



dated *22 December* 2016

The Mayor and Burgesses of The London Borough of Bexley
and
Gallions Housing Association Limited

Planning Obligation by Deed of Agreement
Section 106 of the Town and Country Planning Act 1990
in respect of land at Thamesmead

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Contents	Page
1 Definitions and Interpretation	1
2 Construction of this Agreement	9
3 Legal Basis	11
4 Conditionality	11
5 Covenants and declarations	12
6 Miscellaneous	12
7 Dispute Resolution	14
8 Indexation	15
9 Interest On Late Payment	15
10 VAT	15
11 Severance	15
12 Notice	15
13 Costs	16
Schedule 1 - Affordable Housing	17
Schedule 2 - Viability Re-assessment	23
Schedule 3 - Local Employment	24
Schedule 4 – Controlled Parking Zone	25
Schedule 5 – Contributions	26
Schedule 6 – Library Provisions	27
Schedule 7 – Boat Club	28
Schedule 8 – Car Club	29
Schedule 9 – MUGA	31
Schedule 10 – Public Areas Maintenance and Management	32
Schedule 11 – Travel Plan	33
Schedule 12 - Council's Covenants	35
Appendix 1 - Draft Form of Planning Permission	36
Appendix 2 - Nominations Agreement	37
Appendix 3 - Plans	38
Appendix 4 – Library Agreement	39
Appendix 5 – Framework Travelplan	40
Appendix 6 – Supplemental Section 106 Agreement	41

THIS DEED OF AGREEMENT is made the 22nd day of December 2016

BETWEEN:

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BEXLEY** of Civic Offices, 2 Watling Street, Bexleyheath, Kent DA6 7AT ("**the Council**") of the first part; and
- (2) **GALLIONS HOUSING ASSOCIATION LIMITED** (a Community Benefit Society, Registration Number 28979R) of 45 Westminster Bridge Road, London SE1 7JB ("**the Owner**") of the second part.

RECITALS

- A The Council is the local planning authority for the purposes of the Act for the administrative area within which the Site is situated and is the authority by whom the planning obligations hereby created are enforceable.
- B The Owner is the freehold owner of those parts the Site which are registered with the Land Registry under title registration numbers SGL623605, SGL656084 and SGL639087.
- C The Site also comprises other land not in the ownership of the Owner at the date of this Agreement and accordingly this Agreement contains provisions requiring the Owner (upon acquiring a freehold or leasehold interest in such other land) to offer to enter into a Supplemental Section 106 Agreement for the purposes of ensuring that the relevant obligations, covenants and undertakings in this Agreement shall be binding on such other land.
- D The Planning Applications were submitted to the Council and all validated on 13 May 2016 and allocated Council reference numbers 16/01251/FULM, 16/01275/OUTM, 16/01287/OUTM and 16/01288/OUTM.
- E At a meeting held on 25 October 2016 the Council's planning committee resolved to grant the Planning Permission subject to the imposition of conditions and the completion of this Agreement.
- F The Parties in entering into this Agreement agree that the obligations contained in this Agreement meet the three tests for planning obligations set out in Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (as amended)

1 Definitions and Interpretation

- 1.1 In this Agreement, unless the context requires otherwise, the following definitions apply:

Act means the Town and Country Planning Act 1990

Abbey Wood Cycle Hub means the provision of free secure cycle parking at Abbey Wood station to encourage residents of the Development of the local area to cycle to access local rail services;

Abbey Wood Cycle Hub Capacity Assessment means an assessment (which shall include a methodology and agreed outputs to ascertain the cycle capacity at the existing dedicated cycle parking areas within the Abbey Wood station area) to determine whether

there is sufficient capacity at the Abbey Wood Cycle Hub to mitigate the impacts of Phase 1 or Phase 2 (as applicable);

Affordable Housing means housing provided to eligible households whose needs are not met by the market and with eligibility to be determined with regard to local incomes and local house prices in accordance with the definition set out in the National Planning Policy Framework (or any future guidance or initiative that replaces or supplements it);

Affordable Housing Provider means a person, company, partnership, organisation or manager (which may include the Owner) which is a registered provider of social housing within the meaning of section 80 of the Housing and Regeneration Act 2008 (or any statutory modification thereto) and registered with the regulator of social housing pursuant to section 81 of the Housing and Regeneration Act 2008 or from time to time permitted by law to provide Affordable Housing;

Affordable Housing Scheme means in respect of each Phase a scheme for the provision of Affordable Housing as part of the respective Phase which shall include (to the extent that this Agreement does not already make provision for the same) details relating to the location, tenure, type, size, standard and timing for delivery of the Affordable Housing Units within that Phase of the Development.

Affordable Housing Unit means those Dwellings provided as part of the Development as Affordable Housing;

Affordable Rented Unit means an Affordable Housing Unit let to households who are entitled to social rented housing required to be provided pursuant to the terms of this Agreement to be made available by an Affordable Housing Provider at a rent of no more than 80% (eighty percent) of Market Rent (including service charges);

Agreement means this Agreement made pursuant to Section 106 of the 1990 Act and other enabling powers;

Anticipated Commencement Date means the date on which the Owner reasonably considers in all the circumstances that development within a Phase will be Commenced;

Base Line Affordable Housing Level means provision of Affordable Housing of a minimum of 16,249 square metres gross internal area;

Base Rate means the base rate from time to time of the Bank of England;

Block C5 means the block of Dwellings as shown outlined in red on Plan AWST_S106_005 attached to this Agreement;

Boat Club Lessee means a tenant who is willing to use the Boat Club Space as an active boat club within Class D2 of the Use Classes Order 1987;

Boat Club Space means a ground floor area of not less than 1,050sqm of gross internal floor space to be provided as part of the Phase 4 Development;

Bus Contribution means the sum of £1,500,000 (one million and five hundred thousand pounds) towards the improvement of bus service provision in the vicinity of Abbey Wood Station;

Car Club means a club operated by a company that is accredited by Carplus which residents of the Development and members of the general public may join and which makes cars available to hire to members either on a commercial or part subsidised basis;

Carplus means 'Carplus' (as provided by the Carplus Trust) or its successor or an equivalent organisation being the umbrella organisation for the promotion of sustainable car use and which gives accreditation to car club operators that meet set standards promoting responsible car use which runs an accreditation scheme for car club companies as a tool for organisations to use in assessing which clubs to support;

Car Club Membership means the provision of free membership of the Car Club for a period of five years for each Dwelling within the Development commencing upon the date on which each Dwelling is first Occupied or the date of the establishment of the Car Club whichever the later;

Car Club Spaces means parking spaces to be provided on the Site as part of the Development (or a nearby on-street location as may be agreed in writing between the Owner and the Council) in such quantities and locations to be agreed in accordance with Schedule 8 and to be made available for use by the Car Club at no cost to the Council.

Commencement of Development means the date upon which the Development shall commence by the carrying out of a material operation as specified in Section 56(4) of the Act **Save That** the term "material operation" shall (for the purposes of this Agreement and no other purpose) not include operations:

- in connection with any work of or associated with demolition, site clearance and remediation;
- fencing, gates, hoarding;
- installation of services to facilitate construction including construction of culverts;
- creation of construction access points and routes;
- groundwork;
- site clearance;
- remediation works;
- environmental investigation;
- archaeological investigation;
- site and soil surveys;
- erection of contractors work compound;
- erection of site office or the erection of any temporary means of enclosure;

and the terms Commence and Commencement shall be construed accordingly;

Commercial Units means those units on the Site that are not Dwellings;

Completion means completed in all material respects so that the relevant works can be used for the purpose and operate in the manner for which they were designed and so that they are available for Occupation and '**Complete**' and '**Completed**' shall be construed accordingly;

Completion of the Foundation Pile means the completion of the construction of the first foundation pile comprised in a Dwelling to be constructed as part of any Phase of the Development;

Consumer Prices Index means the index named as such and published by the Office of National Statistics unless otherwise expressly provided for in this Agreement;

