **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 and on an escorted basis 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.

11. **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 Deed 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.

12. **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 7 days the Developer shall pay on demand to the Council interest thereon at the interest rate of 4 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.

13. **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.

14. **VAT**

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

14.2 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 Developer shall pay such VAT subject to the Council having issued a VAT invoice to the Developer.

15. **NOTICES**

15.1 Any notice or other communication to be given under or in connection with this Deed shall be in writing which for this purpose shall not include e-mail and should be addressed as provided in Clause 15.3.

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

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

15.2.2 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.

15.3 Subject to Clause 15.4, the address, relevant addressee and reference for each party are:

For the Council:

Address: Southwark Council, Development Management,
Planning & Transport, Chief Executive's Department,
P.O. 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/[xx] and [xx]/AP/[xx]

For the First Owner:

Address: Berkeley House, 19 Portsmouth Road, Cobham, Surrey,
KT11 1JG

For the Second Owner:

Address: [The address stated in the parties section above.]

Relevant addressee: [The Company Secretary]

Reference:

Telephone:

- 15.4 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:
- 15.4.1 the date specified in the notification as the date on which the change is to take place; or
 - 15.4.2 if no date is specified or the date specified is less than 5 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.
16. **COUNCIL'S FAILURE TO RESPOND AND DETERMINATION OF DISPUTES**
- 16.1 Under this Deed where the Developer is required to obtain the Council's approval of any document or other matter of any sort ("**Developer's Submission**") and where the Council either:
- 16.1.1 refuses the Developer's Submission; or
 - 16.1.2 does not respond to the Developer's Submission within 20 Working Days of its receipt of the same (or such other period as expressly set out in the relevant obligation as applicable)
- the Developer may refer the Developer's Submission to a Specialist for determination under this clause 16.
- 16.2 Where the Council and the Developer enter into discussions in respect of a Developer's Submission and such discussions extend beyond the 20 Working Day period (or other period as applicable) referred to in clause 16.1.2 and the Developer has not referred the matter to a Specialist under this clause 16 the Council may (but is not obliged to) do so.
- 16.3 If any dispute arises relating to or arising out of the terms of this Deed, either Party may give to the other written notice requiring the dispute to be determined under this Clause 16 to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 16.4 For the purposes of this Clause 16 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than 10 years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.
- 16.5 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 16.6.
- 16.6 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.
- 16.7 The Specialist is to act as an independent expert and:
- 16.7.1 each Party may make written representations within 10 Working days of his appointment and will copy the written representations to the other Party;
 - 16.7.2 each Party is to have a further 10 Working days to make written comments on the other's representations and will copy the written comments to the other Party;

- 16.7.3 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;
- 16.7.4 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;
- 16.7.5 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
- 16.7.6 the Specialist is to use all reasonable endeavours to publish his decision within 30 Working days of his appointment.
- 16.8 This Clause 16 does not apply to disputes in relation to matters of law or the construction or interpretation of this Deed which will be subject to the jurisdiction of the courts.
17. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
- A person who is not named in this Deed does not have any right to enforce any term of this Deed under the Contract (Rights of Third Parties) Act 1999.
18. **MISCELLANEOUS**
- 18.1 The construction validity and performance of this Deed shall be governed by English law.
- 18.2 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.
- 18.3 Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Council under private or public statutes bye-laws orders and regulations.
- 18.4 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 Deed shall have no further effect thereupon.
- 18.5 Nothing in this Deed 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).
19. **FUTURE MORTGAGEE**
- A Mortgagee with a charge over the Site created after the date of this Deed shall have no liability under this Deed unless the Mortgagee becomes a successor in title or a mortgagee in possession of the Site or any part thereof in which case it too will be bound by the obligations as if it were a person deriving title from the Developer.
20. **GOOD FAITH**
- The Developer agrees to act reasonably and in good faith in the fulfilment of its obligations under this Deed.

21. **TERMINATION**

This Deed will cease to have effect (to the extent it has not already been complied with) if the Appeal Decision states permission for the Application is refused or if Planning Permission is quashed, revoked or otherwise withdrawn or expires before the Development is Commenced.

SCHEDULE 1

PHASE 1

PART 1

FINANCIAL CONTRIBUTIONS – PHASE 1

The Developer covenants with the Council:

1. FINANCIAL CONTRIBUTIONS

- 1.1 To pay the following Site and Development Contributions on or before Implementation of Phase 1:
 - 1.1.1 Archaeology Contribution – Phase 1
 - 1.1.2 Administration Cost – Phase 1;
 - 1.1.3 Affordable Housing Monitoring Contribution for Phase 1;
 - 1.1.4 Construction Environmental Management Plan and Demolition Environmental Management Plan Monitoring Fee – Phase 1
- 1.2 To pay the following Site and Development Contributions on or before Substantial Implementation:
 - 1.2.1 CCTV Contribution – Phase 1;
 - 1.2.2 Children's Play Space Contribution – Phase 1
 - 1.2.3 Bus Passenger Infrastructure Improvements Contribution – Phase 1;
 - 1.2.4 Carbon Offset Contribution – Phase 1;
- 1.3 To pay the Travel Plan Monitoring Fee – Residential – Phase 1 prior to 75% of the Residential Units in Phase 1 being Occupied.
- 1.4 To pay the Delivery and Servicing Monitoring Fee – Phase 1 prior to Occupation of the first Commercial Unit in Phase 1.
- 1.5 To pay the Cycle Hire Docking Station Contribution as determined by the Inspector under row 8 of the Blue Pencil Schedule.

PART 2

AFFORDABLE HOUSING

The Developer covenants with the Council:

1. AFFORDABLE HOUSING

- 1.1 To submit the Phase 1 Affordable Housing Plan within six months of Implementation of Phase 1.
- 1.2 To construct or procure the construction of the Social Rented Units at no cost to the Council.
- 1.3 Not to Occupy more than 75% of the Market Housing Units in Phase 1 until the Social Rented Units have been Delivered unless otherwise agreed with the Council in writing.
- 1.4 Within 14 days of Substantial Implementation to submit to the Council the name of the chosen Registered Provider and/or Community Land Trust (as applicable) by completing Part 2 of the Housing Delivery Monitoring Table (for approval only in the case of a Registered Provider not on the Council's approved list).
- 1.5 To use reasonable endeavours from the grant of Planning Permission to secure Public Subsidy in the following order of priority:
 - 1.5.1 Public Subsidy the terms of which allow or require such Public Subsidy to be used to provide or increase the level of CLT Homes;
 - 1.5.2 Public Subsidy the terms of which allow or require such Public Subsidy to be used to provide or increase the level of other types of Affordable Housing.
- 1.6 Not to Occupy any Market Housing in Phase 1 until submitting a report to the Council which may be shared with the GLA detailing the reasonable endeavours undertaken pursuant to paragraph 1.5 above.
- 1.7 In the event that a Public Subsidy is awarded pursuant to paragraph 1.5 above to:
 - 1.7.1 Within three (3) months of the Public Subsidy being awarded submit to the Council for its written approval an updated Phase 2 Affordable Housing Mix Schedule, an updated Phase 2 Affordable Housing Plan and an Additional Affordable Housing Scheme to secure the conversion of any Intermediate Housing Units in Phase 2 to CLT Homes PROVIDED THAT the Developer shall not be required to convert any Intermediate Housing Units to CLT Homes other than on an Equal Value Basis; and/or (as applicable)
 - 1.7.2 Within three (3) months of the Public Subsidy being awarded submit to the Council for its written approval an updated Phase 2 Affordable Housing Mix Schedule, an updated Phase 2 Affordable Housing Plan and an Additional Affordable Housing scheme to secure an increase in the level of Affordable Housing;
 - 1.7.3 Not to Occupy more than 75% of the Market Housing Units until the CLT Homes or the additional Affordable Housing secured pursuant to this paragraph have been Delivered.

2. SOCIAL RENTED UNITS – NOMINATIONS

- 2.1 Not to Occupy any Social Rented Units until a Nomination Agreement has been entered into between the Registered Provider and the Council in respect of those Social Rented Units.

- 2.2 To comply with the terms of the relevant Nomination Agreement in respect of the letting of the Social Rented Units to which it relates.

3. RESTRICTION ON OCCUPATION

- 3.1 Not to Occupy the Social Rented Units other than as Social Rented Housing.

4. SERVICE CHARGE

- 4.1 To use reasonable endeavours to minimise the cost of Service Charges payable by tenants of the Affordable Housing Units.
- 4.2 To ensure that any Service Charges payable by tenants of Affordable Housing Units shall be limited to the costs of services provided (or to be provided) and such tenants shall not be charged for any services not related to the Affordable Housing Units.
- 4.3 Without prejudice to 4.2 above and unless otherwise agreed by the Council, the Developer shall use reasonable endeavours to ensure that Service Charges for the Social Rented Housing shall be determined in accordance with the Direction for Rent Standard and limited to an increase of CPI + 1% per annum or such other limit imposed by Government regulation and/or direction (whichever is the lower).

5. HOUSING DELIVERY MONITORING TABLE AND AFFORDABLE HOUSING SURVEY

- 5.1 To accurately complete and submit to the Council Part 1 (Approval) of the Housing Delivery Monitoring Table as soon as reasonably practicable following grant of the Planning Permission.
- 5.2 To accurately complete and submit to the Council Part 2 (Commencement) of the Housing Delivery Monitoring Table within 10 Working days of practical completion of the Replacement Morrisons Supermarket.
- 5.3 To accurately complete and submit to the Council Part 3 (Completion) of the Housing Delivery Monitoring Table on or before first Occupation of Phase 1.
- 5.4 To accurately complete and submit to the Council Part 4 (Amendments) of the Housing Delivery Monitoring Table within 10 Working days after any amendments have been made to the Planning Permission which affect the location and/or status of the Residential Units (if any).
- 5.5 In order to complete and/or update the Housing Delivery Monitoring Table, the Developer shall use the most up to date pro-forma template of the Housing Delivery Monitoring Table available from the Council's website and submit a copy of the table along with an application to discharge the relevant obligation and any necessary fee to planning.application@southwark.gov.uk.
- 5.6 To provide the Council with a detailed written response to the Affordable Housing Survey in respect of the Social Rented Units along with such evidence as the Council may reasonably require within 28 days of receipt of the survey.
- 5.7 To provide the Council with such information as it may reasonably require in order for it to be satisfied that the provisions of this Schedule have been complied with.

ANNEX TO SCHEDULE 2 PART 2

Phase 1 Affordable Housing Mix Schedule

Phase 1								
Tenure Breakdown		Measure	1-Bed	2-Bed	3-Bed	4-Bed	Total	%HR
Market Homes - Units		Unit	141	132	52	0	325	
Market Homes - Hab Rooms		Hab Room	318	460	260	0	1038	80.5%
Intermediate Homes - Units		Unit	0	0	0	0	0	
Intermediate Homes - Hab Rooms		Hab Room	0	0	0	0	0	0.0%
Social Rent Homes - Units		Unit	0	17	15	18	50	
Social Rent Homes - Hab Rooms		Hab Room	0	68	75	108	251	19.5%
Total Homes - Units		Unit	141	149	67	18	375	
Total Homes - Hab Rooms		Hab Room	318	528	335	108	1289	
Percentage Homes by Bedroom Size		Units	38%	40%	18%	5%	100%	
Percentage Homes by Bedroom Size		Hab Room	25%	41%	26%	8%	100%	

ANNEX B TO SCHEDULE 1 PART 2

Housing Delivery Monitoring Table

This table should be filled out by unit. Grey cells contain values carried over from Table B.

PART 1: APPROVAL Required at approval stage									PART 2: COMMENCEMENT Required when construction		PART 3: COMPLETION Required at the completion of every stage						PART 4: AMENDMENTS
<p>Floor plan shading</p> <p>Blue: Market units</p> <p>Orange: Intermediate units</p> <p>Green: Social rented units</p>									<p><i>If units are commenced at different phases (due to an outlaying plot or phased scheme), please record the units that have commenced by date.</i></p>		<p><i>Record the number of units completed at each stage with the correct completion date. Mark the phase number in column 4. Record Accessible and Adaptable Dwellings in a new row.</i></p>						<p><i>If the planning permission or LSS has been varied or amended, please note the planning application reference here. Alternatively, if the affordable housing has been increased above that required by the original LSS without varying the planning consent or the LSS agreement please highlight the changes to the original application that have been made to the relevant units in the table.</i></p>
Full/Outline Planning Application Reference (prev. application)	Reserved matters reference	Unit location reference (must correspond to attached floor plan)	Attached plan reference number	Block	Storey	Tenure <small>Select ONE from drop-down list</small>	Intermediate Tenure Type (if applicable)	Wheelchair user dwelling standards compliance <small>If applicable, select ONE from drop-down list</small>	Phase	Commencement date	Completion date	Flat/House Number	Street Address	Post code	Managed by: Southwark Council or Registered Provider	Name of Registered Provider (if applicable)	Amended Application Reference

PART 3
VIABILITY

The Developer covenants with the Council:

Part 1- Early Stage Review

1. EARLY STAGE REVIEW TRIGGER

- 1.1 The Developer shall notify the Council of the date on which it considers that Substantial Implementation of Phase 1 has been achieved no later than 10 Working days after such date and such notice shall be accompanied by full documentary evidence to enable the Council to independently assess whether Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Target Date.
- 1.2 No later than 10 Working days after receiving a written request from the Council, the Developer shall provide to the Council any additional documentary evidence reasonably requested by the Council to enable it to determine whether the Substantial Implementation has been achieved on or before the Substantial Implementation Target Date.
- 1.3 Following notification of Substantial Implementation pursuant to paragraph 1.1 above, the Developer shall afford the Council access to the Site to inspect and assess whether or not the work undertaken amounts to Substantial Implementation provided that:
 - 1.3.1 the Council has provided the Developer with reasonable written notice of its intention to carry out such an inspection;
 - 1.3.2 the Council complies with the Developer's site rules and regulations applicable as at the time of access throughout the duration of such inspection;
 - 1.3.3 the Council is accompanied by the Developer or its agent.
- 1.4 Paragraph 1.3 shall apply for a period of 20 Working days of the Council receiving notice pursuant to paragraph 1.1 above.
- 1.5 Where the Council gives notice to the Developer within 10 Working days of the end of the period specified in paragraph 1.4 that Substantial Implementation has not occurred on or before the Substantial Implementation Target Date the Developer shall carry out an Early Stage Review and submit the Development Viability Information within 20 Working days of the date on which Substantial Implementation has occurred in accordance with the provisions of this Schedule.

2. SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION

- 2.1 In the event an Early Stage Review is triggered pursuant to paragraph 1 above the Developer shall submit the following information on an open book basis to the Council within 20 Working days from the date which the Developer is notified that Substantial Implementation has been achieved and separately no later than 20 Working days after the Early Stage Review Date:
 - 2.1.1 the Development Viability Information;
 - 2.1.2 the Updated Viability Appraisal thereby confirming whether in the Developer's view any Additional Affordable Housing could be provided; and
 - 2.1.3 where such written statement confirms that Additional Affordable Housing can be provided, an Additional Affordable Housing Scheme.

- 2.2 In the event that the Council and/or an External Consultant requires further Development Viability Information or supporting evidence of the same to assess whether in its view any Additional Affordable Housing can be provided then the Developer shall provide any reasonably required information to the Council or the External Consultant (as applicable and with copies to the other parties) within 10 Working days of receiving the relevant request and this process may be repeated once.

3. ASSESSMENT OF THE DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

- 3.1 The information submitted pursuant to paragraph 1.12.1 and 2.22.2 (if applicable) is submitted for the Council to assess and to assess whether in its view Additional Affordable Housing is required to be delivered in accordance with the Updated Viability Appraisal and for the avoidance of doubt the Council shall be entitled to rely on its own evidence in determining inputs into the Updated Viability Appraisal subject to such evidence also being provided to the Developer.

- 3.2 The Council may appoint an External Consultant to assess any Development Viability Information and other information it receives.

- 3.3 Where the Council notifies the Developer in writing no later than 30 Working days from submission of information pursuant to paragraph 1.12.1 and 2.22.2 (if applicable) of its decision as to:

3.3.1 whether a Surplus is identified with the Council's share of the Surplus to be applied towards any Additional Affordable Housing; and

3.3.2 whether the submitted Additional Affordable Housing Scheme is approved

then subject to paragraph 3.4, if it is concluded that the Surplus is greater than zero and Additional Affordable Housing is required but the written statement submitted pursuant to paragraph 2.1.3 concluded that Additional Affordable Housing was not required, the Developer shall provide an Additional Affordable Housing Scheme to the Council for approval within 20 Working days of the date on which it receives the Council's notice pursuant to this paragraph 3.3.

- 3.4 In the event the Council or its External Consultant's assessment pursuant to 3.3 concludes that

3.4.1 a Surplus arises following the Updated Viability Appraisal but such Surplus is insufficient to provide any Additional Affordable Housing Units; or

3.4.2 a Surplus arises following the Updated Viability Appraisal but such Surplus cannot deliver a whole number of Additional Affordable Housing Units;

then in either scenario the Developer shall pay any such Surplus allocable to any incomplete Additional Affordable Housing Unit to the Council as a financial contribution towards offsite Affordable Housing within the Borough.

- 3.5 The Developer shall pay the Council's costs which are reasonably incurred in assessing the Development Viability Information and the Updated Viability Appraisal and other relevant information including those of the External Consultant within 20 Working days of receipt of a written request for payment.

4. DELIVERY OF AFFORDABLE HOUSING

4.1 Where it is determined pursuant to paragraph 3.3 that Additional Affordable Housing is required the Developer shall not Occupy more than 75 per cent of the Market Housing Units in Phase 1 unless and until it has:

4.1.1 Delivered all of the Additional Affordable Housing to be provided in Phase 1 in accordance with the Additional Affordable Housing Scheme approved by the Council unless otherwise agreed with the Council SUBJECT TO the proviso in paragraph **Error! Reference source not found.** of Part 2 of this Schedule 1; and

4.1.2 paid any remaining Surplus pursuant to paragraph 3.3 to the Council towards the delivery of offsite Affordable Housing within the Borough

PROVIDED THAT where the Council or the External Consultant have not notified the Developer in writing as to whether the Additional Affordable Housing Scheme is approved within 20 Working days from submission of an Additional Affordable Housing Scheme pursuant to paragraph 3.3 the restriction in paragraph 4.1 above shall not apply in respect of any Buildings which have Commenced at the date determination is made pursuant to paragraph and the Developer shall seek to agree with the Council an alternative timescale for the obligations in paragraphs 4.1.1 and 4.1.2.

4.2 The Parties agree that the terms of paragraph 4.1 above shall apply mutates mutandis to the provision of any Additional Affordable Housing.

4.3 For the avoidance of doubt if any dispute arises relating to or arising out of the terms of this Part 3 of Schedule 1, either Party may give to the other written notice requesting the dispute to be determined under Clause 18 of this Deed.

4.4 Where a dispute arising out of the terms of this Part 3 of Schedule 1 is determined under Clause 18 of this Deed the restriction in paragraph 4.1 above shall not apply in respect of any Building which has been Commenced at the date the matter is determined under Clause 18.

Part 2: Mid Stage Review

5. MID STAGE REVIEW TRIGGER

5.1 The Developer shall notify the Council of the anticipated Mid Stage Review Date not less than 20 Working days in advance of that date.

6. SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION AND UPDATED VIABILITY APPRAISAL

6.1 No later than 20 Working days after the Mid Stage Review Date notified to the Council pursuant to paragraph 5.1, the Developer shall submit the following information on the basis that the Council may make such information publicly available:

6.1.1 the Development Viability Information; and

6.1.2 the Updated Viability Appraisal thereby confirming whether in the Developer's view any Additional Affordable Housing could be provided; and

where such written statement confirms that Additional Affordable Housing can be provided, an Additional Affordable Housing Scheme.

7. ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

7.1 The Development Viability Information and the Updated Viability Appraisal submitted pursuant to paragraph 6.1 is submitted for the Council to assess and to assess whether in its view Additional Affordable Housing is required to be delivered in accordance with the Updated Viability Appraisal and for the avoidance of doubt the Council shall be entitled to rely on its own evidence in determining inputs into the Updated Viability Appraisal subject to such evidence also being provided to the Developer.

7.2 The Council may appoint an External Consultant to assess the Development Viability Information and the Updated Viability Appraisal and other relevant information submitted pursuant to paragraph 6.1.

7.3 Where the Council notifies the Developer in writing no later than 30 Working days from submission of information pursuant to paragraph 6.1 of its decision as to whether:

7.3.1 a Surplus is identified with the Council's share of such Surplus to be applied towards any Additional Affordable Housing; and

7.3.2 whether the submitted Additional Affordable Housing Scheme is approved

then subject to paragraph 7.4 if it is concluded that the Surplus is greater than zero and an Additional Affordable Housing is required but the Developer's written statement submitted pursuant to paragraph 6.1 concluded that Additional Affordable Housing was not required, the Developer shall provide an Additional Affordable Housing Scheme to the Council for approval within 20 Working days of the date on which it receives the Council's notice pursuant to paragraph 7.3.

7.4 In the event the Council or its External Consultant's assessment pursuant to paragraph 7.3 concludes that

7.4.1 a Surplus arises following the Updated Viability Appraisal but such Surplus is insufficient to provide any Additional Affordable Housing Units; or

7.4.2 a Surplus arises following the Updated Viability Appraisal but such Surplus cannot deliver a whole number of Additional Affordable Housing Units;

then in either scenario the Developer shall pay any such Surplus allocable to any incomplete Additional Affordable Housing Unit to the Council as a financial contribution towards offsite Affordable Housing within the Borough.

7.5 The Developer shall pay the Council's costs which are reasonably incurred in assessing the Development Viability information and the Updated Viability Appraisal other relevant information including those of the External Consultant within 20 Working days of receipt of a written request for payment.

8. DELIVERY OF ADDITIONAL AFFORDABLE HOUSING

8.1 Where it is determined pursuant to paragraph 7.3 that Additional Affordable Housing is required the Developer shall not Occupy more than 75% per cent of the Market Housing Units in Phase 2 unless and until it has:

8.1.1 Delivered all of the Additional Affordable Housing to be provided in accordance with the Additional Affordable Housing Scheme approved by the Council SUBJECT TO the proviso in paragraph **Error! Reference source not found.** of Part 2 of this Schedule 1; and

8.1.2 paid any remaining Surplus pursuant to paragraph 7.5 to the Council towards the delivery of offsite Affordable Housing within the Borough

PROVIDED THAT where the Council or the External Consultant have not notified the Developer in writing as to whether the Additional Affordable Housing Scheme is approved within 20 Working days from submission of an Additional Affordable Housing Scheme pursuant to paragraph 7.3 the restriction in this paragraph 8.1 shall not apply in respect of any Building which has been Commenced at the date of notification pursuant to paragraph 7.3.

- 8.2 The Parties agree that the terms of this 8 shall apply mutates mutandis to the provision of any Additional Affordable Housing.

9. PUBLIC SUBSIDY

- 9.1 Nothing in this Deed shall prejudice any contractual obligation on the Developer to repay or reimburse any Public Subsidy using any Surplus that is to be retained by the Developer following the updated Viability Appraisal.

PART 4
WHEELCHAIR HOUSING

The Developer covenants with the Council:

1. WHEELCHAIR HOUSING

- 1.1 To market the Wheelchair Units in Phase 1 designated as Market Housing for the duration of the Marketing Period for Wheelchair Units in accordance with the provisions of this Schedule.
- 1.2 The marketing shall be conducted to ensure that the Wheelchair Units in Phase 1 designated as Market Housing are marketed to as wide an audience as possible through websites, publications and liaison with appropriate agencies not limited to the list in paragraph 1.3 and the marketing details shall include separate marketing material specifically aimed at wheelchair users and confirm the size of the rooms and specification and state that the unit shall be fully fitted.
- 1.3 The Wheelchair Units in Phase 1 designated as Market Housing shall be advertised as a minimum in the following places (as appropriate):
 - 1.3.1 on www.accessible-property.org and www.housingoptions.co.uk;
 - 1.3.2 on www.sharetobuy.com;
 - 1.3.3 on www.thehouseshop.com;
 - 1.3.4 On-site advertisements;
 - 1.3.5 in SAGA magazine or similar London periodicals aimed at an older readership;
 - 1.3.6 in the "Fifty Plus" free newspaper published by Age UK; and
 - 1.3.7 such other place reasonably requested by the Council
- 1.4 Where a wheelchair user has entered into a contract or option for the sale or lease or tenancy of a Wheelchair Unit in Phase 1 designated as Market Housing during or as a result of the Marketing Period for Wheelchair Units, the Developer shall make reasonable adaptations to the Wheelchair Unit (where reasonableness will be judged by the Council taking into account whether or not the Wheelchair Unit has already been Completed) to meet the user's reasonable requirements (which for the avoidance of doubt shall if requested by the purchaser include works to adapt bathrooms so that they have a wet room and/or level access shower) where requested by the purchaser where it can be demonstrated that such adaptations are in the Council's opinion reasonably required to meet the specialist needs of the intended occupier of the Wheelchair Unit.
- 1.5 Not to Dispose of a Wheelchair Unit designated as Market Housing to those not in need of wheelchair housing until details of the marketing undertaken pursuant to this Schedule supported by such evidence as the Council may reasonably require (including but not limited to the date of first advertisement and web-posting of the unit and evidence of continual marketing throughout the marketing period) has been submitted to the Council and the Council has confirmed that it is satisfied that such marketing has been carried out in accordance with the requirements of paragraphs 1.2–1.4.

PART 5

MORRISONS RE-PROVISION AND COMMERCIAL FLOORSPLACE

1. DELIVERY OF COMMERCIAL FLOORSPLACE

1.1 The Developer covenants:-

- 1.1.1 to construct the Commercial Floorspace within Phase 1 or Sub-Phase of Phase 1 (as applicable) to shell and core prior to Occupation of 25% of the Market Housing Units in Phase 1 or the relevant Sub-Phase;
- 1.1.2 to notify the Council when Commercial Floorspace or part thereof (as applicable) has been delivered in accordance with paragraph 1.1.1 above.

PART 6

PUBLIC REALM

The Developer covenants with the Council:

1. PUBLIC REALM

- 1.1 Not to Implement Phase 1 until the Public Realm Specification for Phase 1 and the Public Realm Phasing Plan have been submitted to the Council and the Council has approved the Public Realm Specification and the Public Realm Phasing Plan.
- 1.2 Not to Occupy any Sub-Phase in Phase 1 until the Public Realm Works on that Sub-Phase have been completed to the satisfaction of the Council and in accordance with the Public Realm Phasing Plan and a Provisional Certificate has been issued by the Council in respect of the works.
- 1.3 To serve the Council with written notice of Completion of the Public Realm Works in Phase 1 within 14 days of its occurrence together with certified documentary evidence of the actual as constructed specification.

2. DEFECTS

- 2.1 For the duration of the Defects Period the Developer shall:
 - 2.1.1 maintain the Public Realm Works on Phase 1; 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.
- 2.2 It is acknowledged by the Developer that the Defects Period and the issue of a Provisional Certificate and a Final Certificate in respect of the Public Realm Works on Phase 1 are 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 38/278 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 Realm on Phase 1, the Developer shall:
 - 3.1.1 permanently maintain, cleanse, drain and keep maintained, cleansed and drained the Public Realm on Phase 1;
 - 3.1.2 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 Realm on Phase 1 are open to the public subject to matters outside its reasonable control; and
 - 3.1.3 at all times maintain cleanse drain and light the Public Realm on Phase 1 in all respects to at least a comparable standard as if the Public Realm were being maintained by a local authority.

