

DATED

2023

ORIGINALLY ENTERED INTO 9 JANUARY 2013

AMENDED AND RESTATED MEMBERS AGREEMENT

(“the Agreement”)

RELATING TO

**MILTON KEYNES DEVELOPMENT PARTNERSHIP LLP
(MKDP LLP)**

THIS AGREEMENT was originally entered into on 9 January 2013 and was subsequently amended on 28 September 2018 and with effect from 1 September 2023 this Agreement is made between:

(A) MILTON KEYNES CITY COUNCIL of Civil Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ (“MKCC”)

(B) DEVELOPMK LIMITED of Civil Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ (“DEVELOPMK”)

(together the “**LLP Members**”)

(C) MILTON KEYNES DEVELOPMENT PARTNERSHIP LLP of Civil Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ (“MKDP LLP”)

BACKGROUND

1. MKCC and Andrew Joseph Geary (former leader of MKCC) formed the LLP to hold specified assets and to promote the development of such assets in line with MKC’S vision for the future of Milton Keynes.
2. MKCC, Andrew Joseph Geary (AJG) and MKDP entered into an LLP Members Agreement dated 9 January 2013 for the purposes therein narrated (“the 2013 Agreement”).
3. On 1 July 2014 AJG resigned and Peter Marland (PM) was appointed Leader of the Council, in which capacity he also replaced AJG as one of the Members of MKDP.

4. On 25 March 2020, DEVELOPMK was incorporated and replaced PM as a Member of MKDP.
5. This Agreement was originally entered into on 9 January 2013 and updated on 28 September 2018. The parties now wish to record various amendments to the Agreement and this version will supersede the 2013 and 2018 Agreement with effect from the date of execution hereof, and the Parties agree as follows:

OPERATIVE PROVISIONS

1. Definitions and Interpretation

- 1.1. In this Agreement, the following words and expressions shall have the following meanings:

Accounts	means the Accounts of MKDP LLP prepared and approved in accordance with Clause 6
Accounting Reference Date	means 31 March in each year or such other date agreed by the LLP Members
Business	means the business, profession, or trade of MKDP LLP and/or such other business, profession, or trade to be carried on by MKDP LLP as is approved from time to time by unanimous resolution of the LLP Members
Business Day	means a day other than a Saturday, Sunday or public holiday in England
Business Plan	means the Business Plan of MKDP LLP as agreed at the date hereof and amended from time to time
Confidential Information	means any of the following information, documents, papers or property which, at any time, comes into the possession or is under the control of the LLP Members, MKDP LLP or any LLP Board Directors or in the course of the Business and which the LLP Members and/or MKDP LLP regards or could reasonably be expected to regard as confidential, whether or not such information

is, in itself, confidential, marked as "confidential" or reduced to tangible form:

- a) any information relating to the LLP Members, MKDP LLP or the Business;
- b) any information relating to the prospective business, technical processes, computer software, intellectual property or finances of MKDP LLP;
- c) any information relating to the affairs of any clients, supplier, agent, distributor or sub-contractor of MKDP LLP;
- d) all documents, papers and property which may have been made or prepared by, or at the request of, MKDP LLP or any LLP Member or which come into MKDP LLP, LLP Board Director or any LLP Member's possession or under his control in the course of the Business; and
- e) compilations of two or more items of such information and all information which has been, or may be, derived or obtained from any such information, but shall not in each case include information which is in, or comes into, the public domain otherwise than by reason of a breach of this Agreement

Chair of the LLP Board	means the person who has been appointed by the LLP Members to chair the LLP Board Meetings
Event of Default	means all or any of the events set out in clause 13
Executive Team	means those persons who are involved in the day to day running and management of the Business
Incorporation	means the date on which MKDP LLP came into existence
LLP Act	means the Limited Liability Partnership Act 2000
LLP Auditors	means Hillier Hopkins LLP or such other firm of chartered accountants as may be

