

February 2024

London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

8.167 Section 106 Agreement (Tracked Change Version)

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.167

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**London Luton Airport Expansion Development Consent
Order 202x**

8.167 SECTION 106 AGREEMENT (TRACKED CHANGE VERSION)

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DATED

2024

- (1) LONDON LUTON AIRPORT LIMITED**
- (2) LONDON LUTON AIRPORT OPERATIONS LIMITED**
- (3) CENTRAL BEDFORDSHIRE COUNCIL**
- (4) DACORUM BOROUGH COUNCIL**
- (5) HERTFORDSHIRE COUNTY COUNCIL**
- (6) LUTON BOROUGH COUNCIL**
- (7) NORTH HERTFORDSHIRE DISTRICT COUNCIL**
- (8) ROYAL BANK OF SCOTLAND PLC**

AGREEMENT
relating to London Luton Airport
Section 106 Town and Country Planning Act 1990 and section
111 Local Government Act 1972



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TABLE OF CONTENTS

1	Interpretation	2
2	Legal Effect	7
3	Local Land Charge	87
4	Conditionality	87
5	Development Consent Obligations	8
6	Councils covenants	98
7	Release	98
8	Further Planning Permissions and Development Consent Orders	9
9	Expiry or Revocation	109
10	Certificates of Compliance	109
11	Resolution of Disputes	10
12	Notices	11
13	Notice of Authorised Development	12
14	VAT	1312
15	Approvals	1312
16	Good Faith	1312
17	Rights of Third Parties	13
18	Jurisdiction	13
19	Variations	13
20	Costs	1413
21	Counterparts	1413
22	Indexation of contributions	1413
23	Mortgagee Consent	1413

THIS AGREEMENT is dated

2024

BETWEEN

- (1) LONDON LUTON AIRPORT LIMITED (**the Applicant**) of Hart House Business Centre, Kimpton Road, Luton, Bedfordshire, LU2 0LA;
- (2) LONDON LUTON AIRPORT OPERATIONS LIMITED (**LLAOL**) of Percival House 134 Percival Way, London Luton Airport, Luton, United Kingdom, LU2 9NU;
- (3) CENTRAL BEDFORDSHIRE COUNCIL (**CBC**) of Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ;
- (4) DACORUM BOROUGH COUNCIL (**DBC**) of The Forum, Marlowes, Hemel Hempstead, Hertfordshire, HP1 1DN;
- (5) HERTFORDSHIRE COUNTY COUNCIL (**HCC**) of County Hall, Pegs Lane, Hertford SG13 8DQ;
- (6) LUTON BOROUGH COUNCIL (**LBC**) of Luton Council, Town Hall, Luton LU1 2BQ;
- (7) NORTH HERTFORDSHIRE DISTRICT COUNCIL (**NHDC**) of Council Offices, Gernon Rd, Letchworth Garden City SG6 3JF; [and](#)
- (8) ROYAL BANK OF SCOTLAND PLC (the **Mortgagee**), Level [59](#), [135250](#) Bishopsgate, London EC2M [3UR4AA](#).

together the '**Parties**'

WHEREAS

- (A) CBC is the local planning authority and highway authority for an administrative area in respect of which part of the Development is situated;
- (B) DBC is the local planning authority for an administrative area in respect of which part of the Development is situated;
- (C) HCC is the County Council and highway authority for an administrative area in respect of which part of the Development is situated;
- (D) LBC is the local planning authority and highway authority for an administrative area in respect of which the Development is situated;
- (E) NHDC is the local planning authority for an administrative area in respect of which part of the Development is situated;

together '**the Councils**'

- (F) The Applicant is the freehold owner of the interests registered at the Land Registry under title numbers BD180578, BD200841 ~~and~~ BD180578 [and HD583859](#) and has interests in land in

the areas of the Councils (save for DBC) as identified in Schedule 1 and on the [Freehold Site Plans](#) [Plan](#).

