

Dated 26 April 2023

THE COUNCIL OF THE CITY OF MANCHESTER

- and -

CAPITAL AND CENTRIC (ADORED) LIMITED

AGREEMENT

pursuant to Section 106 Town and Country Planning Act 1990
relating to Talbot Mill, 44 Ellesmere Street
in the City of Manchester

City Solicitor
Manchester City Council
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA

L/BH/EVD3001/3984

THIS AGREEMENT is made the 26th day of April 2023

BETWEEN THE COUNCIL OF THE CITY OF MANCHESTER of Town Hall, Albert Square, Manchester ("the Council") of the first part CAPITAL AND CENTRIC (ADORED) LIMITED (company registration number 10387770) whose registered office is situated at Capital & Centric, Phoenix, 72 Chapeltown Street, Manchester, M1 2EY (the "Owner" which expression shall include the successors in title and assigns of the Owner) of the second part

WHEREAS

- A The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated and is minded to grant the Planning Permission subject to the completion of this Agreement
- B The Owner is the registered proprietor with title absolute of the freehold of the Land and other land registered under title number LA112888 at the Land Registry
- C The Owner has submitted the Application to the Council and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- D The Council has recognised the difficulty faced by lower income groups in buying homes within the Administrative Boundaries of Manchester and the planning purpose of this Agreement is to increase the provision of affordable housing within the Administrative Boundaries of Manchester The Owner has agreed to make provision for affordable housing in the manner hereinafter appearing The Council is satisfied that the obligations in this Agreement are,
 - (a) necessary to make the Development acceptable in planning terms (including where appropriate, obligations necessary to mitigate the adverse impacts of the Development in accordance with the development plan for the area and other material considerations),
 - (b) directly related to the Development; and
 - (c) fairly and reasonably related in scale and kind to the Development and in any event
 - (d) will secure other planning benefits;

NOW THIS DEED WITNESSETH as follows

1 In this Agreement unless the context otherwise requires the following words and expressions and phrases shall have the meanings hereby ascribed to them

“Act” shall mean the Town and Country Planning Act 1990 (as amended)

“Administrative Boundaries of Manchester” shall mean all the wards that together comprise the city of Manchester

“Affordable Housing” shall have the meaning given to it in the Policy and in the NPPF Annex 2 Glossary as may be amended or any replacement of the same

“Affordable Housing Contribution” shall mean the contribution towards the provision of Affordable Housing within the Administrative Boundaries of Manchester in the sum of £50,000 (fifty thousand pounds) and for the purpose of any other costs and expenses in connection with or incidental to the same

“Agreement” shall mean this agreement

“Application” shall mean the application for planning permission received by the Council under reference number 134193/JO/2022

“Buildings” shall mean the Buildings A, B, C and E referred to in the definition of “Development” in this Agreement which are shown as “a”, “b”, “c” and “e” respectively in Plan 2

“Commencement Date” shall mean the date upon which the Development is commenced by the carrying out of a material operation as defined in section 56 of the Act and “Commence Development”, “Commencement” and “Commencement of Development” shall have the corresponding meaning and

	Commencement shall be deemed to have taken place whether it takes place on the Land or the immediately adjacent land that is to be developed pursuant to the Planning Permission
"Commencement Notice"	means written notice given by the Owners to the Council within 14 days of Commencement stating that Commencement has taken place and specifying the date of Commencement
"Development"	shall mean the variation of conditions 2 (Approved Plans), 3 (Contract for Building Works), 4 (Archaeology), 6 (Contaminated Land), 7 (LLA), 8 (CMP), 10 (Materials), 11 (Public Realm), 12 (Drainage), 14 (TV Reception), 15 (Detailed Design), and 23 (CIS) attached to the planning permission referenced 117595/FO/2017 to allow the following amendments: omission of Mill 1 extension, reduction of Mill 2 extension, increase in height of new building, changes to fenestration of the new building and Mill 1; replacement of Worsley Street entrance to new build with one apartment, and landscape changes, including the relocation of the sub-station and Time Keeper's Lodge
"First Development"	shall mean the development of the Land and land immediately adjacent to the Land pursuant to the planning permission issued under reference 117595/FO/2017 and substantially comprising the conversion of the Talbot Mill complex to create 114 residential

	apartments (Use Class C3), including rooftop extensions to Mill 1 and Mill 2, and a rear extension to Mill 1, demolition of Buildings A, B and C, retrospective application for demolition of Building E, erection of a 9 (nine) storey building plus 1 basement level, to provide 88 residential apartments (Use Class C3), creation of new landscaped courtyard, lighting and other associated works
"Land"	shall mean the land against which this Agreement by Deed may be enforced and being all that land being Talbot Mill, 44 Ellesmere Street, Manchester, M15 4JY as shown edged red on the attached Plan 1
"Management Fee"	shall mean 15% of the planning application fee to be used for the purpose of management and monitoring of this Agreement and the Planning Obligations contained herein
"NPPF"	the National Planning Policy Framework (NPPF) first published on 27 March 2012 and updated on 24 July 2018, 19 February 2019 and 20 July 2021 (as may be updated or replaced with an equivalent policy from time to time) being the framework setting out the Government's planning policies for England and how these are expected to be applied
"Plan 1"	shall mean the plan annexed hereto marked Plan 1 and showing thereon edged red the Land

