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Steven Smith / Amy Shaw



dated 21 October 2021

London Borough of Richmond upon Thames

and

Richmond Housing Partnership Limited

Agreement for Sale and Purchase

in relation to various parcels of land around Ham Close, Richmond

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Agreement for Sale and Purchase

dated 21 October 2021

Parties

- (1) **London Borough of Richmond upon Thames** of Civic Centre, 44 York Street, Twickenham TW1 3BZ (the **Seller**); and
- (2) **Richmond Housing Partnership Limited** (a Registered Provider registered with the Regulator with registration number L4279 and as a registered society as defined in Section 1 of the Co-operative and Community Benefit Societies Act 2014 with registration number 30939) whose registered office is at 8 Waldegrave Road, Teddington TW11 8GT (the **Buyer**).

Agreed Terms

1 Definitions and interpretation

1.1 In this Agreement the following terms have the following meanings:

Affordable Housing shall have the mean in the Collaboration Agreement;

Application for Payment means an application for payment in respect of the Community Facilities under this Agreement and clause 4.1.9 of the Collaboration Agreement;

Appointment(s) has the meaning in the Development Agreement;

Base Rate means the amount per annum set from time to time of Barclays Bank plc;

Building means any building (being a building or structure with a roof and supporting walls, which is designed or intended for physical occupation or use, or for storage, or for operation of machinery) from time to time comprised in, or proposed to be comprised in, the Development;

Building Contract has the meaning in the Development Agreement;

Buyer's Conveyancers means Trowers & Hamlins LLP (ref: RZG.49756.144.JAS);

Call Option means the call option exercisable by the Seller under clause 24;

Call Option Notice has the meaning in clause 24.2;

Call Option Price means:

- (a) for Land Parcel 1 and/or Land Parcel 2 and/or Land Parcel 3 and/or Land Parcel 4 and/or Land Parcel 5 and/or Land Parcel 6 (as applicable) a sum equal to the higher of:
 - i the aggregate price paid by the Buyer for such of Land Parcel 1 and/or Land Parcel 2 and/or Land Parcel 3 and/or Land Parcel 4 and/or Land Parcel 5 and/or Land Parcel 6 (as the case may be) in respect of which the Call Option is exercised under clause 24.2; or

- ii the OMV of such of Land Parcel 1 and/or Land Parcel 2 and/or Land Parcel 3 and/or Land Parcel 4 and/or Land Parcel 5 and/or Land Parcel 6 (as the case may be) in respect of which the Call Option is exercised in accordance with clause 24.1 and 24.2, as agreed or determined under Clauses 24.3 and/or 24.4;

and

- (b) for any Relevant Wider Land relating to a Land Parcel, the OMV of such of the same in respect of which the Call Option is exercised in accordance with clause 24.1 and 24.2;

Call Option Property has the meaning in clause 24.3;

Certifier shall have the meaning in the Collaboration Agreement;

CF Appointment(s) means the Appointment(s) relating to the Community Facilities (whether or not with other parts of the Development), as provided for in the Development Agreement;

CF Assurance means the CF Lease or CF Transfer as applicable;

CF Building Contract means the Building Contract(s) relating to the Community Facilities (whether or not with other parts of the Development), as provided for in the Development Agreement;

CF Building Contractor means the building contractor(s) under the CF Building Contract;

CF Collateral Warranties means collateral warranties by the CF Building Contractor, the CF Professional Team and the CF Sub-Contractors, the same being in a form provided for in the Development Agreement, and in particular (without limitation) providing for the CF Building Contractor to maintain professional indemnity insurance in a sum not less than £10m and for each member of the CF Professional Team to maintain professional indemnity insurance in a sum not less than £10m;

CF Construction Documents means the CF Building Contract, the CF Appointments, and the CF Sub-contracts;

CF Heads of Terms means the heads of terms for the CF Assurance a copy of which is attached at Appendix 1;

CF Lease means (where the New Community Centre or (as applicable) the Makerlab, is not stand alone, that is to say the same form part of another building at the Development) a lease of the New Community Centre and the curtilage of the same, or as applicable a lease of the Makerlab and the curtilage of the same, in the case of each such lease, to be granted by RHP or the Development Partner (as applicable) in favour of the Council or a nominee of the Council such lease to be in accordance with the CF Heads of Terms (and in the case of the Makerlab, the CF Heads of Terms being adapted (mutatis mutandis) to apply to the same) and (in the case of each such lease) in a form (complying with the terms of this Agreement, and granting such rights, and excepting and reserving such exceptions and reservations, as are reasonably appropriate) to be agreed between the Seller and the Buyer each acting reasonably;

CF Plot means that land tinted yellow on Plan 4 at Appendix 4, to the extent the same is owned by the Council;

CF Professional Team means the Professional Team insofar as the same are responsible for development of, or otherwise involved in, the Community Facilities being the architect, the structural and civil engineer and the mechanical and electrical engineer;

CF Sub-Contractors means the Sub-Contractors insofar as the same are responsible for development of, or otherwise involved in, the Community Facilities;

CF Sub-contract(s) means the sub-contract or other appointment of any CF Sub-Contractor(s);

CF Transfer means (where the New Community Centre or (as applicable) the Makerlab is a stand alone building) a freehold transfer of the New Community Centre or (as applicable) the Makerlab and (in either such case) the curtilage of the same, to be granted by RHP or the Development Partner (as applicable) in favour of the Council or a nominee of the Council in respect of the New Community Centre or (as applicable) the Makerlab and (in each case) the said curtilage, such transfer to be in accordance with the CF Heads of Terms in so far as relevant to a freehold transfer (and in the case of the Makerlab, the CF Heads of Terms being adapted (mutatis mutandis) to apply to the same) and otherwise in a form as agreed between the Council and RHP acting reasonably;

Charges means any charges over the property securing any financial obligation on behalf of the Seller;

Collaboration Agreement means an agreement between the Seller and the Buyer dated the date hereof to assist with the future redevelopment of the Site;

Community Facilities has the meaning in the Collaboration Agreement;

Community Facility Specification has the same meaning as in the Development Agreement;

Completion means the date on which legal completion actually takes place for each Land Parcel;

Conditions means the Site Wide Conditions and the Land Parcel Conditions;

Council means the Seller;

Deed of Adherence means the deed substantially in the form as set out in Appendix 3;

Deposit means 1% (one percent) of the relevant Land Parcel Price as set out in Schedule 1 and subject to adjustment to 1% (one per cent) of any revised Land Parcel Price from time to time agreed or determined under clause 2.2);

Development means development of the Site (and any relevant part or parts of the same) in accordance with the Satisfactory Planning Permission;

Development Agreement has the meaning in the Collaboration Agreement;

Development Partner has the meaning in the Collaboration Agreement;

Disposal means a disposition as defined in section 205 Law of Property Act 1925 and/or section 27(2) Land Registration Act 2002 of the whole or any part or parts of the Site;

Dispute means any dispute or claim or difference between the parties arising out of or connected with this Agreement or the subject matter of this Agreement and includes any dispute as to the interpretation or proper construction of this Agreement;

Existing Community Facilities means the community building (and any related community facilities) currently at the Site and which are located on Land Parcel 5;

Expert has the meaning in clause 13.3;

Financial Model shall have the meaning in the Development Agreement;

Financially Viable shall have the meaning in the Collaboration Agreement;

Funder means a bank, financial institution or third party funder providing substantial finance to the Buyer and/or to the Development Partner, or any entity formed by the Buyer and Development Partner for the purposes of substantially funding the Development and to enable the Development to be carried out;

Group Company has the meaning in the Companies Act 2006 section 1261;

Insolvent has the meaning in the Collaboration Agreement, and "**Insolvency**" shall be construed accordingly;

Overriding Interests means interests that override first registration (as defined in Schedule 1 to the Land Registration Act 2002), interests that override registered dispositions (as defined in Schedule 3 to the Land Registration Act 2002) or interests the status of which is preserved as overriding by Schedule 12 to the Land Registration Act 2002;

Land Parcel means Land Parcel 1 and/or Land Parcel 2 and/or Land Parcel 3 and/or Land Parcel 4 and/or Land Parcel 5 and/or Land Parcel 6 (as applicable);

Land Parcel 1 means the land and buildings shown edged red and numbered 1 on Plan 2;

Land Parcel 2 means the land and buildings shown edged red and numbered 2 on Plan 2;

Land Parcel 3 means the land and buildings shown edged red and numbered 3 on Plan 2;

Land Parcel 4 means the land and buildings shown edged red and numbered 4 on Plan 2;

Land Parcel 5 means the land and buildings shown edged red and numbered 5 on Plan 2;

Land Parcel 6 means the land and buildings shown edged red and numbered 6 on Plan 2;

Land Parcel Conditions means for any Land Parcel:

- (a) the Buyer is reasonably satisfied that the Phase containing the relevant Land Parcel is Financially Viable or will be Financially Viable as part of the Development as a whole; and

- (b) neither party having served on the other party notice terminating the Collaboration Agreement and/or this Agreement pursuant to the relevant provisions of the same, and the Collaboration Agreement and this Agreement not otherwise having come to an end, prior to the Phase Completion Date relating to the Land Parcel in question;

Land Parcel Deposit means the Deposit applicable to the relevant Land Parcel;

Land Parcel Price means the relevant Land Parcel Prices as set out in Schedule 1 (exclusive of any VAT), or such other Land Parcel Prices for each relevant Land Parcel as may be agreed or determined pursuant to clause 2.2;

Land Parcels means each of the parcels of land forming the Property (being Land Parcel 1, Land Parcel 2, Land Parcel 3, Land Parcel 4, Land Parcel 5, Land Parcel 6) and "Land Parcel" means any of Land Parcel 1, Land Parcel 2, Land Parcel 3, Land Parcel 4, Land Parcel 5, or Land Parcel 6 (as the case may be); and "Land Parcel" shall be construed accordingly;

Licence Purposes means access to the CF Plot for (i) use of a mobile crane, (ii) storage of materials, (iii) scaffolding and access and working space around the New Community Centre, (iv) construction personnel welfare facilities and (v) other purposes agreed by the Seller and the Buyer (each acting reasonably); all such purposes being to enable construction of the New Community Centre, and not for the wider Development;

Long Stop Date means the tenth anniversary of the date of this Agreement being *21 October* 2031;

LPMPA 1994 means the Law of Property (Miscellaneous Provisions) Act 1994;

Makerlab has the meaning in the Collaboration Agreement;

Maker's Lab Specification has the same meaning as in the Development Agreement;

Maximum Price has the meaning in the Collaboration Agreement;

New Community Centre has the meaning in the Collaboration Agreement;

OMV means in relation to any property an agreement or determination of the open market value of the same (being the Market Value of the same as defined in the Red Book) in accordance with the RICS Valuation Standards;

Permitted Disposal means:

- (a) one or more individual Dwelling(s) (construction of which has been completed) being sold by the Development Partner;
- (b) the disposal of the Affordable Housing to a Registered Provider;
- (c) mortgage or charge of the Property or any part of it to a Funder;
- (d) the granting of a licence or tenancy in respect of the Property or any part of it at an open market rent on terms which (under the law prevailing at the time) would entitle the owner of the Property without obtaining any

Court Order and without taking any steps save for the service of a notice on the licensee or tenant (as applicable) to obtain occupation of the Property with vacant possession, free from such licence or tenancy, not later than 60 months from the date of such grant;

- (e) a disposition of a part of the Property to a local authority or statutory body pursuant to a Planning Agreement (as defined in the Collaboration Agreement);
- (f) a disposition of part of the Property to a statutory body or service supply company for installation of electricity substations, gas governors or water pumping stations or other statutory services serving or to serve the Development, which have been or are to be constructed or installed in or upon the Property;
- (g) a disposition of any part of the Property to a highway authority for the purposes of adoption of the roads and footpaths and cycleways (if any) to be constructed on the Property as part of the Development;
- (h) a disposition of common parts and facilities comprised in the Development, on the Property, to a management company for the purposes of managing any such common parts and facilities, provided that the disposition restricts the use to such a purpose;

Phase means Phase 1, Phase 2 or Phase 3 as the case may be;

Phase Variation has the meaning in clause 29.1;

Phase Build Date means

- (a) in the case where (and for so long as) the Development Agreement is in place with Hill Residential Limited (company number 04251718), the following dates:
 - i for Phase 1 the date falling 34 months from the Start on Site Date for Phase 1;
 - ii for Phase 2 the date falling 44 months from the Start on Site Date for Phase 2;
 - iii for Phase 3 the date falling 53 months from the Start on Site Date for Phase 3;
- (b) in the case where the Development Agreement is not in place, or the Development Partner is not the said Hill Residential Limited for each Phase the date notified by the Certifier to the parties, before the relevant Phase Completion Date, as being the reasonably anticipated date of Practical Completion of the Phase in question;