- (G) On 27 February 2023 the Applicant applied to the Secretary of State for Transport (c/o The Planning Inspectorate) under section 37 of the Planning Act 2008 for a development consent order entitled the 'London Luton Airport Expansion Development Consent Order' (the **Development Consent Order**).
- (H) There is an existing planning permission with reference 17/02300/EIA that was granted on 29 June 2021 which relates to part of the Site and a section 106 agreement dated 25 June 2021 between Luton Borough Council, London Luton Airport Limited, London Luton Airport Operations Limited and Royal Bank of Scotland Plc linked to that permission (which agreement is referred to as the **Green Horizons Park S106**).
- (I) There is an existing planning permission with reference 21/00031/VARCON that was granted on 13 October 2023 which relates to part of the Site and a section 106 agreement dated 9 December 2022 between Luton Borough Council, London Luton Airport Operations Limited, London Luton Airport Limited and the Mortgagee linked to that permission.
- (J) The Development Consent Order would enable the Applicant to acquire rights in land, to construct various works and exercise powers for the purposes of, and in connection with, the expansion of London Luton Airport in south east Luton and will extend the current operational airport with the construction of a new passenger terminal and additional aircraft stands to the north east of the runway.
- (K) LLAOL is the airport operator of the Airport pursuant to a concession agreement dated 20 August 1998 entered into with the Applicant for the management, operation and development of the airport. LLAOL is the lessee of the [Land Site](#) under leases dated 20 August 1998 and 25 February 1999 between the Applicant, LBC (not as local planning authority) and LLAOL each for a term of 30 years from 20 August 1998 and these leasehold interests are registered at HM Land Registry under title numbers BD2060481 and BD216008 respectively and subject to a charge in favour of the Mortgagee. LLAOL has interests in land ~~of~~ in the areas of the Councils (save for DBC) as identified in Schedule 1 and on the [Leasehold Site Plan](#).
- (L) The Parties enter into this Deed in order to secure the development consent obligations (within the meaning of section 106(14) of the 1990 Act, as inserted by s174(2) of the 2008 Act), section 111 of the Local Government Act 1972 and all other enabling powers.

NOW IT IS HEREBY AGREED AS FOLLOWS

1 Interpretation

1.1 In this Deed the following terms and expressions have the following respective meanings unless otherwise stated:

1972 Act means the Local Government Act 1972;

1990 Act means the Town and Country Planning Act 1990;

2008 Act	means the Planning Act 2008;
Airport	means London Luton Airport;
ANMP	means the Air Noise Management Plan [Application Document Reference: TR020001/APP/8.125] and certified under article 50 of the Development Consent Order ;
Application	means the application submitted by the Applicant to the Secretary of State on 27 February 2023, pursuant to section 37 of the 2008 Act for development consent for the London Luton Airport Expansion expansion of the airport ;
ATF Steering Group	means the Airport Transport Forum Steering Group which is the decision-making body to be established pursuant to Schedule 8 and the TRIMMA;
Authorised Development	has the meaning ascribed to the term “authorised development” within the Development Consent Order;
Business Day	means any day apart from Saturday, Sunday and any statutory bank holiday on which clearing banks are closed in England for the transaction of ordinary business;
Commencement	means the carrying out of a material operation as defined Schedule 2 of the Development Consent Order, and the words ‘Commence’ and ‘Commenced’ and cognate expressions shall be construed accordingly;
Community Fund	means the fund established by LLAOL as referred to in Schedule 40 8 and currently administered by the Bedfordshire and Luton Community Foundation under which community projects are funded within the Local Area;
Compensation Code	means the code of statute and case law used to determine the compensation (including but not limited to costs, fees, interest (as prescribed by the Acquisition of Land (Rate of Interest after Entry) Regulations 1995 or any other regulations replacing those regulations), stamp duty and VAT) to be paid to landowners and occupiers whose land or rights in land are authorised by or under any statute, to be compulsorily acquired or in which new rights may be compulsorily acquired, or whose land may be temporarily occupied, as modified by the Development Consent Order;
Councils	means Dacorum Borough Council, Central Bedfordshire Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire District Council, or (as the context may require) any one or more of them;