Cycle Hub Contribution means the sum of £75,163 (seventy five thousand, one hundred and sixty three pounds) towards the Abbey Wood Cycle Hub;

Default Interest Rate means 4% per annum above the Base Rate;

Development means the development of the Site pursuant to the Planning Permissions comprising the Phase 1 Development, the Phase 2 Development, the Phase 3 Development, and the Phase 4 Development;

Dwelling means any residential unit (including any Affordable Housing Unit) that may be built upon the Site pursuant to the Planning Permission and reference to "**Dwellings**" shall be construed accordingly;

Earnings Index means the Average Weekly Earnings (AWE), seasonally adjusted index as published by the Office for National Statistics or such other similar index replacing it from time to time

Framework Travel Plan means the Framework Travel Plan submitted as part of the Phase 1 Application as attached at Appendix 5 of this Agreement

Homes and Communities Agency means the organisation known as the Homes and Communities Agency which is empowered to regulate Registered Providers under the Housing and Regeneration Act 2008 or any successor body from time to time having functions currently exercised by the Homes and Communities Agency;

Index means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors;

Indexed means in respect of any income level in this Agreement as 'Indexed' such income level shall be increased in accordance with the following formula:

Income level = the income level specified in this Agreement x (A/B) where

A = the figure for the Earnings Index that applied immediately preceding the date the payment is due.

B = the figure for the Earnings Index that applied when the Earnings Index was last published prior to the date of this Agreement;

Index-Linked means in respect of any payment expressed in this Agreement as 'Index-Linked' such payment shall be increased in accordance with the following formula:

Amount payable = the payment specified in this Agreement x (A/B) where

A = the figure for the Index that applied immediately preceding the date the payment is due.

B = the figure for the Index that applied when the index was last published prior to the date of this Agreement;

Intermediate Housing Unit means homes for sale and rent to be provided as Affordable Housing pursuant to this Agreement at a cost above social rented housing but below market levels to be provided as Shared Ownership shared equity or such other form of intermediate housing as may be agreed by the Developer and the Council;

Library means the public library to be constructed by the Owner on that part of the Site shown edged red on the Library Plan pursuant to the Library Agreement and to be operated by the Council as library authority in accordance with the Public Libraries and Museums Act 1964;

Library Agreement means the agreement for surrender and grant of leasehold interests dated 24 July 2014 (as varied by deed of variation and covenant dated 22 November 2016) and made between (1) the Owner and (2) the Council as annexed to this Agreement at Appendix 4;

Library Plan means the drawing dated 16 August 2016 and titled "Redline Showing Demise of Library" and annexed to this Agreement at Appendix 4;

Marketing Strategy means the marketing strategy described at paragraph 1 of Schedule 7 to this Agreement;

Market Rent means the rent as assessed by a member or fellow of the Royal Institute of Chartered Surveyors being a chartered valuation surveyor with local knowledge (appointed by the Owner (having been first approved in writing by the Council) and owing a duty of care to the Council and acting in an independent capacity) in accordance with the definition of "market rent" at practice statement 3.11 of the Royal Institute of Surveyors Valuation - Professional Standards UK January 2014 (revised April 2015) (the Red Book) as updated from time to time;

Monitoring Contribution means the sum of £20,000 (twenty thousand pounds) per Phase to be paid by the Owner to the Council as a contribution towards the costs of incurred by the Council in respect of the monitoring and administration of the obligations secured by this Agreement in recognition of the local strategic significance and exceptional nature of such obligations;

Monitoring Period means a period of 10 years commencing from the date of first Occupation of any Dwelling comprised within any Phase;

MUGA means one multi use games area to be provided in accordance with Sport England Guidance – Artificial Surfaces for Outdoor Sports (updated 2013) or any successor or replacement guide and which shall replace the existing such multi use games area;

Nominations Agreement means a nominations agreement substantially in the form as attached at Appendix 2 (or such other nominations agreement as may be agreed in writing between the Parties;

Occupy means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and references to "**Occupied**", "**Occupier**" "**Occupant**" and "**Occupation**" shall be construed accordingly;

Open Market Units means Dwellings other than Affordable Housing Units;

Original Viability Assessment means the viability assessment dated September 2016 produced by Red Loft on behalf of the Owner and submitted as part of the Phase 1 Application;

Outline Phase means any of Phase 2, Phase 3 or Phase 4;

Outline Planning Applications means the Phase 2 Application, the Phase 3 Application and the Phase 4 Application;

Outline Planning Permissions means the Phase 2 Permission, the Phase 3 Permission and the Phase 4 Permission;

Parties means the parties to this Agreement and references to "**Party**" shall be construed accordingly;

Phase means any of:

the development of the Phase 1 Land in accordance with the Phase 1 Permission;

the development of the Phase 2 Land in accordance with the Phase 2 Permission;

the development of the Phase 3 Land in accordance with the Phase 3 Permission;

the development of the Phase 4 Land in accordance with the Phase 4 Permission,

and as identified on the Phasing Plan and "**Phase 1**", "**Phase 2**", "**Phase 3**" and "**Phase 4**" shall be a construed accordingly and for the avoidance of doubt, phase numbering shall not imply any restriction on the order in which phases may be Commenced;

Phase 1 Application means the application for detailed planning permission for the Development submitted to the Council on behalf of the Owner and allocated Council reference number 16/01251/FULM;

Phase 1 Development means the development of the Phase 1 Land comprising the demolition of existing buildings/hard standing, the residential development of 525 units and 3691 sqm (GIA) of commercial floorspace with flexible uses across classes A1-A3 (retail, financial/professional services, café/restaurants), B1a (office), D1 (non-residential institutions) and D2 (Assembly and leisure) and associated works including, informal and formal open space, internal road network; landscaping; car & cycle parking; and waste storage;

Phase 1 Land means all that land At Southmere Village, Binsey Walk, Tavy Bridge, Southmere Drive And Mere Road adjacent To Harrow Manorway And Yarnton Way, London and shown edged red on AWST_PL_CD_001;

Phase 1 Permission means a planning permission granted by the Council pursuant to the Phase 1 Application;

Phase 2 Application means the application for outline planning permission for the Phase 2 Development submitted to the Council on behalf of the Owner and allocated Council reference number 16/01288/OUTM;

Phase 2 Development means the development of the Phase 2 Land comprising the demolition of existing buildings and hardstanding, residential development of up to 549 units and up to 3225 sq. metres of commercial floorspace (with flexible uses across Classes A1 - A4 (Retail, financial and professional services, cafe and restaurants) and B1a (office) and D1 (community uses) and associated works including informal and formal open space; internal road network; landscaping; car and cycle parking and waste storage;

Phase 2 Land means all that land at Coralline Walk, Harrow Manorway London and shown edged red on AWST_S106_001;

Phase 2 Permission means a planning permission granted by the Council pursuant to the Phase 2 Application;

Phase 3 Application means the application for outline planning permission for the Phase 3 Development submitted to the Council on behalf of the Owner and allocated Council reference number 16/01275/OUTM;

Phase 3 Development means the development of the Phase 3 Land comprising the demolition of existing buildings and hardstanding, residential development of up to 219 units and up to 3225 sq metres of commercial floorspace (with flexible uses across classes A1-A4 (retail, financial and professional services, cafe and restaurants) and B1a (office) and D1 (community uses) and associated works including informal and formal open space; internal road network; landscaping; car and cycle parking and waste storage;

Phase 3 Land means all that land to the West Of Sedgemere Road And East Of Harrow Manorway, London and shown edged red on AWST_S106_002;

Phase 3 Permission means a planning permission granted by the Council pursuant to the Phase 3 Application;

Phase 4 Application means the application for outline planning permission for the Phase 4 Development submitted to the Council on behalf of the Owner and allocated Council reference number 16/01287/OUTM;

Phase 4 Development means the development of the Phase 2 Land comprising the demolition of existing buildings and hard standing, residential development of up to 329 units and up to 1,050 sq metres of commercial floorspace (with flexible uses across classes A1 - A4 (retail, financial and professional services, café and restaurants) and B1a (office), D2 (Assembly and Leisure) and D1 (community uses), with all matters reserved, and associated works including, informal and formal open space, internal road network; landscaping; car and cycle parking; waste storage;