4. ACCESS

- 4.1 Subject to paragraph 4.2 and 4.3 below and unless otherwise agreed with the Council in writing, to provide full unrestricted public access to the Public Realm on each Sub-Phase of Phase 1 on or before Occupation of the relevant Sub-Phase 24 hours a day 365 days a year for the duration that the Development or any part of that Sub-Phase remains Occupied.
- 4.2 The Public Realm on Phase 1 may be closed to the public for such period as is necessary (not exceeding two days in any calendar year in respect of any particular part of the Public Realm and only insofar as is necessary) to prevent public or private rights from coming into being by means of prescription or other process of law.
- 4.3 The Developer may from time to time temporarily restrict or prevent access to the Public Realm on Phase 1 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 only for the following purposes:
- 4.3.1 the repair maintenance and resurfacing of the Public Realm;
 - 4.3.2 the laying cleaning maintenance and repair of any cables wires pipes drains or ducts over along or beneath the Public Realm;
 - 4.3.3 the inspection maintenance repair renewal rebuilding or demolition or development of any buildings now or hereafter on the Site or any part thereof;
 - 4.3.4 if in the reasonable opinion of the Developer there shall be some danger to the public; and
 - 4.3.5 for any other reasonable and sufficient cause and for such reasonable period as may be agreed by the Council.
- 4.4 If the Council requests the closure of the Public Realm on Phase 1 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 on Phase 1 to the public for so long as may be required by the Council.
- 4.5 In the event of closure of any part(s) of the Public Realm on Phase 1 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 Phase 1 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 7

PARKING PERMIT RESTRICTIONS, BUS STATION IMPROVEMENT WORKS SCHEME AND CLIFTON ESTATE ROUTE

The Developer covenants with the Council:

1. PARKING PERMIT RESTRICTIONS

- 1.1 The Developer covenants with the Council not to apply for a Parking Permit and to ensure that prior to the Occupation of Phase 1 and for the duration that Phase 1 or any part of Phase 1 remains Occupied each new occupier and owner of Phase 1 is informed of the Council's policy that they shall not be entitled (unless they are the holder of a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Parking Permit to park a vehicle in a Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

2. BUS STATION IMPROVEMENT WORKS SCHEME

The Developer covenants with the Council:

- 2.1.1 to procure a meeting with TfL to discuss the Bus Station Improvement Works Scheme within six months of the date upon which the Planning Permission is Free of Challenge; and
- 2.1.2 to submit the Bus Station Improvement Works Scheme to the Council for approval six months prior to the anticipated date that the Replacement Morrisons Supermarket will be open for trading.

3. CLIFTON ESTATE ROUTE

- 3.1 The Developer covenants with the Council:-

- 3.1.1 for a period of 10 years from the date of this Deed to safeguard the Clifton Estate Route Land for the provision of the Clifton Estate Route;
- 3.1.2 in the event the Council notifies the Developer within a period of 10 years from the date of this Deed that the Council will be delivering the Clifton Estate Route to make the Clifton Estate Route Land available to the Council for delivery of the Clifton Estate Route;

- 3.2 Paragraph 3.1 shall cease to apply in the event that:

- 3.2.1 the Clifton Estate Route has not been delivered within 10 years and 1 day from the date of this Deed or such longer period as may be agreed in writing between the Developer and the Council; or
- 3.2.2 the Council notifies the Developer that the Clifton Estate Route is no longer required.

4. CYCLE HIRE SCHEME

- 4.1 The content of this paragraph 4 shall be as determined by the Inspector under row 11 of the Blue Pencil Schedule.

5. E-BIKE AND E-SCOOTER STORAGE

- 5.1 The content of this paragraph 5 shall be as determined by the Inspector under row 12 of the Blue Pencil Schedule.

PART 8

CONSTRUCTION EMPLOYMENT, TRAINING AND APPRENTICESHIPS AND LOCAL PROCUREMENT

The Developer covenants with the Council:

1. CONSTRUCTION EMPLOYMENT, TRAINING AND APPRENTICESHIPS

- 1.1 Not to Implement Phase 1 until the Developer has submitted the Construction Employment Contact Methodology to the Council and the Council has approved the methodology.
- 1.2 The Construction Employment Contact Methodology shall include but not be limited to:
 - 1.2.1 the method by which a Construction Employment Contact shall be appointed and;
 - 1.2.2 the responsibilities of the Construction Employment Contact which shall include the following:
 - (a) identifying Sustained Employment opportunities to lead to Sustained Construction Employment;
 - (b) 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 including SCSC, and careers service providers including the Southwark Education Business Alliance;
 - (c) commissioning Short Courses where necessary and identifying financial resources for the delivery of appropriate construction industry training and skills certification;
 - (d) providing training to selected Unemployed Borough Residents in pre-employment skills, basic construction skills and site safety;
 - (e) supporting Unemployed Borough Residents and their employers through the transition into Sustained Construction Employment; and
 - (f) recruiting Borough residents into Construction Apprenticeships..
- 1.3 To appoint and retain a Construction Employment Contact throughout the Construction Employment Contact Period.
- 1.4 To use reasonable endeavours during the Construction Employment Contact Period to:
 - 1.4.1 place a minimum of 116 Unemployed Borough Residents into Sustained Construction Employment;
 - 1.4.2 train a minimum of 116 Borough residents using Short Courses;
 - 1.4.3 provide a minimum of 29 new Construction Apprenticeships or NVQ Starts;
 - 1.4.4 ensure that their contractors and sub-contractors shall work with the Construction Employment Contact and with local employment and skills agencies approved by the Council to recruit Borough residents into Construction Apprenticeships; and
 - 1.4.5 produce the Construction Employment and Training Report

PROVIDED THAT where there is a shortfall in the provision of the targets set out in paragraph 1.4 such shortfall shall be added to the equivalent target for Phase 2 as set out in paragraph 1.4 (as applicable) Part 9 of Schedule 2.

- 1.5 Following the submission to the Council of the final Construction Employment and Training Report prior to Completion of Phase 1 or such sub-phase(s) of the Development as may be agreed in writing with the Council, the Council may assess if the targets outlined in paragraph 1.4 above have been achieved.
- 1.6 In the event that the targets in paragraph 1.4 above have not been achieved to the satisfaction of the Council (irrespective of the use of reasonable endeavours), the Council may notify the Developer in writing of the calculation of the Construction 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 Employment x £5,500 Index Linked
 - 1.6.2 Shortfall against number of Borough residents trained in Short Courses x £150 Index Linked
 - 1.6.3 Shortfall against number of Construction Apprenticeships or NVQ Starts x £1,500 Index Linked
- 1.7 The Developer shall pay the Construction 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 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 local businesses for the provision of goods and services for the running of the Site, pre, during and post construction, and liaise with the Council through the Construction 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 Council's local economy team or such team as shall be assigned the work of the local economy team from time to time to discuss, agree and implement the arrangements as set out in this paragraph 2.3 and to comply with any appropriate arrangements in any relevant economic strategy adopted by the Council;
 - 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, the local press and meet the buyer events;

- 2.3.5 with its contractors and sub-contractors, resource and deliver, in consultation with the Council or a nominee of the Council, an agreed number of seminars on procurement policy and phasing in relation to the Development at an appropriate time before Implementation 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.

PART 9

ESTATE MANAGEMENT PLAN

The Developer covenants with the Council:

1. ESTATE MANAGEMENT PLAN

- 1.1 Not to Occupy Phase 1 until the Estate Management Plan has been submitted to the Council and the Council has approved the plan.
- 1.2 To comply with the Estate Management Plan approved by the Council pursuant to paragraph 1.2 above for the duration that Phase 1 or any part of Phase 1 remains Occupied.

PART 10
BIODIVERSITY GAIN

1. HABITAT MANAGEMENT AND MONITORING PLAN

1.1 The Developer covenants with the Council:

- 1.1.1 before Commencement of Phase 1 to submit an HMMP for Phase 1 together with a Biodiversity Gain Plan to the Council for approval;
- 1.1.2 where the Council does not approve an HMMP or requires a replacement HMMP during the Biodiversity Management Period (such refusal or request to be accompanied by the Council's reasons for refusal or for a replacement HMMP) to submit a revised or replacement HMMP for approval having regard to any reasonable reasons for refusal or requests by the Council;
- 1.1.3 within 10 Working days of the date the Council notifies the Developer of its reasons for refusal of an HMMP, to pay the Council's reasonable costs for re-assessing any revised or replacement HMMP and FOR THE AVOIDANCE OF DOUBT paragraphs 1.1.2 and 1.1.3 shall continue apply until such time as the HMMP has been approved by the Council;
- 1.1.4 within 10 Working days of the HCEW Commencement Date for Phase 1 to notify Council of the HCEW Commencement Date by written notice
- 1.1.5 to complete the HCEW in accordance with the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule, as the case may be);
- 1.1.6 within 10 Working days of the HCEW Completion Date for Phase 1 to serve the HCEW Completion Date Notice on the Council;
- 1.1.7 to promptly rectify any defects in the HCEW identified by the Council and issue a subsequent HCEW Completion Date Notice and thereafter to continue to promptly rectify any defects and issue HCEW Completion Date Notices until the Council issues a Certificate of Completion;
- 1.1.8 on receipt of the Certificate of Completion from the Council to manage and maintain the created and/or enhanced habitat on Phase 1 in accordance with the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule as the case may be) during the Biodiversity Management Period;
- 1.1.9 not to prevent or allow anyone to prevent the management and maintenance of the created and/or enhanced habitat on Phase 1 in accordance with the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule as the case may be) during the Biodiversity Management Period; and
- 1.1.10 to submit Monitoring Reports to the Council in accordance with the methodology and frequency specified in the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule as the case may be) unless otherwise agreed by the Council.

1.2 Where the Council notifies the Developer that it requires a revised or replacement HMMP pursuant to this Schedule, the Developer covenants:

- 1.2.1 within twenty (20) Working days of receiving such notification to submit a revised or replacement HMMP to the Council which adequately reflects the amendments required by the Council;

- 1.2.2 adhere to the approved revised or replacement HMMP for the remaining duration of the Biodiversity Management Period; and
 - 1.2.3 not to prevent or allow anyone to prevent the implementation of the approved revised or replacement HMMP during the Biodiversity Management Period.
- 1.3 Where the Developer requires an amendment to the HMMP during the Biodiversity Management Period, it shall serve a notice on the Council, such notice to include:
 - 1.3.1 the proposed amended HMMP;
 - 1.3.2 a statement of reasons for such amendment; and
 - 1.3.3 confirmation that the amendment to the HMMP would not prevent the delivery of Biodiversity Net Gain.

2. ACCESS FOR INSPECTION

From the HCEW Commencement Date, the Developer covenants with the Council to allow the Council, its agents, and contractors with or without workmen and equipment to enter Phase 1 at all reasonable times (following reasonable notice given) to monitor compliance with the obligations in this Schedule.

PART 11

ENERGY AND BE-SEEN

The Developer covenants with the Council:

Energy Efficiency of the Development

1. ENERGY

- 1.1 To construct and deliver Phase 1 in accordance with the Application Energy Statement in order to achieve the Carbon Targets, or in accordance with such other details approved by the Council .
- 1.2 Unless otherwise agreed by the Council, to retain the energy efficiency measures delivered as part of Phase 1 pursuant to paragraph 1.1 for the duration that the Development or any part of Phase 1 remains Occupied.

2. PRE-OCCUPATION ENERGY REVIEW

- 2.1 Not to Occupy Phase 1 until the Pre-Occupation Energy Review has been submitted to the Council and the Council has approved the review.
- 2.2 In the event the Carbon Targets have not been achieved, the Developer shall submit an addendum to the Application Energy Statement to the Council setting out its proposals to achieve the Carbon Targets on Phase 1.
- 2.3 In the event the Council approves the proposals set out in the addendum to the Application Energy Statement, the Developer shall implement the proposals within 6 months of the date the addendum is approved.
- 2.4 In the event the Developer and the Council are unable to agree on the proposals set out in the addendum, the Council may require the Developer to pay a further carbon off-set contribution which shall be calculated based on £95 (or such other sum as published by the Council) for every tonne of CO2 emitted per year in excess of the Carbon Targets multiplied by 30 years and Index Linked and such sum shall be paid by the Developer to the Council in full within 28 days of written request for the payment to be made.
- 2.5 The Carbon Targets shall be achieved against Phase 1 and shall disregard:
 - 2.5.1 any system installed by occupiers of Phase 1 and that are not within the direct control of the Developer; and
 - 2.5.2 any efficiency improvement/carbon reductions made through a connection to the District Heat Network referred to in paragraph 3 below.

3. DISTRICT HEAT NETWORK

- 3.1 Not to Occupy Phase 1 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:
 - 3.1.1 how Phase 1 will be designed and built so that it will be capable of connection from the Phase 1 Site boundary to the District Heat Network;
 - 3.1.2 demonstrate that the service interface within Phase 1 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 Units of Phase 1 to the District Heat Network;

- 3.1.3 confirmation that individual supplies to the Residential Units and Commercial Units on Phase 1 will be metered;
 - 3.1.4 as far as reasonably practical confirmation that the necessary pipework to each Residential Unit and Commercial Unit on Phase 1 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);
 - 3.1.5 as far as reasonably practical confirmation that allowance has been made within the Commercial Units of Phase 1 for hot water generation by way of heat exchangers connected to the District Heat Network;
 - 3.1.6 as far as reasonably 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.
- 3.2 In the event the Council notifies the Developer within 8 weeks of receipt of the District Heat Network Strategy referred to in paragraph 3.1 that the District Heat Network Strategy is not approved the Council the Developer shall use reasonable endeavours to discuss and reach agreement with the Council to the District Heat Network Strategy within the period of 8 weeks from the receipt by the Council of the District Heat Network Strategy or such other period as the Parties may agree.
- 3.3 In the event that the District Heat Network Strategy is not agreed within the said 8 week period (or such other period as the Parties may agree) then either party may refer the same for determination under Clause 16 of this Deed.
- 3.4 Following receipt of the Council's written approval to the District Heat Network Strategy the Developer shall carry out Phase 1 in accordance with the approved the District Heat Network Strategy.
- 3.5 If 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. In the event that the Feasibility Study is not agreed then either party may refer the same for determination under Clause 16 of this Deed.
- 3.6 If the Parties agree that the Feasibility Study demonstrates that it is feasible and financially viable for the Development to connect into the District Heat Network or (failing agreement between the Council and the Developer) the Specialist pursuant to Clause 16 determines that the connection of Phase 1 to the District Heat Network is feasible and financially viable, then the Developer shall use 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 (or where applicable the Specialist's decision) that connection is feasible and financially viable.
- 4. BE SEEN MONITORING**
- 4.1 Not to Occupy Phase 1 until updated accurate and verified 'as-built' design estimates of the 'Be Seen' energy performance indicators for each Reportable Unit of Phase 1, as per the methodology outlined in the 'as-built stage' chapter / section of the Be Seen Energy Monitoring Guidance, have been submitted to the GLA. All data and supporting evidence shall be submitted using the 'Be Seen' as-built stage GLA Be Seen Web Portal and copied 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.
- 4.2 Upon the first anniversary of first Occupation of Phase 1 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 Phase 1 the Development as per the methodology outlined in the 'in-use stage' chapter / section of the Be Seen Energy Monitoring Guidance, to the GLA. All data and supporting evidence shall be submitted using the 'in-use stage' GLA Be Seen Web Portal and copied 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.