"Plan 2"	shall mean the plan annexed hereto and marked "Plan 2" and showing thereon the Buildings
"Planning Agreement"	shall mean a planning agreement relating to the Land dated 22 March 2018 and made between the Council (1) and the Owner (2)
"Planning Obligations"	shall mean the obligations of the Owner specified in the First Schedule to this Agreement
"Planning Permission"	shall mean full planning permission under the Act for the Development to be granted pursuant to the Application
"Policy"	shall mean "Providing for Housing Choice-Supplementary Planning Document and Planning Guidance" adopted on 2 September 2008 as the same may be amended or replaced
"Second Development"	shall mean the variation of the condition numbered 2 (drawings) of the planning permission issued under reference 117595/FO/2017 to allow the following amendments relocation and extension of Time Keeper's Lodge, landscape changes, increase in height of new building, changes to fenestration on the new building and on the extension to Mill 1, and additional windows to outrigger
"Second Planning Agreement"	shall mean a Deed of Variation of the Planning Agreement relating to the Land made pursuant to s106 and s106A of the Act and

	dated 13 February 2019 and made between the Council (1) and the Owner (2)
"Second Planning Permission"	shall mean full planning permission under the Act for the Second Development granted under reference 121351/JO/2018 on 13 February 2019
"Stakeholder"	shall mean the Council's City Treasurer and his authorised officers
"Stakeholder Account"	shall mean an account held by the Council's City Treasurer and his authorised officers at Barclays Bank plc in which the monies paid under the Planning Obligations are held
"Working Day"	shall mean any day apart from Saturday and Sunday, Christmas Day, Good Friday and any statutory Bank Holiday

- 2 A reference in this Agreement to an act of Parliament or to any order, regulation, statutory instrument or the like shall include a reference to any amendment or re-enactment of the same
3. Words importing the masculine gender include the feminine gender and vice versa and words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa
- 4 Any headings or side notes are for ease of reference only and shall not affect the construction of this Agreement
- 5 Where in this Agreement 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 Agreement
- 6 If any party to this Agreement comprises more than one party then that party shall be jointly and severally liable under this Agreement.
- 7 Words denoting an obligation on a party to this Agreement to do any act matter or thing include an obligation to procure that it be done and words placing a party to

this Agreement under a restriction include an obligation not to permit or allow infringement of that restriction

- 8 This Agreement is made in pursuance of Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers and enactments which may give validity hereto and facilitate the enforcement of the obligations and provisions herein contained
- 9 The Owner consents to its interest in the Land being bound by this Agreement and covenants with the Council in the terms set out in the First Schedule to this Agreement, those covenants being planning obligations under section 106 of the Act and enforceable by the Council
- 10 The Owner covenants with the Council to pay to the Council on the date hereof such sum as notified in respect of the Council's legal costs in connection with this Agreement Receipt by the Council of the payment of such sum shall not create any lawyer-client type contractual relationship between the Council and the Owner nor absolve the Owner from any liability or obligation imposed upon them by the terms of this Agreement or by statute or at common law
- 11 The Owner covenants with the Council to pay to the Council on the date hereof the Management Fee in the sum of £35 10 (thirty five pounds and ten pence). In consideration of the management fee received pursuant to the Planning Agreement and of the agreement of the Owner set out in the following sentence the Council agrees to accept the management fee received in lieu of the Management Fee The Owner agrees that the Council may apply the management fee received for the purpose of the management and monitoring of the planning obligations contained in this Agreement, the Planning Agreement or the Second Planning Agreement
- 12 The Council covenants with the Owner to issue the Planning Permission on the date hereof
- 13 Nothing herein contained or implied shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of its functions as a local authority and the rights, powers, duties and obligations of the Council under all public and private statutes, byelaws, orders and regulations may be fully and

effectually exercised in relation to the Land or any part thereof and any works executed thereon as if this Agreement had not been executed by the Council and in particular nothing in this Agreement shall restrict the Council and any other authority from exercising powers of compulsory purchase in respect of any part of the Land

14 No failure or delay by the Council to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy

15 In respect of the sums payable by the Owner to the Council under the Planning Obligations, the Council covenants with the Owner.