Phase 4 Land means all that land at Binsey Walk adjacent To Harrow Manorway, London and shown edged red on AWST_S106_003;

Phase 4 Permission means a planning permission granted by the Council pursuant to the Phase 4 Application;

Plan means drawing no. TM_A368_P_AS_001 Rev D as annexed to this Agreement;

Planning Applications means collectively the Phase 1 Planning Application the Phase 2 Planning Application, the Phase 3 Planning Application and the Phase 4 Planning Application;

Planning Permission means collectively the Phase 1 Permission, the Phase 2 Permission, the Phase 3 Permission and the Phase 4 Permission and "**Planning Permissions**" shall be construed accordingly;

Public Areas means those parts of the Site which are identified in any Reserved Matters Application as being made available for access by the public and which are to be managed and maintained by the Owner in accordance with the provisions of Schedule 10 of this Agreement or in the case of Phase 1 the areas shown in green on Plan AWST_S106_006;

Reasonable Endeavours means that it is agreed by the Parties that the Owner under such an obligation will not thereby be required to take proceedings (including any appeal) in any Court, public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this Agreement the Owner will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisors as in all the circumstances may reasonably be expected of a competent commercial developer in the context of the Development (or part of the Development);

Rented Units means together the Affordable Rented Units and the Social Rented Units;

Reserved Matters Application means any application submitted to the Council for the approval of one or more 'reserved matters' (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015/595) submitted pursuant to a condition imposed or deemed to be imposed on an Outline Planning Permission;

Residents 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 by residents of the locality in which the Development is situated

Residents Parking Permit 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 Residents Parking Bays;

Shared Ownership Unit means units of Affordable Housing to be made available by an Affordable Housing Provider where a proportion of equity is sold on a long lease to the purchaser and the remainder of the equity is retained by the Affordable Housing provider subject to rent being charged on the retained equity on terms that entitle the purchaser to acquire up to 100% of the equity through Staircasing;

Signage Strategy Contribution means the sum of £15,000 (fifteen thousand pounds) to be paid by the Owner to the Council as a contribution towards the provision of 'Legible London' signage and/or other locally distinctive wayfaring or map-style signage in the vicinity of the Development;

Site means that land which is shown edged red on the Plan and comprises the Phase 1 Land, the Phase 2 Land, the Phase 3 Land and the Phase 4 Land;

Social Rented Unit means Affordable Housing which is managed by an Affordable Housing Provider and where the rent is no higher than target rents as determined by the national rent regime except where tenants have been decanted and rehousing such tenants necessitates a different arrangement such arrangement to be determined by the Owner and the said tenant;

Staircasing means the purchase by an owner of additional equity in a Shared Ownership Unit;

Statutory Undertaker means any company corporation board or authority at the date of this Agreement authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking;

Supplemental Section 106 Agreement means an agreement or unilateral undertaking made pursuant to Section 106 of the 1990 Act and any other applicable enabling powers and which provides that such part or parts of the Site described in Clause 5.4 of this Agreement shall be bound by the obligations, covenants and undertakings in this Agreement a draft of which is annexed at Appendix 6 to this Agreement;

Travel Plan means a full and final form travel plan relating to a Phase which is based on the Framework Travel Plan such travel plan to be approved by the Council;

Travel Plan Notice means the notice served by the Council on the Owner pursuant to Paragraph 8 of Schedule 11 in respect of the Travel Plan;

Travel Plan Penalty Payment means such sum as the Council determines is required to remedy the breach set out in the respective Travel Plan Notice;

Use Classes Order 1987 means the Town & Country Planning (Use Classes) Order 1987;

Viability Reassessment means a reassessment of the viability of the Development using the methodology and agreed parameters as used in the Original Viability Assessment submitted on behalf of the Owner to the Council as part of the Phase 1 Application and which shall identify the maximum percentage of Affordable Housing Units that can be viably provided on each Phase;

Wolvercote Road Area means that land shown edged red on drawing no. A367_SK005 as annexed to this Agreement.

2 Construction of this Agreement

2.1 In this Agreement:

- 2.1.1 unless otherwise indicated reference to any:
- (a) clause, schedule or appendix is to a clause of, schedule to or appendix to this Agreement;
 - (b) paragraph is to a paragraph of a schedule to this Agreement;
 - (c) reference within a schedule to a paragraph is to a paragraph of that Schedule;
 - (d) part is to a part of a schedule to this Agreement;
 - (e) table is to a table of a schedule to this Agreement;
 - (f) recital is to a recital to this Agreement; and
 - (g) plan, is to a plan annexed to this Agreement;
- 2.1.2 references to any statute or statutory provision include references to:
- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement;
 - (b) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
 - (c) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;
- 2.1.3 headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;
- 2.1.4 any notice, notification, consent, approval, agreement, request, statement or details to be made, given or submitted under or in connection with this Agreement shall be made or confirmed in writing;
- 2.1.5 references to the Site include any part of it;
- 2.1.6 "including" means "including without limitation";
- 2.1.7 unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;
- 2.1.8 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
- 2.1.9 any obligation, covenant, undertaking or agreement by the Owner or the Council not to do any act or thing includes an obligation, covenant, undertaking or agreement not to permit or allow the doing of that act or thing;

- 2.1.10 save where expressly stated to the contrary, where in this Agreement there is reference to using Reasonable Endeavours to achieve an outcome, upon written request by any of the Parties at reasonable intervals (not to exceed more than once every 3 (three) months), within 10 (ten) Working Days of such request reasonable evidence of the steps taken to achieve such outcome shall be provided in documentary form (where possible) to the requesting Party.
- 2.1.11 In this Agreement any reference to the Owner shall where the context so admits include the Owner's successors in title and assigns and the expression the Council shall include any respective successor authority(s) to the statutory functions under which this Agreement is made.
- 2.1.12 The masculine and the feminine and neuter gender include each of the other genders and the singular includes the plural and vice versa
- 2.1.13 Where or in the event that more than one person is included in the expressions the Owner or the Council all agreements and obligations expressed to be made or assumed by such party are made or assumed and are to be construed as made or assumed by all such persons jointly and each of them severally.

2.2 The Interpretation Act 1978 shall apply to this Agreement.

2.3 This Agreement includes the schedules, recitals and appendices to this Agreement.

3 Legal Basis

3.1 This Agreement is executed by the Parties hereto as a deed and made and creates planning obligations pursuant to section 106 of the Act and to the extent that the covenants, restrictions and requirements in this Agreement are not made under section 106 of the Act they are made under section 1 of the Localism Act 2011, section 111 of the Local Government Act 1972, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other powers so enabling.

3.2 This Agreement shall be enforceable by the Council in respect of the Site as local planning authority for the purposes of Part III of the Act.

3.3 The restrictions covenants limitations and obligations undertaken by or imposed upon the Owner under this Agreement relate to and are binding in their entirety upon the Owner and the successors in title and assigns of the Owner's respective interests in the Site and (subject to Clause 6.4) this Agreement may be enforced in accordance with section 106 of the Act against the Owner and their successors in title by the Council as if such persons had been an original covenanting Party in respect of the interest or estate in the Site for the time being held by them.

4 Conditionality

4.1 Save where expressly provided for in this Agreement, this Agreement is conditional upon and shall not take effect until a Planning Permission has been granted.