- 4.3 In the event that the 'in-use stage' evidence submitted under paragraph 4.2 shows that the 'as-built stage' performance estimates derived from paragraph 6.1 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 'in-use stage' GLA Be Seen Web Portal. An action plan comprising measures identified in paragraph 6.2 which would be reasonably practicable to implement and a proposed timescale for implementation shall be submitted to the GLA (copied to the Council) and approved in writing by the GLA. The action plan and measures approved by the GLA shall be implemented by the Developer as soon as reasonably practicable.

ANNEX TO PART 11

Carbon Targets

	Residential Carbon Targets			Non-residential Carbon Targets			Site-Wide Carbon Targets		
1.	Total regulated emissions (Tonnes CO2 / year)	CO2 savings (Tonnes CO2 / year)	Percentage savings (%)	Total regulated emissions (Tonnes CO2 / year)	CO2 savings (Tonnes CO2 / year)	Percentage savings (%)	Total regulated emissions (Tonnes CO2 / year)	CO2 savings (Tonnes CO2 / year)	Percentage savings (%)
Part L 2021 Baseline		-	-		-	-		-	-
Be Lean									
Be Clean									
Be Green									
Total Savings									
Off-set	-			-			-		

SCHEDULE 2

PHASE 2

PART 1

FINANCIAL CONTRIBUTIONS – PHASE 2

The Developer covenants with the Council:

1. FINANCIAL CONTRIBUTIONS

- 1.1 To pay the Relocation Fund Contribution within 30 days of the Council's approval of the Final Relocation and Small Shops Strategy.
- 1.2 To pay the following Site and Development Contributions on or before Implementation of Phase 2:-
 - 1.2.1 Archaeology Contribution – Phase 2;
 - 1.2.2 Administration Cost – Phase 2;
 - 1.2.3 Bus Passenger Infrastructure Improvements Contribution – Phase 2;
 - 1.2.4 Affordable Housing Monitoring Contribution for Phase 2;
 - 1.2.5 CCTV Contribution – Phase 2;
 - 1.2.6 Children's Play Space Contribution – Phase 2;
 - 1.2.7 Construction Environmental Management Plan and Demolition Environmental Management Plan Monitoring Fee – Phase 2;
 - 1.2.8 Carbon Offset Contribution – Phase 2;
 - 1.2.9 Cycle Improvement Scheme Contribution.
- 1.3 To pay the Delivery and Servicing Monitoring Fee – Phase 2 prior to Occupation of the first Commercial Unit in Phase 2;
- 1.4 To pay the Biodiversity Monitoring Fee prior to the Occupation of Phase 2.
- 1.5 To pay the following prior to Occupation of 75% of the Residential Units in Phase 2:
 - 1.5.1 the Travel Plan Monitoring Fee – Residential – Phase 2; and
 - 1.5.2 the Travel Plan Monitoring Fee – Workplace.

PART 2

AFFORDABLE HOUSING

The Developer covenants with the Council:

1. COMMUNITY LAND TRUST HOUSING

- 1.1 To use reasonable endeavours to work with a Community Land Trust to investigate opportunities to facilitate the delivery of a number of CLT Homes in Phase 2 on an Equal Value Basis including:
- 1.1.1 to invite bids from Registered Providers for the acquisition of the Intermediate Housing Units, as designed, for the purpose of delivering Shared Ownership Housing based on fair and reasonable service charge provisions or obtain an independent valuation of the value of the Intermediate Housing Units on the basis they will be delivered as Shared Ownership Housing;
 - 1.1.2 to proactively engage with the Community Land Trust sector, including the Community Land Trust Network (or such successor or replacement body as may be in place at the time), to assess interest in acquiring some or all of the Intermediate Housing Units, as designed, for the purpose of delivering Community Land Trust Housing;
 - 1.1.3 to invite competitive bids from interested Community Land Trusts for the acquisition of some or all Intermediate Housing Units, a requirement of which shall be that the Community Land Trust can demonstrate that it has the means to contract on the homes within six months of the date that bids are invited; and
 - 1.1.4 prepare and submit a market report to the Council summarising the valuation outcomes, market engagement feedback, and a conclusion as to whether any bids have been received which are on an Equal Value Basis and where the Community Land Trust has demonstrated that it has the means to contract on the homes within six months of the date that bids are invited.
- 1.2 In the event that it is possible to deliver one or more CLT Homes in Phase 2, the Developer shall submit to the Council an updated Phase 2 Affordable Housing Mix Schedule and an updated Phase 2 Affordable Housing Plan.

2. AFFORDABLE HOUSING

- 2.1 To submit the Phase 2 Affordable Housing Plan to the Council within six months of Implementation of Phase 2.
- 2.2 To construct or procure the construction of the Intermediate Housing Units and/or CLT Homes at no cost to the Council.
- 2.3 That the Intermediate Housing Units and/or CLT Homes shall be Delivered and made available for residential occupation prior to Occupation of more than 75% the Market Housing Units in Phase 2.
- 2.4 Not to Occupy more than 75% of the Market Housing Units in Phase 2 until the Intermediate Housing Units and/or CLT Homes have been Delivered unless otherwise agreed with the Council in writing.
- 2.5 Within 14 days of Implementation to submit to the Council the name of the chosen Registered Provider and/or Community Land Trust (as applicable) by completing Part 2 of the Housing Delivery Monitoring Table (for approval only in the case of a Registered Provider not on the Council's approved list).

- 2.6 Not to Occupy any Market Housing in Phase 2 until the Intermediate Housing Mix Proposal has been submitted to the Director of Planning and Growth and the Director of Planning and Growth has approved the proposal.
- 2.7 To comply with the Intermediate Housing Mix Proposal approved pursuant to paragraph 2.6 above or such other proposal as may be approved by the Council.
- 2.8 To use reasonable endeavours from the grant of Planning Permission to secure Public Subsidy in the following order of priority:
 - 2.8.1 Public Subsidy the terms of which allow or require such Public Subsidy to be used to provide or increase the level of CLT Homes;
 - 2.8.2 Public Subsidy the terms of which allow or require such Public Subsidy to be used to provide or increase the level of Affordable Housing.
- 2.9 Not to Occupy any Market Housing in Phase 2 until submitting a report to the Council which may be shared with the GLA detailing the reasonable endeavours undertaken pursuant to paragraph 2.8 above.
- 2.10 In the event that a Public Subsidy is awarded pursuant to paragraph 2.8 above to:
 - 2.10.1 within three (3) months of the Public Subsidy being awarded submit to the Council for its written approval I an updated Phase 2 Affordable Housing Mix Schedule, an updated Phase 2 Affordable Housing Plan and an Additional Affordable Housing Scheme to secure the conversion of any Non-CLT Intermediate Housing Units to CLT Homes PROVIDED THAT the Developer shall not be required to convert any Non-CLT Intermediate Housing Units to CLT Homes other than on an Equal Value Basis; and/or (as applicable);
 - 2.10.2 within three (3) months of the Public Subsidy being awarded submit to the Council for its written approval an updated Phase 2 Affordable Housing Mix Schedule an updated Phase 2 Affordable Housing Plan and an Additional Affordable Housing Scheme to secure an increase in the level of Affordable Housing;
 - 2.10.3 secure any additional units as Affordable Housing by varying the type or number of Affordable Housing Units (as applicable) in this Deed pursuant to a deed of variation made under section 106A of the 1990 Act.
 - 2.10.4 Not to Occupy more than 75% of the Market Housing Units until the CLT Homes or the additional Affordable Housing secured pursuant to this paragraph have been Delivered unless otherwise agreed with the Council in writing.

3. RESTRICTION ON OCCUPATION

Subject to the provisions of Clause 8, not to Occupy the Intermediate Housing Units other than as Intermediate Housing unless otherwise agreed by the Council in writing.

4. NON-CLT INTERMEDIATE HOUSING

- 4.1 To market the Non-CLT Intermediate Housing (such marketing to include either a show flat or a marketing suite) for a period of not less than two months immediately prior to the anticipated date of Completion of the Non-CLT Intermediate Housing Units and for a further period of not less than three months immediately following the Completion of the Non-CLT Intermediate Housing Units in accordance with paragraphs 4.2 to 4.4 below unless otherwise agreed by the Council.
- 4.2 To ensure that all Non-CLT Intermediate Housing Units is promoted to as wide an audience as possible through websites, publications and liaison with appropriate agencies (not limited to the list in paragraph 4.3 below) to enable prospective purchasers to register their interest.

- 4.3 To promote all Non-CLT Intermediate Housing Units
- 4.3.1 continuously during the marketing period referred to in paragraph 4.1 above in the following places:
- (a) specialist website and social media account dedicated to Phase 2;
 - (b) www.shareto-buy.com;
 - (c) www.thehouseshop.com <http://www.thelittlehousecompany.co.uk/>; or
 - (d) locations/websites which are different to those listed in (a) to (c) and which are appropriate for the approved Intermediate Housing Mix Proposal.
- 4.3.2 at least four times during the marketing period referred to in paragraph 4.1 in the following places:
- (a) in two local Borough newspapers; and
 - (b) in such other places as the Council may reasonably request.
- 4.4 Not to Dispose of any Non-CLT Intermediate Housing Units to those with incomes above the GLA Income Cap until the marketing period referred to in paragraph 3.1 above has expired.
- 5. SERVICE CHARGE**
- 5.1 To use reasonable endeavours to minimise the cost of Service Charges payable by tenants of the Affordable Housing Units.
- 5.2 To ensure that any Service Charges payable by tenants of Affordable Housing Units shall be limited to the costs of services provided (or to be provided) and such tenants shall not be charged for any services not related to the Affordable Housing Units.
- 5.3 Without prejudice to 5.2 above and unless otherwise agreed by the Council, in the event that any Additional Affordable Housing is provided as Social Rented Housing on Phase 2 the Developer shall use reasonable endeavours to ensure that Service Charges for the Social Rented Housing shall be determined in accordance with the Direction for Rent Standard and limited to an increase of CPI + 1% per annum or such other limit imposed by Government regulation and/or direction (whichever is the lower).
- 6. HOUSING DELIVERY MONITORING TABLE AND AFFORDABLE HOUSING SURVEY**
- 6.1 To accurately complete and submit to the Council Part 1 (Approval) of the Housing Delivery Monitoring Table as soon as reasonably practicable following grant of the Planning Permission.
- 6.2 To accurately complete and submit to the Council Part 2 (Commencement) of the Housing Delivery Monitoring Table within 10 Working days of Commencement of Phase 2.
- 6.3 To accurately complete and submit to the Council Part 3 (Completion) of the Housing Delivery Monitoring Table on or before first Occupation of Phase 2.
- 6.4 To accurately complete and submit to the Council Part 4 (Amendments) of the Housing Delivery Monitoring Table within 10 Working days after any amendments have been made to the Planning Permission which affect the location and/or status of the Residential Units (if any).
- 6.5 In order to complete and/or update the Housing Delivery Monitoring Table, the Developer shall use the most up to date pro-forma template of the Housing Delivery Monitoring Table available

from the Council's website and submit a copy of the table along with an application to discharge the relevant obligation and any necessary fee to planning.application@southwark.gov.uk].

- 6.6 To provide the Council with a detailed written response to the Affordable Housing Survey in respect of the Social Rented Units along with such evidence as the Council may reasonably require within 28 days of receipt of the survey.
- 6.7 To provide the Council with such information as it may reasonably require in order for it to be satisfied that the provisions of this Schedule have been complied with.

ANNEX A TO SCHEDULE 2 PART 2

Phase 2 Affordable Housing Mix Schedule

Phase 2								
Tenure Breakdown		Measure	1-Bed	2-Bed	3-Bed	4-Bed	Total	%HR
Market Homes - Units		Unit	201	176	88	0	465	
Market Homes - Hab Rooms		Hab Room	435	607	442	0	1484	93.8%
Intermediate Homes - Units		Unit	2	25	0	0	27	
Intermediate Homes - Hab Rooms		Hab Room	5	93	0	0	98	6.2%
Social Rent Homes - Units		Unit	0	0	0	0	0	
Social Rent Homes - Hab Rooms		Hab Room	0	0	0	0	0	0.0%
Total Homes - Units		Unit	203	201	88	0	492	
Total Homes - Hab Rooms		Hab Room	440	700	442	0	1582	
Percentage Homes by Bedroom Size		Units	41%	41%	18%	0%	100%	
Percentage Homes by Bedroom Size		Hab Room	28%	44%	28%	0%	100%	

ANNEX B TO SCHEDULE 2 PART 2

Housing Delivery Monitoring Table

This tab should be filled out by unit. Grey cells contain values carried over from Table B.

PART 1: APPROVAL Required at approval stage									PART 2: COMMENCEMENT Required when construction		PART 3: COMPLETION Required at the completion of every stage						PART 4: AMENDMENTS
<p>Floor plan shading</p> <p>Blue: Market units</p> <p>Orange: Intermediate units</p> <p>Green: Social rented units</p>									<p>If units are commenced at different phases (due to an outline/initial or phased scheme), please record the units that have commenced by date</p>		<p>Record the number of units completed at each stage with the correct completion date. Mark the phase number in column 4. Record Accessible and Adaptable Dwellings in a new row.</p>						<p>If the planning permission or RBS has been varied or amended, please note the planning application reference here. Alternatively if the affordable housing has been increased above that required by the original's RBS without varying the planning consent or the RBS agreement please highlight the changes to the original application that have been made to the relevant units in the table.</p>
Full/Outline Planning Application Reference (parent application)	Reserved matters reference	Unit location reference (must correspond to attached floor plan)	Attached plan reference number	Block	Storey	Tenure <small>Select ONE from drop-down list</small>	Intermediate Tenure Type (if applicable)	Wheelchair user dwelling standards compliance <small>If applicable, select ONE from drop-down list</small>	Phase	Commencement date	Completion date	Flat/House Number	Street Address	Post code	Managed by: Southwark Council or Registered Provider	Name of Registered Provider (if applicable)	Amended Application Reference

PART 3
VIABILITY

The Developer covenants with the Council:

1. LATE STAGE REVIEW TRIGGER

The Developer shall notify the Council of the anticipated Late Stage Review Date not less than 20 Working days in advance of that date.

2. SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

2.1 No later than 20 Working days after the Late Stage Review Date notified to the Council pursuant to paragraph 1, the Developer shall submit the following information on the basis that the Council may make such information publicly available:

2.1.1 the Development Viability Information; and

2.1.2 the Updated Viability Appraisal thereby confirming whether in the Developer's view any Late Stage Review Contribution is payable and, if so, the amount of such contribution.

3. ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION AND OTHER INFORMATION

3.1 The Development Viability Information and the Updated Viability Appraisal submitted pursuant to paragraph 2.1.1 is submitted for the Council to assess and to and assess whether in its view a Late Stage Review Contribution is payable in accordance with the Updated Viability Appraisal subject to the Late Stage Review Cap and, if so, the amount of such contribution and the Council will be entitled to rely on its own evidence in determining inputs into the Updated Viability Appraisal subject to such evidence also being provided to the Developer.

3.2 The Council may appoint an External Consultant to assess the Development Viability Information and Updated Viability Appraisal and other relevant information submitted pursuant to paragraph 2.1.

3.3 In the event that the Council and/or an External Consultant requires further Development Viability Information or supporting evidence of the same to assess whether in its view any Late Stage Review Contribution is required subject to the Late Stage Review Cap then the Developer shall provide any reasonably required information to the Council or the External Consultant (as applicable and with copies to the other parties) within 10 Working days of receiving the relevant request and this process may be repeated once.

3.4 If the Council and/or External Consultant determines following receipt of the information submitted pursuant to paragraph 2.1 that the Late Stage Review Date has not occurred, the Council may require the Developer to promptly submit additional information pursuant to paragraph 2 or to re-submit the information required under paragraph 2.1 upon the occurrence of the Late Stage Review Date (as determined by the Council).

3.5 Where the Council and/or External Consultant notifies the Developer within 20 Working days from submission of information pursuant to paragraph 1.7 that a Late Stage Review Contribution is required:

3.5.1 the Developer shall pay the Late Stage Review Contribution to the Council within 10 Working days of the date on which such notice is received; and

3.5.2 the Developer shall not Occupy more than 85% of the Market Housing Units in Phase 2 until the Late Stage Review Contribution has been paid in full to the Council

PROVIDED THAT where the Council or the External Consultant has not met the timescales set out in paragraph 1.8 above the restriction in this paragraph 2.5.2 shall not apply in respect of any Building which has been Commenced at the date of notification pursuant to paragraph 3.5.

- 3.6 The Developer shall pay the Council's costs reasonably incurred in assessing the information submitted pursuant to paragraph 2.1 including those of the External Consultant within 20 Working days of receipt of a written request for payment.

4. PUBLIC SUBSIDY

- 4.1 Nothing in this Deed shall prejudice any contractual obligation on the Developer to repay or reimburse any Public Subsidy using any surplus profit that is to be retained by the Developer following the Updated Viability Appraisal.

5. DISPUTES

- 5.1 For the avoidance of doubt if any dispute arises relating to or arising out of the terms of this Part 3 of Schedule 2, either Party may give to the other written notice requesting the dispute to be determined under Clause 18 of this Deed.
- 5.2 Where a dispute arising out of the terms of this Part 3 of Schedule 2 is determined under Clause 1816 of this Deed the restriction in paragraph 7.6.2 of this Part 3 of Schedule 2 shall not apply in respect of any Buildings which have been Commenced at the date the matter is determined under Clause 1816.

PART 4

WHEELCHAIR HOUSING

The Developer covenants with the Council:

1. WHEELCHAIR HOUSING

- 1.1 To market the Wheelchair Units in Phase 2 designated as Market Housing for the duration of the Marketing Period for Wheelchair Units in accordance with the provisions of this Schedule.
- 1.2 The marketing shall be conducted to ensure that the Wheelchair Units in Phase 2 designated as Market Housing are marketed to as wide an audience as possible through websites, publications and liaison with appropriate agencies not limited to the list in paragraph 1.3 and the marketing details shall include separate marketing material specifically aimed at wheelchair users and confirm the size of the rooms and specification and state that the unit shall be fully fitted.
- 1.3 The Wheelchair Units in Phase 2 designated as Market Housing shall be advertised as a minimum in the following places (as appropriate):
 - 1.3.1 on www.accessible-property.org and www.housingoptions.co.uk;
 - 1.3.2 on www.sharetobuy.com;
 - 1.3.3 On site advertisements;
 - 1.3.4 on www.thehouseshop.com;
 - 1.3.5 in SAGA magazine or similar London periodicals aimed at an older readership;
 - 1.3.6 in the "Fifty Plus" free newspaper published by Age UK; and
 - 1.3.7 such other place reasonably requested by the Council
- 1.4 Where a wheelchair user has entered into a contract or option for the sale or lease or tenancy of a Wheelchair Unit in Phase 2 designated as Market Housing during or as a result of the Marketing Period for Wheelchair Units, the Developer shall make reasonable adaptations to the Wheelchair Unit (where reasonableness will be judged by the Council taking into account whether or not the Wheelchair Unit has already been Completed) to meet the user's reasonable requirements (which for the avoidance of doubt shall if requested by the purchaser include works to adapt bathrooms so that they have a wet room and/or level access shower) where requested by the purchaser where it can be demonstrated that such adaptations are in the Council's opinion reasonably required to meet the specialist needs of the intended occupier of the Wheelchair Unit.
- 1.5 Not to Dispose of a Wheelchair Unit designated as Market Housing to those not in need of wheelchair housing until details of the marketing undertaken pursuant to this Schedule supported by such evidence as the Council may reasonably require (including but not limited to the date of first advertisement and web-posting of the unit and evidence of continual marketing throughout the marketing period) has been submitted to the Council and the Council has confirmed that it is satisfied that such marketing has been carried out in accordance with the requirements of paragraphs 1.4–1.6.

PART 5

FINAL RELOCATION AND SMALL SHOPS STRATEGY AND LOCAL INDEPENDENT OPERATORS

Recital to this Part 5:

- A. As at the date of this Deed the Local Independent Operators are comprised of a number of different types of operator which are:
 - a. Existing Small Shop Tenants;
 - b. Existing Retail BMTs;
 - c. Handcart Operators; and
 - d. Market Place Operators.
- B. Different planning obligations under this Part 5 apply to the different types of Local Independent Operator and a summary of the support packages available to each is set out in Part A of the LIO Schedule for information purposes only.
- C. A list of the Local Independent Operators who are trading from the Site as at the date of this Deed is set out in Part B of the LIO Schedule for information purposes only.

The Developer covenants with the Council:

1. FINAL RELOCATION AND SMALL SHOPS STRATEGY

- 1.1 To submit the Final Relocation and Small Shops Strategy to the Council for approval no later than 6 (six) months prior to the Closure Notice Date.
- 1.2 The Final Relocation and Small Shops Strategy shall include as a minimum details of the following matters:
 - 1.2.1 the existing amount of non-residential floorspace (GIA) separated by use class, including vacant units and yards (if any) and including any existing floorspace demolished;
 - 1.2.2 the proposed amount (GIA) of Commercial Floorspace by use class;
 - 1.2.3 a list of those who meet the criteria for being Local Independent Operators at the date of submission of the Final Relocation and Small Shops Strategy, including business sector, estimated number of employees and lease terms;
 - 1.2.4 the proposed assistance to Local Independent Operators in respect of business planning;
 - 1.2.5 details of how other available premises for potential relocation will be communicated to the Local Independent Operators;
 - 1.2.6 details as to the relocation support available to Local Independent Operators which shall include, but not be limited to, the following:
 - (a) support from the Relocation Fund for one physical move to suitable premises within Peckham Town Centre (or an alternative town centre location within the London Borough of Southwark where no suitable alternative space exists in Peckham Town Centre;

- (b) Subject to (a) above bespoke support measures for the Handcart Operators and MPOs
- 1.2.7 the processes, terms and negotiation periods for the following:
 - (a) making the Existing Small Shop Tenants and the Existing Retail BMTs aware of the Affordable Retail space, Small Shop Units and Commercial Units that will be made available for Retail Use (as applicable) that will be delivered as part of the Development and when the same are anticipated to be available for Occupation;
 - (b) the negotiation period for agreements for lease or leases when a request to return to the Development has been made in respect of:
 - (i) an Existing Small Shop Tenant under paragraph 7.1,
 - (ii) an Existing Retail BMT under paragraph 7.3; and
 - (iii) a Market Place Operator under paragraph 10.2;
 - (c) an outline of the processes the Developer expects to undertake during the period referred to in paragraph (b) in order to use its reasonable endeavours to conclude terms and enter into an agreement for lease or lease with an Existing Small Shop Tenant, Existing Retail BMT or Market Place Operator who has requested to return to the Development;
- 1.2.8 details of temporary relocation arrangements or scheme phasing to allow Local Independent Operators continuation of business during construction where this is logistically achievable;
- 1.2.9 processes that will be undertaken in order to explore the market for a food hall operator to take a lease of a Commercial Unit on a feasible and viable basis and in the event that there is market interest for a food hall operator to take a lease of a Commercial Unit the Developer shall use reasonable endeavours to:
 - (a) include in such lease a requirement on the food hall tenant to use its reasonable endeavours to engage with any MPO who expresses an interest in taking a licence of trading space at the food court on arm's length market terms; and
 - (b) subject to a lease with a food hall operator having been entered into to contact the MPOs and notify them that a food hall operator will be operating at the Development and to provide the contact details of such operator so that they can contact them to lodge an expression of interest to take a licence of trading space at the food hall;
- 1.2.10 a statement of conformity with the Equalities Impact Assessment where no additional impacts have been identified or an updated Equalities Impact Assessment in the event that additional impacts on those with protected characteristics are identified at the time that the Final Relocation and Small Shops Strategy is submitted to the Council to assist it with complying with its duties under the Equality Act 2010.
- 1.3 To give the Local Independent Operators not less than 6 months notice of the termination of their lease, licence or tenancy.
- 1.4 Subject to paragraph 1.6 not to serve the Closure Notice or a notice upon a Local Independent Operator unless and until the Final Relocation and Small Shops Strategy has been approved by the Council.
- 1.5 To implement and comply with the approved Final Relocation and Small Shops Strategy.

- 1.6 If the Council has not approved the Final Relocation and Small Shops Strategy and Small Shops Strategy within six months of the date it receives it from the Developer the obligations in this Part 5 shall cease to apply and be of no effect.

2. INDEPENDENT BUSINESS ADVISOR

- 2.1 To appoint an Independent Business Advisor within 2 months of the Council approving the Final Relocation and Small Shops Strategy and Small Shops Strategy.
- 2.2 The Independent Business Advisor's scope of services shall include the following:
- 2.2.1 practical support and business planning provided through one-to-one confidential business advice and mentoring sessions;
 - 2.2.2 providing enterprise support and business advice & workshops;
 - 2.2.3 guidance on the application process for the Small Shop Units and any relocation opportunities elsewhere;
 - 2.2.4 reasonable assistance for those who do not speak English or for whom English is not their first language;
 - 2.2.5 coordination with, and facilitating access to, specialist advisors, including surveyors, solicitors, accountants and other specialists; and
 - 2.2.6 assistance with locating and assessing alternative business premises for relocation.
- 2.3 The Developer acknowledges and agrees that the Independent Business Advisor's services will be focused on Local Independent Operators who require assistance with relocating their business off-site.
- 2.4 The Developer shall be responsible for the costs of the Independent Business Advisor up to a maximum of £14,000 (fourteen thousand pounds) Index Linked.

3. RELOCATION OPPORTUNITIES

Prior to the Closure Notice Date to collate and share information with Local Independent Operators of vacant retail units (including market pitches) within the Rye Lane and Peckham ward areas.