	decided by unanimous agreement of the LLP Members
LLP Bank	means National Westminster Bank Plc or such other or additional or substitute bank as may be appointed as banker to the LLP by the LLP Members
LLP Board	means the LLP Board Members who sit from time to time and who collectively are in control of MKDP LLP
LLP Board Director	means a person who sits on the LLP Board
LLP Name	means Milton Keynes Development Partnership LLP, or such other names as may from time to time be adopted by the LLP Members and notified to the Registrar of Companies under the LLP Act
LLP Premises	means the registered office of MKDP LLP
Non-Executive Director	means those persons who are appointed to the LLP Board and who bring expertise and are independent from the Executive Team
Reserved Matters	means the activities that cannot be carried out by MKDP LLP without the unanimous agreement of the LLP Members in accordance with the Reserved Matters Protocol
Terms of Reference	means the governing document of the LLP Board and the committees constituted by the LLP Board
The Owners Advisory Group	means the representatives of MKCC who meet quarterly to safeguard the interests of MKCC as the owner of MKDP
Written Resolution	means a decision taken by the LLP Board that is passed in writing rather than at a meeting of the LLP Board

2. Term of the LLP

- 2.1. MKDP LLP commenced on Incorporation and shall continue until wound up in accordance with the provisions of the Agreement.
- 2.2. MKCC and DEVELOPMK will be the only LLP Members.

3. Aims and Objectives of the LLP

- 3.1. MKDP LLP's overall purpose is to facilitate Milton Keynes' growth and the implementation of the vision for Milton Keynes future that is set out in the Council's approved Council Plan, in its Plan:MK (and any successor planning framework) and in other key Council strategies.
- 3.2. It will do so by a suitable strategy to achieve clearly defined long-term goals and objectives set by MKCC and in accordance with a three-year rolling Business Plan. These objectives will include the promotion of the appropriate development of assets transferred by the Homes and Communities Agency (Homes England) and other assets belonging to MKCC by:
 - 3.2.1. Exploring possible future uses for assets previously owned by Homes England and various assets already owned by MKCC.
 - 3.2.2. Engaging with third party developers, investors, and advisors to ensure any proposed uses are commercially viable and deliverable.
 - 3.2.3. Ensuring appropriate consultation and engagement with elected members, parish/town council and other relevant stakeholders at all times including when bringing development sites forward.
 - 3.2.4. Collaborating with other land interests to maximise the opportunities for beneficial development.
 - 3.2.5. Working collaboratively with public and private sector partners and take a proactive approach to commercial development.
 - 3.2.6. Encouraging private sector investment in Milton Keynes, whether expansion or inward investment.
 - 3.2.7. Bringing forward residential, commercial and ancillary development in line with the objectives of the Council Plan and other key strategies, particularly Plan:MK (and any successor planning framework.)

4. Business Plan

- 4.1. MKDP LLP shall prepare a Business Plan which covers a three (3) year period before the Accounting Reference Date in each year in accordance with the time scales set by MKCC.
- 4.2. The Business Plan shall be approved by MKCC and DEVELOPMK will be a consultee. On such approval, the Business Plan shall be formally adopted by MKDP LLP.
- 4.3. Changes to the Business Plan in accordance with clause 4.2, or those which are, in the reasonable opinion of the LLP Board, deemed to be non-material amendments do not require the approval of MKCC.

5. Reserved Matters

- 5.1. MKDP shall not undertake a Reserved Matter without the written approval of MKCC, obtained through the appropriate governance process agreed between MKCC and MKDP LLP.
- 5.2. Reserved Matters are:

In all circumstances:

- 5.2.1. The increase or reduction of any LLP Member's profit share
- 5.2.2. Any borrowing or lending by MKDP LLP
- 5.2.3. The charging of any land or creating any form of encumbrance
- 5.2.4. The issue of warranties, indemnities, or guarantees in the name of MKDP LLP which are unquantified or over £500,000
- 5.2.5. any sale or long lease of property owned by MKDP LLP that does not maximise the consideration in accordance with the obligations imposed through the Business Plan and/or the Development Brief process
- 5.2.6. Dissolution of MKDP LLP
- 5.2.7. A change in the nature of MKDP LLP
- 5.2.8. The creation of a subsidiary company or LLP or taking of any shares thereon
- 5.2.9. Disposing of (whether through amalgamation, merger, consolidation, sale, transfer or otherwise) all or a substantial part of the Business
- 5.2.10. Changes to the approved Business Plan subject to clause 4.3
- 5.2.11. Agreeing or approving the maximum size of the LLP Board

To the extent not provided for in the Business Plan

- 5.2.12. The opening or closing of any place of business of MKDP LLP
- 5.2.13. The entering into of any long-term agreements related to the provisions of support or granting monies.