Departure Noise Violation Fine System	means a system to be operated pursuant to the ANMP through which such financial penalties as LLAOL considers to be reasonable are levied on an airline on any occasion when an aircraft which it operates at the Airport breaches the noise levels set in the ANMP;
Design Principles	means the Development Consent Order document with Application Document Reference: TR020001/APP/7.09 and certified under article 50 of the Development Consent Order;
Design Review Panel	means a panel appointed to conduct an independent review review of certain elements of the proposed design of the Authorised Development;
Dispute	means any dispute, issue, difference or claim as between the Parties in respect of any matter contained in or arising from or relating to this Deed or the Parties' obligations and rights pursuant to it (other than in respect of any matter of law);
Employment and Training Strategy	means the Development Consent Order document with Application Document Reference: TR020001/APP/7.05 at Appendix 4 ;
ESG	has the same meaning as in Part 1 of Schedule 2 the Development Consent Order;
Expert	means a person appointed in accordance with the provisions of Clause 11 to determine a dispute between the Parties to this Deed;
Freehold Site Plan	means the plan at Appendix 1 showing the freehold interest of the Applicant as set out in Schedule 1;
Independent Body	means the Bedfordshire and Luton Community Foundation (or an alternative body nominated by LLAOL);
Index Linked	<p>means that any sum so described in this Agreement shall be increased by an amount in proportion to the increase in the All Items Index of Retail Prices ("RPI Index") issued by the Office for National Statistics from the date of this Agreement (and for the Sports Pitch and Changing Room Re-Provision Contribution the relevant date is 25 June 2021) until the date on which such sum is paid in accordance with the following formula:</p> $X = \text{£Y} \times B/A$ <p>Where:</p> <p>X is the sum in question after application of this formula;</p> <p>£Y is the sum due under this Agreement to which this formula is applied;</p> <p>A is the value of the RPI Index last published before the date of this Agreement;</p>

and

B is the value of the RPI Index last published before sum (£Y) is paid provided that if the RPI Index shall cease to exist, there shall be substituted such other index as shall be specified by the Councils acting reasonably;

Leasehold Site Plan means the plan at **Appendix 1** showing the leasehold interest of LLAOL as set out in Schedule 1;

Local Area means together the administrative areas of Luton Borough Council, Central Bedfordshire Council, North Hertfordshire District Council, Stevenage Borough Council, St Albans City and District Council, Dacorum Borough Council and the Aylesbury Vale area of Buckinghamshire Council;

~~**Local Procurement Protocol** means the procurement procedure that forms Appendix A of the Employment and Training Strategy through which businesses in the Local Area are given the opportunity to bid and tender for the provision of goods and services to the Authorised Development without compromising commerciality and any legislative requirements and includes any update to the Local Procurement Protocol from time to time approved by the Council in accordance with Schedule 4 to this Agreement;~~

~~———— **National Highways** means National Highways Limited (Company No. 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;~~

Replacement Land means the replacement land as defined in article 35(4) of the Development Consent Order (comprising land plots 5-13 and 6-20);

~~**Residual Impact Fund** means a fund capped at £1,000,000 to be provided to fund mitigation for residual traffic related impacts that may arise from the Development in accordance with the TRIMMA;~~

Secretary of State means the Secretary of State for Transport;

Site(s) means the site(s) in which the Applicant and/or LLAOL has an interest as set out in Schedule 1 and shown on the Site Plans;

Site Plans means the ~~site plans~~ Freehold Site Plan and the Leasehold Site Plan appended to this Agreement at **Appendix 1** showing the ~~sites in which~~ freehold interest of the Applicant and ~~LLAOL has an the~~ leasehold interest of LLAOL as set out in Schedule 1;

Sports Pitch and Changing Room Re- means the sum of £1,196,737 (one million one hundred and ninety six thousand and seven hundred and thirty-seven pounds) payable in accordance with Schedule 2;