4.2 Save where expressly provided for in this Agreement, ~~this~~ ^{4.1 and 4.2} Clauses 5.1 and 5.2 are further is conditional upon and shall not take effect until the Development has Commenced. (STBT - 5.1 and 5.2)
PC
TA

WALKER MORRIS LLP
KINGS COURT
12 KING STREET
LEEDS
LS1 2HL
DX 12051 LEEDS 24

5 Covenants and declarations

- 5.1 The Owner covenants with the Council to perform, observe and comply with the covenants, restrictions, limitations and requirements contained in Schedules 1 – 11 to this Agreement.
- 5.2 The Council covenants with the Owner to perform, observe and comply with the covenants, restrictions, limitations and requirements contained in Schedules 2, 5, 7, 8, 9, 10, 11 and 12 to this Agreement.
- 5.3 The Owner and the Council confirm that the numbering of the Phases in this Agreement does not imply any means of sequential delivery.
- 5.4 If the Owner acquires a freehold interest or is granted or acquires a leasehold interest in the Site which is not at the date of this Agreement part of the Owner's interests in the Site then unless otherwise agreed with the Council the Owner shall within twenty eight working days of acquiring or being granted such interest (or within such other period as is agreed in writing with the Council):
- 5.4.1 notify the Council of such transaction; and
 - 5.4.2 enter into a Supplemental Section 106 Agreement for the purposes of ensuring that the relevant obligations, covenants and undertakings in this Agreement shall be binding on any such part of the Site and deliver the completed Supplemental Section 106 Agreement to the Council;

and for the avoidance of doubt the Owner shall not carry out or otherwise permit or allow the carrying out of the Development on the land to which such interest relates until a completed Supplemental Section 106 Agreement has been delivered to the Council.

6 Miscellaneous

- 6.1 If any provision of this Agreement is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Agreement is (if and to the extent that it may properly and lawfully be construed as such) to be unaffected.
- 6.2 Where in this Agreement there is any reference to an expression of satisfaction certificate approval agreement or other consent to be given or made by the Council such expression of satisfaction certificate approval agreement or other consent shall be requested in writing and the Council shall not unreasonably withhold or delay the giving or making of the same.
- 6.3 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers functions or discretions.
- 6.4 No person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with its interest in the Site or its interest in respect of that part of the Site on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 6.5 No person shall be liable for any breach of any of the obligations covenants and undertakings or other provisions of this Agreement in respect of any part of the Site in which they have no legal interest.

- 6.6 No obligation in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part of parts of the Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee, receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Site or part thereof to which such obligation relates.
- 6.7 The obligations in this Agreement shall not be binding upon any individual owner occupiers or tenant occupiers of the Open Market Dwellings or Commercial Units within the Development or their chargees, mortgagees or receivers or against those deriving title from them nor on any statutory utility or railway undertakers in respect of any area required in order to provide public utilities or in respect of their operational land.
- 6.8 In the event of any planning permission being granted pursuant to an application made under Section 73 of the 1990 Act for the removal or variation of any condition attached to the Planning Permissions the obligations contained in this Deed shall apply to any such planning permission granted pursuant to any such application without the need for a further deed unless otherwise required by the Council.
- 6.9 The restrictions and requirements contained in this Agreement shall be treated as Local Land Charges and may be registered by the Council on the Local Land Charges Register for the purposes of the Local Land Charges Act 1975.
- 6.10 If any of the Planning Permissions shall expire before the Commencement of Development or shall at any time be modified without the consent of the Owner or revoked this Agreement shall terminate and cease to have effect in respect of that part of the Site over which the Planning Permission that has expired and the Council shall if requested in writing to do so remove any entry relating to this Agreement from the Local Land Charges Register if it is reasonable and proper to do so.
- 6.11 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permissions) granted after the date of this Agreement.
- 6.12 The Parties will act in good faith in considering any approval consent certificate direction authority agreement action or expression of satisfaction required to be given or reached or taken by any Party and shall not be unreasonable or unreasonably withheld or delayed **PROVIDED THAT** nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its statutory functions and the rights powers duties and obligations of the Council under private or public statutes byelaws orders and regulations may be as fully and effectively exercised as if the Council was not a Party to this Agreement.
- 6.13 No waiver (whether express or implied) by the Council or the Owner of any breach in performing or observing any of the covenants terms and conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the terms or conditions or from acting upon any subsequent breach or default.
- 6.14 No person who is not a party to this Agreement may enforce any terms hereof pursuant to the Contracts (Right of Third Parties) Act 1999 provided that this clause shall not affect

any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law nor shall it affect any rights of any successor body to the Council.

6.15 The construction, validity and performance of this Agreement shall be governed by and interpreted in accordance with the law of England and Wales.

7 Dispute Resolution

7.1 The Parties agree that any differences and questions which arise between the Parties in connection with this Agreement may be referred for determination by an independent person ("**an Expert**") in accordance with the following provisions:

7.1.1 where such dispute relates to the construction of this Agreement or any other document referred to herein it shall be referred to a lawyer agreed upon by the Parties or in default of agreement within one month appointed (on the application of any Party) by or at the direction of the President or appointed deputy for the time being of the Law Society; or

7.1.2 where such dispute relates to the acceptability or otherwise of a scheme submitted it shall be referred to a Chartered Town Planner agreed upon by the Parties or in default of agreement within one month appointed (on the application of any Party) by or at the direction of the President or appointed deputy for the time being of the Royal Town Planning Institute; or

7.1.3 where such dispute relates to the valuation of property and/or the viability of the Development it shall be referred to a Chartered Surveyor agreed upon by the Parties or in default of agreement within one month appointed (on the application of any Party) by or at the direction of the President or appointed deputy for the time being of the Royal Institution of Chartered Surveyors.

7.2 Notice in writing of the appointment of an Expert pursuant to this Clause 7 shall be given by the Expert to the Parties and he shall invite each to submit within a specified period (which will not exceed three weeks) any written representations each wishes to make to him and any submissions shall be provided to the Parties with an invitation to respond within a specified period (not exceeding two weeks).

7.3 The Expert shall act as an expert and not as an arbitrator and he shall consider any written representation submitted to him within the said specified period and shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own judgement.

7.4 The Expert shall give notice in writing of his decision with reasons to the Parties within six weeks of his appointment or within such extended period as the Parties may together allow.

7.5 The decision of the Expert shall be final on all matters referred to him and in the absence of manifest error shall be binding on the Parties.

7.6 If for any reason the Expert fails to make a decision and give notice in accordance with Clauses 7.1 to 7.5 any Party may apply to the President or appointed deputy for the time being of the Institution of Civil Engineers or the Royal Institution of Chartered Surveyors (as appropriate) for a substitute to be appointed in his place.

7.7 Each Party shall bear its own costs save that the fees of the Expert shall be in the Expert's award.

7.8 Nothing in this Clause shall be taken to fetter the Parties' ability to seek legal redress in the Courts (or otherwise) for any breach of the obligations in this Agreement.

8 Indexation

In the event that the Index or the Earnings Index ceases to exist or is replaced or rebased then reference to the Index or the Earnings Index (as applicable) shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or (in the event the All In Tender Price Index or the Earnings Index is not replaced) to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

9 Interest On Late Payment

If any sum or amount has not been paid to the Council by the date it is due the Owner shall pay the Council interest on that amount at the Default Interest Rate (both before and after any judgment) such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

10 VAT

10.1 All payments given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable.

10.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of any financial contribution payable by the Owner in accordance with this Agreement then to the extent that VAT had not been previously charged in respect of that contribution the Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

11 Severance

If any provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law, such provisions shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement and in the event of any such deletion the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.

12 Notice

Any notice to be given under this Agreement shall be in writing and shall be deemed to be sufficiently served if delivered by hand and receipted for by the recipient or sent by first class post or recorded delivery addressed in the case of the Council to the Head of Development Control at Civic Offices, 2 Watling Street, Bexleyheath, Kent DA6 7AT or in the case of the Owner to Gallions Housing Association Ltd, 45 Westminster Bridge Road,

London SE1 7JB or to such other addresses as either Party may from time to time notify to the other in accordance with the provisions of this Clause.

13 Costs

13.1 The Owner shall pay to the Council on completion of this Agreement the reasonable and evidenced legal costs incurred by the Council in the negotiation, preparation and execution of this Agreement.

13.2 The Owner shall pay the Monitoring Contribution to the Council prior to Commencement of each Phase of the Development.

IN WITNESS of which this Agreement has been duly executed as a Deed and delivered on the day and year first before written.

Schedule 1

Affordable Housing

1 Notice

The Owner shall notify the Council in writing not less than 28 (twenty eight) days prior to the Anticipated Commencement Date of each Phase of the Development.