15 1 to pay such sums into the Stakeholder Account and hold such sums therein until the withdrawal of such sums as may be required for the purposes specified in the Planning Obligations

15 2 to use such sums withdrawn from the Stakeholder Account solely and exclusively for the purposes specified in the Planning Obligations

15 3 to repay to the Owner (here meaning the party or parties who shall have actually paid such sum) such amount of the sums which have not been expended excluding any such sums in respect of which though not yet expended the Council has contractually committed to expend in accordance with the provisions of this Agreement within 10 (ten) years of the Commencement Date or date of receipt by the Council of such payment (and where payment is made by instalments the date of receipt shall be deemed to be the date upon which the last instalment is received), whichever is the later, together with interest at the Bank of England base rate from time to time from the date of expiration of this ten year period (the "retention period") to the date of refund

15 4 Upon receipt by the Council of a written request from the Owner received within the final year of the retention period to provide a written statement summarising what the sums received have been spent on and detailing any sums remaining unexpended within 21 days of the Councils receipt of

such a request provided that the number of such requests shall not exceed four

16. No person who is not a party to this Agreement may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law
17. If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement
18. Any approval given by the Council under this Agreement or for the purposes of this Agreement shall not be deemed to be approval for any other purpose whatsoever.
19. Nothing in this Agreement prohibits or limits the right to develop any part of the Land in accordance with a planning permission, other than the Planning Permission, granted after the date of this Agreement, whether or not pursuant to an appeal
20. The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.
21. This Agreement shall be governed by and interpreted in accordance with the laws of England
22. This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development
23. If any sum payable to the Council under the terms of this Agreement is not paid at the time specified herein the party responsible for making the payment shall pay to the Council interest on such sum calculated on a daily basis and compounded quarterly from the due date until payment at the rate of 4% per annum over

Barclays Bank plc base rate from time to time in force and such amount shall be recoverable by action as a liquidated sum

- 24 This Agreement, the Planning Agreement and the Second Planning Agreement each impose a planning obligation on the Owner to pay to the Council the Affordable Housing Contribution. The Council acknowledges that it has received the Affordable Housing Contribution

- 24.1 The Council agrees that

- 24.1.1 if the Land is developed pursuant to the planning permission issued under reference 117595/FO/2017 then it will accept the Affordable Housing Contribution that has been received in lieu of the planning obligation to pay the Affordable Housing Contribution contained in this Agreement and the First Planning Agreement, and

- 24.1.2 if the Land is developed pursuant to the Second Planning Permission then it will accept the Affordable Housing Contribution that has been received in lieu of the planning obligation to pay the Affordable Housing Contribution contained in this Agreement and the Planning agreement, and

- 24.1.3 if the Land is developed pursuant to the Planning Permission then it will accept the Affordable Housing Contribution that has been received in lieu of the planning obligations to pay the Affordable Housing Contribution contained in the Planning Agreement and First Planning Agreement

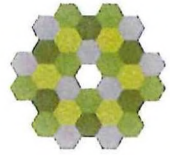
- 25 All correspondence in connection with this Agreement shall be sent to the Council at the following address or such other address as may be notified from time to time: Planning and Building Control Department, Ref 134193/JO/2022, Manchester City Council, PO Box 532, Town Hall, Manchester, M60 2LA

IN WITNESS whereof this Agreement has been executed as a deed in the manner hereinafter appearing and delivered the day and year first before written

