

SCHEDULE 9

Forms for Confirmatory Deeds 1 and 2

CONFIRMATORY DEED FORM 1

(for use where the Brent Cross Partners or CRL or their successors in title are entering into the deed)

(Agreement may be made pursuant to section 106)

DATE

2 []

- (1) THE MAYOR AND BURGESSES OF THE LONDON
BOROUGH OF BARNET
- (2) TRANSPORT FOR LONDON
- (3) []

S106 CONFIRMATORY DEED

Made pursuant to S106 of the
Town and Country Planning Act 1990
relating to
the redevelopment of the Brent Cross Cricklewood
regeneration area London NW2

applicable to the Land and its development in accordance with the Permission and/or any relevant Section 73 Permission) are intended to be made enforceable by TfL against the Covenantor and to be binding in respect of the Land in accordance with the terms of this Confirmatory Deed and the Initial Planning Agreement.

- (D) **Clause 6** of the Initial Planning Agreement requires the Developers and the Brent Cross Partners and CRL or such of them as shall acquire any freehold or leasehold and/or any equitable interests in respect of any part of or interest in the Site shall (inter alia) enter into complete and deliver to the LBB a confirmatory deed substantially in the form of this Confirmatory Deed so as to make such interests in such land subject to those planning obligations which remain to be complied with and relate to that part of the Site.
- (E) In accordance with Condition 6 of the Permission and Clause 6 of the Initial Planning Agreement the Covenantor intends in this Confirmatory Deed to covenant to observe perform and comply with (and that the Land shall henceforth be subject to and bound by) the obligations covenants agreements and other provisions contained in the Initial Planning Agreement (insofar as relevant and applicable to the Land and its development in accordance with the Permission and/or any relevant Section 73 Permission and the terms of the Initial Planning Agreement) insofar as they remain to be complied with and relate to the Land.
- (F) The Land lies within the [*Details to be Inserted*] Zone(s) and is within Phase(s) [*Details to be Inserted*] on the Phasing Parameter Plan.

OPERATIVE PROVISIONS

1 OPERATION OF THIS CONFIRMATORY DEED

1.1 This Confirmatory Deed and the obligations contained in it are:

- 1.1.1 made pursuant to section 106 of the Town and Country Planning Act 1990 as planning obligations and the other provisions referred to in the Initial Planning Agreement;
- 1.1.2 executed by the Covenantor so as to bind and subject its estate or interest in the Land (as detailed in Schedule 1) to the obligations covenants agreements and other provisions contained in the Initial Planning Agreement (insofar as relevant and applicable to the Land and

its development in accordance with the Permission and/or any relevant Section 73 Permission);

1.1.3 enforceable in accordance with the Initial Planning Agreement against the Covenantor and its successors in title to the Land by the LBB acting as the local planning authority;

1.1.4 enforceable by TfL (where applicable) in accordance with the Initial Planning Agreement and to the same extent and for the same purposes as the obligations specified in the Initial Planning Agreement;

1.2 For the purposes of this Confirmatory Deed the term "Initial Planning Agreement" shall mean the Initial Planning Agreement dated [XX] 2010 as modified or amended by the deeds of modification listed in Part 2 of Schedule 2 to this Confirmatory Deed.

2 The Covenantor's Obligations

2.1 The Covenantor hereby covenants agrees and undertakes that its estate or interest in the Land shall henceforth be bound by the obligations covenants agreements and other provisions contained in the Initial Planning Agreement as if the Covenantor were a party to the Initial Planning Agreement when it was executed by the parties as listed in Part 1 of Schedule 2 (subject to the same terms and conditions set out in the Initial Planning Agreement including any clauses that limit or release the liability of any person in the Initial Planning Agreement) insofar as such terms and obligations covenants agreements and other provisions remain to be complied with in accordance with the Initial Planning Agreement which are expressed to bind the whole or any part of the Site or any specified Phase Sub-Phase Plot or other part of the Site (or the Development) which includes the Land or the part of the Development to be accommodated or located on the Land.

2.2 Where the Covenantor does not have vested in it all estates and interests in the part of the Site to which such obligations covenants agreements and other provisions relate it shall only be liable under clause 2.1 above for a breach of any obligation covenant agreement and other provisions in the Initial Planning Agreement if and to the extent that its estate or interest in the Land and any other relevant part of the Site enables or requires it to comply with such obligation covenant agreement and/or other provisions PROVIDED NEVERTHELESS that nothing in this Clause 2.2 shall undermine or reduce the liability of the Covenantor in respect of any breach of any joint and several

covenants contained in the Initial Planning Agreement by the Developers and/or by the Brent Cross Partners and/or by CRL which shall bind the Land in accordance with this Confirmatory Deed as a part of the Site or the Development (including any Phase or Sub-Phase of the Development or any Plot Development) which is bound by the obligations covenants agreements and other provisions contained in the Initial Planning Agreement.