2 Affordable Housing Delivery

2.1 Subject to the other provisions of this paragraph 2 the Owner covenants that it shall provide the maximum reasonable amount of Affordable Housing within each Phase of the Development that the viability of that Phase the Development supports SUCH viability to be determined in accordance with the provisions of Schedule 2 to this Agreement.

2.2 The percentage of Dwellings provided as Affordable Housing Units in each of Phases 2, 3 and 4 will be the figure specified in any approved Affordable Housing Scheme for that Phase provided always that the Owner shall (subject to paragraph 2.5 below) endeavour to provide 35% (thirty five percent) of Dwellings as Affordable Housing across the Development.

2.3 In the event that Phase 1 secures in excess of the target provision of 35% (thirty five per cent) of the Dwellings comprised within Phase 1 as Affordable Housing then the excess provision of Affordable Housing shall be offset against the Affordable Housing requirement contained in the Affordable Housing Schemes approved in respect of future Phases which requires (on the basis of an approved Viability Reappraisal) the provision of Affordable Housing.

2.4 In the event that the Baseline Affordable Housing Level is not secured in Phase 1 as part of the approved Affordable Housing Scheme for Phase 1 the Owner covenants that (regardless of the outcome of the Viability Reappraisal approved in respect of the subsequent Phase) the balance of the Baseline Affordable Housing Level will be provided within the subsequent Phases.

2.5 The Owner shall not to carry out or permit or allow the carrying out of any works comprised in the Development of the relevant Outline Phase beyond the Completion of the Foundation Pile until an Affordable Housing Scheme in respect of the relevant Outline Phase have been approved in writing by the Council and the Owner shall thereafter provide Affordable Housing Units in accordance with the approved Affordable Housing Scheme **provided that** in the event that

2.5.1 the Viability Reappraisal approved by the Council or determined by an Expert in accordance with Schedule 2 provides that no Affordable Housing Units are required in respect of that Phase; and

2.5.2 the Baseline Affordable Housing Level has already been secured to be provided as part of a previous Phase

the provisions of this paragraph 2.5 may be disregarded.

2.6 Unless otherwise agreed between the Parties the Affordable Housing Scheme for Phase 1 shall provide that the Affordable Housing Units shall be delivered in accordance with the following tenures and sizes

2.6.1 Tenure:

Tenure	Number of Affordable Housing Units
Rented Units	168
Intermediate Units	67

2.6.2 Size:

Housing Tenure Type	% / No.	% / No.	% / No.
	1 Bed	2 Beds	Family Housing
Rented Units	35% or 56 dwellings whichever is the lower	39% or 58 dwellings whichever is the lower	26% or 54 dwellings whichever is the lower
Intermediate Units	54% or 36 dwellings whichever is the lower	30% or 20 dwellings whichever is the lower	16% or 11 dwellings whichever is the lower

3 Rent Levels

3.1 The Owner shall ensure that the rent payable by the Occupant of any Affordable Rented Unit shall not exceed the percentages of market rent set out in the table at paragraph 3.4 below.

3.2 The rent payable by the Occupant of any Affordable Rented Unit shall be calculated at the date of the start of each tenancy of an Affordable Rented Unit and during the term of each such tenancy the rent shall be increased annually by no more than the annual change in the Earnings Index plus 1%.

3.3 For the avoidance of doubt, on the grant of a new tenancy of an Affordable Rented Unit or the regrant of an existing tenancy of an Affordable Rented Unit the Affordable Housing Provider shall be entitled to rebase the rent levels charged in respect of the relevant Affordable Rented Unit against any change in the Market Rent to ensure the rent charged does not exceed the below percentages

3.4 Maximum rents payable by the Occupant of an Affordable Rented Unit:

Unit Size	Maximum Percentage of Market Rent
1 & 2 bed units	80%
3 & 4 bed units	80% (capped at local housing allowance levels)

4 Intermediate Unit Levels

4.1 Following the expiry of the period referred to in paragraph 4.1 above the Owner shall give priority upon the sale or lease of any Intermediate Housing Unit to households in the following income bands (or such other income bands as may be agreed in writing from time to time):

4.1.1 Households with a gross income of up to £66,000 (Indexed pursuant to the Earnings Index) in respect of 1 and 2 bedroomed units;

4.1.2 Households with a gross income of up to £90,000 (Indexed pursuant to the Earnings Index) in respect of 3 and 4 bedroomed units.

4.2 In complying with paragraphs 4.1 and 4.2 above the Owner shall give priority to eligible households which currently reside within the Council's administrative area.

5 Affordable Housing Management

5.1 Subject to paragraph 7 of this First Schedule the Owner shall not permit the Affordable Housing Units to be Occupied other than as Affordable Housing.

5.2 As soon as reasonably practicable following the Commencement of the Development the Owner shall either:

5.2.1 propose in writing to the Council the Affordable Housing Provider(s) to which the Owner will market the Affordable Housing Units for transfer on terms that accord with relevant Homes and Communities Agency funding requirements current at that time ("**a Proposal**") **PROVIDED THAT** it is agreed that (with the Council's prior approval) the Owner will be entitled to amend the Proposal by adding or removing Registered Provider(s) from time to time during the course of carrying out the Development; or

5.2.2 in the event that the Owner is an Affordable Housing Provider provide notice in writing that the Owner intends to provide and manage Affordable Housing Units as Affordable Housing in accordance with the terms of this Agreement.

5.3 In the event that the Owner proposes to market and thereafter transfer some or all of the Affordable Housing Units to an Affordable Housing Provider pursuant to paragraph 5.2.1 above it shall comply with the following paragraphs 5.3.1 to 5.3.5 below:

5.3.1 The Owner will as soon as reasonably practicable following a Proposal enter into negotiations with such Affordable Housing Provider(s) which it may have selected from its Proposal and thereafter use reasonable endeavours to contract to transfer the Affordable Housing Units to be constructed within that

Phase to the Affordable Housing Provider(s) in accordance with paragraph 5.2.1 above.

- 5.3.2 In the event that the Owner's suggested Affordable Housing Provider(s) declines or is unable to accept the transfer of some or all of the Affordable Housing Units on the terms envisaged in this Agreement the Owner may give written notice to the Council to that effect ("**Owner's Notice**").
- 5.3.3 Upon receipt of an Owner's Notice the Council may within a period of 4 weeks by written notice suggest to the Owner an alternative Affordable Housing Provider(s) to take transfer of such Affordable Housing Units ("**Council's Notice**").
- 5.3.4 Upon receipt of a Council's Notice the Owner shall offer to enter into negotiations with the alternative Affordable Housing Provider(s) for the transfer of such Affordable Housing Units to the alternative Affordable Housing Provider(s) on the terms envisaged in this Agreement
- 5.3.5 In the event that the alternative Affordable Housing Provider(s) declines or is unable to accept the transfer of some or all of such Affordable Housing Units within a period of 3 months from the date of the offer referred to in paragraph 5.3.2 of this First Schedule the Owner may suggest a further alternative Affordable Housing Provider(s) and thereafter the procedure contained in paragraphs 5.3.1 to 5.3.4 of this First Schedule shall be repeated until an Affordable Housing Provider(s) agrees to accept the transfer of such Affordable Housing Units.

6 Affordable Housing Triggers

- 6.1 No more than 75% (seventy five percent) or 218 units of the Open Market Dwellings within Phase 1 or alternatively no Open Market Dwellings within Block C5 shall be Occupied before the Affordable Housing Units secured in accordance with paragraph 2 of this Schedule have been Completed and (where they are not already owned by an Affordable Housing Provider) transferred to an Affordable Housing Provider and satisfactory evidence of such complete transfer has been provided to the Council.
- 6.2 No more than 50% (fifty percent) of the Open Market Dwellings within each of Phases 2, 3 and 4 shall be Occupied before the Affordable Housing Dwellings within the respective Phase have been Completed and (where they are not already owned by an Affordable Housing Provider) transferred to an Affordable Housing Provider and satisfactory evidence of such completed transfer has been provided to the Council.

