

**DATED**

**2020**

**ES Shan Limited**

**and**

**DÚN LAOGHAIRE RATHDOWN COUNTY COUNCIL**

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**DRAFT / Section 47 Agreement**

**Build to Rent Premises on lands at 'Abingdon', Shankill**

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**BETWEEN:**

- (1) ES Shan Limited (Company registration Number 647515) having its registered office at Marine House, Clanwilliam Court, Dublin 2, D02FY24 (“**Developer**”); and
- (2) **DÚN LAOGHAIRE RATHDOWN COUNTY COUNCIL** having its principal offices at County Hall Road, Dún Laoghaire, County Dublin (“**County Council**”).

**RECITALS:**

- (A) The Developer applied to An Bord Pleanála for Strategic Housing Development for permission under the Planning and Developments Acts 2000 to 2019 (“**Planning Acts**”) pursuant to a planning application dated [ • ] to develop four apartment blocks comprising 193 no. Build-To-Rent apartments (“**Development**”) at Abingdon, Shankill (“**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 hereto.
- (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 XXXXX no. Build-To-Rent apartments

**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 successors in title and assigns 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 March 2018, the Developer hereby covenants and agrees with the County Council to restrict and regulate the Development for the period of 15 (fifteen) years<sup>1</sup> from the date of the Planning Permission (the “**Term**”) as follows:
  - (a) each Relevant Development shall remain owned and operated by a single entity;<sup>2</sup>
  - (b) no individual residential unit within a Relevant Development may be sold separately<sup>3</sup> (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);
  - (c) no individual residential unit in a Residential Development may be sub-let separately;<sup>4</sup>

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<sup>1</sup> The period specified in SPPR 7 of the Apartment Guidelines.

<sup>2</sup> The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines

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

<sup>4</sup> The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines

- (d) upon expiry of the Term, any of the individual residential units in a Residential Development may be sold individually or collectively without the need for any further planning permission;<sup>5</sup>and
  - (e) **[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 a Relevant Development to a single entity;<sup>6</sup>
  - (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;<sup>7</sup> or,
  - (c) the owner of a Relevant Development from leasing individual residential units as part its investment in a Relevant Development as a long term commercial rental undertaking.<sup>8</sup>
5. Upon expiry of the Term, the Developer shall be discharged from its obligations under this Agreement in respect of the Relevant Development. 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 with respect to each relevant Development.

**IN WITNESS** whereof the parties have executed this Deed the day and year first above written.

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<sup>5</sup> The requirement explained at paragraph 5.11 of the Apartment Guidelines.

<sup>6</sup> The requirement explained at paragraph 5.3 and required by SPPR 7 of the Apartment Guidelines.

<sup>7</sup> The requirement explained at paragraph 5.12 of the Apartment Guidelines.

<sup>8</sup> The requirement explained at paragraph 5.3 of the Apartment Guidelines

**Appendix**

**Planning Permission**

-attached-

**PRESENT** when the Common Seal of  
**xxxxxxx**  
was affixed to this Deed and this deed  
was delivered:

)  
)  
) Director \_\_\_\_\_  
) \_\_\_\_\_  
)  
) Director / Company Secretary \_\_\_\_\_  
) \_\_\_\_\_

**PRESENT** when the Common Seal of  
**DUN LAOGHAIRE-RATHDOWN COUNTY COUNCIL**  
was affixed hereto:

\_\_\_\_\_  
Cathaoirleach na Comhairle  
Chontae Dhun Laoghaire-Rath an Duin

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Approved Officer

\_\_\_\_\_  
County Council Official,  
County Hall, Dun Laoghaire