

H M LAND REGISTRY

LAND REGISTRATION ACTS 1925 - 1986

DEED OF GRANT OF ESTATE RENTCHARGE

LONDON BOROUGH : Enfield
TITLE NUMBERS : EX 295569 and EGL 3527733
PROPERTY : Former Royal Ordnance Factory Ordnance
Road Enfield
DATED *first August* 1997

1. DEFINITIONS:-

In this Deed:-

- 1.1 "the Grantor" shall mean FAIRVIEW NEW HOMES PLC whose registered office is at 50 Lancaster Road Enfield Middlesex EN2 0BY and shall where the context so admits include the Successors in Title of the Grantor (as defined in paragraph 1.10) to the Property and every part of it
- 1.2 "the Residents' Association" shall mean ENFIELD ISLAND VILLAGE RESIDENTS ASSOCIATION LIMITED whose registered office is at 50 Lancaster Road Enfield Middlesex EN2 0BY and shall where the context so admits include the successors in title to the rentcharges hereby granted
- 1.3 "the Residents Association Areas" shall mean the areas of land within the Estate comprising the riverside walkway the river wall the Estate sewers and drains and the private roads and any other land within the Estate from time to time transferred to the Residents Association
- 1.4 "the Housing Trust" shall mean LONDON & QUADRANT HOUSING TRUST whose registered office is at Osborn House Osborn Terrace London SE3 9DR

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- 1.5 "the Assurance" shall mean the Transfer or Transfers to be made of the Residents Association Areas between the Grantor (1) and the Residents' Association (2)
- 1.6 "the Estate" shall mean all land in respect of which the Grantor is the registered proprietor under Title Number EX 295569 and EGL 3527733
- 1.7 "the Property" shall mean all the Estate now vested in the Grantor (other than the Residents Association Areas to be transferred by the Assurance)
- 1.8 "the Managing Agents" shall mean the Managing Agents for the time being of the Association or if none the Residents' Association
- 1.9 "Successors in Title of the Grantor" shall mean every purchaser from the Grantor of a freehold or ground rent leasehold interest (as hereinafter defined) in any part of the Property for a term exceeding seven years and the successors in title of any such purchaser or lessee
- 1.10 "Ground Rent Leasehold Interest" shall mean an original lease granted by the Grantor or the Housing Trust
- 1.11 "Clause" and "Schedule" shall mean a clause or schedule of this Deed

BACKGROUND

- A. The Grantor intends to complete the Assurance (whether by one or more transfers) upon the laying out and completion of the Residents Association Areas
- B. The Grantor intends that the major part of the Property shall be developed for housing (in part for the Housing Trust) and wishes to secure the proper maintenance of the Residents Association Areas

- C. The Residents' Association has agreed that following the Assurance it will provide maintenance services in consideration of the grant to it of the rentcharges as hereinafter appears

OPERATIVE PROVISIONS

- 1 In consideration of the covenants by the Residents' Association herein contained the Grantor with full title guarantee hereby grants to the Residents' Association a perpetual yearly estate rentcharge (authorised by the Rentcharges Act 1977) comprised of:

- 1.1 a fixed sum of One Pound (£1.00) and
- 1.2 a variable sum (hereinafter called "the variable sum") computed annually to the 31st day of March in each year representing the Residents' Association's expenses outgoings and other heads of expenditure as set out in Part II of the Second Schedule such sum to be calculated and paid under the terms of the First Schedule

such rentcharge to be charged upon and issuing out of the Property PROVIDED THAT if the said rentcharge hereby granted or any part thereof shall be unpaid for twenty one days after becoming payable (whether formally demanded or not) it shall be lawful for the Residents Association at any time thereafter to enter upon the Property or such part thereof in respect of which the relevant part of the rentcharge is unpaid but without prejudice to the right of action of the Residents' Association in respect of any breach of the Grantor's covenants herein contained

- 2
- 2.1 The Grantor hereby covenants with the Residents' Association to pay the rentcharge hereby granted at the time and in the manner specified
 - 2.2 The Grantor hereby further covenants with the Residents' Association to observe such reasonable rules and regulations for the common enjoyment of The Residents Association Areas as the Residents' Association may from time to time prescribe