**Provision
Contribution**

STF	means the Sustainable Transport Fund to be established pursuant to Schedule 9;
Technical Panel	has the same meaning as in Part 3 of Schedule 2 of the Development Consent Order;
Track Violation Penalty System	means a system to be operated pursuant to the ANMP through which such financial penalties as LLAOL considers to be reasonable are levied on an airline on any occasion when the aircraft which it operates at the Airport deviates from the noise preferential route without specific instruction to that effect from air traffic control or other than due to adverse weather conditions or aircraft technical issue;
TRIMMA	means the Transport Related Impacts Monitoring and Mitigation Approach as approved under requirement 30 of the Development Consent Order;
Wigmore Valley Park	means for the purposes of Schedule 2 the existing Wigmore Valley Park shown cross hatched and coloured green on the plan at Appendix 2 and for the purposes of Schedule 3 the park that will occupy the land shown cross hatched and coloured orange on the plan at Appendix 3 as a result of the Authorised Development including the Replacement Land;
Wigmore Valley Park Community Trust	means the trust to be established as a registered charity for the management and maintenance of Wigmore Valley Park in accordance with Schedule 3;
Wigmore Valley Park Community Trust Operational Management Plan	means a plan to be prepared by the Applicant pursuant to Schedule 3 and approved by LBC for the ongoing management of Wigmore Valley Park;
Wigmore Valley Park Management Fund	means a fund to be established by the Applicant of £250,000 per annum to be paid to the Wigmore Valley Park Community Trust in accordance with Schedule 3 for the ongoing management of Wigmore Valley Park and for running costs associated with the Wigmore Valley Park Community Trust.

1.2 In interpreting this Deed:

- 1.2.1 words incorporating the singular shall include the plural and vice versa, words importing any gender include every gender;

- 1.2.2 words incorporating persons shall include firms, companies and corporations and vice versa;
- 1.2.3 references to the Councils shall include any successors to their relevant statutory and other functions;
- 1.2.4 references to LLAOL shall include any successors in title to LLAOL and any future operator of the Airport;
- 1.2.5 references to numbered clauses, paragraphs or schedules are unless otherwise stated references to the relevant clauses of, paragraphs of and schedules to this Deed;
- 1.2.6 references to numbered articles, schedules, parts and paragraphs of the Development Consent Order are unless otherwise stated references to the numbered articles, schedules, parts and paragraphs comprised within the draft Development Consent Order (Revision 10) comprised within the Application at the time that this agreement is made but are to be interpreted as being adjusted to the extent necessary to accord with the provisions of the Development Consent Order as made;
- 1.2.7 words denoting a requirement or an obligation on a Party to do any act, matter or thing include an obligation to procure that it can be done and words placing a party under a restriction include an obligation not to cause, permit or suffer any infringement of the restriction;
- 1.2.8 references in this Deed to statutes, by-laws, regulations, orders and delegated legislation shall include any statute, by-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same as current and in force from time to time;
- 1.2.9 if any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected, impaired or called into question;
- 1.2.10 the recitals and headings in this Deed are for ease of reference only and shall not affect its construction or otherwise have any binding legal effect;
- 1.2.11 references to 'the Parties' shall mean the Parties to this Deed and reference to a 'Party' shall mean any one of the Parties;
- 1.2.12 references to 'notice' shall mean notice in writing and notice served electronically;
- 1.2.13 references to 'including' shall mean including without limitation;
- 1.2.14 terms and expressions defined in the Schedules shall have the meanings specified wherever those terms and expressions are used in this Deed;
- 1.2.15 the Interpretation Act 1978 shall apply to this Deed.

2 Legal Effect

- 2.1 This Deed is made pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act and all other enabling powers.
- 2.2 The obligations, covenants and undertakings on the part of the Applicant in this Deed are planning obligations in the form of development consent obligations (to the extent that they are capable of so being) and as such bind the ~~land~~[Sites](#) identified in Schedule 1 for the purposes of section 106 of the 1990 Act and are enforceable as such by the relevant Councils accordingly.
- 2.3 Insofar as the obligations, covenants and undertakings are not capable of being planning obligations they are entered into by the Councils pursuant to section 111 of the Local Government Act 1972 and all other powers enabling.

