

DATED 18 MAY 2023

(1) LONDON LEGACY DEVELOPMENT CORPORATION

AND

(2) CASL STOUR RD (LONDON) PROPERTY OWNER LIMITED

AND

(3) INVESTEC BANK PLC

**DEED OF VARIATION
UNDER SECTION 106 AND SECTION 106A OF THE TOWN AND
COUNTRY PLANNING ACT 1990 (AS AMENDED) AND ALL OTHER
POWERS ENABLING**

**in relation to land known as
the former Truman Brewery, Units 1-6, Stour Road, London E3 2NT**



Pinsent Masons

#135027245v5<ACTIVE> - Deed of Variation to s106 for Truman Brewery

THIS AGREEMENT is made on 18 MAY 2023

BETWEEN:-

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 9, 5 Endeavour Square, London, E20 1JN (the "LPA");
- (2) **CASL STOUR RD (LONDON) PROPERTY OWNER LIMITED** (Company Number 11970955) whose registered office is at 2 Cross Keys Close, London W1U 2DF (the "Developer"); and
- (3) **INVESTEC BANK PLC** (Company Number 00489604) whose registered office is at 30 Gresham Street, London EC2V 7QP (the "Lender")

together, the "Parties".

WHEREAS:-

- (A) The LPA is the Local Planning Authority for the purposes of the Act and for the area in which the Site is situated.
- (B) The Developer is developing the Site pursuant to the Planning Permission.
- (C) The Original Agreement was entered into on 27 August 2020 by the Parties to secure the planning obligations contained in it and to enable the LPA to grant the Planning Permission.
- (D) The Planning Permission was granted on 27 August 2020.
- (E) The Parties have agreed to enter into this Deed in order to vary the Original Agreement in accordance with the provisions of clause 4 and Schedule 14 of the Stour Road S106.

IT IS AGREED as follows:-

1. **DEFINITIONS**

1.1 Words and expressions defined in the Original Agreement will have the same meaning in this Deed, unless the context otherwise requires.

1.2 In this Deed the following words and expressions have the following meaning:-

"Deed" means this deed of variation;

"Original Agreement" means an agreement made pursuant to Section 106 of the 1990 Act entered into on 27 August 2020 by the Parties;

"Stour Road Development" means development pursuant to planning permission reference 22/00267/FUL or any associated section 73 permission

"Stour Road Development Occupation Date" means the date the Stour Road Development is first occupied

"Stour Road S106" means an agreement made pursuant to Section 106 of the 1990 Act entered into on _____ by (1) London Legacy development Corporation, (2) Sarah Price and Anthony Wayne Price and (3) Stour Road Limited relating to the Stour Road Development

2. **INTERPRETATION**

- 2.1 The provisions in Clause 1 (Definitions) of the Original Agreement will apply to this Deed except where otherwise stated.
- 2.2 Where in this Deed reference is made to any Clause, paragraph or Schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.3 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons.
- 2.4 A reference to a company shall include any company, corporate or other body corporate, wherever and however incorporated or established.
- 2.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.6 Any reference to a specific statute or statutes includes any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 2.7 The Clause and paragraph headings do not form part of this Deed and shall not be taken into account in its construction or interpretation.
- 2.8 An obligation in this Deed on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 2.9 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 2.10 Where any approval consent agreement or the like is required to be given pursuant to the terms of this Deed it shall be in writing and any approval, consent, confirmation or an expression of satisfaction is required under the terms of this Agreement shall not be unreasonably withheld or delayed.
- 2.11 Insofar as any Clause or Clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 2.12 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Deed.

3. **LEGAL EFFECT**

- 3.1 The terms of this Deed shall take effect on the date of this Deed.
- 3.2 This Deed is supplemental to and varies the provisions of the Original Agreement.

4. **STATUTORY PROVISIONS**

- 4.1 This Deed is made pursuant to:-
- 4.1.1 Sections 106 and 106A of the 1990 Act;
- 4.1.2 Section 111 of the Local Government Act 1972;
- 4.1.3 Section 1 of the Localism Act 2011;
- 4.1.4 Section 16 of the Greater London Council (General Powers) Act 1974; and

4.1.5 all other enabling powers.