3

3.1 The Grantor hereby further covenants with the Residents' Association that (following the Assurance) upon the transfer of or grant of a Ground Rent Leasehold Interest of or the creation of a charge on the Property or any part of the Property or upon devolution of the legal estate therein however arising other than by way of the grant or transfer of a tenancy for less than seven years the Grantor will forthwith thereafter give to the Residents' Association or its Solicitors notice in writing thereof with full particulars thereof and shall pay a reasonable fee but not less than fifteen pounds (£15.00) together with VAT thereon for the registration of such notice and the Residents' Association covenants with the Grantor that upon receipt of such notice duly given as aforesaid (provided that at that time there shall be no arrears of rentcharge) it shall give to the persons lodging the same a certificate in accordance with clause 3.2 hereof

3.2 The Parties hereby apply to the Chief Land Registrar to enter a restriction on the Proprietorship Register of the title to the Property as follows:-

"Except under order of the Registrar no disposition by the Proprietor of any part of the land in this title is to be registered unless a certificate is given by either:

- (a) a Director or Secretary or other authorised officer of the Residents' Association or its successors in title that the provisions of Clause 3.1 of the Rentcharge dated _____ referred to in Entry No. _____ in the Charges Register have been complied with or
- (b) by a Solicitor or Licenced Conveyancer acting for the Resident's Association or its successors in title that the Grantor has complied with the provisions of Clause 3.1 aforesaid"

3.3 The Residents' Association hereby covenants with the Grantor that it will not transfer the Residents' Association Areas or the benefit of the rentcharge hereby granted except by a transfer or lease containing a covenant by the transferee or lessee to observe and perform the covenants on the part of the Residents' Association (including this covenant) contained in this Deed as far as they relate to the land thereby transferred or leased

- 4 In consideration of the grant of the rentcharges hereinbefore contained the Residents' Association hereby covenants with the Grantor that the Residents' Association will perform and observe the covenants and each of them set out in Part 1 of the Second Schedule hereto

PROVIDED ALWAYS:-

- 4.1 that the Residents' Association shall remain liable for the covenants on its part contained in this Deed so as long as it shall remain the owner of the rentcharge hereby granted but on transferring the said rentcharge the Residents' Association shall cease to be personally liable on the said covenants
- 4.2 that the Residents' Association shall not be liable for any breach of the covenants contained in this Deed unless and until a notice in writing has been received by the Residents' Association specifying the breach and the Residents' Association has had a reasonable opportunity to remedy the same
- 4.3 that no owner of a freehold or any leasehold interest in any part of the Property shall be entitled to enforce any of the said covenants while any sums payable by such owner pursuant to the terms of this Deed are in arrear or the such owner is otherwise in substantial breach of the covenants on its part contained in this Deed

- 5 It is hereby agreed and declared that:-

- 5.1 The Residents' Association shall not be liable or responsible for any loss or damage suffered by the Grantor or other visitor or employee of the Grantor or any other person including any other person occupying the Property by reason of any act neglect or default of the Residents' Association or of any agent contractor employee or licensee of the Residents' Association by reason of theft or otherwise from any part of The Residents Association Areas or by reason of any defect or want of repair in The Residents Association Areas or any part thereof or in any equipment provided thereon or the absence of lighting in or upon The Residents Association Areas or any part thereof or from any other cause except insofar as any such liability may be recovered

under any insurance policy referred to in Clause 2 of Part 1 of the Second Schedule

- 5.2 The Residents' Association shall hold each proportion of the variable sum paid to it pursuant to the First Schedule in trust for the Grantor and its successors in title in the due proportion as stated in Clause 1 of such Schedule until each such proportion is expended and shall have the powers to invest such monies as are set out in the Third Schedule
- 5.3 If any sums to be paid by the Grantor under the terms of this Deed or any part thereof shall be unpaid after becoming payable the Grantor shall pay to the Residents' Association interest upon such sum or sums as shall remain unpaid at the rate of five per cent (5%) per annum above the base rate from time to time of Barclays Bank Plc calculated on a day to day basis from the date of the same becoming due down to the date of payment but without prejudice to the operation of the right of re-entry hereinbefore contained or any other such right of the Residents' Association in respect of non-payment of such sums
- 5.4 Every Successor in Title of the Grantor being the owner for the time being of a freehold or a Ground Rent Leasehold Interest shall be treated as subject to an estate rentcharge of a fixed sum of one pound (£1) and a proportion of the variable sum calculated in accordance with paragraph 1 of the First Schedule and where there exist in respect of an individual property both a freehold and a Ground Rent Leasehold Interest the estate rentcharge shall be payable in respect of that property only by the owner of the Ground Rent Leasehold Interest save that if he defaults the freeholder may be required to pay it

