

DATED

2021

Ted Living Limited

and

Dun Laoghaire-Rathdown County Council

DRAFT / Section 47 Agreement

Build to Rent Premises at the former Tedcastles site and DunLeary House (a Proposed Protected Structure), Dun Laoghaire

McCann FitzGerald

Solicitors

Riverside One

Sir John Rogerson's Quay

Dublin 2

BNMS\36415275.2

MEMORANDUM OF AGREEMENT made on the 2021

BETWEEN:

- (1) Ted Living Limited of Riverside One, Sir John Rogerson's Quay, Dublin 2, D02 X576 (the "**Developer**") of the one part; and
- (2) Dun Laoghaire-Rathdown County Council (the "**County Council**") of the other part.

RECITALS:

- (A) The Developer applied to An Bord Pleanála for Strategic Housing Development for permission under the Planning and Developments Acts, 2000 to 2021 ("Planning Acts") to develop 146 no. Build-To-Rent apartments with associated ancillary development, including works to Dun Leary House, which application was dated [•] ("Development") at lands at the former Tedcastles site and DunLeary House (a Proposed Protected Structure), Old Dun Leary Road, Cumberland Street and Dun Leary Hill, Dun Laoghaire ("Development Site").
- (B) An Bord Pleanála granted permission, Register Reference [•] dated [•] ("Planning Permission") pursuant to the Planning Acts for the Development subject to certain conditions as described in the Planning Permission, a copy of which is included at Appendix A.
- (C) The Developer and the County Council, as planning authority for the functional area in which the Development Site is located, have agreed to enter into this agreement pursuant to condition no. **[insert condition number]** of the Planning Permission and Section 47 of the Planning Acts in relation to the use of the 146 no. Build-To-Rent apartments ("Relevant Development").

NOW THEREFORE IT IS AGREED AND DECLARED as follows:

1. The application for planning permission of the Developer dated the [•] (the plans, drawings and documents referred to therein) and the Planning Permission, are hereby incorporated in this Agreement and shall be read and construed therewith.
2. This Agreement shall bind the Developer and its Assignees and Successors in title and all persons claiming through or under it in accordance with the provisions of Section 47 of the Planning Acts.

Section 47 of the Planning Acts

3. In accordance with condition no. **[insert condition number]** of the Planning Permission and in accordance with Section 47 of the Planning Acts and in accordance with Section 5.0 of the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments published December 2020, the Developer hereby covenants and agrees with the County Council to restrict and regulate the Relevant Development for the period of 15 (fifteen) years¹ from the date of the Planning Permission (the "Term") as follows:
 - (a) the Relevant Development shall remain owned by a single entity (which, for the avoidance of doubt, may be a separate entity from the operator of the Relevant Development);²

¹ The period specified in SPPR 7 of the Apartment Guidelines.

² The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines.

- (b) the Relevant Development shall remain operated by a single entity (which, for the avoidance of doubt, may be a separate entity from the owner of the Relevant Development);³
 - (c) no individual residential unit may be sold separately⁴ (save to a group company of the said single entity within the definition of holding company or subsidiary company under sections 7 and 8 of the Companies Act 2014 and/or any financial institution which provides debt funding to the said single entity in respect of the Relevant Development);
 - (d) no individual residential unit may be sub-let separately;⁵
 - (e) upon expiry of the Term, any of the individual residential units may be sold individually or collectively without the need for any further planning permission;⁶ and
 - (f) **[if necessary, any other conditions or matters to be agreed as part of the planning process]**
4. Nothing in Clause 3 of this Agreement shall prohibit:
- (a) sale of the entire of the Relevant Development to a single entity;⁷
 - (b) leasing of units in accordance with section 96(3)(b)(iva) of the Planning Acts, to satisfy the requirements of the County Council under Part V of the Planning Acts;⁸ or,
 - (c) the owner of the Relevant Development from leasing individual residential units as part its investment in the Relevant Development as a long term commercial rental undertaking.⁹
5. Upon expiry of the Term, the Developer shall be discharged from its obligations under this Agreement. Upon the written request of the Developer, the County Council shall provide an acknowledgment in writing of the satisfactory compliance by the Developer with its obligations under this Agreement.

³ The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines.

⁴ The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines.

⁵ The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines.

⁶ The requirement explained at paragraph 5.12 of the Apartment Guidelines.

⁷ The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines.

⁸ The requirement explained at paragraph 5.15 of the Apartment Guidelines.

⁹ The requirement explained at paragraph 5.3 of the Apartment Guidelines.

Appendix A
Planning Permission

In witness whereof the parties have executed this Deed the day and year first above written.

Present when the common seal of Ted Living
Limited was affixed to this deed and this deed
was delivered:

[Director]

[Director/Secretary]

**[County Council to confirm form of
execution clause]** Present when the common
seal of County Council was affixed to this
deed and this deed was delivered:

[Director]

[Director/Secretary]