Phase 1 means that part of the Development to be carried out on the Phase 1 Property;

Phase 2 means that part of the Development to be carried out on the Phase 2 Property;

Phase 3 means that part of the Development to be carried out on the Phase 3 Property;

Phase 1 Completion Date means the first Working Day after the expiry of fifteen clear Working Days from the Unconditional Date;

Phase 2 Completion Date means the first Working Day after the expiry of five clear Working Days from the date notified to the Seller by the Buyer in accordance with clauses 5.2 and 19 of this Agreement (the Land Parcel Conditions for Phase 2 having been satisfied) but so that if such date has not occurred within 5 years after the Phase 1 Completion Date, the Seller may terminate this Agreement so far as it relates to any Phase the Land Parcel(s) for which have not transferred to the Buyer hereunder;

Phase 3 Completion Date means the first Working Day after the expiry of five clear Working Days from the date notified to the Seller by the Buyer in accordance with clauses 5.2 and 19 of this Agreement (the Land Parcel Conditions for Phase 3 having been satisfied) but so that if such date has not occurred within 5 years after the Phase 2 Completion Date, the Seller may terminate this Agreement so far as it relates to any Phase the Land Parcel(s) for which have not transferred to the Buyer hereunder;

Phase Completion Date means the Phase 1 Completion Date or the Phase 2 Completion Date or the Phase Completion 3 Date (as the case may be);

Phase 1 Property Land Parcel 2, Land Parcel 3, Land Parcel 6 and that part of Land Parcel 1 as shown marked note 1 and edged green on Plan 3, or such alternative as is agreed between the parties in accordance with clause 29;

Phase 2 Property Land Parcel 4 and Land Parcel 5 or such alternative as is agreed between the parties in accordance with clause 29;

Phase 3 Property means the part of Land Parcel 1 which is not shown marked note 1 and edged green on Plan 3 or such alternative as is agreed between the parties in accordance with clause 29;

Plan 2 means the plan 2 at Appendix 4 to this Agreement;

Plan 3 means the plan 3 at Appendix 4 to this Agreement;

Practical Completion and **Practically Completed** shall have the meaning in the Collaboration Agreement;

Professional Team has the meaning in the Development Agreement;

Property means all the freehold property comprising Land Parcel 1, Land Parcel 2, Land Parcel 3, Land Parcel 4, Land Parcel 5, Land Parcel 6, and shown within the red edging on Plan 2;

Register means the register maintained by the Regulator pursuant to section 111 of Housing and Regeneration Act 2008;

Registered Provider means a private provider of social housing which is designated in the Register as a non-profit organisation under sub-sections 115(1)(a) or 278(2) of the Housing and Regeneration Act 2008;

Regulator means the Regulator of Social Housing established pursuant to Chapter 2 of the Housing and Regeneration Act 2008 or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions;

Relevant Authority means the Local Planning Authority the Secretary of State the highway authorities town and parish councils gas water electricity cable television and telecommunication companies and any other public authority company utility body corporation or organisation or government department or Secretary of State or Minister concerned with the grant of planning permission the control of development or the provision and adoption of any estate roads and drainage systems and drainage or the installation and provision of service installations and services or the provision of Affordable Housing;

Relevant Wider Land means (for any Land Parcel on which development of part of any Building has from time to time commenced or been carried out) any other land (excluding the Land Parcel in question, but being land within the Site) on which it is from time to time also proposed to construct the remainder of such Building, or on which the remainder of such Building has also from time to time been constructed, and any land on which the curtilage of any such Building has from time to time been, or is from time to time proposed to be, constructed;

RHP means the Buyer;

Satisfactory Planning Permission has the meaning in the Collaboration Agreement;

Seller's Conveyancers means Bevan Brittan LLP, Fleet Place House, 2 Fleet Place EC4M 7RF (ref: Steven Smith);

Site means Ham Close Estate TW10, shown edged red on Plan 1 at Appendix 4;

Site Wide Conditions means:

- (a) grant of Satisfactory Planning Permission; and
- (b) the Seller not having served a notice on the Buyer for a breach of the Collaboration Agreement or this Agreement prior to the Phase 1 Completion Date; and
- (c) the Buyer being reasonably satisfied that the Development is Financially Viable;

Standard Conditions means the Standard Commercial Property Conditions (2nd Edition), a copy of which is available for inspection at the offices of the Seller's Conveyancers, and **Standard Condition** means any one of them;

Start on Site shall have the meaning in the Collaboration Agreement;

Start on Site Date for any Phase means the date 18 months following the Phase Completion Date relating to such Phase;

Sub-Contractor shall have the meaning in the Development Agreement;

Overage Share shall have the meaning in the Collaboration Agreement;

Title Number means the title numbers set out in Schedule 1;

Title Register means the entries or records made in registers maintained by HM Land Registry as set out in Schedule 1;

Transfer means the transfer of the each Land Parcel pursuant to this Agreement in a form (complying with the terms of this Agreement, and granting such rights, and excepting and reserving such exceptions and reservations, as are reasonably appropriate) to be agreed between the Seller and the Buyer each acting reasonably;

Triennial Anniversary has the meaning in clause 2.2;

Unconditional Date means in relation to each Land Parcel the date on which:

- (a) the Site Wide Conditions have been satisfied; and
- (b) the Land Parcel Conditions relating to the Land Parcel in question have been satisfied;

VAT means Value Added Tax or any tax of a similar nature which may be substituted for or levied in addition to it; and

Working Days means any day (other than Saturday or Sunday) on which clearing banks in the City of London are open to the public for the transaction of business.

1.2 In the interpretation of this Agreement:

- 1.2.1 words importing the singular number only shall include the plural number and vice versa;
- 1.2.2 words importing one gender shall include all other genders;
- 1.2.3 the word "including" shall be deemed to be followed by the words "without limitation";
- 1.2.4 the headings appearing in this Agreement are for reference only and shall not affect its construction;
- 1.2.5 references to any statute include a reference to any statutory amendment, modification replacement or re-enactment thereof for the time being in force and to every instrument or direction, regulation, bye-law, permission, licence, consent, condition, scheme and matter made in pursuance of any statute and any regulation or other legislation of the European Union that is directly applicable in England and Wales and include existing statutes and those that come into effect while this Agreement subsists;
- 1.2.6 where there are two or more persons included in the expressions the Seller or the Buyer covenants and obligations expressed to be entered into by the Seller or the Buyer respectively are deemed to be entered into by such persons jointly and severally;
- 1.2.7 any reference to a clause, schedule or appendix without further designation is a reference to a clause, schedule or appendix of this Agreement;

- 1.2.8 any obligation on a party not to do any act, matter or thing shall be deemed to include an obligation not to permit or suffer such thing to be done and any obligation on a party to do any act, matter or thing includes an obligation to procure that it be done; and
- 1.2.9 references to any party shall unless otherwise stated be deemed to include successors in title and assigns of that party unless the context otherwise requires.

2 **Agreement for sale, and update of Land Parcel Price**

2.1 Subject to the satisfaction of the Conditions, and clause 2.5, the Seller shall sell and the Buyer shall buy the relevant Land Parcels at the relevant Land Parcel Price on the terms of this Agreement.

2.2 For any Land Parcel(s) which are not acquired by the Buyer hereunder within three years after the date of this Agreement (the expiry of such period of three years being herein called the "**Triennial Anniversary**"), the Land Parcel Price relating to the same shall be revised to whichever is the higher of:

2.2.1 the Land Parcel Price for the same immediately prior to the Triennial Anniversary; and

2.2.2 the OMV of such Land Parcel as at the Triennial Anniversary, as from time to time agreed between the parties or (in default of agreement as to the same) determined (if the parties so agree) by an Expert in accordance with clause 13;

and the Buyer will pay any adjusted amount of Deposit to the Seller following an adjustment to the Land Parcel Price hereunder.

2.3 The provisions of this clause 2.2 shall further be re-applied (*mutatis mutandis*) in relation to any Land Parcels not acquired by the Buyer hereunder by expiry of the period of three years after the Triennial Anniversary, and then again at expiry of every period of three years thereafter (recurring).

2.4 Where part only of a Land Parcel is transferred hereunder, the Land Parcel Price relating to the same will be apportioned between the part so transferred and the remainder of such Land Parcel, by reference to the relative areas of the same.

2.5 In the event that the Satisfactory Planning Permission provides for the New Community Centre to be in a location otherwise than on Land Parcel 6, the Buyer may by notice in writing served on the Seller elect not to acquire Land Parcel 6, and this Agreement shall be read accordingly. The Buyer will use reasonable endeavours to procure that the Satisfactory Planning Permission provides for the New Community Centre to be located on Land Parcel 6.

3 **Deposit**

3.1 On the date of this Agreement the Buyer shall pay to the Seller's Conveyancers the Deposit to be held by the Seller's Conveyancers as stakeholder or if the Seller is using their in-house legal team the Deposit shall be held by the Buyer's Conveyancer as stakeholder.

3.2 As from the date of satisfaction or (so far as permitted hereunder, waiver) of the Conditions in relation to any Land Parcel, the Land Parcel Deposit relating to such Land Parcel shall thereupon be held by the Seller's Conveyancers or by the Buyer's Conveyancer (as applicable) as agent for the Seller.

3.3 The Deposit shall be returned (in whole or part, as applicable) in the event of this Agreement being determined in accordance with clause 23.1 (but not where the Collaboration Agreement is terminated due to the Buyer's breach of obligation, or where the Buyer is in material breach of obligation or insolvent, or as otherwise provided for in clause 23.4 and/or 23.5).

4 **Form of transfers**

4.1 The transfer of each relevant Land Parcel to the Buyer shall be substantially in the form of the Transfer (*mutatis mutandis*).

4.2 Simultaneously with the Transfer of Land Parcel 6 (if the same is transferred hereunder) then the Seller will grant to the Buyer and to the Development Partner, a licence by deed permitting those parties (and their duly appointed contractors) to access such air space within the area edged green marked "Note 3" on Plan 3 (so far as in the ownership of the Seller, and so far as the Seller is able to do so) as is reasonably required:

4.2.1 to build and construct the first floor upwards of the New Community Centre as specified in the Satisfactory Planning Permission and the provisions of the Development Agreement, to the extent that the New Community Centre is to be constructed outside the boundaries of Land Parcel 6, within the area edged green marked "Note 3" on Plan 3;

4.2.2 which licence will acknowledge on the part of the Seller that such works to construct the first floor upwards of the New Community Centre in the said area edged green marked "Note 3" on Plan 3, as falls outside of Land Parcel 6 do not constitute a trespass by the Buyer;

4.2.3 such licence to be on terms agreed between the Seller and the Buyer (both acting reasonably) for the purpose of construction of the New Community Centre, and to apply for the period in clause 30.14.2(b) of this Agreement (*mutatis mutandis*);

and the Buyer acknowledges (and shall procure in the Development Agreement, the same to be capable of reliance by the Seller under the Contracts (Rights of Third Parties) Act 1999, an equivalent acknowledgement from the Development Partner) that the Buyer, the Development Partner, and their contractors and agents and those authorised by them shall comply with the terms of this clause 4.2 and of such licence in exercising any such access to the area edged green marked "Note 3" on Plan 3 as mentioned above.

5 **Completion**

5.1 The relevant Transfers shall be completed on the relevant Phase Completion Date when the Buyer shall pay to the Seller the balance of the relevant Land Parcel Price for the relevant Land Parcel.

- 5.2 The Buyer shall provide written notice to the Seller of at least 20 Working Days of the relevant Phase Completion Dates.
- 5.3 The relevant Transfers shall be completed at the offices of the Seller's Conveyancers or at such other place as the Seller's Conveyancers reasonably require in England.
- 5.4 If directed by the Buyer, the Seller shall transfer the relevant Land Parcel directly to a third party satisfying the requirements for a disponee in clause 16.1 Provided That any such third party will provide the Deed of Adherence.