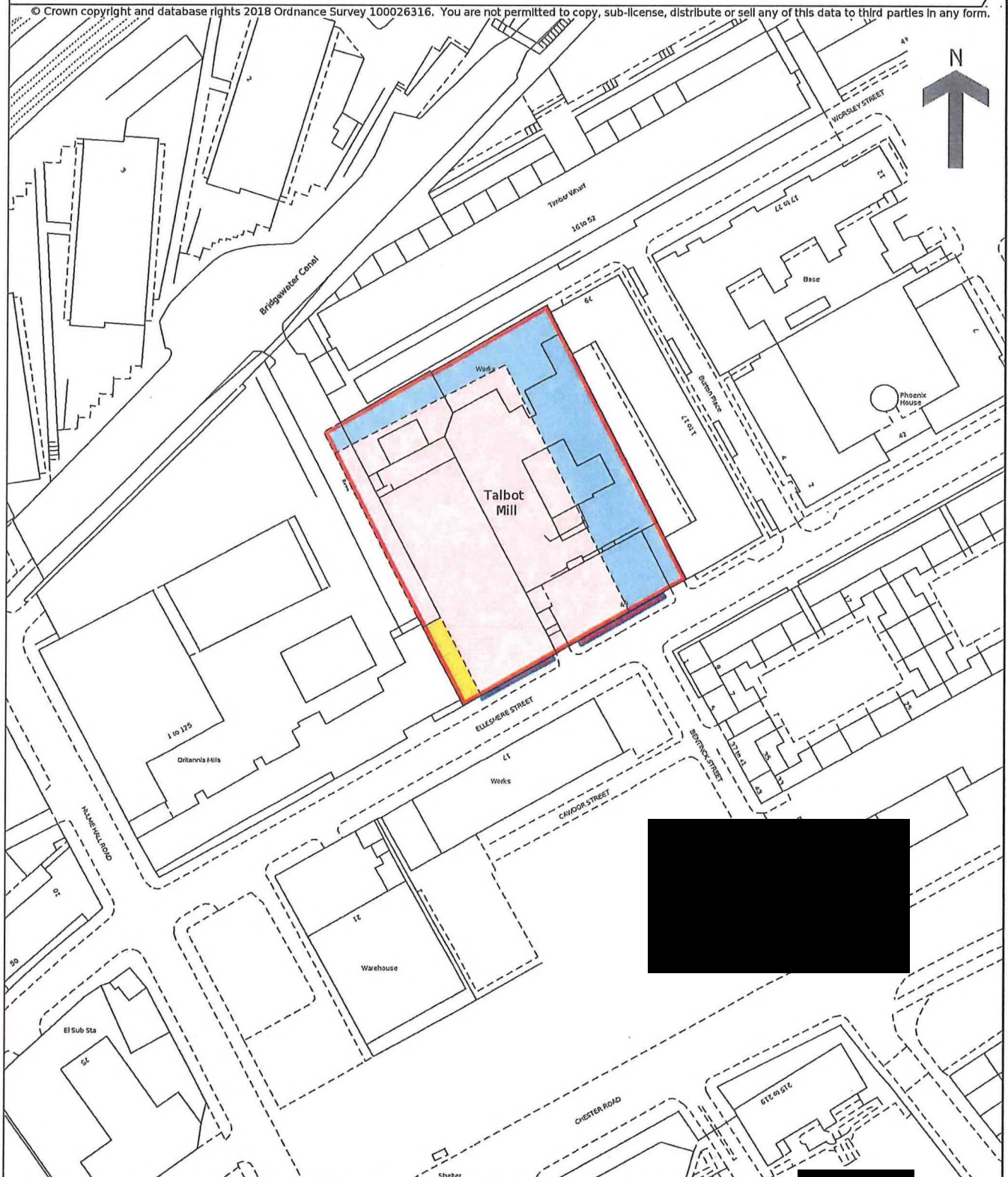
FIRST SCHEDULE

HM Land Registry
Official copy of
title plan

Title number **LA112888**
Ordnance Survey map reference **SJ8297SE**
Scale **1:1250**
Administrative area **Greater Manchester :**
Manchester



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Plan 1

mill 02 mill 01

 to be removed/demolished

 whole block/structure demolitions

- a engine house
- b 20th century additions
- c one storey extension of modern construction
- d time keeper's lodge
- e existing outbuildings

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project	select mid
client	capital & civic
drawing number	100 011
scale	1:250 @ 1
status	information

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THE PLANNING OBLIGATIONS

The Owner covenants with the Council to pay to the Council on the date hereof the Affordable Housing Contribution.

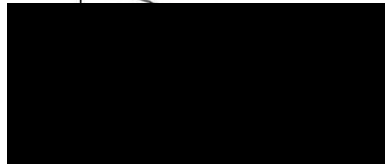
SECOND SCHEDULE

The Council covenants with the Owner:
that the Affordable Housing Contribution received pursuant to the provisions of the First Schedule shall be used by the Council in such manner as the Council in its absolute discretion considers appropriate for the provision of Affordable Housing within the Administrative Boundaries of Manchester.

THE COMMON SEAL of THE COUNCIL OF THE CITY OF MANCHESTER was hereunto affixed in pursuance of an Order of the Council of the said City:

01119493

Authorised Signatory



EXECUTED AS A DEED by CAPITAL AND CENTRIC (ADORED) LIMITED
acting by a director

DIRECTOR

Signature:

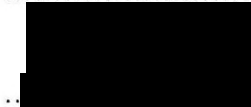


Name: (in block capitals)

ASHLEIGH

IN THE PRESENCE OF

Signature:



Name (in block capitals)

J M DOBB

Address



Occupation

OFFICE MANAGER