3 Local Land Charge

- 3.1 This Deed is a local land charge and shall be registered as such in accordance with Schedule ~~42~~[10](#).

4 Conditionality

- 4.1 Subject to Clauses ~~4.14.2~~ and ~~4.24.3~~, the Parties agree that clauses 5, 6 (save for the obligations in Schedule ~~42~~[10](#)) and 10 shall not have operative effect until the Development Consent Order has come into force and all other clauses shall have operative effect from the date of this Deed ~~(subject to clause 4.1)~~.
- 4.2 In the event that the grant of the Development Consent Order becomes the subject of any judicial review proceedings including any approval on a redetermination:
- 4.2.1 Until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Deed will remain without operational effect unless the Authorised Development has been Commenced or the notice under article 44(1) of the Development Consent Order has been served (whichever is earlier);
- 4.2.2 if following the final determination of such proceedings the Development Consent Order is quashed and, in the event that the court orders the Application to be remitted to the Secretary of State, the Application is subsequently refused, this Deed will cease to have any further effect; and
- 4.2.3 if following the final determination of such proceedings the Authorised Development is capable of being Commenced or the notice under article 44(1) of the Development Consent Order has or is capable of being served, or after final determination the DCO is re-granted then this Deed will take effect in accordance with its terms.
- 4.3 For the purposes of this Deed, proceedings by way of judicial review are finally determined (including in respect of a redetermination):

- 4.3.1 when permission to bring a claim for judicial review has been refused and no further application may be made;
- 4.3.2 when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- 4.3.3 when any appeal is finally determined and no further appeal may be made.

5 Development Consent Obligations

- 5.1 The Applicant covenants with the Councils to perform the obligations covenants and undertakings ascribed to it in the Schedules of this Deed.
- 5.2 The Parties agree that the development consent obligations contained in this Deed will not be enforceable against any owner of any land interest in the Site who is not a party to this Deed nor against any successors in title to or permitted assignees or any person claiming through or under other such owner's interest in the Site (save for the Applicant) unless that person becomes the undertaker as defined in article 2(1) of the Development Consent Order or [as regards the obligations in clause 5.3](#) is the operator of the Airport.
- 5.3 LLAOL covenants with the Councils to perform the obligations, covenants and undertakings ascribed to it in Schedules 4, ~~9~~ and ~~10~~[8](#) of this Deed.

6 Councils covenants

- 6.1 The Councils covenant with the Applicant and LLAOL to observe and perform the obligations ascribed to them in the Schedules to this Deed.

7 Release

- 7.1 Subject to Clause 7.2 the Applicant and/or LLAOL and its successors in title and those deriving title from them shall, upon disposing of the whole or any part of their respective interests in the Site, be released from all obligations in this Deed in relation to that interest or the relevant part thereof (as the case may be) but without prejudice to the rights of the parties in relation to any antecedent breach of those obligations.
- 7.2 In the event that the Applicant no longer has an interest in the Site but is still the undertaker as defined in article 2(1) of the Development Consent Order, this Deed shall remain enforceable against it by the Councils.
- 7.3 Subject to paragraph 7.4 the Applicant shall not transfer or lease the whole or part of the benefit of the Development Consent Order pursuant to article 8 (or any remaining benefit if some of the benefit has already been transferred) with a view to the transferee or lessee becoming the undertaker for the purposes of article 2(1) of the Development Consent Order unless the party to which it proposes to effect the transfer or grant has first entered into a Deed with the Councils on terms equivalent to this Deed (and in respect of which the Councils shall not unreasonably withhold or delay their agreement) or otherwise on terms acceptable to the Councils.

7.4 A transfer or lease under article 8 of the Development Consent Order shall not invoke clause 7.3 if (i) to a body specified in article 8(4)(c) to (j) of the Development Consent Order; and/or (ii) to the extent that the planning obligations herein bind the transferee or lessee by operation of law; and/or (iii) to the extent that a covenant herein is given directly by the transferee or lessee.