6 **Vacant possession**

- 6.1 Subject to clause 6.3 and 6.5, the Seller shall grant vacant possession of the relevant Land Parcel to the Buyer on the relevant Phase Completion Date.
- 6.2 The Land Parcel 5 includes the Existing Community Facility which is or may be subject to rights of occupation or use by third parties and which the Buyer acknowledges the Seller will only take steps to bring to an end when there is certainty about the timetable for:
- 6.2.1 completion of Land Parcel 5; and
- 6.2.2 Practical Completion, and handover to the Seller or its nominee, of the Community Facilities, subject to clause 6.3.
- 6.3 The Buyer acknowledges and agrees that there will be continuous availability of community facilities (at least equivalent to the Existing Community Facilities) on the Site, whether that be the Existing Community Facilities, the Community Facilities, or other temporary facility (to a standard at least equivalent to the Existing Community Facilities) agreed between the Seller and the Buyer.
- 6.4 Without prejudice to clause 30, the Buyer shall provide the Seller with three months' prior written notice of the estimated date of Practical Completion of the Community Facilities.
- 6.5 Subject to compliance with clause 6.3, the Seller shall provide vacant possession of the Existing Community Facilities upon expiration of the three months' notice provided by the Buyer in accordance with clause 6.4 above.
- 6.6 The Council shall remain entitled to any rent or licence fee from any Existing Community Facilities and/or the Community Facilities provided at the Site.

7 **Title**

- 7.1 The Seller sells with limited title guarantee but the covenants implied under the LPMPA 1994 are modified so that:
- 7.1.1 the covenant set out in section 2(1)(b) of the LPMPA 1994 will not extend to costs arising from the Buyer's failure to:
- (a) make proper searches which would be expected of a reasonably prudent buyer; or
 - (b) raise requisitions on title or on the results of the Buyer's searches which would be expected of a reasonably prudent buyer; and

- 7.1.2 the covenant set out in section 3 of the LPMPA 1994 will extend only to charges or incumbrances created by the Seller.
- 7.2 The Buyer agrees that:
- 7.2.1 title to the Property has been deduced to the Buyer's Conveyancers before the date of this Agreement;
- 7.2.2 it has investigated and accepted that title; and
- 7.2.3 it shall raise no requisitions or objections concerning that title save for:
- (a) standard requisitions on title; and
 - (b) standard pre-completion searches; and
 - (c) further enquiries in relation to the Seller's Conveyancers' replies to such requisitions and searches.
- 7.3 The Seller confirms that the Land Registry have indicated to it that the existing restriction in the title referring to the Public Health Act 1875 is out of date and the Land Registry have advised it will be removed upon the next application is made in relation to this land (subject to request being made for this).
- 7.4 The Seller shall use reasonable endeavours to assist the Buyer in respect of any application made by the Buyer to the Land Registry to remove the Public Health Act 1875 restriction from the Land Registry title to the Property, and to deal with any requisitions raised by HM Land Registry in relation to the documents provided by the Seller in accordance with this clause.
- 8 Matters affecting the Property**
- 8.1 The Seller shall sell the Property free from incumbrances other than:
- 8.1.1 those specified in the Standard Condition 3.1.2;
- 8.1.2 any matters, other than the Charges, contained or referred to in the Title Register;
- 8.1.3 any matters, other than the Charges, disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this Agreement;
- 8.1.4 any Overriding Interests and
- 8.1.5 any matters disclosed in the documents listed in Schedule 2.
- 8.2 **Buyer's acknowledgement of information supplied etc.**
- The Buyer acknowledges that:
- 8.2.1 it has had sufficient opportunity to inspect and survey the Property and to carry out any investigations of it; and

8.2.2 it has satisfied itself as to the condition of the Property, including any environmental matters affecting it.

8.3 **Buyer's indemnity**

The Buyer will indemnify the Seller against all future losses, costs, and liabilities arising out of the use and condition of the Property or any environmental matters affecting the Property.

9 **Standard conditions**

Part 1 of the Standard Conditions shall be deemed to be incorporated in this Agreement and shall apply to this sale so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the express terms of this Agreement and are applicable to freehold property so that:

9.1 The contract rate shall be two per centum (2%) per annum above the Base Rate.

9.2 The following Standard Conditions in Part 1 of the Standard Conditions do not apply to this Agreement; 1.3, 1.4, 1.5, 3.1.1, 3.3, 4, 5, 6.2, 6.3, 6.4, 6.5, 6.6.3, 6.6.4, 7, 8.3, 10, 11 and 12.

9.3 Standard Condition 2.2.1 is varied by deletion of the words "a deposit of 10% of the Purchase Price" and replacing them with the words "the Deposit".

9.4 Standard Condition 3.1.3 is varied by deleting the words "a matter covered by Condition 3.1.2" replacing them with the following "a matter subject to which the Property is sold".

9.5 Standard Condition 8.1.1 is varied by deletion of the words "completion date is twenty working days after the date of the contract but".

9.6 Standard Condition 8.4 is varied by the addition of a new paragraph (d) to read:

"The other sums to be paid or allowed on completion that are mentioned in this contract"

9.7 For the purposes of Standard Condition 8.7, direct credit is to be to the Seller's Conveyancers' bank account specified in writing or to such other account as the Seller directs. Unless the money due on Completion is remitted to the Seller's Conveyancers from a client account in the name of the Buyer's Conveyancers then the Seller shall not be obliged to accept such money unless and until the Buyer or the Buyer's Conveyancers have provided satisfactory evidence regarding the identity of such funds in order to prevent any breach of the Terrorism Act 2000 and/or the Financial Services and Markets Act 2000 and/or the Proceeds of Crime Act 2002.

9.8 Standard Condition 9.3.2 is varied by inserting after the word "paid" the words "(and in both cases together with any unpaid VAT thereon)".

9.9 Part 2 of the Standard Conditions do not apply to this Agreement.

10 **Contracts (Rights of Third Parties) Act 1999**

Subject to clause 25 (in favour of a Funder which has taken a charge over the benefit of this Agreement as security, where such charge has been notified in writing to the Seller,

and in favour of the Development Partner) nothing in this Agreement is intended to confer any benefit on any person who is not a party to it.

11 Variation

- 11.1 Any variations to this Agreement shall only be effective where both parties agree in writing to such a variation in their absolute discretion.
- 11.2 Any party to the Deed of Adherence shall also be required to be party to any such variation of this Agreement as set out above provided that the third party has an interest in the part of Site or provisions in this Agreement that the variation affects.

12 Insurance

- 12.1 The Seller shall maintain its insurance of the Property until the relevant Phase Completion Date.
- 12.2 On the relevant Phase Completion Date the Seller shall cancel its insurance of the relevant Land Parcels.
- 12.3 No damage to or destruction of the Property nor any deterioration in its condition, however caused will entitle the Buyer either to any reduction of the relevant Land Parcel Price or to refuse to complete or to delay completion.
- 12.4 If in the period between the date of this Agreement and the relevant Phase Completion Date, the relevant Land Parcel is damaged or destroyed by a risk against which the Seller has insured:
 - 12.4.1 the Seller will inform the Buyer immediately;
 - 12.4.2 the Seller will make a claim under its insurance policy in respect of that damage or destruction;
 - 12.4.3 to the extent that any insurance money in respect of the damage or destruction is paid to the Seller before the relevant Phase Completion Date, and to the extent that the Seller is not under any statutory or contractual obligation to use any insurance money received by it to repair or rebuild the relevant Land Parcel before the relevant Phase Completion Date, the Seller will (subject to the Unconditional Date occurring in respect of the Land Parcel(s) in question) hold the insurance money received by it on trust for the Buyer and will pay the money to the Buyer on the relevant Phase Completion Date;
 - 12.4.4 to the extent that any insurance money in respect of the damage or destruction is paid to the Seller after the relevant Phase Completion Date, the Seller will hold the insurance money on trust for the Buyer and will, as soon as is reasonably practicable, pay it to the Buyer;
 - 12.4.5 to the extent that any insurance money in respect of the damage or destruction has not been paid to the Seller before the relevant Phase Completion Date, the Seller will to the extent permitted by the policy and only insofar as the same relates to the relevant Land Parcel and at the Buyer's expense, assign to the Buyer all rights to claim under the policy, the assignment being in the form reasonably required by the Buyer; and

12.4.6 the Seller will not infringe the terms of any insurance policy in relation to the Property.

13 **Dispute resolution**

13.1 A party who believes a Dispute has arisen shall give written notice to the other party including all available details as soon as it is aware of such Dispute.

13.2 Within ten Working Days of any notice served under clause 13.1, the chief executive officers (or such senior personnel appointed by the relevant chief executive officer for such purpose) of each of the parties shall meet and shall endeavour to resolve such Dispute by negotiation during a period of up to 20 Working Days from the date of the written notice, or such longer period as the parties may agree.

13.3 In the event that a Dispute is not resolved through the procedure set out in clause 13.2 following the period of 20 Working Days mentioned in clause 13.2 (or such longer period as the parties may agree), a party may, by giving written notice to the other party and subject to each party agreeing that the Dispute in question may be dealt with by an Expert (as defined below), seek to refer the Dispute for determination by an Expert. The party serving such a notice will be the **Referring Party**.

13.3.1 No later than five Working Days after giving the notice referred to in clause 13.3 the Referring Party must request the president or vice-president for the time being of the Royal Institution of Chartered Surveyors to appoint an expert to determine the Dispute (the **Expert**). The Expert (who shall be suitably qualified to determine the subject matter of the Dispute in question) shall be appointed within five Working Days of such request.

13.3.2 The Expert shall act as an expert and:

- (a) not as an arbitrator;
- (b) act impartially in carrying out his duties;
- (c) shall reach his decision in accordance with the applicable law in relation to this Agreement;
- (d) shall avoid incurring unnecessary expense;
- (e) has the initiative to ascertain facts and the law necessary to determine the Dispute and shall decide on the procedure to be followed;
- (f) shall consider (without limitation) any written representations and cross-representations and supporting evidence made on behalf of either of the parties (if made in accordance with any procedural requirements provided by the Expert); and
- (g) shall provide written reasons for his decision.

13.3.3 The Expert shall provide his decision to the parties no later than 30 Working Days after his appointment. In the event that the Expert requires further time, a further ten Working Days may unilaterally be granted by the Referring Party. If a further extension is required, this must be agreed by both parties.

- 13.3.4 The cost of appointing the Expert and his reasonable costs and disbursements in connection with his duties under this Agreement shall be shared between the parties in such proportion as the Expert shall determine or, in the absence of such determination, equally between the parties.
- 13.3.5 Unless otherwise agreed, the parties shall bear their own costs in the Expert determination pursuant to this clause 13.3.
- 13.3.6 Where the Expert dies or refuses to act or is unable to act or fails to proceed with reasonable speed to discharge his duties, the procedures contained in this clause 13.3 may be repeated as often as necessary until a decision is obtained.
- 13.3.7 The decision of the Expert shall be binding on the parties until the Dispute is finally resolved by legal proceedings.
- 13.4 Any Dispute which has not been finally determined in accordance with the procedures set out in this clause 13 or otherwise resolved by agreement between the parties, and any Dispute which the parties do not agree (as described in clause 13.3 above) may be dealt with by an Expert, shall be finally determined by the Courts of England and Wales.

14 **Counterparts**

This Agreement may be executed in any number of counterparts and by different parties on separate counterparts but shall not take effect until each party has executed at least one counterpart. Each counterpart shall constitute an original, and all the counterparts together shall constitute a single agreement.

15 **Agreement to register notices**

The Seller consents to the Buyer applying by way of unilateral notice to register this Agreement against the Property.

16 **Disposals and Application for a restriction**

- 16.1 The Buyer shall not make any Disposal except a Permitted Disposal of the Site or any part of it other than to a donee whom the Seller is satisfied (acting reasonably and without unreasonable delay and in this respect the Seller approves the Development Partner (as defined in the Collaboration Agreement)) is of sufficient financial standing and expertise to enable it to comply with the Buyer's obligations in this Agreement and the Collaboration Agreement (except insofar as previously discharged), and who enters into the Deed of Adherence.
- 16.2 On Completion relating to any Land Parcel hereunder the Buyer shall apply to the Land Registry to enter, and use reasonable endeavours to procure such entry, of the following restriction against the title to the relevant Land Parcel:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by the London Borough of Richmond upon Thames of Civic Centre, 44 York Street, Twickenham TW1 3BZ or its conveyancer that the provisions of clause 16.1 of the Agreement for Sale and Purchase dated 21 October 2021 made between the London Borough of Richmond upon

Thames (1) and Richmond Housing Partnership Limited (2) have been complied with."

16.3 On completion of purchase of any part or parts of the Site (except for any Land Parcel), and in relation to any part or parts of the Site which the Buyer owns at the date hereof, the Buyer shall apply to register at the Land Registry in the registered title to any such part or parts of the Site, a restriction in equivalent terms to the restriction in clause 16.2 (mutatis mutandis), and will use reasonable endeavours to bring about such registration.