- 6 In case at any time any dispute shall arise between the Residents' Association the Grantor or any other owners or occupiers for the time being of any other parts of the Estate relating to The Residents Association Areas or any part thereof or any other matters contained in this Deed then such dispute shall be referred for the determination and award of a Surveyor appointed by the Residents' Association whose determination and award shall be final and binding on the Grantor and any other parties to the dispute and such Surveyor shall be entitled to require and be paid his

proper fee in respect of each such reference such fee to be borne as the Surveyor shall award

THE FIRST SCHEDULE

(Computation of the variable sum)

- 1 The variable sum shall be the whole of the Residents' Association's expenses and outgoings and other heads of the expenditure and reserves in relation to the Residents Association Areas as set out in Part II of the Second Schedule in respect of each Rentcharge Year and shall be estimated and adjusted as hereinafter provided PROVIDED ALWAYS that following the sale by the Grantor of any freehold or Ground Rent Leasehold Interest in any part of the Property the proportion of the variable sum payable by the purchaser (or lessee) shall be calculated by the application of the following formula

1.1 in the case of each residential unit $\frac{1}{Y} \times F$

where Y = the total number of residential units to be built on the Property when fully developed
F = the total of the Residents' Association Expenditure for the relevant year

and the balance of F in respect of parts of the Property retained by the Grantor shall be payable by the Grantor (subject to apportionment in respect of any part of the Property sold or let as aforesaid by the Grantor during the course of a Rentcharge Year)

- 2 A Rentcharge Year shall mean every twelve month period ending on the 31st day of March
- 3 3.1 Prior to the commencement of each Rentcharge Year (other than the first) the Residents' Association or its managing agents shall compute the Annual Estate Rentcharge Provision for such Rentcharge Year and give to the Grantor details of such computation

- 3.2 The Annual Estate Rentcharge Provision shall consist of a sum comprising:-
- 3.2.1 the expenditure estimated by the Residents' Association as likely to be incurred in the Rentcharge Year by the Residents' Association for the purposes mentioned in the Second Schedule with;
- 3.2.2 an appropriate amount determined by the Residents' Association as a reserve for or towards those matters specified in Part II of the Second Schedule as are likely to give rise to expenditure after such Rentcharge Year being matters which are likely to arise either only once or at intervals of more than one year
- 3.2.3 but reduced by such amount (if any) as the Residents' Association at the date of computation intends to draw from the said reserve during the Rentcharge Year
- 4 The Grantor will pay to the Residents' Association on account of the variable sum the due proportion of the Annual Estate Rentcharge provision by one instalment in advance on demand in each Rentcharge Year
- 5 5.1 After the end of each Rentcharge Year the Residents' Association or its managing agents shall determine the Rentcharge Adjustment calculated and payable as set out in the next following sub-clause
- 5.2 The Rentcharge Adjustment shall be the amount (if any) by which the estimate under Clause 3.2:1 above shall have exceeded or fallen short of the actual expenditure in the Rentcharge Year
- 5.3 The Grantor shall be allowed or shall on demand pay as the case may be the due proportion of the Rentcharge Adjustment
- 6 A certificate signed by the Residents' Association or its managing agents as to the amount of the Annual Estate Rentcharge Adjustment for any rentcharge Year shall be conclusive (save in the case of a manifest error) of such amount. In giving such certificate the Residents' Association or its managing agents shall not be performing any arbitral function and shall not be acting as an arbitrator and the provisions of the Arbitrations Acts 1950 and 1979 shall not apply
- 7 7.1 If in the opinion of the Residents' Association it should at any time become necessary or equitable so to do the Resident's Association shall have power

to recalculate on an equitable basis the variable sum and to notify the Grantor accordingly

- 7.2 In such case as from the date specified in such notice the variable sum so notified shall be substituted for any previously notified variable sum and all references in this Deed to the variable sum shall be construed as references to the variable sum as so altered