7 Affordable Housing Mortgagee Protection

- 7.1 In respect only of the Affordable Housing provided pursuant to this Agreement nothing contained within this Agreement shall bind any mortgagee or chargee of the Affordable Housing Provider or any administrator, fixed charge receiver (including an administrative receiver appointed pursuant to the Law of Property Act 1925) administrative receiver or any other person appointed under any security documentation to enable such mortgagee to realise its security or their successors in title or persons deriving title therefrom exercising a power of sale in respect of the Affordable Housing Units **provided that:**

- 7.1.1 it has given the Council at least three months written notice of its intention to exercise such power of sale;
- 7.1.2 the said mortgagee or receiver has used its reasonable endeavours to first dispose of the Affordable Housing Units to an Affordable Housing Provider and provided written evidence of such reasonable endeavours to the Council and for the avoidance of doubt such mortgagee chargee or receiver shall not be under any obligation to dispose of the Affordable Housing Units for a sum less than the monies outstanding pursuant to the legal charge or mortgage; and
- 7.1.3 if the said mortgagee chargee or receiver shall not have disposed of the said Affordable Housing Units or any part thereof in accordance with ^{Paragraph 7.1.2} clause 12.1 (a) above within the said three month period the said mortgagee or the receiver may (but without imposing any obligation on the said mortgagee or receiver) dispose of the Affordable Housing Units which have not by that time been disposed of to such Affordable Housing Provider on the open market to a willing buyer and such buyer shall take free of the restrictions imposed herein in relation to the Affordable Housing Units. 82
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- 7.1.4 The provisions of this Agreement shall: JAB S
- (a) cease to apply to any part or parts of the Site which are transferred or leased by any party referred to in paragraph 7.1 above.
 - (b) cease to apply to any completed Affordable Housing Units where an Affordable Housing Provider shall be required to dispose of the same pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993 or pursuant to a right to acquire under Section 180 of the Housing and Regeneration Act 2008 or any similar or substitute right applicable
 - (c) cease to apply to any completed Affordable Housing Units where an Affordable Housing Provider sells to a tenant through Social Homebuy funded pursuant to Section 19(3) of the Housing and Regeneration Act 2008 or any amendment or replacement thereof
 - (d) not bind any leaseholder of any Shared Ownership Units nor any other purchaser, tenant or occupier of completed Affordable Housing units nor any successor in title to such person.
 - (e) not bind any mortgagee of any such leaseholder or any purchaser, tenant or occupier referred to in 7.1.4(a) to (d) above nor any administrator, administrative receiver, receiver appointed under the Law of Property Act 1925 or any other person appointed under any security documentation by such mortgagee or any person deriving title through such persons.
 - (f) cease to apply to any completed Affordable Housing units referred to in 7.1.4(d) and 7.1.4(e) above in respect of which a lease of a Shared Ownership Units has been granted and where an Affordable

Housing Provider shall have disposed of 100% of the equity in such units under the terms of such lease.

8 Nominations

- 8.1 Prior to the first Occupation of the Development the Owner shall enter into a Nominations Agreement(s) with the Council in respect of the Affordable Housing Units **Provided That** any Affordable Housing Units required by the Owner in order to decant residents of existing accommodation located on the Site and the surrounding Wolvercote Road Area into an Affordable Housing Unit shall not be required to be subject to any Nominations Agreement.
- 8.2 Upon the request of the Council the Owner shall share with the Council such information as the Council reasonably requires in order to monitor the Occupation of those Affordable Housing Units used for the purposes of decanting residents of existing accommodation located on the Site and the surrounding Wolvercote Road Area into an Affordable Housing Unit.

Schedule 2

Phase by Phase Viability Reassessments

- 1 The Owner will submit to the Council a Viability Reassessment with each Reserved Matters Application for the Council's review and approval.
- 2 The Council will consider the Viability Reassessment alongside the Reserved Matters Application with which it has been submitted and during this time it will serve written notice on the Party who submitted the Viability Reassessment confirming either:
 - 2.1 that it accepts the conclusions of the Viability Reassessment ("**the Acceptance Notice**"); or
 - 2.2 that it rejects (with reasons) the conclusions of the Viability Reassessment ("**the Non Acceptance Notice**") and if so it shall also indicate:
 - 2.2.1 its own assessment of the conclusions of the Viability Reassessment (as submitted); and
 - 2.2.2 the level of Affordable Housing it considers should be provided in respect of the Phase or Phases covered by the Reserved Matters Application;
- 3 In the event of the service of a Non Acceptance Notice being served by the Council pursuant to paragraph 2.2 of this Schedule the Parties will seek to negotiate:
 - 3.1 an agreed form of Viability Reassessment; and
 - 3.2 an agreed level of Affordable Housing to be provided in respect of the Phase or Phases covered by the Reserved Matters Application;
- 4 In the event that the Parties are not able to agree the Viability Reassessment within the 13 week period in which the relevant Reserved Matters Application is being determined then either Party shall be entitled to refer the matter to an Expert in accordance with Clause 7 of this Agreement.
- 5 Prior to the Completion of the Foundation Pile in the respective Phase or Phases covered by any Reserved Matters Application the Owner shall:
 - 5.1 Agree the Viability Reassessment with the Council; and
 - 5.2 Agree and determine the level of Affordable Housing to be provided in respect of the said Phase or Phases with the Council.
- 6 The Owner will provide the agreed level of Affordable Housing pursuant to any Acceptance Notice, or as otherwise agreed between the Parties or as determined by an Expert in the case of referral in paragraph 4 above, in respect of the Phase or Phases covered by the relevant Reserved Matters Application (or in any other Phase as may be agreed in writing between the Owner and the Council).

Schedule 3

Local Employment

- 1 The Owner shall not less than 1 month prior to the date of Commencement the Owner shall submit to the Council a scheme to provide an education and skills programme for local residents to train in a number of construction disciplines in order that people may complete an apprenticeship with both practical experience gained on the Development and with formal qualifications to be obtained by a way of link with local colleges through the Bexley Skills and Employment Partnership ("**the Local Employment Scheme**") such scheme to seek to provide 5 apprenticeships together with details of the experience, skills and qualifications to be gained as part of the Local Employment Scheme
- 2 Prior to the date of Commencement the Owner shall obtain the Council's written approval of the Local Employment Scheme and shall thereafter implement the approved scheme during the construction of the Development.
- 3 From the date of Commencement and during the construction of the Development the Owner shall register with 'Resources Plus' (an agency funded by the Council, the Department for Work and Pensions, European Social Fund and the Skills Funding Agency to deliver programmes that help the unemployed residents of Bexley to find and obtain work) all employment vacancies (including vacancies arising from the need to recruit replacement staff) created in connection with the construction of the Development.
- 4 In the course of complying with its obligations under paragraphs 1-3 above the Owner shall:
 - 4.1 maintain a register of employment vacancies created in connection with the construction of the Development (the format of such register to first be approved in writing by Resources Plus) and to include details such as job description, person specification, length of contract and salary / benefits, which shall be regularly updated to show the progress made with filling the vacancies through the medium of Resources Plus; and
 - 4.2 provide Resources Plus with written evidence of local residents moving into the education and skills programme during construction.
 - 4.3 maintain regular contact with Resources Plus for up to 12 months after the date of the resident's job entry in order to enable Resources Plus to track individual progress and provide additional support where required; and
 - 4.4 provide to Resources Plus (on request) such further evidence relating to local residents' employment during the construction of the Development as is reasonably required.

Schedule 4

Restrictions on the Use of Public Parking

- 1 The Owner covenants to ensure that prior to the Occupation of any Dwelling each new Occupier of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to:
 - 1.1 be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; or
 - 1.2 buy a contract to park within any car park owned, controlled or licensed by the Council.
- 2 The Owner covenants not to Occupy or use (or permit the Occupation or use of) any Dwelling at any time during which the Occupier of the Dwelling holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council (unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970).