3 Compliance by the LBB and TfL

- 3.1 LBB and TfL shall comply with their respective obligations in the Initial Planning Agreement in so far as they affect or are relevant to the Land and the relevant part of Development which relates to the Land and the Covenantor's covenants under this Confirmatory Deed.

4 Miscellaneous Provisions

- 4.1 All words and phrases in this Confirmatory Deed shall bear the same meaning as defined in the Initial Planning Agreement except where defined otherwise in this Confirmatory Deed.
- 4.2 This Confirmatory Deed shall be registrable as a local land charge by the LBB.
- 4.3 The Covenantor shall pay to the LBB on completion of this Confirmatory Deed the LBB's and TfL's reasonable legal costs incurred in the negotiation preparation and execution of this Confirmatory Deed (insofar as such costs have not previously been paid).
- 4.4 No provision of this Confirmatory Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 4.5 Any invalidity illegality or unenforceability of any clause or paragraph in the Initial Planning Agreement or this Confirmatory Deed shall not affect the validity or enforceability of the remaining provisions in this Confirmatory Deed.
- 4.6 This Confirmatory Deed shall immediately cease to have effect if and to the extent that the Initial Planning Agreement shall cease to have effect and in any such circumstance all reference to this Confirmatory Deed is to be removed from the local land charges register.

IN WITNESS of the above [] has executed this Deed the day and year first above written

EXECUTED AS A DEED by)
[*Insert relevant Details*] acting by)
two Directors or a Director and the Secretary)

Director

Director/Secretary

EXECUTED AS A DEED by THE MAYOR AND
BURGESSES OF THE LONDON BOROUGH OF BARNET
acting by [*Insert relevant Details*]

EXECUTED AS A DEED by TRANSPORT FOR LONDON
Acting by [*Insert relevant Details*]

[TfL to be a party where applicable]

SCHEDULE 1

Details of the Land and interests to which this Confirmatory Deed relates

SCHEDULE 2

THE INITIAL PLANNING AGREEMENT AND RELEVANT DEEDS OF MODIFICATION

PART 1 – THE INITIAL PLANNING AGREEMENT AND PREVIOUS CONFIRMATORY DEEDS.

Date	Parties	Details of Interests in the Site already bound in the Initial Planning Agreement or in subsequent Confirmatory Deeds.
<i>[Details to be Inserted]</i>		

PART 2 – DEEDS OF MODIFICATION RELEVANT TO THE LAND.

Date	Parties	Summary of effect of the modification and the parts of the Site and/or the Development to which it relates
<i>[Details to be Inserted]</i>		

CONFIRMATORY DEED FORM 2

(ONLY AN AGREEMENT CAN BE USED)

(for use where the interest of the person entering the confirmatory has not been acquired through or under the interests of the Developers Brent Cross Partners or CRL after the date of the Initial Planning Agreement)

DATE

2 []

- (1) THE MAYOR AND BURGESSES OF THE LONDON
BOROUGH OF BARNET
- (2) TRANSPORT FOR LONDON
- (3) []

S106 CONFIRMATORY DEED

Made pursuant to S106 of the
Town and Country Planning Act 1990
relating to
the redevelopment of the Brent Cross Cricklewood
regeneration area London NW2

to the Land and its development in accordance with the Permission and/or any relevant Section 73 Permission) are intended to be made enforceable by TfL against the Covenantor and to be binding in respect of the Land in accordance with the terms of this Confirmatory Deed and the Initial Planning Agreement.

- (D) This agreement is required under **Condition 6.1** of the Planning Permission and Clause 6.3 of the Initial Planning Agreement to enable the Development to be carried out in the Phase of which the Land forms a part.
- (E) In accordance with Clause 6.3 of the Initial Planning Agreement the Covenantor intends in this Confirmatory Deed to covenant to observe perform and comply with (and that the Land shall henceforth be subject to and bound by) the obligations covenants agreements and other provisions contained in the Initial Planning Agreement (insofar as relevant and applicable to the Land and its development in accordance with the Permission and/or any relevant Section 73 Permission and the terms of the Initial Planning Agreement) insofar as they remain to be complied with and relate to the Land.
- (F) The Land lies within the [*Details to be Inserted*] Zone(s) and is within Phase(s) [*Details to be Inserted*] on the Phasing Parameter Plan and the Covenantor will accordingly be binding itself to the obligations covenants agreements and other provisions relating to or binding the Developers and [*the Brent Cross Partners*¹] and/or [*CRL*²] in accordance with the Initial Planning Agreement.