5. VARIATIONS TO THE ORIGINAL AGREEMENT

5.1 The Parties agree that the Original Agreement will be varied as set out in Schedule 1 to this Deed on the date of this Deed.

5.2 The Parties agree that the Original Agreement will be further varied as set out in Schedule 2 to this Deed on the later of:

5.2.1 the Stour Road Development Occupation Date PROVIDED THAT the Development has also been first Occupied on that date; and

5.2.2 the date the Development is first Occupied.

5.3 The Original Agreement will remain in full force and effect, save as expressly varied by this Deed.

6. COSTS

On completion of this Deed the Developer shall pay the reasonable legal expenses incurred by the LPA in the preparation and negotiation of this Deed.

7. REGISTRATION

The LPA shall register this Deed in its Register of Local Land Charges as soon as practicable after the date of this Deed.

8. WAIVER

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

9. RELEASE

No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have parted with their interest in the Site (or part of the Site in respect of which such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

10. DISPUTE RESOLUTION

In the event of any dispute or difference arising between any of the Parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be governed by Clause 9 of the Original Agreement.

11. THIRD PARTIES

The Parties intend that no terms of this Deed may be enforceable pursuant to the Contract (Rights of Third Parties) Act 1999 by any person who is not a Party to this Deed.

12. JURISDICTION

This Deed of Variation including its construction, validity, performance and enforcement and any dispute arising or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes and claims) shall be governed by and interpreted in accordance with English law.

13. **DELIVERY**

The provisions of this Deed (other than this Clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

SCHEDULE 1

VARIATIONS TO THE ORIGINAL AGREEMENT

The Original Agreement shall be varied and supplemented as follows:-

1. The definition of "Affordable Workspace Lease" shall be deleted and replaced with the following:

means the lease of the Affordable Workspace between the Owner and the Affordable Workspace Provider for a minimum term of 125 years at a peppercorn rent

2. The definition of "Affordable Rent" shall be deleted and replaced with the following:

means the rent the Developer or the Affordable Workspace Provider charges their end tenant which shall not exceed 70% of market rent (where market rent is the rent which the tenancy might reasonably be expected to fetch at that time on the open market) (excluding utilities, service charge and business rates) on an annual basis in perpetuity

SCHEDULE 2

FURTHER VARIATIONS TO THE ORIGINAL AGREEMENT

1. In paragraph 2.1 of Schedule 1, replace "116" with "126".
2. The following definitions shall be deleted from Schedule 6: "Affordable Rent"; "Affordable Workspace"; "Affordable Workspace Lease"; "Affordable Workspace Plan"; "Affordable Workspace Provider" and "Affordable Workspace Scheme".
3. In the definition of "Workspace" in Schedule 6, the wording "1,433 metres square" shall be replaced with "1,908 metres square" and the wording "(excluding the Affordable Workspace)" shall be deleted.
4. In the definition of "Employment Building Delivery Penalty" in Schedule 6, the wording "and/or the Affordable Workspace" shall be deleted.
5. In the definition of "Employment Building Delivery Penalty Notice" in Schedule 6, the wording "and/or the Affordable Workspace" shall be deleted.
6. Delete paragraph 3 of Schedule 6 in its entirety.

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

EXECUTED as a Deed (but not delivered until dated) by affixing the Common Seal of **LONDON LEGACY DEVELOPMENT CORPORATION** in the presence of:-

)
)
)
A HUNTSWILL
Authorised signatory



EXECUTED as a Deed (but not delivered until dated) by **CASL STOUR RD (LONDON) PROPERTY OWNER LIMITED** acting by two Directors or a Director and the Secretary:-

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)
)
)
)
Director

Director/Secretary

EXECUTED as a Deed (but not delivered until dated) by **INVESTEC BANK PLC** acting by two Directors or a Director and the Secretary:-

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Director

Director/Secretary