16.4 The Seller shall provide the Certificate required to satisfy the above restriction within ten Working Days of receipt of a request for the same, such request referring to this clause of this Agreement and of the time limit for responding, provided that the Seller is provided with reasonable evidence that clause 16.1 has been complied with. If the Seller does not so provide the said Certificate in respect of a Permitted Disposal described in paragraphs (a) or (d) of the definition of "Permitted Disposal" within the said ten Working Day period after receipt of such a request and evidence, the conveyancer for the Development Partner is hereby authorised, in such circumstances, to provide such a Certificate to the Land Registry as agent for the Seller.

16.5 On the later of:

16.5.1 the relevant date of Practical Completion of each Phase; or

16.5.2 payment to the Council of the Council's share of Overage Share (if any) in accordance with the Collaboration Agreement;

the Seller shall provide the Buyer with completed land registry forms applying to the Land Registry to remove the restriction(s) (if any) on the Title Registers for the relevant Phase.

16.6 The Seller shall use reasonable endeavours to assist the Buyer in respect of any requisitions raised by HM Land Registry in relation to the documents provided by the Seller in accordance with this clause.

17 **Not Used**

18 **No representations**

The Buyer hereby acknowledges that there are and have been no representations on the faith of which the Buyer are entering into this Agreement made by or on behalf of the Seller other than any that are indicated in the representations contained in the written answers made by the Seller's Conveyancers to enquiries raised by the Buyer's Conveyancers prior to the date of this Agreement.

19 **Notices**

19.1 **Serving Notices**

Any notice or other communication to be given under or in connection with the matters contemplated by this Agreement shall be in writing and signed by or on behalf of the party giving it and addressed to and sent to the party at the address set out at clause 19.2 and also to the e-mail address for such party set out at clause 19.3 or as otherwise notified in writing to the other party.

19.2 Addressees of Notices

The addresses for notices are:

Notices to the Buyer

Address: 8 Waldegrave Road, Teddington TW11 8GT

Attn: Company Secretary and Director of Development

Notices to the Seller

Address: Second floor, Civic Centre, 44 York Street Twickenham, TW1 3BZ

Attn: Director of Environment and Community Services

19.3 The e-mail addresses for notices are:

E-mail address for Notices to the Buyer:

development.mailbox@rhp.org.uk

E-mail address for Notices to the Seller:

Paul.Chadwick@richmondandwandsworth.gov.uk

19.4 Deemed service

This clause sets out the delivery methods for sending a notice to a party under this agreement and, for each delivery method, the date and time when the notice is deemed to have been received or given (provided that all other requirements of this clause have been satisfied and subject to clause 19.6):

19.4.1 if delivered personally, at the time of delivery;

19.4.2 in the case of pre-paid recorded delivery or registered post, forty eight (48) hours from the date of posting;

19.4.3 if sent by e-mail, at the time of transmission.

19.5 If deemed receipt under clause 19.4 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 19.5, business hours means 9 am to 5 pm Monday to Friday on a day that is not a public holiday in the place of receipt.

19.6 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

20 Obligations

Each of the obligations undertaken by the parties to this Agreement shall (unless already performed) continue in full force and effect notwithstanding completion.

21 **Charity clause - Buyer**

To the extent that any Property will as a result of this Agreement be held by (or in trust for) Richmond Housing Partnership Limited (**RHP**), RHP confirm it is an exempt charity.

22 **Value Added Tax**

22.1 All payments (including monetary consideration and the provision of non-monetary consideration) due under this Agreement shall be exclusive of VAT where properly chargeable. If the person making the supply (or the representative member of the VAT group of which it is a member) is required to account for VAT on any supply, the recipient of the supply shall pay (in addition to paying or providing any other consideration) an amount equal to the amount of that VAT upon the later of:

22.1.1 the time for payment or provision of the consideration; and

22.1.2 the receipt by the recipient of the supply of a valid VAT invoice issued by the supplier, addressed to the recipient, in respect of that VAT.

22.2 The Seller warrants and undertakes to the Buyer that:

22.2.1 neither the Seller nor any "relevant associate" (to be construed in accordance with paragraph 3 of Schedule 10 to the Value Added Tax Act 1994) of the Seller has or will at any time prior to the relevant Phase Completion Date exercise an option to tax pursuant to paragraph 2 of Schedule 10 to the Value Added Tax Act 1994 or make an election pursuant to paragraph 21 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Land Parcel to which the Phase Completion Date in question relates; and for the avoidance of doubt, the parties acknowledge that the Seller (or any relevant associate of the Seller) may at any time following the date of the transfer to the Buyer of that part of the Property on which the Community Facilities (or any part or parts of the same) stands or forms part or is to stand or form part and (if the Seller so wishes) the curtilage of the same (the **CF Property**) exercise an option to tax or make a real estate election pursuant to Schedule 10 of the Value Added Tax Act 1994 in respect of the CF Property with an effective date after the relevant Phase Completion Date on which the CF Property is to be transferred to the Buyer hereunder.

22.2.2 the supply of the Property pursuant to this Agreement will not (so far as the Seller has control of the same) constitute the grant of a fee simple which falls within paragraph (a) of Item 1 of Group 1 of Schedule 9 to the Value Added Tax Act 1994.

23 **Termination**

Events of Termination

23.1 This Agreement may be terminated in any such case on written notice:

23.1.1 by any party (not being a party in material default of the Collaboration Agreement), if the Collaboration Agreement is terminated; and/or

- 23.1.2 by either party if, for any Phase, the Conditions, or any of them, have not been satisfied or waived (as far as permitted hereunder) by the Long Stop Date; and/or
- 23.1.3 by the Seller if Development has not substantially commenced on each Phase by the Start on Site Date relating to the same, but subject in each case to any extension of time agreed pursuant to clause 23.2 provided that notwithstanding clause 23.2 the Start on Site Date for any Phase shall under no circumstances be extended by more than 5 years following the Phase Completion Date relating to such Phase; and/or
- 23.1.4 by either party, that party not being the defaulting party, if the other has committed a material breach of the Collaboration Agreement or this Agreement:
- (a) which is not capable of remedy; or
 - (b) which is capable of remedy and the party has failed to remedy the same within a reasonable time; and/or
- 23.1.5 by the party which is not Insolvent, if before each relevant Phase Completion Date either of the parties becomes Insolvent; and/or
- 23.1.6 by the Seller if a relevant Phase is not Practically Completed by the Phase Build Date relating to the same, subject in each case to any extension of time to the said Phase Build Date agreed pursuant to clause 23.2.

Extensions of Time

Subject to occurrence of the relevant Phase Completion Date, and to the provisions of this clause 23.2, the Buyer shall procure that the Development for each relevant Phase is substantially commenced as soon as reasonably practicable after the Phase Completion Date relating to the same and (in any event) by the relevant Start on Site Date, and progresses with due diligence and necessary expedition so as to achieve Practical Completion of the same for each relevant Phase by the Phase Build Date relating thereto provided further that if progress is delayed on any one or more occasions in consequence of one or more of the events in clauses 23.2.1- 23.2.14 below (subject (in each case) to the Buyer taking all reasonable steps and using reasonable endeavours to minimise such delays):-

- 23.2.1 any delay to the Buyer obtaining full unrestricted and unimpeded access to and vacant possession of any Land Parcel comprised in the Phase in question;
- 23.2.2 any delay to the Development occasioned by:
- (a) any requirement of any Relevant Authority or any requirements set out in any Statutory Requirements in connection with the Development (including any delay in the grant of a Satisfactory Planning Permission) or any part of it or in connection with the Site which change in any way after the date of this Agreement; or
 - (b) any delay on the part of a Relevant Authority in issuing any consent necessary in connection with the Development or any part of it or in connection with the Site which may impact upon the Development; or

- (c) any delay resulting from the carrying out by a Relevant Authority of work in pursuance of its Statutory Requirements in relation to the Development and/or the Site, or the failure to carry out such work;
 - which is either beyond the Buyer's or its contractor's control or which the Buyer has used all reasonable endeavours to avoid or reduce;
- 23.2.3 the use or threat of terrorism and/or the activity of any relevant organisation dealing with such use or threat of terrorism;
- 23.2.4 war, revolution, riot, insurrection, civil disorder, civil commotion, demonstration, protest or sabotage;
- 23.2.5 Excepted Risks (as defined in the JCT Design and Build Contract 2016);
- 23.2.6 inclement adverse weather conditions;
- 23.2.7 local combination of workmen strike or lockout affecting any of the trades employed upon or in relation to the Development or any of the trades engaged in the preparation manufacture or transportation of any of the goods or materials required for the Development;
- 23.2.8 the United Kingdom Government exercising after the date of this Agreement any statutory power directly affecting the execution of the Development by restricting the availability or use of labour essential to the proper carrying out of the Development or preventing the Buyer or its contractors from or delaying the Buyer or its contractors in securing any goods materials fuel or energy that are essential to the proper carrying out of the Development;
- 23.2.9 destruction of or damage to the Development and/or the Site by any insured risk in respect of which the Buyer has complied with its obligations under clause 12;
- 23.2.10 any labour goods or materials required for any of the Development being unavailable due to any circumstances beyond the control of the Buyer and/or its contractors;
- 23.2.11 any delay resulting from the discovery during the course of the construction of the Development at the Site of:
 - (d) adverse ground conditions;
 - (e) munitions or unexploded devices;
 - (f) protected species of flora fauna or wildlife;
 - (g) archaeological items;
- 23.2.12 any delay to commencement of the construction of the relevant Phase(s) arising from adverse market conditions (consisting of a significant reduction (since the date of this Agreement) in average house sale prices across all London Boroughs, rendering the Development not Financially Viable); or

- 23.2.13 (subject to clause 23.6) any delay (being due to a Delaying Event as defined in the Development Agreement, as set out in Schedule 3, being the Development Agreement in the form provided to the Seller before the date hereof) entitling the Development Partner to an extension pursuant to the Development Agreement (save that where and to the extent that any such delay or delays is or are due to a Delaying Event referred to in paragraphs (d) or (e) in Schedule 3, any time extension or extensions under this clause 23.2 by reason of the same shall not in aggregate exceed 2 years);
- 23.2.14 any delay occasioned by any act or omission of the Seller which is a breach of this Agreement;

then the relevant Start on Site Date or Phase Build Date (as applicable, for the Phase which the relevant event in clause 23.2.1-23.2.14 in question has delayed, but not other Phases, that is to say a delay caused to a Phase by such an event shall not consequentially delay another Phase) shall be extended by such reasonable period as may be agreed between the Seller and the Buyer (acting reasonably) to be necessary (having regard to the nature and extent of the said event(s) giving rise to the delay) to make due allowance for such delay and any dispute as to such matters shall be referred to an Expert for determination in accordance with clause 13.3 Provided That for the avoidance of any doubt any such extension to the Start on Site Date shall in respect of each Phase not extend such date so that it is later than the date falling five years after the Phase Completion Date for the Phase in question, and any such extension to the Phase Build Date shall in respect of each Phase not extend such date so that it is later than the date of expiry of the period of time (starting on the Start on Site Date for such Phase) between:

- (h) the Start on Site Date for such Phase; and
- (i) the date notified by the Certifier to the Seller and to the Buyer as being the anticipated date of Practical Completion of such Phase;

multiplied by two.

For avoidance of doubt if more than one of the events in clauses 23.2.1-23.2.14 have caused or contributed to the same delay, there shall only be one extension to the relevant Start on Site Date and/or Phase Build Date (as applicable) hereunder, that is to say there shall be no double-counting of extensions of time hereunder.

Continuing Rights and Deposit

- 23.2 Termination of this Agreement under clause 23.1 is without prejudice to the rights of the Seller or the Buyer against the other in respect of any antecedent breach of the provisions of this Agreement by the other.
- 23.3 Upon termination of this Agreement pursuant to clause 23.1.1 and/or 23.1.2 and/or 23.1.4 (in the event of such termination due to a Seller default) and/or 23.1.5 (where the Seller becomes insolvent) above the relevant Land Parcel Deposit(s) shall be returned to the Buyer save to the extent that the Buyer is in default and such default entitles the Seller to forfeit the same.
- 23.4 Upon termination of this Agreement pursuant to clause 23.1.3 and/or 23.1.4 (where the Buyer has committed the material breach in question) and/or 23.1.5 (where the Buyer

becomes insolvent) and/or 23.1.6 above, the relevant Land Parcel Deposit(s) may be retained by the Seller.

23.5 If notice is given to terminate this Agreement under clause 23.1 the Seller may (but shall not be obliged to) exercise the Call Option in clause 24 which clause shall survive termination of this Agreement.