OPERATIVE PROVISIONS

1 OPERATION OF THIS CONFIRMATORY DEED

1.1 This Confirmatory Deed and the obligations contained in it are:

1.1.1 made pursuant to section 106 of the Town and Country Planning Act 1990 as planning obligations and the other provisions referred to in the Initial Planning Agreement;

1.1.2 executed by the Covenantor so as to bind and subject its estate or

¹ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

² Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

interest in the Land (as detailed in Schedule 1) to the obligations covenants agreements and other provisions contained in the Initial Planning Agreement (insofar as relevant and applicable to the Land and its development in accordance with the Permission and/or any relevant Section 73 Permission);

1.1.3 enforceable in accordance with this Confirmatory Deed and the Initial Planning Agreement against the Covenantor and its successors in title to the Land by the LBB acting as the local planning authority;

1.1.4 enforceable by TfL (where applicable) in accordance with this Confirmatory Deed and the Initial Planning Agreement and to the same extent and for the same purposes as the obligations covenants agreements and other provisions specified in the Initial Planning Agreement.

1.2 For the purposes of this Confirmatory Deed the term "Initial Planning Agreement" shall mean the Initial Planning Agreement dated [XXX] 2010 as modified or amended by the Deed of Modification listed in Part 2 of **Schedule 2** to this Confirmatory Deed.

2 The Covenantor's Obligations

2.1 The Covenantor hereby covenants agrees and undertakes (for itself and its successors in title to the Land) that its estate or interest in the Land shall henceforth be bound by the obligations covenants agreements and other provisions contained in the Initial Planning Agreement and expressed as being obligations of (or covenants or agreements made by) "the Developers" and/or [the Brent Cross Partners³] [CRL⁴] as if the Covenantor were a party to the Initial Planning Agreement when it was executed by the Parties as listed in Part 1 of Schedule 2 (subject to the same terms and conditions set out in the Initial Planning Agreement) insofar as such terms and obligations covenants agreements and other provisions remain to be complied with in accordance with the Initial Planning Agreement which are expressed to bind the whole or any part of the Site or any specified Phase Sub-Phase Plot or other part of the Site (or the

³ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

⁴ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

Development) which includes the Land or the part of the Development to be accommodated or located on the Land.

2.2 For the avoidance of doubt any references in the Initial Planning Agreement to "the Developers" and [the "Brent Cross Partners"⁵] ["CRL"⁶] (as the case may be) shall be read to the extent required in accordance with this Confirmatory Deed as including references to the Covenantor.

2.3 Where the Covenantor does not have vested in it all estates and interests in the part of the Site to which such obligations covenants agreements and other provisions relate it shall only be liable under clause 2.1 above for a breach of any obligation covenant agreement and other provisions in the Initial Planning Agreement if and to the extent that its estate or interest in the Land and any other relevant part of the Site enables or requires it to comply with such obligation covenant agreement and/or other provisions PROVIDED NEVERTHELESS that nothing in this Clause 2.3 shall undermine or reduce the liability of the Covenantor in respect of any breach of any joint and several covenants contained in the Initial Planning Agreement by the Developers and/or by the Brent Cross Partners and/or by CRL which shall bind the Land in accordance with this Confirmatory Deed as a part of the Site or the Development (including any Phase or Sub-Phase of the Development or any Plot Development) which is bound by the obligations covenants agreements and other provisions contained in the Initial Planning Agreement.

2.4 Without prejudice to the requirements of clause 2.2 of this Confirmatory Deed the Covenantor covenants and agrees for itself and its successors in title so as to bind its estate or interest in the Land as follows:

2.4.1 To pay to the LBB on Commencement of any part of the Development on the Land the sum of £ *[amount to be inserted by LBB]* as a reasonable, proportionate and fair contribution towards the costs already incurred and/or to be incurred by the Developers and/or [the Brent Cross Partners⁷] [CRL⁸] under the terms of the Initial Planning

⁵ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

⁶ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

⁷ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

Agreement and/or any Necessary Consents (including the Permission and any Section 73 Permission and any relevant Additional Planning Permission and Alternative Energy Permission) in making or providing the relevant financial contributions, Critical Infrastructure, environmental improvements, Supplemental Transport Measures and other mitigation measures (including works related to proposed or existing highways and other ways) as detailed in Schedule 3 to this Confirmatory Deed.