8 Further Planning Permissions and Development Consent Orders

8.1 Nothing in this Deed shall be construed as prohibiting or limiting the rights of the Applicant or LLAOL to use or develop any part of the Site in accordance with and to the extent permitted by, permitted development rights, planning permission, development consent or other statutory authority other than the Development Consent Order.

9 Expiry or Revocation

9.1 If the Development Consent Order expires or is revoked prior to the Commencement Date or service of the notice under article 44(1) of the Development Consent Order then this Deed shall forthwith determine and cease to have effect and the relevant Councils will forthwith cancel all entries made in their respective registers of local land charges in respect of this Deed.

10 Certificates of Compliance

10.1 The relevant Council (as appropriate) will upon request by the Applicant certify compliance or partial compliance with the provisions of this Deed.

10.2 If so requested by the Applicant the relevant Council will, subject to the Applicant reimbursing legal costs properly and reasonably incurred by the relevant Council in connection thereto, execute a deed of release or partial release from the relevant provisions of this Deed and promptly register the same in the register of local land charges maintained by the Councils (as appropriate).

10.3 Where the relevant Council (as appropriate) is obliged to execute a deed of release or partial release pursuant to Clause 10.2, the other Parties to this Deed shall (subject to the Applicant reimbursing legal costs properly and reasonably incurred by the Councils in connection thereto) enter into such deed to the extent necessary to effect such release or partial release.

11 Resolution of Disputes

11.1 In the event of any Dispute arising between the Parties as regards this Agreement, the Parties will attempt to resolve that Dispute amicably including holding a meeting attended by at least one senior representative from each Party.

11.2 If the Parties are unable to resolve the Dispute amicably pursuant to Clause 11.1, one Party may by serving notice on all other Parties ('the Notice') refer the Dispute to an Expert for determination.

11.3 The Notice must specify:

- 11.3.1 the nature, basis and brief description of the Dispute;
 - 11.3.2 the Clause or Paragraph of this Deed pursuant to which the Dispute has arisen;
and
 - 11.3.3 the proposed Expert.
- 11.4 In the event that the disputant Parties are unable to agree whom should be appointed as the Expert within 10 Business Days after the date of the Notice then any disputant Party may request the President of the Law Society to nominate the Expert at the joint expense of the Parties in Dispute, and the Party making the request shall further request that such a nomination should be made within 10 Business Days of the request, and any failure for such nomination to be made within 10 Business Days shall entitle any Party to withdraw from the process of appointing an Expert and to refer the Dispute to the courts of England and Wales instead.
- 11.5 The Expert shall act as an expert and not as an arbitrator and the Expert's decision will (in the absence of manifest error) be final and binding on the Parties and the Parties in Dispute shall bear the costs associated with the Expert's determination of the Dispute:
- 11.5.1 in such manner as the Expert may determine and in doing so the Expert shall take into account the reasonableness of the Parties' respective positions leading to the Dispute arising between them and thereafter before its determination; or
 - 11.5.2 in the event that the Expert makes no determination as to costs, such costs will be borne by the Parties in Dispute in equal shares.
- 11.6 The Expert will be appointed subject to an express requirement that he or she reaches a decision and communicates it to the Parties within the minimum practicable timescale allowing for the nature and complexity of the Dispute and in any event not more than 28 Business Days from the date of the Expert's appointment to act.
- 11.7 The Expert will be required to give notice to each of the Parties inviting each of them to submit to the Expert within 10 Business Days written submissions and supporting material and will afford to each of the Parties an opportunity to make counter submissions within a further 5 Business Days in respect of any such submission and material.