Schedule 5

Contributions

1 Transport and Signage Contributions

- 1.1 Prior to Occupation of 50% of the Dwellings in Phase 2 the Owner shall pay one third of the Bus Contribution representing the sum of £500,000 (five hundred thousand pounds) Index-Linked to the Council.
- 1.2 Prior to Occupation of 50% of the Dwellings in Phase 3 the Owner shall pay one third of the Bus Contribution representing the sum of £500,000 (five hundred thousand pounds) Index-Linked to the Council.
- 1.3 Prior to Occupation of 50% of the Dwellings in Phase 4 the Owner shall pay one third of the Bus Contribution representing the sum of £500,000 (five hundred thousand pounds) Index-Linked to the Council.
- 1.4 Prior to Occupation of any Dwelling in each Phase of the Development, the Owner shall pay a quarter of the Signage Strategy Contribution representing the sum of £3,750 (three thousand seven hundred and fifty pounds) Index-Linked to the Council.

2 Cycle Hub Contribution

- 2.1 Prior to Occupation of the final Dwelling within Phase 1, the Owner shall submit in writing to the Council the Abbey Wood Cycle Hub Capacity Assessment.
- 2.2 The Council shall confirm to the Owner within 28 days of receipt of the Abbey Wood Cycle Hub Capacity Assessment whether the methodology and outputs contained within such assessment are agreed by the Council and in the event that the same are not agreed the Council will set out in writing its suggested amendments in writing to the Owner within the same period of 28 days.
- 2.3 If pursuant to paragraphs 2.1 and 2.2 the agreed Abbey Wood Cycle Hub Capacity Assessment demonstrates that there is insufficient capacity at the Abbey Wood Cycle Hub then the Cycle Hub Contribution Index-Linked shall be payable by the Owner within 21 days of written request by the Council.
- 2.4 The provisions of paragraphs 2.1, 2.2 and 2.3 shall apply mutatis mutandis in respect of Phase 2.
- 2.5 If the Cycle Hub Contribution has not been paid to the Council by the Owner pursuant to the provisions of clauses 2.1, 2.2, 2.3 or 2.4 then the Owner shall pay the Cycle Hub Contribution to the Council in full prior to Commencement of Phase 3.

Schedule 6

Agreement as to the provision of the Library

- 1 Capitalised terms used in this Schedule 6 which are not otherwise defined within this Agreement shall have the same meaning as given in clause 1.1 of the Library Agreement.
- 2 In carrying out the Phase 1 Development the Owner covenants to comply with the terms of the Library Agreement and to construct the Library in accordance with the delivery timetable for the New Library Premises as specified in the Library Agreement and for the avoidance of doubt the New Library Premises shall:
 - 2.1 have a net internal floor space of not less than 500 sq m; and
 - 2.2 comprise ground floor premises with a shop front facing onto publically accessible highway or open space.
- 3 The Owner shall procure that reasonable unobstructed access to the Temporary Library Premises is maintained for members of the public at all times until the Temporary Lease is surrendered pursuant to the Library Agreement.
- 4 The Owner shall give the Council not less than two months written notice prior to the date on which the Owner anticipates that the New Library Premises will be completed to Shell and Core Stage.
- 5 The Owner shall ensure that the Council is afforded reasonable unobstructed access to the New Library Premises for a period of not less than nine months prior to the completion of the New Library Lease.
- 6 Following the completion of the New Library Lease the Owner shall ensure that reasonable unobstructed access to the New Library Premises is maintained for members of the public at all times during which the New Library Lease is in place.

Schedule 7 Boat Club

- 1 On submission of the first Reserved Matters Application pursuant to the Phase 4 Permission the Owner shall submit to the Council its proposed marketing strategy for the letting of the Boat Club Space to a Boat Club Lessee ("**the Marketing Strategy**") such strategy to include:
 - 1.1 the location of the Boat Club Space;
 - 1.2 indicative heads of terms on which the lease of the Boat Club Space is to be marketed; and
 - 1.3 a strategy for marketing through local agents, Council officers and local advertising.
- 2 The Council shall confirm within four weeks of receipt of the Marketing Strategy whether the Marketing Strategy is acceptable and if it considers that the Marketing Strategy is not acceptable the Council will confirm in writing within that four week period what measures are required to make the said strategy acceptable ("**the Non-Acceptance Notice**").
- 3 In the event of the service of a Non-Acceptance Notice by the Council pursuant to paragraph 2 of this Schedule, the Parties will continue to negotiate an agreed form of Marketing Strategy and in the event that the Marketing Strategy cannot be agreed within 13 weeks of receipt by the Council then the provisions of Clause 7 of this Agreement shall apply.
- 4 Further to agreement of the Marketing Strategy pursuant to paragraph 2 or to determination by an Expert in the case of referral in paragraph 3 of this Schedule the Owner shall market the Boat Club Space in accordance with the agreed Marketing Strategy for a period of not less than three months and shall use Reasonable Endeavours to secure a tenant of the Boat Club Space.
- 5 If further to the expiry of the said three month period in above no tenant has been secured to occupy the Boat Club Space then the Owner shall be free to seek a tenant for the Boat Club Space such that it is occupied for any uses that fall within the definitions of Classes A1, A2, A3, D1 (other than a place of worship) of the Use Classes Order 1987.

Schedule 8

Car Club

- 1 The Owner shall not allow the first Occupation of any Phase until the Owner has submitted and the Council has approved a strategy for the provision and operation of Car Club Spaces within that Phase ("**Car Club Scheme**") such strategy to include measures such as:
 - 1.1 the number and location of the Car Club Spaces to be provided as part of that Phase;
 - 1.2 the proposed Car Club(s) to whom the Car Club Spaces shall be marketed for use;
 - 1.3 details of any benefits to be offered to members of the Car Club Scheme (having reasonable regard to the anticipated requirements of the Car Club(s) identified pursuant to paragraph 1.2 above).
- 2 The Council shall confirm within four weeks of receipt of the Car Club Scheme whether the proposed Car Club Scheme is acceptable and if it considers that the Car Club Scheme is not acceptable the Council will confirm in writing within that four week period what measures are required to make the Car Club Scheme acceptable ("**the Non-Acceptance Notice**").
- 3 In the event of the service of a Non-Acceptance Notice by the Council pursuant to paragraph 2 of this Schedule, the Parties will continue to negotiate an agreed form of Car Club Scheme and in the event that the marketing strategy cannot be agreed then the provisions of Clause 7 of this Agreement shall apply.
- 4 Upon the approval of the Car Club Scheme pursuant to paragraph 2 or to determination by an Expert in the case of referral in paragraph 3 the Owner shall implement the Car Club Scheme and shall provide the Car Club Spaces in such locations and timescales as are approved therein and shall offer them for use by the Car Club referenced therein.
- 5 The Owner shall provide and maintain at its own expense the Car Club Spaces approved within that Phase to be used solely for the purposes of the Car Club and which shall be made available and ready for use for a minimum of five years (or such other shorter period as may be approved in writing by the Council with reasonable regard to the viability and feasibility of the Car Club Scheme) from the later of
 - 5.1 first Occupation of that Phase;
 - 5.2 the date when the Car Club Spaces are first available to Occupiers of that Phase; or
 - 5.3 the date of the establishment of the Car Club
- 6 The Owner shall provide one Car Club Membership per Dwelling for the duration of the period referred to in paragraph 5 above.
- 7 The Owner shall publicise annually and provide details on how to join the Car Club within its marketing materials for the Development and its own website for the duration of the period referred to in paragraph 5 above. The Owner shall monitor at six monthly intervals for three years the use of the Car Club Spaces by residents of the Development and

provide this information to the Council's Head of Strategic Planning and Growth and the Section 106 Monitoring Officer;

- 8 The Owner shall notify the Section 106 Monitoring Officer in writing if the monitoring results obtained pursuant to paragraph 7 indicates that the Car Club no longer utilises all of the Car Club Spaces in that Phase and in such case shall use Reasonable Endeavours to secure another Car Club.
- 9 If after six months from the notification in paragraph 8 above to the Section 106 Monitoring Officer another Car Club operator is not secured to operate the Car Club Spaces the Owner shall agree alternative parking mitigation measures with the Council provided that the cost of such measures to the Owner shall be no more that the equivalent cost of retaining Car Club Spaces pursuant to paragraph 5 above.
- 10 For the avoidance of doubt the Car Club Spaces and Car Club cars shall be used for the purposes of the Car Club in perpetuity and if after three years from the date of first Occupation the Car Club Spaces or the Car Club cars are not being used as such despite the Owner using its Reasonable Endeavours to secure such a use then it may subject to the Council's prior written approval use them for an alternative use.