4. RELOCATION FUND

- 4.1 The Relocation Fund is intended to be managed, overseen and administered by the Council and any financial contribution payable from the Relocation Fund shall be supported by evidence of valid invoices or receipts whether or not any services have been procured.
- 4.2 The Council, in consultation with the Independent Business Advisor, is intended to be responsible for assessing and determining those Local Independent Operators who require assistance from the Relocation Fund and how much financial support should be provided to each Local Independent Operator.
- 4.3 Financial support from the Relocation Fund provided to a Local Independent Operator may be used towards:
- 4.3.1 access to professional services such as solicitors and surveyors
 - 4.3.2 costs of relocation and fit out of new premises as appropriate

- 4.3.3 any other services or costs that the Council deems appropriate given the particular need of the business or trader.
- 4.4 The Relocation Fund shall remain available for a period of one year following Demolition of the Shopping Centre commencing. If any monies remain in the Relocation Fund following this date these shall be allocated by the Council towards initiatives which support relocated businesses and the local town centre trading environment.
- 5. DEMOLITION AND CLOSURE OF THE SHOPPING CENTRE**
- 5.1 Not later than 6 months prior to the closure of the Shopping Centre the Developer shall provide the Council with the Closure Notice.
- 5.2 Not to allow closure of the Shopping Centre before the date which is six months following the Closure Notice Date.
- 5.3 Not to allow Demolition of the Shopping Centre before the date which is stated in the Closure Notice.
- 5.4 Not to allow Demolition of the Shopping Centre before the date on which the Replacement Morrisons Supermarket is Completed and made available for Occupation.
- 6. SMALL SHOPS**
- 6.1 The Developer shall:
- 6.1.1 prior to Occupation of 75% of the Commercial Floorspace construct or procure the construction of the Small Shop Units and to retain the same for a period of 10 years in accordance with the Small Shop Unit Specification unless otherwise agreed by the Council;
- 6.1.2 not Occupy or permit Occupation of more than 75% of the Commercial Floorspace until the Small Shop Units have been Completed.
- 6.2 Upon the expiry of the 10 (ten) year period referred to in sub-paragraph 6.1.1 the obligations in this paragraph 6 shall no longer apply.
- 7. POTENTIAL RETURN TO THE DEVELOPMENT FOR EXISTING SMALL SHOP TENANTS AND EXISTING RETAIL BMTS**
- 7.1 The Existing Small Shop Tenants shall have the right to return to the Development and take a lease of Small Shop Unit by request and in accordance with the processes and negotiation timescales set out in the approved Final Relocation and Small Shops Strategy and the Developer shall respond to any such request and negotiate the terms of the lease in accordance with the approved Final Relocation and Small Shops Strategy and on the terms set out in paragraph 8.
- 7.2 If terms are not agreed with an Existing Small Shop Tenant within the timescales set out in the Final Relocation and Small Shops Strategy then the Developer will provide to the Council within five (5) Working days of the end of negotiation period evidence of compliance with paragraph 7.1 and the obligations in paragraph 7.1 shall cease to apply in respect of the relevant Existing Small Shop Tenant.
- 7.3 The Existing Retail BMTs shall have a right to request that they return to the Development to take a lease of a Commercial Unit that is available for Retail Use in accordance with the approved Final Relocation and Small Shops Strategy and on the following basis:
- 7.3.1 where the Council has elected for the delivery of Affordable Retail under Part 6 of this Schedule 2 that Affordable Retail space on a first come first served basis

PROVIDED THAT if this sub-paragraph 7.3.1 applies the relevant Existing Retail BMT shall only be entitled to lease an area which is up to, but does not exceed, the relevant area shown in column 2 of the table in Part B of the LIO Schedule ; or

7.3.2 where Affordable Retail space is not required to be delivered or has already been let to another Existing Retail BMT then on [arm's length market terms].

8. SMALL SHOP UNITS – LEASE HEADS OF TERMS

8.1 The heads of terms for a lease of a Small Shop Unit shall be as follows:

Lease term	5 years
Unit	The total sqm (GIA) (including storage) shall be no more than the amount shown in the relevant row of column 2 of the table in Part B of the LIO Schedule
Rents	0-12 months – rent free 13-60 months – 80% of Local Market Rent exclusive of Service Charges, insurance and VAT
Rent Review	Market rent at the end of the fifth year of the term
Break Clause	Tenant break clause on not less than 6 months prior notice at the end of the fifth year of the term
Alienation	Lease shall be fully assignable with Landlord's prior written consent not to be unreasonably withheld or delayed. No sub-letting of whole or part is permitted.
Repairs	Tenant to be responsible for all internal non-structural repairs and of dilapidations at the expiry of the lease or earlier break or upon vacating the unit
Security of Tenure	Excluded from 1954 Act
Service Charges	Service Charges to be a fair and reasonable proportion of the cost of the services provided by the landlord levied in accordance with the RICS Red Book and subject to the arbitration procedures therein.
Specification	To shell and core with capped services.

8.2 The Local Market Rent referred to in the table above shall be determined as follows:

8.2.1 the Developer shall commission three Valuers each to provide a full written assessment of the Local Market Rent of the Small Shop Units (such assessment to be prepared within 12 months of the anticipated date of first Occupation of the Small

Shop Unit(s)) prepared, subject to any variations required by this Deed, in line with the RICS Red Book and the conclusions in the assessment will be clearly supported by comparable evidence; and

- 8.2.2 the Local Market Rent shall be the mean average of the rents specified in the three assessments referred to in sub-paragraph 8.2.1 and shall be submitted to the Council for approval and if approved this figure shall be deemed to be the Local Market Rent.
- 8.3 In the event that the Council does not accept the figure provided in accordance with paragraph 7.2.2 above, the Council may commission another Valuer to provide a full written assessment of the Local Market Rent of the Small Shops prepared, subject to any variations required by this Deed, in line with the RICS Red Book.
- 8.4 If the two figures produced under paragraph 7.2.1 and 7.2.3 above are:
- 8.4.1 no more than 10% apart, then the average of those two figures shall be deemed to be the Local Market Rent; or
- 8.4.2 more than 10% apart, then the Developer shall either on its own or jointly with the Council (subject to the Council being willing to do so) commission a third Valuer to provide a written assessment of the Local Market Rent of the Small Shop Units) prepared, subject to any variations required by this Deed, in line with the RICS Red Book and the average of the three figures produced under paragraphs 7.2.1 and 7.2.3 and this subparagraph shall be deemed to be the Local Market Rent of the Small Shop Units.

9. HANDCART OPERATORS SPACE

- 9.1 Prior to submitting the Final Relocation and Small Shops Strategy and subject to the Developer being able to obtain all necessary consents to achieve the same the Developer shall use reasonable endeavours to explore the possibility of providing the Handcart Operators with the opportunity to return to the Development to continue trading and the Developer's obligation under this paragraph shall extend to considering the possibility of accommodating any Market Place Operators in such space should they express a desire to relocate their business operations to the said space having accepted that it would be designed to meet the needs of the Handcart Operators.

10. MARKET PLACE OPERATORS –OPTION TO RETURN

- 10.1 Not later than 18 months prior to the Developer submitting its Gateway 2 Application for Phase 2 the Developer shall use its reasonable endeavours to contact the Market Place Operators and provide them with a Phase 2 Retail Units Floorplan together with notification that they have a 30 day period of exclusivity to take a lease of a Phase 2 Retail Unit or a Sub-Divided Retail Unit on arm's length market terms on the following basis:
- 10.1.1 subject to paragraph 7.1 of this Part 5 a Small Shop Unit on a first come first served basis; or
- 10.1.2 a Phase 2 Retail Unit that is not a Small Shop Unit.
- 10.2 Where a Market Place Operator responds to the notice under paragraph 10.1 stating that it would like to take a lease of a Phase 2 Retail Unit the Developer shall commence and pursue negotiations of an agreement for lease of the same in accordance with the timescales and processes set out in the approved Final Relocation and Small Shops Strategy.

PART 6

AFFORDABLE WORKSPACE / AFFORDABLE RETAIL

The Developer covenants with the Council:

Part A

1. AFFORDABLE WORKSPACE / AFFORDABLE RETAIL ELECTION

- 1.1 Paragraphs 1.2 to 1.4 are subject to paragraph 1.5.
- 1.2 No later than 18 months prior to the Developer submitting its Gateway 2 Application for Phase 2 to serve notice on the Council requesting it to confirm whether it would like all or part of the Affordable Workspace to be delivered as Affordable Retail.
- 1.3 Subject to paragraph 1.4, if the Council confirms pursuant to paragraph 1.2 above that it would like all or part of the Affordable Workspace to be delivered as Affordable Retail to provide such part of the Affordable Workspace as Affordable Retail in accordance with the requirements of Part C of this Part 6 of Schedule 2.
- 1.4 If the Council does not respond to the notice served under paragraph 1.3 within 30 days of the notice being served or if the Council only requires part of the Affordable Workspace to be delivered as Affordable Retail, to provide the Affordable Workspace or such part as is not being delivered as Affordable Retail in accordance with requirements of Part C of this Part 6 of Schedule 2.
- 1.5 If the Council elects for a mix of Affordable Workspace and Affordable Retail to be provided the Developer shall only be required to do so where the smaller element of the two types of space still allows for a lettable unit to be created and where this is not possible the entirety of the space shall be delivered in the tenure that constitutes the majority of the Council's choice.

Part B

2. AFFORDABLE WORKSPACE DELIVERY

- 2.1 This Part B shall only apply if the Developer is required to deliver Affordable Workspace pursuant to paragraph 1.3 and, in the event the Council requires part of the Affordable Workspace to be delivered as Affordable Retail this Part B shall only apply to the part being delivered as Affordable Workspace.
- 2.2 The Developer shall submit the Affordable Workspace Specification to the Council for approval. The Affordable Workspace Specification may, for the avoidance of doubt, be amended from time to time with the approval of the Council to reflect the requirements of the Affordable Workspace Provider.
- 2.3 Not to Occupy more than 75% per cent of the Workspace in Phase 2 until the Affordable Workspace required pursuant to paragraph 1.3 has been Completed in accordance with the Affordable Workspace Specification.

3. AFFORDABLE WORKSPACE STRATEGY

- 3.1 The Developer shall submit the Affordable Workspace Strategy to the Council for its approval 6 months before the anticipated date of first Occupation of the Affordable Workspace.
- 3.2 Not to Occupy the Workspace in Phase 2 until the Affordable Workspace Strategy has been submitted to the Council and the Council has approved the strategy.

- 3.3 The Affordable Workspace Strategy shall include but not be limited to:
- 3.3.1 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;
 - 3.3.2 a marketing strategy which demonstrates how the Affordable Workspace shall be marketed to Affordable Workspace Providers and/or End Users;
 - 3.3.3 evidence of collaboration with the Council, local businesses, business associations, workplace providers and other stakeholders to identify End Users;
 - 3.3.4 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;
 - 3.3.5 details of the terms upon which the Affordable Workspace will be leased and/or licenced including hours of use to an Affordable Workspace Provider and/or to End Users;
 - 3.3.6 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; and
 - 3.3.7 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.
- 3.4 To comply with the Affordable Workspace Strategy approved pursuant to paragraph 3.2 above for a period of thirty (30) years from when the Affordable Workspace is first ready for Occupation.
- 3.5 The Affordable Workspace Specification may, for the avoidance of doubt, be amended from time to time with the approval of the Council to reflect the requirements of the Affordable Workspace Provider.
- 4. AFFORDABLE WORKSPACE PROVISION**
- 4.1 Unless otherwise agreed by the Council, 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 ready for Occupation.
- 4.2 The Affordable Workspace shall be leased by the Developer to an Affordable Workspace Provider pursuant to an Affordable Workspace Lease who shall in turn lease and/or licence the Affordable Workspace as affordable workspace to End Users OR leased and/or licenced directly by the Developer to End Users as Affordable Workspace on terms equivalent to those set out within the Affordable Workspace Lease.
- 4.3 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.
- 4.4 Unless otherwise agreed by the Council, to market the Affordable Workspace to End Users in the Borough in accordance with the approved Affordable Workspace Strategy for the duration of the relevant Affordable Workspace Marketing Period.
- 4.5 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 and/or at rents exceeding the rent levels specified in Annex 2. On the termination of any lease and/or licence

of the Affordable Workspace the provisions of paragraph 3.4 and this paragraph 3.5 shall re-apply for the period set out in paragraph 3.4.

5. DETERMINATION OF RENT

5.1 The Local Market Rent for the Affordable Workspace shall be determined as follows:

5.1.1 the Developer shall commission a 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 of the workspace) prepared, subject to any variations required by this Deed, in line with the RICS Red Book and the conclusions in the assessment will be clearly supported by comparable evidence; and

5.1.2 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.

5.2 In the event that the Council does not accept the figure provided in accordance with paragraph 5.1.2 above, the Council may commission another Valuer to provide a full written assessment of the Local Market Rent of the Affordable Workspace prepared, subject to any variations required by this Deed, in line with the RICS Red Book. 5.2

5.3 If the two figures produced under paragraph 5.1 and 5.2 above are:

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

5.3.2 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) prepared, subject to any variations required by this Deed, in line with the RICS Red Book and the average of the three figures produced under paragraph 5.1 and 5.2 and this subparagraph shall be deemed to be the Local Market Rent of the Affordable Workspace.

6. MONITORING

6.1 On the 1 April each year following first Occupation of the Affordable Workspace and until the end of the period referred to in paragraph 2.1 of this 0 the Developer and/or the Affordable Workspace Provider (as appropriate) shall submit to the Council a report detailing:

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

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

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

6.1.4 measures to improve the operation of the Affordable Workspace.

Part C

7. AFFORDABLE RETAIL DELIVERY

7.1 This Part C shall only apply if the Developer is required to deliver Affordable Retail pursuant to paragraph 1.3 of Part 6 of this Schedule 2 and, in the event the Council requires part of the

Affordable Workspace to be delivered as Affordable Retail this Part C shall only apply to the part being delivered as Affordable Retail.

- 7.2 Not to Occupy more than 50% (fifty percent) of the Workspace in Phase 2 until the Affordable Retail required pursuant to paragraph 1.3 has been Completed in accordance with the Affordable Retail Specification.
- 7.3 For a period of 5 years from the date the Affordable Retail is ready for Occupation to use reasonable endeavours to let out the Affordable Retail on the terms set out in paragraph 6.5.
- 7.4 On the termination of any lease and/or licence of the Affordable Retail in accordance with the terms set out in paragraph 6.5 the provisions of paragraph 6.3 and this paragraph 6.4 shall re-apply for the remainder of the five year period (if any) set out in paragraph 6.3 above.
- 7.5 The terms referred to in paragraph 5.3 are:

Lease term	Up to five years
Rents	0-12 months – rent free 13-60 months – 80% of Local Market Rent (as determined in accordance with paragraph 5 of this Part 6 of Schedule 2) exclusive of Service Charges, insurance and VAT
Rent Review	Market rent at the end of the fifth year of the term
Break Clause	Tenant break clause on not less than 6 months prior notice at the end of the fifth year of the term
Alienation	Lease shall be fully assignable with Landlord's prior written consent not to be unreasonably withheld or delayed. No sub-letting of whole or part is permitted.
Repairs	Tenant to be responsible for all internal non-structural repairs and of dilapidations at the expiry of the lease or earlier break or upon vacating the unit
Security of Tenure	Contracted out of the Act
Service Charges	Service Charges to be a fair and reasonable proportion of the cost of the services provided by the landlord levied in accordance with the RICS Red Book and subject to the arbitration procedures therein.
Specification	To shell and core with capped services.

- 7.6 At the end of the period set out in paragraph 5.3 above7.3 the obligations in this Part C shall cease to apply.