23.6 The Buyer hereby covenants to fully and effectually indemnify the Seller against any losses costs expenses damages claims or demands from time to time suffered or incurred by the Seller by reason of any delay(s) described in clause 23.2.13 above and/or any extension(s) of time granted under this Agreement by reason thereof, so far as any such delay(s) and/or extension(s) of time is or are due to a Delaying Event referred to in paragraphs (d) or (e) in Schedule 3, save that the Buyer shall not be liable for any such losses costs expenses damages claims or demands arising during the first 6 months (in aggregate) of the said delay(s), so far as due to a Delaying Event referred to in the said paragraphs (d) or (e) in Schedule 3.

24 **Option to re-purchase/Call Option**

24.1 Subject to clause 25, if the Seller or the Buyer terminates this Agreement pursuant to clause 23.1, the Seller may by serving written notice on the Buyer be entitled to acquire any Land Parcel or Land Parcels or (in the case of any Land Parcel or Land Parcels on which development of part of any Building has from time to time commenced or been carried out) the Land Parcel in question and/or the Relevant Wider Land relating to the same (the **Call Option**).

24.2 The Seller may by exercising the Call Option require the Buyer to transfer to the Seller (or to a third party at the Seller's direction):

- (a) the Land Parcels comprised in the Phase 1 Property (if Phase 1 has not been Practically Completed); and/or
- (b) the Land Parcels comprised in the Phase 2 Property (if Phase 2 has not been Practically Completed); and/or
- (c) the Land Parcels comprised in the Phase 3 Property (if Phase 3 has not been Practically Completed); or
- (d) (in the case of any Land Parcel or Land Parcels on which development of part of any Building has from time to time commenced or been carried out) the Land Parcel in question and/or the Relevant Wider Land relating to the same or any part or parts thereof;

(the **Call Option Notice**) in each case for the applicable Call Option Price (exclusive of VAT, if any).

24.3 Within ten Working Days of service of the Call Option Notice pursuant to clause 24.2 the Seller and the Buyer shall jointly instruct an independent chartered surveyor (to be agreed between the Seller and the Buyer, or in the absence of agreement, either the Seller or the Buyer may request the President of the Royal Institution of Chartered Surveyors to nominate for the purpose a chartered surveyor of not less than ten years' valuation experience), to advise as to the OMV (at the date of the Call Option Notice) of the relevant

Land Parcel or Land Parcels or (in the case of any Land Parcel or Land Parcels on which development of part of any Building has from time to time commenced or been carried out) the Land Parcel in question and/or the Relevant Wider Land relating to the same or the relevant part or parts thereof in respect of which the Call Option has been so exercised (the **Call Option Property**). The said surveyor shall also apportion the OMV across the Call Option Property.

- 24.4 Within ten Working Days of the date when the Call Option Price of the Call Option Property, is agreed or determined under clause 24.3 and notified in writing to the parties, the Seller may by notice to the Buyer decline to acquire the Call Option Property in which case the Seller and the Buyer shall not be required to comply with clause 24.5 in respect of the Call Option Property or such part or parts.
- 24.5 Except for any property in respect of which the Seller serves a notice under clause 24.4 the Buyer and the Seller (or the Seller's nominee) shall enter into a transfer or transfers pursuant to the Call Option (such transfer or transfers being in the form of the Transfer, with such necessary changes agreed between the Seller and the Buyer acting reasonably) within 20 Working Days of the date when the relevant Call Option Price is agreed or determined under clause 24.3, and (subject to clause 24.6) the Seller shall thereupon pay to the Buyer the relevant Call Option Price (exclusive of VAT, if any). The other Call Option terms shall be those in this Agreement applying to the sale by the Seller to the Buyer hereunder (mutatis mutandis).
- 24.6 If at the date of exercise of the Call Option:
- 24.6.1 the Buyer has commenced but not Practically Completed the Development of any Phase on any property acquired under the Call Option, the Seller will apply any sale proceeds subsequently received by the Seller from sale of the said property acquired under the Call Option comprised in such Phase in reimbursing the Buyer's reasonable and proper abortive development costs relating to the Development of the Phase in question on the property so acquired, after payment or reimbursement from such sale proceeds of (a) the land price and all costs incurred by the Seller in acquiring, taking over, carrying out, completing and disposing of the Development/Phase in question and (b) a reasonable developer's profit on such costs (not exceeding such percentage of such costs as is reasonable in the market for developments in the nature of the Development), the amount of such developer's profit (in the absence of agreement between the parties) being determined by an Expert in accordance with clause 13;
- 24.6.2 if the Seller becomes, or reasonably anticipates that it is likely to become, lawfully entitled to any clawback or other repayment of any grant or other funding or subsidy from time to time provided to the Buyer by the Seller, the Seller may deduct from the Call Option Price the amount of such clawback, or reasonably anticipated clawback or other repayment. If the actual or reasonably anticipated amount of such clawback or other repayment cannot be agreed between the parties this is to be resolved through the disputes provisions in this Agreement;
- 24.7 There shall be granted with any Call Option Property hereunder, the benefit of any rights, and the transfer of the same will except such exceptions and reservations, as are reasonably necessary or required by the Seller to enable it, or its nominees, to occupy and operate such Call Option Property.

25 **Step-In**

25.1 The Seller shall not exercise, or seek to exercise, any right to terminate this Agreement under clause 23.1 without first giving:

25.1.1 to a Funder which has taken a charge over the benefit of this Agreement as security, where such charge has been notified in writing to the Seller;

25.1.2 and to the Development Partner;

at least 20 Working Days' notice of its intention to do so.

25.2 The Seller's right to terminate this Agreement shall be suspended if, within the said 20 Working Day period, the Funder or the Development Partner (as the case may be) gives notice to the Seller undertaking that the Funder and/or the Development Partner (or their relevant nominee) will as soon as reasonably practicable make good any outstanding breach of the Buyer's obligations under this Agreement and the Collaboration Agreement and will pay any sums then due and payable to the Seller under this Agreement and the Collaboration Agreement that are unpaid.

25.3 If the Funder or the Development Partner serves notice on the Seller under clause 25.2, and within a further 60 Working Day period after expiry of the said 20 Working Day period referred to in clause 25.2, provides or procures that there is provided to the Seller:

25.3.1 a Deed of Adherence duly executed by the Funder, the Development Partner or its relevant nominee referred to in clause 25.3.2; and

25.3.2 evidence reasonably satisfactory to the Seller that the said Funder or the Development Partner or their relevant nominee (being the relevant party to the Deed of Adherence) is of sufficient financial standing and has sufficient expertise to enable it to comply with the Buyer's obligations under this Agreement and the Collaboration Agreement and so as otherwise to enable the Seller to approve such Funder or Development Partner or nominee (such approval not to be unreasonably withheld or delayed);

then the Seller's right to terminate this Agreement for the reason referred to in clause 23 shall thereupon cease, without prejudice to any future or other right to terminate this Agreement for the same or any similar or other reason, subject to the parties where applicable taking the steps in clauses 25.2 and 25.3 before the Seller is able to terminate this Agreement for the same or any similar or other reason.

25.4 In complying with this clause 25, the Seller does not waive any breach of this Agreement or default under this Agreement or the Collaboration Agreement by the Buyer; and may exercise any right to terminate this Agreement after expiry of the notice period referred to in clause 25.2 if no notice is served by the Funder or Development Partner within such period, or if the Funder or Development Partner (or Seller-approved nominee) does not provide the Deed of Adherence under clause 25.3.1 and comply with clause 25.3.2, within the period in clause 25.3.

26 **Communication**

- 26.1 Both parties shall ensure that the other is provided with all reasonably necessary information, reports and advice relating to the Property and the satisfaction of the Conditions.
- 26.2 The parties agree to co-operate in the sale and purchase of the Property and act in good faith towards each other during this process.

27 **References to Development Agreement**

- 27.1 Where references are made in this Agreement to the Development Agreement:
 - 27.1.1 insofar as Hill Residential Limited (company number 04251718) remain the preferred or appointed development partner selected by RHP at its sole discretion as a result of the procurement process referred to at clause 8 of the Collaboration Agreement, the same shall be taken to be the Development Agreement referred to in the definition thereof in the Collaboration Agreement; and
 - 27.1.2 if Hill Residential Limited (company number 04251718) cease to be the preferred or appointed development partner selected by RHP at its sole discretion as a result of the procurement process referred to at clause 8 of the Collaboration Agreement, references herein to the Development Agreement shall be taken to be such other development or other agreement as RHP shall from time to time enter into with RHP's new preferred or appointed development partner so selected by RHP, in which event RHP shall procure that the relevant provisions of the Development Agreement cross-referred to herein are equivalent to the corresponding provisions of the form of the said Development Agreement with the said Hill Residential Limited (mutatis mutandis).

28 **No Fetter**

Nothing in this Agreement will operate as an obligation upon or in any way fetter or constrain the Seller in any capacity other than as a contracting party, and the exercise by the Seller of any of its statutory discretions, duties, powers and functions in any other capacity (for example as local planning authority, or housing authority, or highway authority, or otherwise) will not lead to any liability under this Agreement.

29 **Phase Alteration**

- 29.1 In this clause 29 Phase Variation means either:
 - 29.1.1 a change to the order in which Phases are brought forward for Development; and/or
 - 29.1.2 a change to the Land Parcels comprised in a Phase; and/or
 - 29.1.3 an increase or decrease in the number of phases required to complete the Development.
- 29.2 The Buyer shall by notice in writing to the Seller be entitled to propose a Phase Variation and the Seller shall consider whether to approve such Phase Variation (such approval not

to be unreasonably withheld or delayed) unless the Seller can demonstrate a material adverse affect on the Development. Phase Variations may only proceed if reasonably approved hereunder.

29.3 In making any such Phase Variation the Buyer and Seller should have due and proper regard (without limitation) to the viability of the Development in accordance with the Financial Model.

29A **Stopping Up**

As part of the Development the Buyer will apply or procure that the applications are made to the Relevant Authority for road closure or stopping up orders (as applicable) in respect of any public highways or public rights of way comprised within any Land Parcel (and any other parts of the Site on which such highways or public rights of way are located) in so far as such closure or stopping up is required to enable or facilitate the Development, and will use reasonable endeavours to obtain such road closure or stopping up orders (as applicable).

30 **Community Facilities**

Construction of Community Facilities

30.1 The Buyer shall procure the construction of the Community Facilities in accordance with clause 12 and 12A of the Development Agreement and will otherwise comply or procure compliance with the Development Agreement insofar as it relates to the Community Facilities.

30.2 The Buyer will give the Seller not less than three (3) Working Days' notice of the date on which it is proposed that the Certifier will inspect the Community Facilities (or the relevant part of the Development containing the Community Facilities) with a view to determining with the Development Partner if Practical Completion of the Community Facilities (or relevant part thereof) has taken place, and will permit the Seller and/or its representatives to attend such inspection and will procure that the Certifier takes reasonable account of any representations the Seller or its said representatives make in connection with such inspection and proposed issue of the said certificate or statement confirming such Practical Completion.

30.3 Following Practical Completion of the Community Facilities (or the relevant part of the same) having occurred, the Buyer shall procure that the Certifier notifies both Parties of the same in writing.

30.4 Following receipt of the certificate of Practical Completion from the Certifier in respect of:

30.4.1 that part of the Community Facilities comprising the New Community Centre; or

30.4.2 that part of the Community Facilities comprising the Makerlab;

the Buyer shall, subject to clause 30.5, grant or procure the grant to the Seller (or to a nominee of the Seller,) of the CF Assurance, and the provisions of clause 9 of this Agreement shall also apply to the grant of the CF Assurance to the Seller or its nominee insofar as applicable. The Parties acknowledge and agree that the consideration paid or provided in respect of the CF Assurance shall be such sum as is paid or provided by the

Seller to the Buyer pursuant to clause 4.1.9 of the Collaboration Agreement exclusive of VAT (if applicable), the said sum being apportioned between the New Community Centre and the Maker Lab in such proportions as the parties shall agree, acting reasonably. There shall be a separate CF Assurance for each of the New Community Centre and of the Makerlab.