6. Capital and Finance

- 6.1. The capital of MKDP LLP shall be £100 which was provided on Incorporation of MKDP LLP by the LLP Members in the amounts shown in Schedule 1.
- 6.2. The activities of MKDP LLP shall be financed by loans from one or more of the LLP Members. Interest on LLP Members' loans shall be payable:
 - 6.2.1. At a commercial rate, and
 - 6.2.2. With such arrangement fee.

In each case as set out in the relevant loan agreement.

7. Contributions from MKDP LLP

- 7.1. DEVELOPMK will be entitled to receive a 0.1% share of any profits of MKDP LLP available for distribution by virtue of its interest.
- 7.2. Each LLP Member's liability will be limited to the value of their capital.
- 7.3. MKDP LLP shall be responsible for managing payment of all interest instalments and making appropriate provision for the repayment of initial borrowing undertaken in respect of its assets. The level of debt outstanding must be proportionate to the level of initial capital retained.
- 7.4. Subject to there being sufficient funds available, MKDP LLP will contribute an annual distribution of the profits in accordance with the Business Plan.

8. Accounts and LLP Bank

- 8.1. The Accounts of MKDP LLP shall be made up to the Accounts Date in each year and shall be audited and settled by the LLP Auditors and approved at an LLP Board meeting.
- 8.2. The LLP Board Directors will ensure that all bank accounts required for the purposes of or in connection with the Business will be maintained with the LLP Bank and will include the LLP Name.
- 8.3. All cheques drawn on the bank accounts of MKDP LLP will be drawn in the name of MKDP LLP and also cheques and other bank transfers or other instruments must be signed by a validated officer authorised to act for MKDP LLP.

9. LLP Members Duties and Obligations

- 9.1. The LLP Members may delegate (or revoke the delegation of) all responsibility of managing or conducting the affairs of MKDP LLP to the LLP Board.
- 9.2. Any decisions taken by the LLP Members must be recorded in writing.
- 9.3. At all times, MKDP LLP shall ensure that each LLP Board Member appointed by it, will:
 - 9.3.1. Act diligently and with the utmost good faith in all transactions relating to the other LLP Members and MKDP LLP and at all times give to MKDP LLP a true account of all such dealings
 - 9.3.2. Act in the best interests of MKDP LLP
 - 9.3.3. Use the LLP Name in all business transactions relating to the Business
 - 9.3.4. Not exceed the authority conferred on it when acting on behalf of MKDP LLP
 - 9.3.5. Account to MKDP LLP for any money or thing representing money including all gifts and legacies received from a third party in the course of the LLP Business in accordance with any MKDP policy for gifts and hospitality.
 - 9.3.6. Promptly revert any monies received by them for the account of MKDP LLP
 - 9.3.7. Report Reserved Matters and ensure that the appropriate governance process is followed
 - 9.3.8. Be subject to and abide by the terms of the LLP Agreement insofar as the context may make it applicable to them.and that such obligations are included in any letter of appointment or contract with that LLP Board Member (as applicable.)
- 9.4. The LLP Members will procure that the LLP Board Director shall not (unless approval is given by MKCC):
 - 9.4.1. Use or disclose to any person any Confidential Information concerning the business, investment or affairs of the LLP or any of its clients,

- 9.4.2. Except in the ordinary course of business and for the benefit of MKDP LLP dispose by loan, pledge, sale or otherwise any of the assets of the LLP, or
- 9.4.3. Act beyond the terms of sales acquisitions and disposals of items as detailed in the Business Plan.
- 9.5. The LLP Members shall constitute an Owners Advisory Group to receive quarterly updates from MKDP and advise the Cabinet of MKCC generally and specifically on matters which require determining by virtue of MKCC's status as an LLP Member.
- 9.6. The Owners Advisory Group shall have formal Terms of Reference.
- 9.7. The LLP members are required to attend and engage constructively with the OAG including supplying required reports within timelines.
- 9.8. The LLP Members may be required to attend scrutiny meetings of MKCC.