APPENDIX 1

AFFORDABLE WORKSPACE: LEASE HEADS OF TERMS

Parties:	TBC
Demise:	Workspace comprised within Phase 2 consisting of [xx] sq. m GIA total in floorspace
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:	20% below Local Market Rent exclusive of Service Charge, insurance and VAT.
Rent Review:	Five yearly upward only;
Service charges:	Service Charges to be a fair and reasonable proportion of the cost of the services provided by the landlord levied in accordance with the RICS Red Book and subject to the arbitration procedures therein.
Alienation:	If tenant is an Affordable Workspace Provider 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 telecoms, water, drainage, heat and power.
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, cycle storage, refuse storage, servicing 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 (including structural works if required), clean and tidy, decorated condition free of the tenant's possessions but the tenant will not be required to undertake any other structural works.
Break clause:	Mutual break clause after five (5) years with six (6) months' notice given to either party.
Legal costs:	Each party to bear its own.

APPENDIX 2

AFFORDABLE WORKSPACE SPECIFICATION

1. GENERAL

- 1.1 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 walls 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

3.5.1 Power supply and distribution board DDA compliant.

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

3.5.3 To have an appropriate number of wall mounted sockets, no less than one per 100 sq. ft.

3.5.4 Adequate emergency lighting.

- 3.5.5 Three phased power supply: to be provided to the main distribution board. KVA specification to be agreed by the Council.
- 3.6 **Heating**
- Heating that complies with Energy Strategy.
- Wall mounted radiators, no less than one per 200 sq. ft.
- 3.7 **Ventilation**
- Provide mechanical fresh air circulation and ventilation facilitating light industrial usage.
- 3.8 **Toilet, Wash station and Kitchen Area**
- 3.8.1 Cold and hot running water.
- 3.8.2 Disabled WC
- 3.8.3 White painted plasterboard moisture resistant in WCs.
- 3.8.4 Provide mechanical extract and appropriate lighting to the toilets.
- 3.8.5 Toilet doors to be hinged solid core and lock.
- 3.8.6 Additional second sink for wash station.
- 3.8.7 Kitchen facilities, sink, worktop and provision of services for tenant to connect white goods
- 3.9 **Fire**
- Heat detectors in each unit to central control panel in compliance with regulations.
- 3.10 **Telecommunications**
- Each unit to be provided with high-speed internet connection for tenant to be able to arrange wireless internet solutions.
- 3.11 **Letter Box/Slot**
- Slot to be provided for direct delivery of mail to unit.
- 3.12 **Means of escape**
- Ensure that there is a means of escape proposal that complies with the statutory requirements.
- 3.13 **Signage**
- Dedicated signage zone allocated close to unit entrance doors.

PART 7

PUBLIC REALM

The Developer covenants with the Council:

1. PUBLIC REALM

- 1.1 Not to Implement Phase 2 until the Public Realm Specification for Phase 2 has been submitted to the Council and the Council has approved the specification.
- 1.2 Not to Occupy any Sub-Phase in Phase 2 until the Public Realm Works on that Sub-Phase have been completed to the satisfaction of the Council and a Provisional Certificate has been issued by the Council in respect of the works.
- 1.3 To serve the Council with written notice of Completion of the Public Realm Works in Phase 2 within 14 days of its occurrence together with certified documentary evidence of the actual as constructed specification.

2. DEFECTS

- 2.1 For the duration of the Defects Period the Developer shall:
 - 2.1.1 maintain the Public Realm Works on Phase 2; 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 Works on Phase 2 and as many times as necessary until the entirety of the Public Realm Works on Phase 2 meet 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 Works on Phase 2 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 Works on Phase 2 are 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 38/278 of the Highways Act 1980.

3. MAINTENANCE

- 3.1 In addition to the Defects Period referred to in paragraph 22 above, with effect from the date on which the public are permitted access to the Public Realm on Phase 2, the Developer shall:
 - 3.1.1 permanently maintain, cleanse, drain and keep maintained, cleansed and drained the Public Realm on Phase 2;
 - 3.1.2 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 Realm on Phase 2 are open to the public subject to matters outside its reasonable control; and

- 3.1.3 at all times maintain cleanse drain and light the Public Realm on Phase 2 in all respects to at least a comparable standard as if the Public Realm on Phase 2 were being maintained by a local authority.

4. ACCESS

- 4.1 Subject to paragraph 4.2 and 4.3 below and unless otherwise agreed with the Council in writing, to provide full unrestricted public access to the Public Realm on each Sub-Phase in Phase 2 on or before Occupation of the relevant Sub-Phase 24 hours a day 365 days a year for the duration that Sub-Phase remains Occupied.
- 4.2 The Public Realm on Phase 2 may be closed to the public for such period as is necessary (not exceeding two days in any calendar year in respect of any particular part of the Public Realm and only insofar as is necessary) to prevent public or private rights from coming into being by means of prescription or other process of law.
- 4.3 The Developer may from time to time temporarily restrict or prevent access to the Public Realm on Phase 2 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 only for the following purposes:
- 4.3.1 the repair maintenance and resurfacing of the Public Realm on Phase 2;
 - 4.3.2 the laying cleaning maintenance and repair of any cables wires pipes drains or ducts over along or beneath the Public Realm on Phase 2;
 - 4.3.3 the inspection maintenance repair renewal rebuilding or demolition or development of any buildings now or hereafter on Phase 2 or any part thereof;
 - 4.3.4 if in the reasonable opinion of the Developer there shall be some danger to the public; and
 - 4.3.5 for any other reasonable and sufficient cause and for such reasonable period as may be agreed by the Council.
- 4.4 If the Council requests the closure of the Public Realm on Phase 2 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 on Phase 2 to the public for so long as may be required by the Council.
- 4.5 In the event of closure of any part(s) of the Public Realm on Phase 2 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 8

CAR CLUB SCHEME, PARKING PERMIT RESTRICTIONS AND BUS STATION IMPROVEMENT WORKS

The Developer covenants with the Council:

1. CAR CLUB SCHEME

- 1.1 Not to Occupy Phase 2 until the Car Club Scheme has been submitted to the Council and the Council has approved the scheme.
- 1.2 To use reasonable endeavours to enter into an agreement with the Car Club Operator for Phase 2 and provide a copy of the agreement to the Council prior to Occupation of Phase 2.
- 1.3 To deliver the Car Club Space in accordance with the details approved pursuant to paragraph 3.1 above.
- 1.4 To promote the Car Club Space in accordance with the details approved pursuant to paragraph 3.1 above.

2. PARKING PERMIT RESTRICTIONS

The Developer covenants with the Council not to apply for a Parking Permit and to ensure that prior to the Occupation of Phase 2 and for the duration that Phase 2 or any part of Phase 2 remains Occupied each new occupier and owner of Phase 2 is informed of the Council's policy that they shall not be entitled (unless they are the holder of a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Parking Permit to park a vehicle in a Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

3. BUS STATION IMPROVEMENT WORKS

3.1 The Developer covenants with the Council:

- 3.1.1 subject to obtaining all necessary TfL consents to commence the Bus Station Improvement Works no later than 6 months from the date the Replacement Morrisons Supermarket first starts trading or in accordance with such revised timescales as may be agreed in the approved Bus Station Improvement Works Scheme; and
- 3.1.2 subject to obtaining all necessary third party consents to Complete the Bus Station Improvement Works no later than 12 months from the date the Replacement Morrisons Supermarket first starts trading or in accordance with such revised timescales as may be agreed in the approved Bus Station Improvement Works Scheme.

PART 9

CONSTRUCTION EMPLOYMENT, TRAINING AND, APPRENTICESHIPS, LOCAL PROCUREMENT, AND END USE EMPLOYMENT:

The Developer covenants with the Council:

1. CONSTRUCTION EMPLOYMENT, TRAINING AND APPRENTICESHIPS

- 1.1 Not to Implement Phase 2 until the Developer has submitted the Construction Employment Contact Methodology to the Council and the Council has approved the methodology.
- 1.2 The Construction Employment Contact Methodology shall include but not be limited to:
 - 1.2.1 the method by which a Construction Employment Contact shall be appointed and;
 - 1.2.2 the responsibilities of the Construction Employment Contact which shall include the following:
 - (a) identifying Sustained Employment opportunities to lead to Sustained Construction Employment;
 - (b) 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 including SCSC, and careers service providers including the Southwark Education Business Alliance;
 - (c) commissioning Short Courses where necessary and identifying financial resources for the delivery of appropriate construction industry training and skills certification;
 - (d) providing training to selected Unemployed Borough Residents in pre-employment skills, basic construction skills and site safety;
 - (e) supporting Unemployed Borough Residents and their employers through the transition into Sustained Construction Employment; and
 - (f) recruiting Borough residents into Construction Apprenticeships
- 1.3 To appoint and retain a Construction Employment Contact throughout the Construction Employment Contact Period.
- 1.4 To use reasonable endeavours during the Construction Employment Contact Period to:
 - 1.4.1 place a minimum of 116 Unemployed Borough Residents into Sustained Construction Employment;
 - 1.4.2 train a minimum of 116 Borough residents using Short Courses;
 - 1.4.3 provide a minimum of 29 new Construction Apprenticeships or NVQ Starts;
 - 1.4.4 ensure that their contractors and sub-contractors shall work with the Construction Employment Contact and with local employment and skills agencies approved by the Council to recruit Borough residents into Construction Apprenticeships; and
 - 1.4.5 produce the Construction Employment and Training Report.

- 1.5 Following the submission to the Council of the final Construction Employment and Training Report prior to Completion of Phase 2 or such phase(s) of Phase 2 as may be agreed in writing with the Council, the Council may assess if the targets outlined in paragraph 1.4 above have been achieved.
- 1.6 In the event that the targets in paragraph 1.4 above have not been achieved to the satisfaction of the Council (irrespective of the use of reasonable endeavours), the Council may notify the Developer in writing of the calculation of the Construction 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 Employment x £5,500 Index Linked
 - 1.6.2 Shortfall against number of Borough residents trained in Short Courses x £150 Index Linked
 - 1.6.3 Shortfall against number of Construction Apprenticeships or NVQ Starts x £1,500 Index Linked
- 1.7 The Developer shall pay the Construction Employment and Training Shortfall Contribution to the Council within 28 days of the notice referred to in paragraph 1.6 above.

LOCAL PROCUREMENT

- 1.8 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 to achieve the procurement of construction contracts and goods and services from organisations based in the Borough.
- 1.9 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.
- 1.10 To:
 - 1.10.1 consider applications to tender received from local businesses for the provision of goods and services for the running of the Site, pre, during and post construction, and liaise with the Council through the Construction 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;
 - 1.10.2 include a written statement in their contracts with any contractors and sub-contractors encouraging them to liaise with the Council's local economy team or such team as shall be assigned the work of the local economy team from time to time to discuss, agree and implement the arrangements as set out in this paragraph 1.10 and to comply with any appropriate arrangements in any relevant economic strategy adopted by the Council;
 - 1.10.3 brief contractors and sub-contractors on the requirements of this paragraph 1.10 and encourage co-operation with the Council as a pre requisite to accepting sub contract tenders;
 - 1.10.4 advertise sub contracting and tendering opportunities to SME's (whose primary address is in the Borough) through local business networks/associations, the local press and meet the buyer events;
 - 1.10.5 with its contractors and sub-contractors, resource and deliver, in consultation with the Council or a nominee of the Council, an agreed number of seminars on procurement policy and phasing in relation to Phase 2 at an appropriate time before Implementation 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.

2. END USE EMPLOYMENT

2.1 No later than six months prior to first Occupation of Phase 2 the Developer shall submit an End Use Employment Plan to the Council for approval.

2.2 The End Use Employment Plan shall:

2.2.1 identify 10 suitable Sustained Employment opportunities for Unemployed Borough Residents in Phase 2;

2.2.2 identify the detailed mechanism through which the Sustained 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 shall co-ordinate implementation of the End Use Employment Plan and liaise with the Council;

2.2.3 define key milestones to be achieved and provide profiles for filling the Sustained Employment opportunities;

2.2.4 identify skills and training gaps required to gain Sustained Employment in Phase 2, including the need for pre-employment training; and

2.2.5 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.

2.3 Any delivery of Sustained Construction Employment in the Construction Employment Contact Period for both Phases which exceeds the combined targets set out in paragraph 1.4 of Schedule 1 Part 8 of Schedule 1 and 1.4 of Part 9 of Schedule 2 may be counted towards up to a maximum of 50% of the target Sustained Employment opportunities of Borough residents in the Development set out in paragraph 3.2.1 2.2.1 of this Part 9.

2.4 The Developer shall submit the End Use Employment Plan Report during the End Use Employment Period.

2.5 In the event that the Developer does not produce an End Use Employment Plan or such plan is not approved by the Council, the Developer shall pay the End Use Employment Default Contribution within 28 days of receiving written notice from the Council.

2.6 Following the submission of the final End Use Employment Plan Report at the end of the End Use Employment Period, the Council may assess if the targets included in the End Use Employment Plan have been achieved.

2.7 In the event that the targets in the End Use Employment Plan have not been achieved to the satisfaction of the Council, the Council may notify the Developer in writing of the End Use Employment Contribution which shall be calculated using the following formula:

2.7.1 Shortfall against number of Unemployed Borough Residents in Sustained Employment x £5,500 Index Linked

The Developer shall pay the End Use Employment Contribution to the Council within 28 days of receipt of the notice referred to in paragraph 2.7

PART 10

ESTATE MANAGEMENT PLAN

The Developer covenants with the Council:

1. ESTATE MANAGEMENT PLAN

- 1.1 Not to Occupy Phase 2 until the Estate Management Plan has been submitted to the Council and the Council has approved the plan.
- 1.2 To comply with the Estate Management Plan approved by the Council pursuant to paragraph 1.1 above for the duration that Phase 2 or any part of Phase 2 remains Occupied.