- 30.4A The Seller acknowledges that if the provisions of clause 4.2 apply and part of the New Community Centre has been constructed under licence and is outside of Land Parcel 6 (being within the area edged green marked "Note 3" on Plan 3), the Seller shall not raise any requisition arising from the fact the Buyer cannot show legal title to the said part of the New Community Centre outside of Land Parcel 6.
- 30.5 If the New Community Centre (or any curtilage of the same) and/or the Makerlab comprises a standalone building or buildings (rather than forming part of a larger building, such building containing substantial rooms for occupation, which are not for use as part of the New Community Centre or Makerlab as applicable) and directly abut an adopted public highway and/or the boundary of the Site, then instead of granting the CF Lease of the New Community Centre or Makerlab (as applicable), the Buyer will enter into the CF Transfer of the New Community Centre and/or Makerlab (as applicable) and the curtilage of the same, to the Seller or its nominee, the transfer of the New Community Centre and/or Makerlab (as applicable) and such curtilage to be in accordance with the CF Heads of Terms and to be in such form (complying with the terms of this Agreement, and granting such rights, and excepting and reserving such exceptions and reservations, as are reasonably appropriate) as is agreed between the Seller and the Buyer each acting reasonably; and in such circumstances the provisions of clause 9 of this Agreement shall also apply to the transfer of freehold of the New Community Centre and/or Makerlab (as applicable) and such curtilage, to the Seller or its nominee (mutatis mutandis);
- 30.6 In relation to the Community Facilities, and construction of the same, in particular, but without limitation, the Buyer will:
- 30.6.1 procure that clauses 12.1-12.4 (inclusive) and 12A of the Development Agreement are complied with (this obligation not being limited to using reasonable endeavours only); and
- 30.6.2 procure that:
- (a) the CF Construction Documents comprise or (as applicable) include the following provisions (with which the Buyer will require compliance):
 - i industry standard form of building contract (JCT Design and Build 2016) with normal market amendments approved by the Buyer;
 - ii single point design responsibility of main contractor;
 - iii liability caps (if any) and (in the case of Sub-Contractors) professional indemnity cover levels in contracts/appointments, at levels which the Seller (acting reasonably) agrees are appropriate to cover the Seller's potential losses (such approval not to be unreasonably withheld or delayed), with no reductions in liability to third parties;

- iv full step-in arrangements for the Seller, but with priority of step in being given (acting reasonably) to the Buyer (not being in material breach hereunder or under the Collaboration Agreement) and any Funder for 2 months after step-in rights arise;
 - v where the CF Building Contractor is not Hill Partnerships Limited (company number 02599073), being a Group Company of the Development Partner, or other Group Company of the Development Partner) appropriate contractor security to include performance and advance payment bond(s) and parent company guarantee, as reasonably agreed between the parties, with benefits assignable on step-in;
 - vi appropriate design development mechanisms, with approval of the Seller (via the Buyer and the Development Partner) where appropriate;
 - vii the Definition of practical completion to be defined so that it means construction of the Community Facilities is completed to a suitable standard and that they can be used for their intended purpose;
- (b) the CF Construction Documents are entered into in accordance with the Development Agreement, and provide copies of the completed CF Construction Documents to the Seller, and use all reasonable endeavours to procure compliance with the CF Construction Documents;
- 30.6.3 procure that the CF Collateral Warranties are issued in favour of the Seller in accordance with clause 10.6 of the Development Agreement;
- 30.6.4 procure that the Certifier issues a duty of care deed to the Seller in accordance with clause 5.1.16 of the Collaboration Agreement; and
- 30.6.5 provide the Seller with any documents or other information to be provided by the Development Partner pursuant to clause 12 and 12A of the Development Agreement, or (so far as the Buyer from time to time has these) documents or information referred to in the said clause 12 and 12A.

30.7 The Buyer will:

- 30.7.1 procure that clause 9 of the Development Agreement requires for the Community Facility Specification and the Maker's Lab Specification:
- (a) to be worked up to a RIBA Stage 3 design level as a minimum; and
 - (b) includes fitting-out and equipping of the Community Facilities; and
 - (c) requires the Seller's approval to be obtained in accordance with this clause 30.7 to the Community Facility Specification and the Maker's Lab Specification and to any amendment to or variation of the same; and
- 30.7.2 consult with, and then seek the Seller's approval to, the Community Facility Specification and the Maker's Lab Specification, including up to at least a RIBA Stage 3 design level, and including matters relating to fitting-out and equipping of the Community Facilities, and to any amendment to or variation of the same

(whether requested or required by the Buyer or the Development Partner), on the basis that:

- (a) the Seller will respond as soon as reasonably practicable to any request for approval hereunder and in any event within 15 Working Days of receiving any such written request referring to this clause 30.7.2 and requesting a response within the said 15 Working Days Provided That if the Seller does not respond to such a written request as aforesaid within the said 15 Working Days period, the Buyer will re-send the request and information to the Director of Environment and Community Services of the Seller (or to such other person notified in writing by the Seller to the Buyer from time to time for these purposes) and if the Seller does not respond within a further 10 Working Days from receipt of such request as so re-sent (provided such re-sent request indicates the Seller shall be deemed to have approved the same, if the Seller does not respond within the said further 10 Working Day period) the Seller shall be deemed to approve the relevant request; and
- (b) (insofar as the reasonable and proper cost of providing the Community Facilities in accordance with the Community Facility Specification and the Maker's Lab Specification, including the fitting-out and equipping of the Community Facilities, does not exceed the Maximum Price, the Seller's approval to the content of the Community Facility Specification and of the Maker's Lab Specification, and to any variation or amendment to the same, shall be at the Seller's absolute discretion Provided That any requirement of the Seller as part of such approval does not have an adverse impact (except de minimis) on the wider Development or the costs of the same;
- (c) insofar as the reasonable and proper cost of providing the Community Facilities in accordance with the Community Facility Specification and the Maker's Lab Specification, including the fitting-out and equipping of the Community Facilities, would exceed the Maximum Price, the Seller shall act reasonably in considering whether to approve the content of the Community Facility Specification and of the Maker's Lab Specification, and any variation or amendment to the same.

30.7.3 further procure that clause 16 of the Development Agreement requires that:

- (a) the Community Facility Specification and the Maker's Lab Specification will be amended or varied in accordance with any request for amendment or variation to the same by the Seller, provided that, notwithstanding any such amendment or variation, the reasonable and proper cost and expense of providing the Community Facilities in accordance with the Community Facility Specification and the Maker's Lab Specification, including the fitting-out and equipping of the Community Facilities, and including the reasonable and proper cost and expense of designing any such variations or amendments so requested by the Seller, would not exceed the Maximum Price; and
- (b) so far as any such request of the Seller for amendment or variation to the Community Facility Specification and/or the Maker's Lab

Specification, would cause the reasonable and proper cost and expense of providing the Community Facilities in accordance with the Community Facility Specification and the Maker's Lab Specification, including the fitting-out and equipping of the Community Facilities, and including the reasonable and proper cost and expense of designing any such variations or amendments so requested by the Seller, to exceed the Maximum Price, that the amendments or variations so requested by the Seller will be incorporated into the Community Facility Specification and/or the Maker's Lab Specification (as applicable) only insofar as the Seller agrees to pay such reasonable and proper cost and expense of such variation or amendment so requested by the Seller, so far as the same causes the said cost to exceed the Maximum Price;

Provided That in either clause 30.7.3(a) or (b) above, no such variation shall be considered where it will necessitate a revised planning permission and/or will have an adverse effect (other than de minimis) on the wider Development or the cost of delivering the same.

30.7.4 comply, and procure compliance by the Development Partner with, the said clauses 9 and 16, of the Development Agreement, and not amend or vary the said clauses 9 or 16 (or clauses 12 or 12A) of the Development Agreement or the documents referred to therein or the other relevant provisions of the Development Agreement which relate to the said clauses 9 or 12 or 12A or 16 or waive compliance with the requirements of the same, (in each case, so far as they relate to the Community Facilities) without approval of the Seller and the Seller shall respond within the time periods for the Seller's response as set out in 30.7.2 (a) (*mutatis mutandis*);

30.7.5 not agree or approve any amendment, variation, alteration, substitutions or additions under clause 16.2.3 of the Development Agreement, or otherwise, in so far as any such amendment, variation, alteration, substitutions or additions relate to the Community Facilities without approval of the Seller in accordance with clause 30.7.2. For the avoidance of doubt the Seller acknowledges the rights of the Development Partner to make variations under clause 16.2.1 of the Development Agreement, and the Buyer shall notify the Seller of any such, on becoming aware of the same.

30.8 If when there is greater certainty as to the location of the Community Facilities, it is apparent that the provisions of this clause 30 and its related provisions (in particular for land transfer and if applicable lease) are tax-inefficient, the parties will work together and use reasonable endeavours to agree any variations to this clause 30 and its related provisions to ensure as far as practicable that such provisions are where practicable (and allowed for by HM Revenue & Customs) tax-efficient.

Payment for the Community Facilities

30.9 As provided for in clause 4.1.9 of the Collaboration Agreement, the Reduced Land Payment (as defined in the Collaboration Agreement) shall be paid by the Seller to the Buyer in consideration of the land and building(s) to be transferred or granted to the Seller pursuant to the CF Assurance(s) and payable in accordance with Clause 30.10;

30.10 The Buyer shall make an Application for Payment as a forward payment against the CF Assurance(s) as follows:

30.10.1 for 50% of the Reduced Land Payment (or 50% of such part of the Reduced Land Payment as may from time to time be funded from any Land Parcel Price (excluding Land Parcel Price for Land Parcel 3) from time to time received by the Seller from the Buyer hereunder) (exclusive of VAT, if applicable) on the 1st day (or nearest Working Day thereafter) of the calendar month following there being a Start on Site in respect of the New Community Centre; and

30.10.2 for 50% of the Reduced Land Payment (or 50% of such part of the Reduced Land Payment as may from time to time be funded from any Land Parcel Price (excluding Land Parcel Price for Land Parcel 3) from time to time received by the Seller from the Buyer hereunder) (exclusive of VAT, if applicable) following Practical Completion of the Community Facilities or (if later) completion of the CF Assurances relating to the Community Facilities; and

30.10.3 insofar as any Land Parcel Price from time to time paid by the Buyer to the Seller hereunder (excluding Land Parcel Price for Land Parcel 3) is not sufficient to fund the full amount of the Reduced Land Payment, the Seller will upon further payments of Land Parcel Price (excluding Land Parcel Price for Land Parcel 3) being made by the Buyer to the Seller hereunder, apply such further payments (or relevant part of the same) to fund any balance of the 50% of Reduced Land Value Payment due under clause 30.10.1 or 30.10.2 (as applicable) which would have been payable to the Buyer if such further payments of Land Parcel Price (excluding Land Parcel Price for Land Parcel 3) had been received by the Seller at the time such payment under clause 30.10.1 or 30.10.2 had been payable (but without any interest thereon for late payment thereof).

30.11 The due date of payment of any monies payable to the Buyer pursuant to clause 30.9-30.11 (inclusive) (subject to supply of the items in clause 30.12) shall be the date 10 Working Days after receipt by the Seller of the Buyer's Application for Payment properly submitted in accordance with Clause 30.10, or (if later, and so far as applicable) the date provided for in clause 30.10.3 (**the Due Date**).

30.12 The date for payment of any sum payable pursuant to clauses 30.9-30.11 (inclusive) shall be 21 days after the later of:

30.12.1 the Due Date; and

30.12.2 receipt of a valid value added tax invoice addressed to the Seller in the amount stated in the Application for Payment.