10. The LLP Board

- 10.1. In accordance with clause 10.1 and subject to the wider provisions of this Agreement, the LLP Members shall designate the LLP Board to control and have general responsibility for strategic oversight, compliance with legislation and the operation of MKDP LLP. In addition, the LLP Board will have the general authority (subject always to compliance with Reserved Matters protocol and in accordance with the Business Plan) to:
 - 10.1.1. Develop proposals in connection with assets under its control
 - 10.1.2. Negotiate terms for the sale and leasing of assets
 - 10.1.3. Enter into formal commercial agreements
 - 10.1.4. Determine how MKDP LLP will satisfy the objectives of this Agreement in accordance with the Business Plan
- 10.2. The LLP Board will consist of the Chair of the LLP Board and a maximum of three Non-Executive Directors.
- 10.3. The LLP Members will appoint an individual with the relevant experience, expertise, and skill to be the Chair of the LLP Board.
- 10.4. The LLP Board has the general authority to appoint Non-Executive Directors with the appropriate experience, expertise, and skills (up to a maximum of three) in accordance with the relevant procedure. The

relevant procedure must include a referral to MKCC to ensure there is no well-founded objection to the appointment.

- 10.5. If for any reason there are no LLP Board Members in place, the LLP Members will have the right to appoint a replacement.
- 10.6. No LLP Board Director may serve beyond six (6) consecutive years in office, save whether the LLP Board agrees that the circumstances exist where it would be in the best interest of MKDP LLP for a LLP Board Director to serve beyond this period and there be no well-founded objection from MKCC.
- 10.7. Any Non-Executive Director having completed six (6) years' continuous service as a Non-Executive Director (or six years' continuous service plus any extended period) shall not be eligible for re-appointment for a further period of three years.
- 10.8. As per clause 4 of this Agreement, the LLP Board must seek the written approval of the LLP Members if it considers that appointing more than three Non-Executive Directors is in the best interests of MKDP LLP.

11. Expulsion and Termination of LLP Members and LLP Board Directors

- 11.1. MKDP LLP may remove LLP Board Directors at any time by giving 28 days' notice.
- 11.2. Any LLP Board Director may be expelled if they fail to attend three successive meetings of the LLP Board or as otherwise as may be directed by MKCC from time to time, in which case the LLP Board Director will be given 28 days' notice.

12. Events of Default

- 12.1. An Event of Default shall occur in relation to a party to this Agreement (the "Defaulting Party") if that party:
 - 12.1.1. Has committed a material breach of this Agreement that is incapable of remedy within 30 days ("Remedy Period"), and/or
 - 12.1.2. That party is subject to an insolvency event.
- 12.2. Where an Event of Default is either not deemed capable of remedy or has not been remedied to the reasonable satisfaction of the non-defaulting party within the Remedy Period the provisions of clause 14 shall apply.

13. Termination and Winding Up of MKDP LLP

- 13.1. Unless it is agreed otherwise in writing by the LLP Members, the winding up procedure set out in this clause 13 shall apply on the occurrence of any of the following (“Termination Events”):
 - 13.1.1.any Event of Default occurring that is not capable of being remedied or which has not been remedied or waived in accordance with clause 13,
 - 13.1.2.the written agreement of all LLP Members,
 - 13.1.3.a change of law occurs as a result of which the continuation of MKDP LLP becomes unlawful, or
 - 13.1.4.the occurrence of a winding up of MKDP pursuant to clause 13.2.
- 13.2. On the occurrence of a Termination Event, MKDP LLP shall be wound up in accordance with the relevant provisions contained in the LLP Act.
- 13.3. The costs and expenses if any accountants, solicitors, values or other professional advisers in respect of the dissolution of MKDP LLP shall be borne from the profits and incomes of MKDP LLP. If such sums are insufficient, costs will be met by MKCC and other LLP Member will have no liabilities in this regard.
- 13.4. For the purpose of section 74 of the Insolvency Act 1986 as it is applied to LLPs under the LLP Act, no LLP Member is liable to contribute to the assets of the LLP on liquidation to cover any of the matters set out in that section, and DEVELOPMK will not benefit from any asset distribution in the event of a liquidation.
- 13.5. The provisions of this Deed shall remain binding notwithstanding that the LLP has been wound up or becomes insolvent in so far as the obligations and covenants set out remain or require to be performed.