Schedule 9

MUGA

- 1 Prior to the Practical Completion of Phase 1 the Owner shall submit a strategy for the re-provision of a MUGA as part of, or within close proximity to, the Development the ("the **MUGA Strategy**") such strategy to include measures such as:
 - 1.1 details of the proposed timing and location for the delivery of the MUGA;
 - 1.2 the indicative design (including any necessary parking), use and function of the MUGA;
 - 1.3 details of the proposed management of the MUGA in the event of organised tournaments or matches; and
 - 1.4 (if the MUGA is intended to be provided outside of the Development but within close proximity to it) the means of securing the timing and delivery of the MUGA.
- 2 The Council shall confirm within four weeks of receipt of the MUGA Strategy whether the proposed MUGA Strategy is acceptable and if it considers that the MUGA Strategy is not acceptable the Council will confirm in writing within that four week period what measures are required to make the MUGA Strategy acceptable ("**the Non-Acceptance Notice**").
- 3 In the event of the service of a Non-Acceptance Notice by the Council pursuant to paragraph 2 of this Schedule, the Parties will continue to negotiate an agreed form of MUGA Strategy and in the event that the MUGA Strategy cannot be agreed then the provisions of Clause 7 of this Agreement shall apply.
- 4 The Owner shall not Occupy any Dwellings within the Development until the MUGA Strategy has been approved by the Council or determined by an Expert in the case of referral in paragraph 3.
- 5 The Owner covenants to comply with the terms of the MUGA Strategy and deliver the MUGA within the agreed time period as set out in the MUGA Strategy.

Schedule 10

Public Areas Maintenance and Management

- 1 Prior to Occupation of each Phase of the Development the Owner shall submit details of the proposed arrangements for future management maintenance and monitoring of the Public Areas ("**the Public Areas Scheme**") within the respective Phase for approval by the Council.
- 2 The Public Areas Scheme shall contain details of the Owner's proposed arrangements for management maintenance and monitoring of the Public Areas and shall include details of:
 - 2.1 Rights of access for occupiers and visitors;
 - 2.2 Perpetual easements for the installation and future maintenance of utility services;
 - 2.3 Maintenance of accesses, drainage and lighting equipment;
 - 2.4 A mechanism for monitoring ,assessment and delivery of remedial and improvement works and emergency repairs;
 - 2.5 Arrangements for seasonal maintenance;
 - 2.6 A declaration that pursuant to Section 31(6) of the Highways Act 1980 the Public Areas within that Phase have not been dedicated to the public nor is any use by the public of any part of the Public Areas to be taken in any way as an intention by the Owner to dedicate the same as highway maintainable at the public expense; and
 - 2.7 A nominated street manager.
- 3 The Council shall confirm within four weeks (or such other period as may be agreed in writing between the Owner and the Council) of receipt of the Public Areas Scheme whether the proposed Public Areas Scheme is acceptable and if it considers that the Public Areas Scheme is not acceptable the Council will confirm in writing within that four week period what measures are required to make the Public Areas Scheme acceptable ("**the Non-Acceptance Notice**").
- 4 In the event of the service of a Non-Acceptance Notice by the Council pursuant to paragraph 3 of this Schedule, the Parties will continue to negotiate an agreed form of Public Areas Scheme and in the event that the Public Areas Scheme cannot be agreed then the provisions of Clause 7 of this Agreement shall apply.
- 5 The Owner shall not Occupy any Dwellings within the relevant Phase until the Public Areas Scheme has been approved by the Council or determined by an Expert in the case of referral in paragraph 4.
- 6 The Owner covenants to thereafter maintain the Public Areas within each Phase in accordance with the approved Public Areas Scheme relating to that Phase.

Schedule 11

Travel Plan

- 1 The Owner covenants with the Council neither to Occupy nor permit Occupation of any Dwelling comprised within any Phase of the Development unless and until it has submitted a Travel Plan relating to that Phase to the Council.
- 2 For the avoidance of doubt each Travel Plan shall contain details of the specific measures proposed in order to achieve the aims objectives set out in Chapter 4 of the Framework Travel Plan such details to be based on the indicative measures contained in Chapter 5 of the Framework Travel Plan (adapted to reflect the relevant Phase of the Development).
- 3 The Council shall confirm within four weeks of receipt of the Travel Plan whether the proposed Travel Plan is acceptable and if it considers that the Travel Plan is not acceptable the Council will confirm in writing within that four week period what measures are required to make the Travel Plan ("the Non-Acceptance Notice").
- 4 In the event of the service of a Non-Acceptance Notice by the Council pursuant to paragraph 2 of this Schedule, the Parties will continue to negotiate an agreed form of Travel Plan and in the event that the Travel Plan cannot be agreed then the provisions of Clause 7 of this Agreement shall apply.
- 5 The Owner shall not Occupy any Dwellings within the relevant Phase until the Travel Plan has been approved by the Council or determined by an Expert in the case of referral in paragraph 3.
- 6 The Owner covenants to publicise the approved Travel Plan to Occupiers of the respective Phase of Development and on written request by an Occupier of the Development to provide a copy of the approved Travel Plan without charge.
- 7 In accordance with the requirements of the approved Travel Plan the Owner shall:
 - 7.1 monitor and review the Travel Plan for the duration of the Monitoring Period; and
 - 7.2 provide a written report to the Council and thereafter take into account any reasonable comments provided thereon by the Council.
- 8 If in the reasonable opinion of the Council the Owner fails to implement and/or comply with any and/or meet all of the agreed measures of the Travel Plan the Council within the Monitoring Period the Council shall be entitled to serve a Travel Plan Notice upon the Owner requiring the Owner to take such steps as are reasonable and necessary to remedy such breach by the date specified in the Travel Plan Notice.
- 9 If the Owner fails to remedy the breach by the date specified in the Travel Plan Notice the Council shall be entitled to require payment of the Travel Plan Penalty Payment to the Council within 21 days of written request and the Council shall thereafter utilise such Travel Plan Penalty Payment to remedy the said breach by either implementing the agreed measures or such alternative measures of similar mitigation as the Council acting reasonably determines.

10 In the event that the Owner disputes:

10.1 the reasonableness of the steps specified in the Travel Plan Notice; or

10.2 the amount of the Travel Plan Penalty Payment

the Owner shall (in either case) notify the Council within 21 days of receipt of the Travel Plan Notice or the notice of the Travel Plan Penalty Payment and in the event that the dispute cannot be agreed then the provisions of Clause 7 of this Agreement shall apply.

Schedule 12

(Council's Covenants)

1 Expenditure Of Contributions

- 1.1 The Council shall issue a receipt upon request for all contributions paid to the Council under the provisions of this Agreement.
- 1.2 Upon the reasonable written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.
- 1.3 The Council shall apply all contributions received from the Owner pursuant to the First Schedule towards the respective purpose of such contribution as defined in Clause 1.1 of this Agreement and for no other purpose(s) and the Council shall (upon the reasonable request of the Owner or the Owner's nominee) provide evidence that the monies have been so applied.
- 1.4 In the event that the Council has not expended any part or parts of any contribution received from the Owner pursuant to the First Schedule within ten years of the date of payment then the Council shall repay such sum or sums not expended plus interest accrued to the Owner or the Owner's nominee.

2 General

- 2.1 Upon receipt of written notice from the Owner requesting that satisfaction of the obligations created by this Agreement be noted on the Local Land Charges Register the Council shall amend such register if it is reasonable and proper to do so.