Licence CF Curtilage

30.13 Not used

30.14 The Base Design (as defined in the Development Agreement) provides for the New Community Centre to be constructed in the location shown edged and marked 6 in red on Plan 3 and (at first floor level and above) in the area edged green marked "Note 3" on Plan

3, and in the event that the Satisfactory Planning Permission provides for the New Community Centre to be so constructed in the location shown in the said Base Design then:

- 30.14.1 from the Phase 1 Completion Date, the Seller grants licence for the Buyer and the Development Partner (together with its contractors and agents) to enter onto the CF Plot between the permitted hours (as set out in clause 30.14.3 (c)) so far as reasonably necessary for the Licence Purposes to construct the Community Facilities as provided for herein;
- 30.14.2 the licence granted pursuant to clause 30.14.1 is granted:
- (a) in common with the Seller and those from time to time authorised by it;
 - (b) for the period from the Phase 1 Completion Date until the earlier of:
 - i Practical Completion of the New Community Centre; or
 - ii the date of termination of this Agreement; or
 - iii material breach by the Buyer or the Development Partner of its obligations hereunder.
- 30.14.3 the Buyer acknowledges (and shall procure in the Development Agreement, the same to be capable of reliance by the Seller under the Contracts (Rights of Third Parties) Act 1999, an equivalent acknowledgement from the Development Partner) that:
- (a) they (and their contractors and agents) shall occupy the CF Plot as a licensee (and shall comply or procure compliance with the relevant terms of the Development Agreement¹ (and not amend or vary the same) and this clause 30.14) as if the Buyer were accessing the CF Plot in accordance with clause 6.2 of the Development Agreement (mutatis mutandis), in exercising their rights under this licence and that no relationship of landlord and tenant is created between them and/or the Seller by this licence;
 - (b) the licence to occupy granted by clause 30.14.1 is personal to the Development Partner and to the Buyer and is not assignable;
 - (c) they (and their contractors and agents) shall only be permitted to occupy the CF Plot between 8am and 6pm on Mondays to Fridays and 8am and 1pm on Saturdays inclusive (but not on public holidays); and
 - (d) without limiting the other provisions of this clause 30.14.3, they (and their contractors and agents) will when accessing or occupying the CF Plot hereunder:
 - i not damage the CF Plot or cause or permit any nuisance or annoyance to those on adjoining or neighbouring land (although recognising the need to carry out the Development);

- ii comply with all statutory requirements in relation to the CF Plot and their activities thereon; and
- iii maintain professional indemnity insurance and public liability insurance, in accordance with the CF Building Contract and the CF Appointments and in relation to their presence and activities on the CF Plot,
- iv not alter the CF Plot, save for the purpose of carrying out the Development; and
- v indemnify the Seller for any losses costs expenses damages claims or demands due to their presence or activities (and those of their contractors and agents) on the CF Plot under such licence.

30.14.4 for the avoidance of doubt, the Seller and the Buyer acknowledge and agree that the CF Plot will be suitably hoarded by or on behalf of the Buyer for the period of the licence (whilst rights under the said licence are being exercised) for health and safety purposes.

This Agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1

The Property

Land description	Parcel Number	Land Parcel Number	Title numbers	Dated and time of Title Register	Deposit (£)	Land Parcel Price (£)
The subsoil to the adopted roads at the Property shown edged red and numbered 1 and 4 on Plan 2	1 & 4		TGL312351 TGL312337	9 February 2018 10:34:53 9 February 2018 10:34:52	1	1
Land adjoining the Woodville Centre shown edged red and numbered 2 on Plan 2;	2		SY311936	9 February 2018 10:34:45	5,850	585,000
The playing field land shown edged red and numbered 3 on Plan 2	3		SY311936	9 February 2018 10:34:45	3,950	395,000
The Youth Centre shown edged red and numbered 5 on Plan 2	5		TGL312351 TGL312337	9 February 2018 10:34:53 9 February 2018 10:34:52	42,000	4,200,000
The land to the back of the shops and garages on Ashburnham Road and Ham Street shown edged red and numbered 6 on Plan 2	6		TGL312351 TGL312337 SY294801 SY220864 TGL537710	9 February 2018 10:34:53 9 February 2018 10:34:52 9 February 2018 10:34:44 9 February 2018 10:34:42 2 July 2020 13:56:19	1	1

Schedule 2

Incumbrances on the Property

The matters referred to in the title numbers at Schedule 1, and any matters referred to in replies to enquiries before contract issued by the Seller to the Buyer prior to the date hereof.

Schedule 3

Delaying Event

Definition in the Development Agreement, as provided by the Buyer to the Seller before the date hereof:

Delaying Event means any delay caused by:

- (a) an event for which the Contractor is entitled to an extension of time under the Building Contract save where any delay is the result of any breach, impediment, prevention or default (whether by act or omission) by the Developer or any of its employees, contractors, sub-contractors and/or agents provided always that the Developer has used reasonable endeavours to minimise any disruption or delay;
- (b) a RHP Variation is incorporated in to the Works which causes delay to the Works and entitles the Contractor to an extension of time under the Building Contract;
- (c) the opening up of the Development where the inspection or testing shows that the materials, goods or work are in accordance with this Agreement;
- (d) any material delay by RHP in granting or otherwise withholding approval where provided for in this Agreement Provided That all information that RHP require to consider such approval was provided;
- (e) any delay arising as a result of any breach, non-performance or non-observance by RHP of its obligations in this Agreement;
- (f) any Town Planning or Building Regulations refusal or restriction which is to be obtained by or for which compliance with is the responsibility of RHP;
- (g) any delay by a statutory undertaker or service provider in entering into agreements or to install or remove equipment to accommodate and/or serve the Development;
- (h) a Pandemic Related Matter; and
- (i) any delay by the Council in complying with its obligations under the Land Sale Agreement and/or the Collaboration Agreement (including but not limited to the granting vacant possession of any part of the Estate and/or the provision of consents and approvals by the Council including as to any approval of a Phase Variation (as the same is defined in the Land Sale Agreement));

executed as a deed by affixing)

the common seal of)

London Borough of Richmond upon Thames)

in the presence of:)



Authorised Signatory 

Authorised Signatory

executed as a deed by affixing)

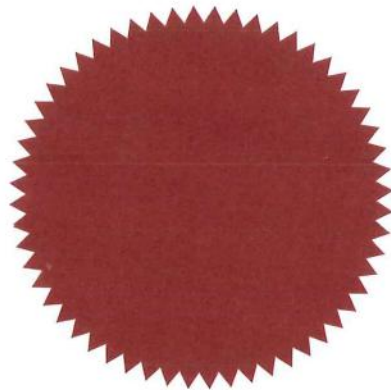
the common seal of)

Richmond Housing Partnership Limited)

in the presence of:)

Authorised Signatory

Authorised Signatory



Appendix 1
CF Heads of Terms

HAM CLOSE REGENERATION

HEADS OF TERMS –Lease of new Community Facilities by the Council from Richmond Housing Partnership

1.	Type of transaction	Long lease of new community facilities
2.	The Parties	
	2.1	The Landlord: Richmond Housing Partnership Limited (a Registered Provider registered with the Regulator of Social Housing with registration number L4279 and as a registered society as defined in Section 1 of the Co-operative and Community Benefit Societies Act 2014 with registration number 30939) and whose registered office is at 8 Waldegrave Road, Teddington TW11 8ET (RHP) and:
	2.2	The Tenant: London Borough of Richmond upon Thames of Civic Centre, 44 York Street, Twickenham TW1 3BZ (The Council)
3.	Solicitors	
	3.1	LBRuT's Solicitor: Bevan Brittan LLP 2 Fleet Place Farringdon London EC4M 7RF
	3.2	RHP's Solicitor: Trowers & Hamlins LLP 3 Bunhill Row London EC1Y 8YZ t +44 (0)20 7423 8000 f +44 (0)20 7423 8001 www.trowers.com
4.	Background	In pursuance of the regeneration of Ham Close estate, the

		without The Landlord's consent.
15.	Repair and Maintenance	The Tenant is to be responsible for internal repairs and decorations.
16.	Alterations	The Tenant may undertake non-structural alterations and additions, complying with statutory requirements and regulations with the Landlord's consent which will not to be unreasonably withheld or delayed.
17	Business rates and utilities	The Tenant to be responsible.
18.	Insurance	The Landlord to insure and recover the premium from the Tenant through the service charge..
	Right of Inspection	The Landlord requires the ability to inspect the Community Facilities on an annual basis
	Compliance	The Tenant shall be responsible for any and all legal compliance obligations at the Community Centre such as gas and electricity certification
21.	Costs	Each party will pay their own costs, including legal and surveying fees incurred in the granting of the lease of the Community Facility
22.	Authorisation	Paper to Cabinet on Ham Close Regeneration dated 15 November 2018.

Appendix 2

Not Used

Appendix 3
Deed of Adherence

Dated 20[]

(1) LONDON BOROUGH OF RICHMOND UPON THAMES

(2)

HILL RESIDENTIAL LIMITED

DEED OF ADHERENCE
to a Collaboration Agreement and Sale and Purchase
Agreement in relation to
Ham Close, Richmond upon Thames

THIS DEED is dated

20[]

PARTIES

- (1) **London Borough of Richmond upon Thames** of Civic Centre, 44 York Street, Twickenham TW1 3BZ (**Council**);
- (2) **Hill Residential Limited** (company number 04251718) whose registered office is at ²[The Power House, Gunpowder Mill, Powdermill Lane, Waltham Abbey, Essex EN9 1BN] (**Covenantor**).

BACKGROUND³

- (A) RHP is the registered proprietor of part of Ham Close Estate.
- (B) The Council and RHP entered into the Agreement for Sale and Purchase and the Collaboration Agreement on [DATE] to redevelop Ham Close Estate by creating affordable and market housing and community facilities.
- (C) RHP has selected the Covenantor to carry out the redevelopment;
- (D) The Covenantor has accordingly agreed to enter into this deed in accordance with the Agreement for Sale and Purchase and the Collaboration Agreement, to require the Covenantor to adhere to certain terms of the Agreement for Sale and Purchase, and the Collaboration Agreement
- (E) This deed is without prejudice to the Council's rights and obligations under the Collaboration Agreement and under the Agreement for Sale and Purchase.

AGREED TERMS

1 DEFINITIONS

- 1.1 In this deed, the following terms shall have the following meanings:

²
³

Agreement for Sale and Purchase means the agreement for sale and purchase dated ^{21 October 2021} between the Council and RHP in relation to various parcels of land around Ham Close, Richmond upon Thames, a copy of which is appended to this deed;

Collaboration Agreement means the collaboration agreement between the Council and RHP in relation to Ham Close, Richmond upon Thames, a copy of which is appended to this deed;

Disposal has the meaning in the Agreement for Sale and Purchase;

Effective Date means the date of this deed;

Funder has the meaning in the Agreement for Sale and Purchase;

Ham Close Estate means the Site;

Development Partner has the meaning in the Agreement for Sale and Purchase;

Land Parcel has the meaning in the Agreement for Sale and Purchase;

Permitted Disposal has the meaning in the Agreement for Sale and Purchase;

Relevant Agreements means the Collaboration Agreement and the Agreement for Sale and Purchase;

Site has the meaning in the Agreement for Sale and Purchase;

All other defined words and expressions used in this deed shall have the meaning given to them in the Collaboration Agreement unless stated otherwise.

The provisions of clauses 13 (disputes), 19 (notices), 22 (VAT), 28 (no fetter) of the Agreement for Sale and Purchase shall apply to this deed (mutatis mutandis), as if references in those provisions to the Seller were references to the Council, and as if references in those provisions to the Buyer were references to the Covenantor, and the parties shall comply with their respective obligations in the said clauses as so applied to this deed.

2 **ADHERENCE**

2.1 The Covenantor each agree with and undertake to the Council that, from the Effective Date, the Covenantor shall:

2.1.1 permit RHP to comply with its obligations in the Relevant Agreements; and on request comply with the clauses in the Collaboration Agreement listed below:

Clause
2 (Development Principles) save for Clause 2.3.
3 (Joint Obligations).
5. (RHP Obligations) save for 5.1.1.

2.1.2 comply with the clauses in the Agreement for Sale and Purchase listed below[, so far as the same relate to the part of the Site the subject of the said Disposal to the Covenantor, which is shown approximately edged red on the attached plan]:

Clause
8.3. Buyer's indemnity.
23. Termination (excluding clause 23.6).
24. Option to re-purchase/Call Option.
25. Step-in.
29. Phase Alteration.
30. Community Facilities.

3 **RESTRICTION**

3.1 The Covenantor shall not make any Disposal except a Permitted Disposal of the Site (or the relevant parts of the same from time to time owned (freehold or leasehold) by the Covenantor) other than to a donee whom the Council is reasonably satisfied is of sufficient financial standing and expertise to enable it to comply with the Covenantor's obligations in this deed (except insofar as previously discharged), and who enters into a deed of adherence in the Council's favour substantially in the form of this deed (mutatis mutandis).

3.2 On making any such Disposal as referred to in clause 3.1 above, the Covenantor shall ensure that the relevant disposal deed requires the disponee to apply to the Land Registry to enter, and use reasonable endeavours to procure such entry, of the following restriction against the title to the Site, or the relevant part of the same the subject of the said Disposal, in favour of the Council:

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by the London Borough of Richmond upon Thames of Civic Centre, 44 York Street, Twickenham TW1 3BZ or its conveyancer that the provisions of clause 3 of a Deed of Adherence dated [] made between the London Borough of Richmond upon Thames (1) Richmond Housing Partnership Limited (2) and **[insert name of Covenantor]** (3) have been complied with."*

and shall procure that the disponee complies with such requirement.

3.3 On completion of purchase of the Site or any part or parts thereof, the Covenantor shall apply to register at the Land Registry in the Proprietorship Register of the registered title to the Site (or the said part or parts thereof), a restriction in similar terms to the restriction in clause 3.2 (mutatis mutandis), and will use reasonable endeavours to procure such registration of the same.