Each Party shall hereby confirm its agreement to the terms contained herein.

Signed:

Name:
On behalf of Milton Keynes City Council

Date:

Signed:

Name:

On behalf of DEVELOPMK Limited

Date:

Signed:

Name:

On behalf of DEVELOPMK Limited

Date:

**SCHEDULE 1
LLP MEMBERS**

NAME	CAPITAL CONSIDERATION	PROFIT SHARE
MILTON KEYNES CITY COUNCIL	£99	99.9%
DEVELOPMK LIMITED	£1	0.1%

SCHEDULE 2

LLP BOARD TERMS OF REFERENCE

Meetings

1. Meetings of the LLP Board must take place a minimum of 4 times per year.
2. Meetings of the LLP Board may be held in person and/or by electronic means.
3. Any LLP Board Director may, at any time, call a meeting of the LLP Board. Subject to paragraph 5 of this Schedule, an LLP Board Director must give at least five (5) Business Days' notice of any meeting.
4. Notice of LLP Board meetings shall be served on all those entitled to attend the meeting and such notice shall specify the place, day and time of the meeting. If the meeting is taking place virtually, joining instructions shall be included within the notice.
5. In the event that an urgent discussion and/or decision is required, the LLP Board Director must call a meeting in accordance with the Urgent Meeting and Decision-Making Procedure developed by the LLP Board.
6. Minutes shall be prepared of all meetings of the LLP Board and committees and shall be approved and signed by the Chair of the LLP Board or, the chair of the relevant committee. The contents of the minutes, when signed, shall be evidence of the proceedings of the meeting and the decisions of the LLP Board.

Conflicts of Interests

7. All LLP Board Directors shall declare any personal, legal or financial interest in any matter brought before the LLP Board. Whether an LLP Board Director can vote or take part in a decision in which they have an interest shall be determined by the conflicts policy for the time being in place.

Quorum

8. The Quorum for LLP Board Meetings shall be three (3).

Decision-Making

9. At each LLP Board meeting, all matters shall be determined by a vote. LLP Board Directors must indicate their vote in an appropriate manner.

10. Each LLP Board Directors shall have a vote of equal value save for the Chair of the LLP Board who has the casting vote.
11. In the event that an LLP Board Director cannot attend an LLP Board Meeting, they shall be permitted to vote by proxy in accordance with the relevant proxy policy for the time being in place.
12. Decisions of the LLP Board shall be made unanimously or by majority.
13. Where the appropriate Quorum is not present within thirty (30) minutes of the start time stated in the notice of the meeting, any decision passed at the inquorate meeting is deemed to have been passed if it is ratified later by the required majority in attendance at a duly convened quorate meeting

Written Resolutions

14. Decisions of the LLP Board for any purpose may also be affected by Written Resolution. A Written Resolution may only be passed by a majority.

Delegations

15. Subject to Clause 5 of the Agreement, the LLP Board has the express authority to delegate such acts that it thinks fit to the Executive Team for the effective management and running of the Business and in accordance with the operational, management and financial delegations' policy for the time being in place.
16. The LLP Board may constitute committees of MKDP LLP for particular purposes or periods of time. Any committee so constituted shall:
 - i. Have formal Terms of References which shall, insofar as the context admits, accord with the terms of this LLP Agreement. Where there is any discrepancy between such Terms of Reference and this LLP Agreement, the LLP Agreement shall prevail,
 - ii. Consist of representatives of LLP Members and/or those who sit on the LLP Board as determined by the LLP Board. The relevant committee shall however have the ability to invite to particular meetings or to co-opt onto the committee other persons with relevant expertise provided that there are at no time more co-opted members than Committee members,
 - iii. Consider the matters for which they have been constituted and, unless otherwise authorised by their Terms of Reference or otherwise by agreement of the LLP Board, make recommendations to the LLP Board for a decision to taking any action, and
 - iv. Report regularly to the LLP Board.

