**THIS UNILATERAL UNDERTAKING** is made as a Deed the day of two thousand and twenty

**BY**

1. (“the Owner”) [add name / address]

**IN FAVOUR OF**

1. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND UPON THAMES** of Civic Centre 44 York Street Twickenham Middlesex TW1 3BZ ("the Council")

**WITH THE CONSENT OF**

1. (“the Mortgagee”) [add name / address]

**INTERPRETATION**

IN this Deed the following words and expressions shall have the following meanings:-

“1974 Act” the Greater London Council (General Powers) Act 1974

“1972 Act” the Local Government Act 1972

“1990 Act" the Town & Country Planning Act 1990

“2011 Act” the Localism Act 2011

“Business Occupier” any tenant or individual occupier or leasehold owner of a business unit at the Property and for the avoidance of doubt the term “Business Occupiers”:

1. shall be construed accordingly; and
2. excludes any business or corporate body or bodies

“Business Parking Permit” a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing for a Motor Vehicle to park in a Parking Bay

“Business Units” any business unit at the Property designated for use within Class E and/or F or Sui Generis as defined within the Use Classes Order 2020 to be constructed pursuant to the Development and the term “Business Unit” shall be construed accordingly

“CPZ” the controlled parking zone [add details] or any controlled parking zone amending or replacing the same

"the Development” the development described in the Planning Application

“Disabled Persons Badge” a disabled person’s badge issued pursuant to Section 21 of the Chronically Sick and Disabled Person’s Act 1970

“the HDM” the Council’s Head of Development Management for the time being or such other person as may be appointed from time to time to carry out that function

"Implementation**”** the carrying out of a material operation as defined by Section 56(4) of the Act in relation to the Development but shall not include the following:

1. ground investigatory site survey work
2. site clearance
3. construction of boundary fencing or temporary means of enclosure
4. archaeological investigation
5. works of decontamination or remediation
6. diversion and laying of services
7. temporary display of site notices or advertisements

"Implementation Date" the date on which Implementation occurs

“Local Plan” the Council’s Local Plan made pursuant to Part 2 of the Planning and Compulsory Purchase Act 2004

“Monitoring Fee” the sum of xxx (£xx) as calculated in accordance with the formula in Appendix 3 to the Council’s Planning Obligations Supplementary Planning Document or any Supplementary Planning Document replacing the same

“Motor Vehicle” any mechanically propelled vehicles intended or adapted for use on a road and / or highway

“Mortgage” the legal charge dated [add the date] and made between (1) the Owner and (2) the Mortgagee and which affects the Property

“Parking Bay” a marked highway parking space designated by the Council by order under the Road Traffic Regulation Act 1984 the Road Traffic Regulations (Parking) Act 1986 the Parking Act 1989 or the Road Traffic Act 1991 (or other relevant legislation) for use by residents of the locality on which the Development is situated

“the Planning Application" the application made by the Owner under reference number [*insert number and details of the Planning Application*]

“Planning Permission” a planning permission that may be granted by the Council pursuant to the Planning Application

"the Property" land and buildings situate at [Insert address] delineated in red on the plan attached hereto

“Use Classes Order” the Town and Country Planning (Use Classes) Order 1987 (as amended)

“Use Classes Order 2020” the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

**WHEREAS**:

1. The Council is the local planning authority for its administrative area within which the Property is situate for the purposes of the 1990 Act and for the purpose of Section 106(a) of the 1990 Act is the local planning authority by whom the planning obligations contained within this Deed are enforceable
2. The Owner is registered at the Land Registry with absolute title under title number [add title number] as the proprietor of the freehold interest in the Property and the Mortgagee is similarly registered as the proprietor of the Mortgage
3. Policy LP45 of the Council’s Local Plan provides that new development should be acceptable in terms of traffic generation and traffic impact minimising the impact of car based travel including its impact on the operation of the road network and local environment. Policy LP45 recognises there may be opportunities for car free developments subject to controls being secured to ensure new development does not contribute to on-street parking stress in the locality. Similar controls may also be required where existing levels of on-street parking are very high
4. the Owner has agreed to enter into this Deed so that it may be taken into account as a material consideration in the determination of the Planning Application by the Council

**NOW THIS DEED WITNESSETH** as follows:-

1. ThisDeed is made pursuant to Section 106 of the 1990 Act, Section 111 of 1972 Act, Section 16 of the 1974 Act and section 1 of the 2011 Act and any other enabling statutory provisions