3.4 The Council shall provide the Certificate required to satisfy the above restriction within five Working Days of receipt of a request for the same, such request referring to this clause of this Deed of Adherence and of the time limit for responding, provided that the Seller is provided with reasonable evidence that clause 3.1 has been complied with. If the Seller does not so provide the said Certificate in respect of a Permitted Disposal described in paragraphs (a) or (d) of the definition of "Permitted Disposal" in the Agreement for Sale and Purchase within the said ten Working Day period after receipt of such a request and evidence, the conveyancer for the Covenantor is hereby authorised, in such circumstances, to provide such a Certificate to the Land Registry as agent for the Council.

4 **NO RELEASE**

Nothing in this deed shall release RHP from any liability in respect of its obligations under the Collaboration Agreement and/or the Agreement for Sale and Purchase.

5 **COUNTERPARTS**

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

LAW AND JURISDICTION

This deed is governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

This Deed of Adherence has been entered into as a deed on the date stated at the beginning of it.

APPENDIX 1– COLLABORATION AGREEMENT & AGREEMENT FOR SALE AND PURCHASE

Executed as a deed by the affixation of the)
Common Seal of **London Borough of**)
Richmond upon Thames)

in the presence of:

Authorised signatory

Executed as a deed

by **Hill Residential Limited**

acting by and under the signatures of two
directors or a director and the company
secretary:

[Name of Director]

Director

[Name of Director or Company Secretary]

.....

[Director **OR** Company Secretary]

Appendix 4

Plans

Plan 1 – Site Plan

Agm



Notes/revisions:

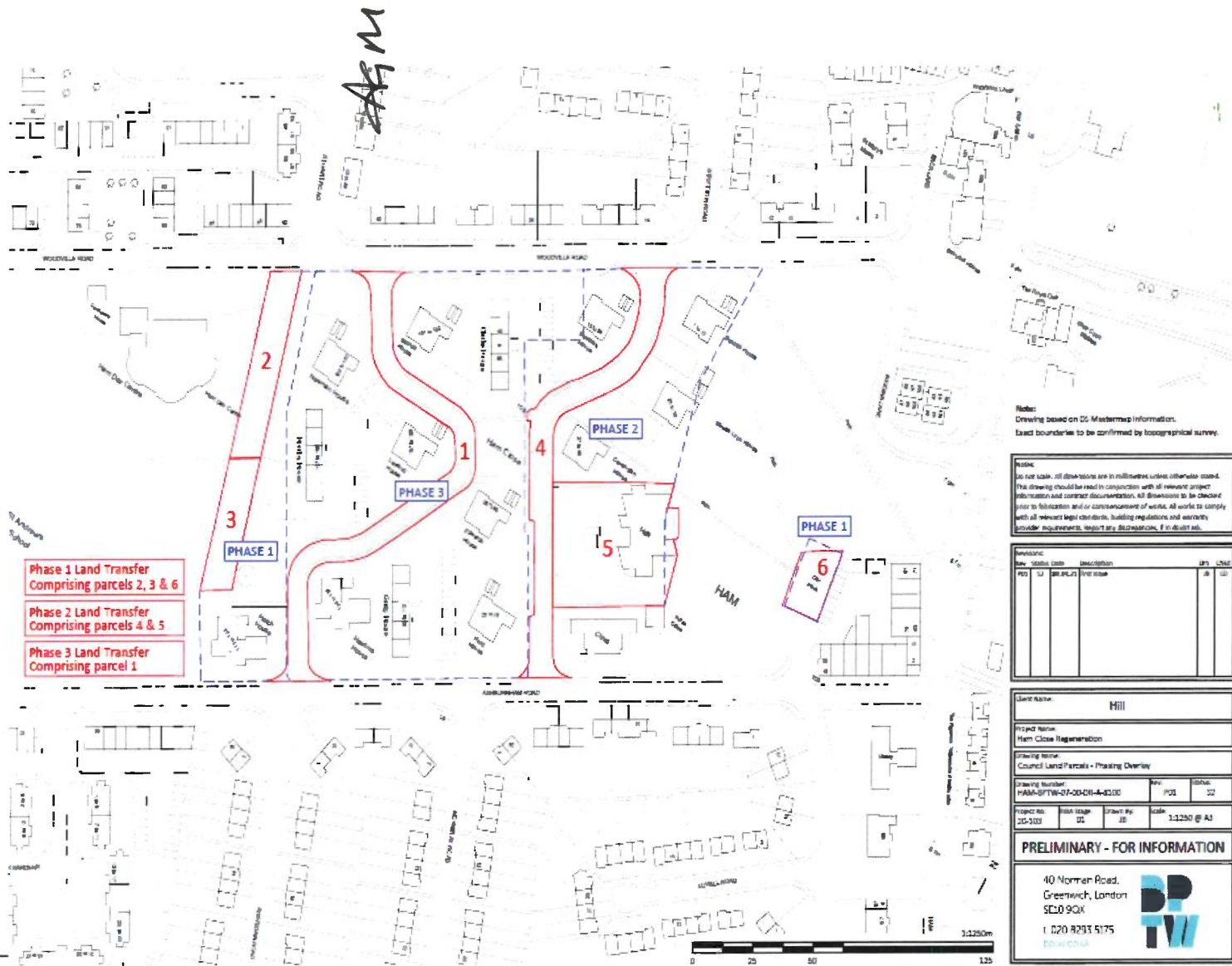
Rev	Date	Drawn	Checked
*	30/04/18	ALH	
A	17/05/18	ALH	
B	05/02/19	FA	CD
C	07/02/20	JW	CD

Date	APRIL 2018	Client	RHP
Drawn	ALH	Project	Ham - Re-appraisal
Check	CD	Title	Land Registry Drawing
Scale	1:1250 @ A3	Duproc	17-114 / LR01
		Revision	B

THL.150338

756.00144

Plan 2 – Land Sale Parcels



M5A

- Phase 1 Land Transfer
Comprising parcels 2, 3 & 6
- Phase 2 Land Transfer
Comprising parcels 4 & 5
- Phase 3 Land Transfer
Comprising parcel 1

Note:
Drawing based on OS Mastermap information.
Exact boundaries to be confirmed by topographical survey.

Scale:
As not scale. All dimensions are in millimetres unless otherwise stated.
This drawing should be read in conjunction with all relevant project information and contract documentation. All dimensions to be checked prior to fabrication and/or commencement of works. All works to comply with all relevant legal conditions, building regulations and statutory provisions requirements. Subject any discrepancies, if in doubt call.

Revising No.	Revised Date	Description	By	Check
001	15/01/23	Issue for sale		

Client Name: Hill

Project Name: Ham Close Regeneration

Planning Name: Council Land/Parcels - Planning Overlay

Drawing Number: HAM-SPTW-07-2020-4-4300

Project No: 20-303

PRELIMINARY - FOR INFORMATION

40 Normer Road,
Greenwich, London
SE20 9QX
T: 020 8295 5175
www.bptw.co.uk

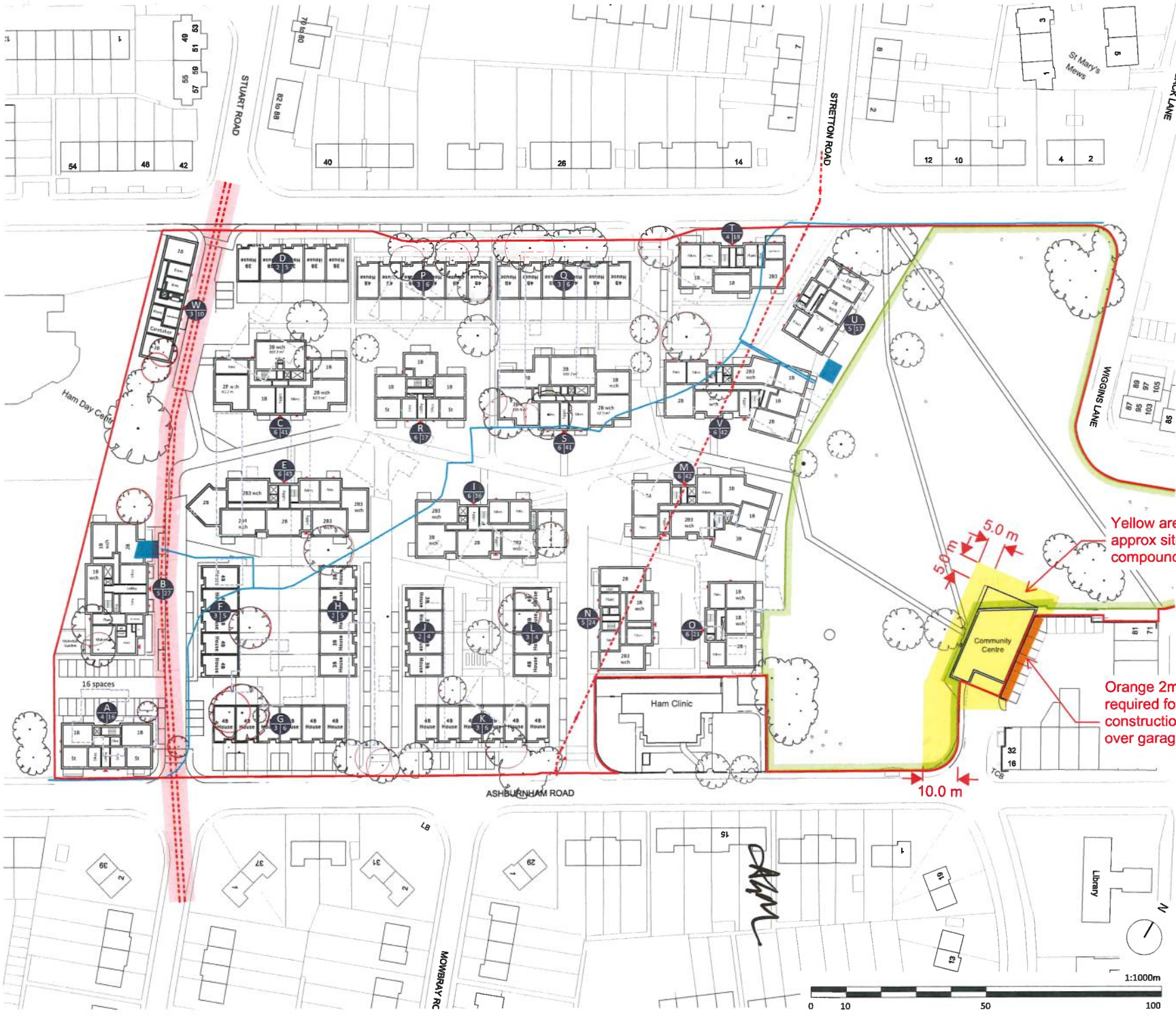


Plan 3
Overlay Plan



Plan 4

Plan showing CF Plot



- Tree to be removed
 - Existing Building to be demolished
 - Rising main + 3m zone
 - Foul water drain
 - HV Underground Electricity Cable
 - Existing Sub Station
 - Other Open Land of Townscape Importance
- Block/Terrace Letter
 Stores Units

Notes:
 This drawing is not scale. All dimensions are in millimetres unless otherwise stated. This drawing should be read in conjunction with all relevant project formation and contract documentation. All dimensions to be checked prior to fabrication and/or commencement of works. All works to comply with all relevant legal standards, building regulations and warranty and other requirements. Report any discrepancies, if in doubt ask.

Rev	Status	Date	Description	Drn	Chkd
P01	S3	30.07.20	First Issue		JB
P02	S3	14.08.20	Blocks M & V work in progress		JB
P03	S3	28.08.20	Masterplan amended to meet phasing, decant and M&E requirements		JB
P04	S3	03.09.20	Block B, Terrace D & Landscape updated. Indicative core layouts added		JB
P05	S3	09.09.20	M&E alterations		JB
			.20 Revised masterplan		JB
			.21 Revised masterplan		JB

Yellow area approx site compound.

Orange 2m scaffold required for construction. Beam over garages.

Hill

Project Name:
Ham Close Regeneration

Drawing Name:
Draft Masterplan Constraints

Drawing Number:
HAM-BPTW-ZZ-ZZ-SK-A-7412

Project No: 20-103 | **RIBA Stage:** 01 | **Drawn By:** JB | **Scale:** 1:1000 @ A3

Rev: P07 | **Status:** S3

PRELIMINARY - FOR COMMENT

40 Norman Road,
Greenwich, London
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t. 020 8293 5175
bptw.co.uk