THE SECOND SCHEDULE

PART I

(Obligations of the Residents' Association)

Subject to the due performance by the Grantor of its obligations to pay the recharges granted in manner herein provided the Residents' Association will:-

- 1 keep and maintain the Residents Association Areas river banks canal basin and related surrounding area riverside walkway and other walkways the river wall the landscaped ecological areas and public open space the Estate sewers private pumping station headwall and drains the play areas and the private lighting on the Estate in good condition and/or as reasonably required by the Local Authority or the Grantor and its successors in Title
- 2 effect insurance against the liability of the Residents' Association and the Grantor and its successors in title or third parties in respect of the Residents Association areas against such other risks and in such amount and through such insurers underwriters and through such agency as the Residents' Association shall in its absolute discretion think fit
- 3 light cleanse and maintain the estate roads bridges and footpaths not intended to be adopted in good repair and all service installations laid in or under the Property and across the Estate to which the service installations of the Dwellings connect

PART II

- 1 The expenses incurred by the Residents' Association in carrying out its obligations under Part I of this Schedule

- 2 The costs of employing contractors to carry out any of the Residents' Association's obligations under this Deed or if any repairs renewals maintenance or cleaning are carried out by the Residents' Association itself its normal charge (including reasonable profit) in respect thereof
- 3 The fees and disbursements paid to any Surveyor or managing agents by the Residents' Association in respect of the management of the Residents Association Areas or in connection with the collection and administration and investment of the rents hereby granted
- 4 The fees and disbursements paid to any Accountant Solicitor or other professional person in relation to the preparation auditing or certification of any account of the costs expenses outgoings and matters referred to in this Schedule and the collection of the rents granted by this Deed
- 5 All other expenses (if any) incurred by the Residents' Association in or about the maintenance and proper and convenient management and running of the Residents Association Areas including in particular but without prejudice to the generality of the foregoing any interest paid on any money borrowed by the Residents' Association to defray any expense incurred by it and specified in this Part of this Schedule
- 6 Any Value Added Tax or tax of a similar nature payable in respect of any costs expenses outgoings or matters falling within any paragraph of this Schedule
- 7 Such sum as shall be estimated by the managing agents or if none the Residents' Association (whose decision shall be final) to provide a reserve to meet any costs expenses outgoings and matters mentioned in the foregoing paragraphs which the managing agents or if none the Residents' Association anticipate will or may arise
- 8 A reasonable sum for administrative expenses and where no managing agents are appointed management expenses to be retained by the Residents' Association PROVIDED THAT such sum may be determined from time to time by a Chartered Accountant to be appointed (on the application of the Residents' Association) by the President for the time being of the Institute of Chartered Accountants in England and Wales whose determination shall be final and binding on the parties hereto for the period stated in such determination or if none is stated until another such determination is made

- 9 Paying any rates or taxes which may be assessed or charged on the variable rent charge or upon any property from time to time owned by the Association

THE THIRD SCHEDULE

(The Residents' Association's Powers of Investment)

- 1 1.1 The Residents' Association shall have power in its discretion to invest all sums paid to it as hereinbefore provided on deposit with or loans to any recognised Bank (within the meaning of the Banking Acts 1979 or any Statutory modification or re-enactment thereof) or Building Society or with a Local Authority
- 1.2 The Residents' Association may at its discretion
- 1.2.1 place or invest such sums or any part thereof jointly with other funds on a single account or holding
 - 1.2.2 place such sums or investments in the name of a nominee
 - 1.2.3 employ a Stockbroker Bank or other investment adviser to advise on and manage the investment of such sums and delegate to such manager the powers of investment of the Residents' Association as aforesaid
 - 1.2.4 pay the fees of such investment manager in addition to any commission which may be payable to him
 - 1.2.5 exercise the same powers of investment in respect of service charge monies which are intended for current expenditure and do not represent reserves


EXECUTED AS A DEED by)
 ENFIELD ISLAND VILLAGE)
 RESIDENTS ASSOCIATION)
 LIMITED in the presence of:-)

Director *Walter Hominer Limited - MTH - Director*

Director/Secretary *Walter Registrars Limited*

The Common Seal of FAIRVIEW
NEW HOMES PLC was herewith
affixed in the presence of:-

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)

Director *Andrew Simpson* 

Director/Secretary *A. C. Taylor*