2. THE Owner hereby UNDERTAKES to the Council:-

(a) not to dispose of to any person or occupy or allow any person to be the Business Occupier of a Business Unit to be created as part of the Development unless a notice has been served on such person that pursuant to the Council’s policy to which reference is made in recital (3) hereof or any other policy replacing the same such person shall not be entitled (unless such person is or becomes entitled to be a holder of a Disabled Persons’ Badge) to be granted a Business Parking Permit to park a Motor Vehicle in any Parking Bay or other place within the CPZ nor will the Council enter into a contract (other than individual contracts for one occasion) with such person to park in any car park controlled by the Council

(b) on the date hereof to pay the Council’s legal costs in reviewing and approving this Deed in the sum of six hundred pounds (£600) and the Monitoring Fee

(c) To provide written notification to the HDM seven days prior to the Implementation Date and a further written notice of the actual Implementation Date within seven days of the occurrence of the same

(d) For the avoidance of doubt it is hereby agreed that if Implementation occurs and the notice required in paragraph 2(c) has not been given then the failure to give notice shall not affect the liability of the Owner to comply with the planning obligations in this Deed

3. The Mortgagee hereby consents to the Owner completing this Deed with the intention that notwithstanding Section 104 of the Law of Property Act 1925 its interest in the Property shall be bound by the terms of this Deed as if it had been executed and registered as a local land change prior to the execution of the Mortgage

4. IT IS HEREBY AGREED and DECLARED:-

*Miscellaneous agreements and declarations*

(a) Nothing contained in this Deed constitutes planning permission

(b) Nothing contained or implied in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as local authority and its rights powers duties and obligations under all public and private statutes bye-laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Deed

(c) If any provision in this Deed shall be held to be void invalid illegal or unenforceable or if voidable is avoided this shall not affect the operation validity legality and enforceability of any other provision of this Deed provided severance therefrom is possible

(d) Reference to the masculine feminine and neuter genders shall include the other genders and reference to the singular shall include the plural and vice versa

(e) A reference to a clause is a reference to a clause contained in this Deed

(f) The expressions “the Council” and “the Owner” and “the Mortgagee” shall include their respective successors in title and assignees

*Local land charge provisions*

(g) This Deed is a Local Land Charge registrable by the Council in the Council's Register of Local Land Charges immediately on completion thereof

*Reference to statutes and statutory instruments*

(h) References in this Deed to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

*Variations*

(i) The covenants undertakings and restrictions contained in this Deed shall only be capable of being varied by a subsequent deed of variation

(j This Deed shall continue to be valid and enforceable following an amendment or variation of a condition attached to the Planning Permission achieved through the grant of a planning permission pursuant to Section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application

*English law applicable*

(k) The construction validity and performance of this Deed shall be governed by English law

*Effect of revocation of planning permission*

(l) This Deed is given by the Owner on the condition that in the event of the Planning Permission being revoked by the Council or any other authority having powers in relation to planning matters or otherwise withdrawn or modified by any statutory procedure or quashed as a result of legal action without the consent of the Owner or their successors in title the obligations of the Owner under this Deed shall thereupon cease absolutely and in that event any moneys that have been paid by the Owner pursuant to the obligations contained within this Deed shall be repaid to the Owner by the Council forthwith together with interest at the Base Rate of Barclays Bank plc from the date such sums were received by the Council until the date of repayment

*Waivers not to be of a continuing nature*

(m) No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereto by the Owner

*Liability of subsequent Owner and release of former Owner*

(n) The provisions hereof shall be enforceable by the Council against the Owner and all persons who shall have derived title through or under them in respect of the Property (but so that no person shall be liable to the Council for any breach of the provisions committed after such a person has parted with all of its interest in the Property)

*Contracts (Rights of Third Parties) Act 1999*

(o) The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed is to have the benefit of or is capable of enforcing any term in this Deed and no party is to have any rights to enforce this Deed other than those falling within the definitions of the Council the Owner and the Mortgagee

*Indemnity for Mortgagee*

(p) Notwithstanding the terms contained herein the Mortgagee shall only be liable for any breach of any provision of this Deed during such period (if any) as it is mortgagee in possession of the Property and then only if it shall have caused such breach or breaches to have been occasioned and PROVIDED THAT for the avoidance of doubt it shall not in any event be liable for any breach of this Deed arising prior to its becoming mortgagee in possession of the Property unless such breach continues during such period as it is a mortgagee in possession

**Signed and Delivered** as a deed by )

**[add name]** )

in the presence of : )

)

Executed as a deed on behalf of )

**[add name]** )

acting by )

Duly authorised signatory

**Dated 2020**

[*name of Owner and Mortgagee*]

**-to-**

**THE MAYOR AND BURGESSES OF**

**THE LONDON BOROUGH**

**OF RICHMOND UPON THAMES**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DEED OF UNILATERAL UNDERTAKING**

**made under Section 106 of the**

**Town & Country Planning Act 1990**

**relating to** [*add address of property*]

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Ref: Business parking permit restriction UU**