- 2.4.2 For the avoidance of doubt it is agreed and declared by the Covenantor the LBB and TfL that in determining the reasonable, proportionate and fair contribution payable in accordance with Clause 2.4.1 the matters taken into account included the type and amount of development proposed in respect of the Land, its likely effects and the likely extent to which such development of the Land and persons occupying, using and visiting it will utilise and/or benefit from such Critical Infrastructure, environmental improvements, Supplemental Transport Measures and other mitigation measures provided and/or to be provided by the Developers and/or [the Brent Cross Partners⁹] [CRL¹⁰] and provided and to be provided with financial contributions from any of the Developers).
- 2.4.3 It is hereby agreed and declared by the LBB and TfL that the payment of the contribution in accordance with Clause 2.4.1 shall be in lieu of the obligations of the Developers and/or [the Brent Cross Partners¹¹] [CRL¹²] to provide and/or make the payments and/or contributions towards the cost of Critical Infrastructure and other mitigation measures Supplemental Transport Measures and other environmental improvements in accordance with the clauses and paragraphs and provisions of the Initial Planning Agreement as listed in Schedule 3 to

⁸ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

⁹ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

¹⁰ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

¹¹ Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

¹² Delete as appropriate according to the part of the Site and/or Phase of the Development in which the Land is located and the covenants of either the Brent Cross Partners and/or CRL which are relevant to such part of the Site or Phase of the Development.

this Confirmatory Deed but shall otherwise be without prejudice to the obligation of the Covenantor under Clause 2.1 of this Confirmatory Deed to observe and perform all other relevant obligations in accordance with the Initial Planning Agreement.

3 Compliance by the LBB and TfL

3.1 The LBB and TfL agree separately with the Covenantor that if and insofar as as relevant to the Land and the development of it in accordance with the Permission (and any Section 73 Permission) they will comply with their respective obligations covenants agreements and undertakings contained in the Initial Planning Agreement if and to the extent that they affect or apply or relate to the Land and the obligations covenants agreements and/or other provisions under the Initial Planning Agreement which the Covenantor shall have undertaken in accordance with the terms of this Confirmatory Deed.

3.3 The LBB shall hold the sums that are paid to it in accordance with Clause 2.4.1 of this Deed as stakeholder in accordance with its obligations under **Paragraph 3 of Schedule 4** to the Initial Planning Agreement.

4 Miscellaneous Provisions

4.1 All words and phrases in this Confirmatory Deed shall bear the same meaning as defined in the Initial Planning Agreement except where defined otherwise in this Confirmatory Deed.

- 4.2 This Confirmatory Deed shall be registrable as a local land charge by the LBB.
- 4.3 The Covenantor shall pay to the LBB and TfL on completion of this Confirmatory Deed their reasonable legal costs incurred in the negotiation preparation and execution of this Confirmatory Deed.
- 4.4 No provision of this Confirmatory Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 4.5 Any invalidity illegality or unenforceability of any clause or paragraph in the Initial Planning Agreement or this Confirmatory Deed shall not affect the validity or enforceability of the remaining provisions in this Confirmatory Deed.
- 4.6 This Confirmatory Deed shall immediately cease to have effect if and to the extent that the Initial Planning Agreement ceases to have effect and in any such circumstance all reference to this deed shall be removed from the local land charges register.

IN WITNESS of the above [] has executed this Deed the day and year first above written

EXECUTED AS A DEED by)
[*Insert relevant Details*] acting by)
two Directors or a Director and the Secretary)

Director

Director/Secretary

EXECUTED AS A DEED by THE MAYOR AND
BURGESSES OF THE LONDON BOROUGH OF BARNET
acting by [*Insert relevant Details*]

EXECUTED AS A DEED by TRANSPORT FOR LONDON

Acting by [*Insert relevant Details*]

[TfL to be a party where applicable]

SCHEDULE 1

Details of the Land and interests to which this Confirmatory Deed relates

SCHEDULE 2

THE INITIAL PLANNING AGREEMENT AND RELEVANT DEEDS OF MODIFICATION

PART 1 – THE INITIAL PLANNING AGREEMENT AND PREVIOUS CONFIRMATORY DEEDS.

Date	Parties	Details of Interests in the Site already bound in the Initial Planning Agreement or in subsequent Confirmatory Deeds.
	<i>[Details to be Inserted]</i>	

PART 2 – DEEDS OF MODIFICATION RELEVANT TO THE LAND.

Date	Parties	Summary of effect of the modification and the parts of the Site and/or the Development to which it relates
	<i>[Details to be Inserted]</i>	

SCHEDULE 3

THE COVENANTOR'S CONTRIBUTION AND ITEMISED LIST OF PROVISIONS TO WHICH IT RELATES

INITIAL PLANNING AGREEMENT: CLAUSE/PARA REFERENCE.	SUMMARY OF OBLIGATION	TOTAL LIABILITY INCURRED OR TO BE INCURRED by THE DEVELOPERS AND/OR <i>BXP</i> AND/OR <i>CRL</i> ¹³ IN RESPECT OF THE RELEVANT PHASE(S)	COVENANTOR'S CONTRIBUTION IN LIEU

¹³ Delete as appropriate.