PART 11
BIODIVERSITY GAIN

1. HABITAT MANAGEMENT AND MONITORING PLAN

1.1 The Developer covenants with the Council:

- 1.1.1 before Commencement of Phase 2 to submit an HMMP for Phase 2 together with a Biodiversity Gain Plan to the Council for approval;
- 1.1.2 where the Council does not approve an HMMP or requires a replacement HMMP during the Biodiversity Management Period (such refusal or request to be accompanied by the Council's reasons for refusal or for a replacement HMMP) to submit a revised or replacement HMMP for approval having regard to any reasonable reasons for refusal or requests by the Council;
- 1.1.3 within 10 Working days of the date the Council notifies the Developer of its reasons for refusal of an HMMP, to pay the Council's reasonable costs for re-assessing any revised or replacement HMMP and FOR THE AVOIDANCE OF DOUBT paragraphs 1.1.2 and 1.1.3 shall continue apply until such time as the HMMP has been approved by the Council;
- 1.1.4 within 10 Working days of the HCEW Commencement Date for Phase 2 to notify Council of the HCEW Commencement Date by written notice;
- 1.1.5 to complete the HCEW in accordance with the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule, as the case may be);
- 1.1.6 within 10 Working days of the HCEW Completion Date for Phase 2 to serve the HCEW Completion Date Notice on the Council;
- 1.1.7 to promptly rectify any defects in the HCEW identified by the Council and issue a subsequent HCEW Completion Date Notice and thereafter to continue to promptly rectify any defects and issue HCEW Completion Date Notices until the Council issues a Certificate of Completion;
- 1.1.8 on receipt of the Certificate of Completion from the Council to manage and maintain the created and/or enhanced habitat on Phase 2 in accordance with the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule as the case may be) during the Biodiversity Management Period;
- 1.1.9 not to prevent or allow anyone to prevent the management and maintenance of the created and/or enhanced habitat on Phase 2 in accordance with the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule as the case may be) during the Biodiversity Management Period; and
- 1.1.10 to submit Monitoring Reports to the Council in accordance with the methodology and frequency specified in the approved HMMP (or any revised or replacement HMMP which is approved pursuant to this Schedule as the case may be) unless otherwise agreed by the Council.

1.2 Where the Council notifies the Developer that it requires a revised or replacement HMMP pursuant to this Schedule, the Developer covenants:

- 1.2.1 within twenty (20) Working days of receiving such notification to submit a revised or replacement HMMP to the Council which adequately reflects the amendments required by the Council;

- 1.2.2 adhere to the approved revised or replacement HMMP for the remaining duration of the Biodiversity Management Period; and
 - 1.2.3 not to prevent or allow anyone to prevent the implementation of the approved revised or replacement HMMP during the Biodiversity Management Period.
- 1.3 Where the Developer requires an amendment to the HMMP during the Biodiversity Management Period, it shall serve a notice on the Council, such notice to include:
 - 1.3.1 the proposed amended HMMP;
 - 1.3.2 a statement of reasons for such amendment; and
 - 1.3.3 confirmation that the amendment to the HMMP would not prevent the delivery of Biodiversity Net Gain.

2. ACCESS FOR INSPECTION

From the HCEW Commencement Date, the Developer covenants with the Council to allow the Council, its agents, and contractors with or without workmen and equipment to enter Phase 2 at all reasonable times (following reasonable notice given) to monitor compliance with the obligations in this Schedule.

PART 12

ENERGY AND BE-SEEN

The Developer covenants with the Council:

Energy Efficiency of Phase 2

1. ENERGY

- 1.1 To construct and deliver Phase 2 in accordance with the Application Energy Statement in order to achieve the Carbon Targets, or in accordance with such other details approved by the Council .
- 1.2 Unless otherwise agreed by the Council, to retain the energy efficiency measures delivered as part of Phase 2 pursuant to paragraph 1.1 for the duration that the Development or any part of Phase 2 remains Occupied.

2. PRE-OCCUPATION ENERGY REVIEW

- 2.1 Not to Occupy Phase 2 until the Pre-Occupation Energy Review has been submitted to the Council and the Council has approved the review.
- 2.2 In the event the Carbon Targets have not been achieved, the Developer shall submit an addendum to the Application Energy Statement to the Council setting out its proposals to achieve the Carbon Targets on Phase Two.
- 2.3 In the event the Council approves the proposals set out in the addendum to the Application Energy Statement, the Developer shall implement the proposals within 6 months of the date the addendum is approved.
- 2.4 In the event the Developer and the Council are unable to agree on the proposals set out in the addendum, the Council may require the Developer to pay a further carbon off-set contribution which shall be calculated based on £95 (or such other sum as published by the Council) for every tonne of CO2 emitted per year in excess of the Carbon Targets multiplied by 30 years and Index Linked and such sum shall be paid by the Developer to the Council in full within 28 days of written request for the payment to be made.
- 2.5 The Carbon Targets shall be achieved against of Phase 2 and shall disregard:
 - 2.5.1 any system installed by occupiers of Phase 2 and that are not within the direct control of the Developer; and
 - 2.5.2 any efficiency improvement/carbon reductions made through a connection to the District Heat Network referred to in paragraph 3 below.

3. DISTRICT HEAT NETWORK

- 3.1 Not to Occupy Phase 2 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:
 - 3.1.1 how Development will be designed and built so that it will be capable of connection from the Phase 2 Site boundary to the District Heat Network;
 - 3.1.2 demonstrate that the service interface within Phase 2 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 Units of Phase 2 to the District Heat Network;

- 3.1.3 confirmation that individual supplies to the Residential Units and Commercial Units on Phase Two will be metered;
 - 3.1.4 as far as reasonably practical confirmation that the necessary pipework to each Residential Unit and Commercial Unit on Phase Two 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);
 - 3.1.5 as far as reasonably practical confirmation that allowance has been made within the Commercial Units of Phase 2 for hot water generation by way of heat exchangers connected to the District Heat Network;
 - 3.1.6 as far as reasonably 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.
- 3.2 In the event the Council notifies the Developer within 8 weeks of receipt of the District Heat Network Strategy referred to in paragraph 3.1 that the District Heat Network Strategy is not approved the Council the Developer shall use reasonable endeavours to discuss and reach agreement with the Council to the District Heat Network Strategy within the period of 8 weeks from the receipt by the Council of the District Heat Network Strategy or such other period as the Parties may agree.
- 3.3 In the event that the District Heat Network Strategy is not agreed within the said 8 week period (or such other period as the Parties may agree) then either party may refer the same for determination under Clause 16 of this Deed.
- 3.4 Following receipt of the Council's written approval to the District Heat Network Strategy the Developer shall carry out Phase 2 in accordance with the approved the District Heat Network Strategy.
- 3.5 If 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. In the event that the Feasibility Study is not agreed then either party may refer the same for determination under Clause 16 of this Deed.
- 3.6 If the Parties (acting reasonably) agree that the Feasibility Study demonstrates that it is feasible and financially viable for Phase 2 to connect into the District Heat Network or (failing agreement between the Council and the Developer) the Specialist pursuant to Clause 16 determines that the connection of Phase 2 to the District Heat Network is feasible and financially viable, then the Developer shall use reasonable endeavours to connect Phase 2 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 (or where applicable the Specialist's decision) that connection is feasible and financially viable.
- 4. BE SEEN MONITORING**
- 4.1 Not to Occupy Phase 2 until updated accurate and verified 'as-built' design estimates of the 'Be Seen' energy performance indicators for each Reportable Unit of Phase 2, as per the methodology outlined in the 'as-built stage' chapter / section of the Be Seen Energy Monitoring Guidance, have been submitted to the GLA. All data and supporting evidence shall be submitted using the 'Be Seen' as-built stage GLA Be Seen Web Portal and copied 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.
- 4.2 Upon the first anniversary of first Occupation of Phase 2 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 Phase 2 as per the methodology outlined in the 'in-use stage' chapter / section of the Be Seen Energy Monitoring Guidance, to the GLA. All data and supporting evidence shall be submitted using the 'in-use stage' GLA Be Seen Web Portal and copied 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.

- 4.3 In the event that the 'in-use stage' evidence submitted under paragraph 4.2 shows that the 'as-built stage' performance estimates derived from paragraph 4.1 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 'in-use stage' GLA Be Seen Web Portal. An action plan comprising measures identified in paragraph 4.2 which would be reasonably practicable to implement and a proposed timescale for implementation shall be submitted to the GLA (copied to the Council) and approved in writing by the GLA. The action plan and measures approved by the GLA shall be implemented by the Developer as soon as reasonably practicable.

ANNEX TO PART 12

Carbon Targets

	Residential Carbon Targets			Non-residential Carbon Targets			Site-Wide Carbon Targets		
1.	Total regulated emissions (Tonnes CO2 / year)	CO2 savings (Tonnes CO2 / year)	Percentage savings (%)	Total regulated emissions (Tonnes CO2 / year)	CO2 savings (Tonnes CO2 / year)	Percentage savings (%)	Total regulated emissions (Tonnes CO2 / year)	CO2 savings (Tonnes CO2 / year)	Percentage savings (%)
Part L 2021 Baseline		-	-		-	-		-	-
Be Lean									
Be Clean									
Be Green									
Total Savings	-								
-	-								
Off-set	-		-	-			-		

SCHEDULE 3
LIST OF REGISTERED PROVIDERS

A2 Dominion

Central & Cecil Housing Trust

Clarion Housing Association Limited

Habinteg

Hexagon Housing Association

Housing for Women

Hoptons Charity

HSPG

Hyde Housing

J49

Lambeth & Southwark Housing Society

L&G

L&Q Group

Metropolitan Thames Valley

Notting Hill Genesis

Octavia Housing

Optivo

Paragon Asra Housing Limited

Peabody Trust

Sage

Southern Housing Group

Square Roots

The Guinness Partnership Limited

Wandle RSL

Zen

All the providers have an established relationship with the Council in terms of nomination arrangements and a local management presence.

SCHEDULE 4
BLUE PENCIL SCHEDULE

APPENDIX 1
PLANS

APPENDIX 2

BUS STATION IMPROVEMENT WORKS FRAMEWORK

1. THE PARTIES

- 1.1 References to 'TfL Buses' shall be taken to be either TfL Buses, London Bus Services Ltd or their successors as operators of Peckham Bus Station.
- 1.2 References to 'Berkeley Homes (Capital) Plc' shall be taken to be either Berkeley Homes (Capital) Plc or their successors as developer of the Aylesham Centre site.

2. BUS STATION IMPROVEMENT WORKS OBJECTIVES

- 2.1 In developing the Bus Station Improvement Works, the design process shall identify a scheme which is deliverable within the Bus Station Improvement Works Costs Cap and, so far as is reasonably practicable, shall:
- 2.1.1 First eliminate road and bus safety issues, then reduce road and bus safety issues which cannot be eliminated to a level of risk that is acceptable to TfL, then mitigate residual road and bus safety issues including but not limited to such safety issues as may arise from the proposed works (such as geometry and materiality) or the proposed users (such as buses, pedestrians, and cyclists) having considered relevant desire lines and forecast volumes of movement; and
- 2.1.2 Deliver a route for pedestrians and cyclists between the Aylesham Centre and Peckham High Street via Peckham Bus Station.

3. BUS STATION IMPROVEMENT WORKS PARAMETERS

- 3.1 The Bus Station Improvement Works shall include the following (unless otherwise agreed in writing with TfL Buses):
- 3.1.1 A scheme for cycle priority at the northbound (exit) arm of the junction between the Peckham Bus Station and Peckham High Street such as:
- the introduction of an Advanced Cycle Stop Line (the minimum intervention) or
 - or the introduction of a cycle early release or Cycle Gate and associated signalling;
- 3.2 The improvement of existing pedestrian crossings within Peckham Bus Station on the route of the existing non-standard crossings between existing bus stops E & H and Bull Yard to Highway standards, with two zebra crossings.
- 3.3 The introduction of an ideally step-free route for pedestrians and cyclists between the Aylesham Centre and Peckham High Street via Peckham Bus Station and, in so far as is reasonably practicable, in line with the London Cycle Design Standards (or its successor). This should consider future-proofing for a potentially high pedestrian and cycle flow. A 4.5 metre-wide shared use route is therefore recommended, but alternative widths may be agreeable.
- 3.4 The introduction of an ideally step-free route for pedestrians and cyclists between the Aylesham Centre and Bull Yard via the western edge of Peckham Bus Station and, in so far as is reasonably practicable, in line with the London Cycle Design Standards (or its successor). This should be future-proofed to consider a potentially high pedestrian and cycle flow. A 4.5-metre-wide shared use route is therefore recommended, but alternative widths may be agreeable.
- 3.5 A one-way clockwise carriageway within the Peckham Bus Station designed to meet TfL's vehicle access requirements including but not limited to one-way bus operation for the vehicles in the TfL's Bus fleet (including 12 metre electric buses and bus recovery vehicles).

- 3.6 Either a scheme for the control or the removal of vehicle access (for non TfL vehicles) between the Peckham Bus Station and the Aylesham Centre site
- 3.7 Installation of any additional safety/risk mitigation measures identified as necessary to prevent cycles and/or pedestrians from entering the bus movement areas, such as widened footways, barriers etc.
- 3.8 Installation of any additional safety/risk mitigation measures identified as necessary to prevent cycling through the bus passenger waiting areas.

Drawing 285344-SK-087-1 Rev C reflects one way in which the above requirements could be met, but does not constitute an approved or agreed layout and is included for information only.

4. **BUS STATION IMPROVEMENT WORKS DEFECTS AND REVIEW PERIOD**

4.1 The Bus Station Improvement Works Scheme shall include:

4.1.1 A defects and review period including:

- A 12 month 'defects' period following substantial completion of the Bus Station Improvement Works during which Berkeley Homes (Capital) Plc shall remain responsible for fixing any defects or damage that occurs to the Bus Station Improvement Works.
- A forum for interim review of any defects or road and bus safety issues as may arise between commencement of construction of the Bus Station Improvement Works and the end of the defects period comprising, as a minimum, TfL Buses and Berkeley Homes (Capital) Plc through which interventions to address defects and road and bus safety issues shall be agreed and implemented so far as is reasonably practicable and provided that these interventions are deliverable within the Bus Station Improvement Works Costs Cap.

APPENDIX 3

EXECUTED AS A DEED by the parties on the date which first appears in this Deed.

Executed as a Deed (but not delivered until the date of this Deed) by **BERKELEY HOMES CAPITAL]** acting by

.....
Full Name (Director)

.....
Signature of Director

.....
Full Name (Director/Secretary)

.....
Signature of Director/Secretary

Executed as a Deed (but not delivered until the date of this Deed) by **SAFEWAY STORES** acting by

.....
Full Name (Director)

.....
Signature of Director

.....
Full Name (Director/Secretary)

.....
Signature of Director/Secretary