12 Notices

- 12.1 Any notice, consent or approval required to be given under this Deed shall be in writing (in each case annotated with the reference 'London Luton Airport Expansion') and shall be sent to the address and marked for the attention of the persons identified below or instead to such other persons or address as may be notified by the Parties from time to time.
- 12.2 Any such notice must be delivered by hand or sent by first class post, registered delivery or courier service and shall conclusively be deemed, in the absence of evidence of earlier receipt, to have been received:
- 12.2.1 if delivered by hand, on the next Business Day after the day of delivery; and

- 12.2.2 if sent by first class post, registered delivery or courier service within the United Kingdom, on the day falling 2 Business Days after the day posting or dispatch, exclusive of the day of posting or dispatch.
- 12.3 The address for service of any such notice, consent or approval as aforesaid is:
- 12.3.1 in the case of service upon the Councils the address provided at the front of this Deed for the relevant Council or such other address for service as the relevant Council may from time to time designate by written notice to the other Parties and any such notice shall be marked for the attention of:
- (a) CBC ~~[]~~: [Principal Lawyer- Planning and Highways](#);
 - (b) DBC ~~[]~~: [Assistant Director- Planning](#);
 - (c) HCC: The Director of Law and Governance

~~Hertfordshire County Council~~

~~County Hall~~

~~Pegs Lane~~

~~Hertford~~

~~Herts SG13 8DE~~

Ref: 011466;
 - (d) LBC ~~[]~~: [The Section 106 Monitoring Officer](#);
 - (e) NHDC ~~[]~~: [Director of Legal & Community](#).
- 12.3.2 in the case of service upon the Applicant, the address provided at the front of this Deed or such other address for service as the Applicant may from time to time designate by written notice to the other Parties and any such notice shall be marked for the attention of the Managing Director.
- 12.3.3 In the case of service upon LLAOL the address provided at the front of this Deed or such other address for service as LLAOL may from time to time designate by written notice to the other Parties and any such notice shall be marked for the attention of the Company Secretary.
- 12.4 A Party or its successor may from time to time expressly give notice that it will accept service of notices, consents or approvals by electronic means, as specified in the notice and if it has done so, service upon that Party may (but need not) be ~~affected~~[affected](#) in the manner so specified in the last such notice in addition to, or instead of, service by hand or by any other means set out in Clause 12.2 and a document served by electronic means shall be deemed served on the next Business Day after sending.

13 Notice of Authorised Development

13.1 The Applicant shall provide notice to the Councils:

13.1.1 of the intended Commencement Date not later than 10 Business Days prior to the intended Commencement Date and the obligations in this Clause 13.1.1 shall re-apply in the event that Commencement does not occur on the intended date.

13.1.2 of the intended date of service of the notice under article 44(1) of the Development Consent Order not later than 28 Business Days prior to the intended date of service.

13.1.3 within 10 Business Days of the occurrence of each of the following:

- (a) the actual Commencement Date; and
- (b) the date of the service of the notice under article 44(1) of the Development Consent Order.

14 VAT

14.1 If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the Councils to the Applicant, then the Councils shall use reasonable endeavours to recover VAT in the first instance.

14.2 If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the Councils to Applicant then, subject to the Councils complying with Clause 14.1 the Applicant shall pay to the relevant Council or third party an amount equal to the VAT chargeable in addition to and at the same time as any payment or the provision of any other consideration for such supply upon provision of a valid VAT invoice addressed to the Applicant.

15 Approvals

Where any approval, agreement, consent, confirmation or an expression of satisfaction is required under the terms of this Deed such approval, agreement, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

16 Good Faith

The Parties agree with each other to act reasonably and in good faith in the discharge of the obligations contained in this Deed.

17 Rights of Third Parties

It is not intended that any person who is not a party to this Deed shall have any right under the Contracts (Third Parties) Act 1999 to enforce any term of this Deed ~~save that Schedule 8 of this agreement ("TRIMMA – Residual Impact Fund") may be enforced by National Highways~~

~~and by Buckinghamshire Council as prospective members of the ATF Steering Group and prospective recipients of funds allocated from the RIF.~~

18 Jurisdiction

- 18.1 This Deed including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 18.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

19 Variations

- 19.1 No variation of this Deed shall be effective unless it is in writing and duly executed on behalf of each of the Parties.

20 Costs

- 20.1 The Applicant shall, on completion of this Deed, pay the proper and reasonable legal costs incurred by the Councils in accordance with and subject to the cap in the Planning Performance Agreement entered into with the Councils on 3 September 2019.

21 Counterparts

- 21.1 This Deed may be executed in any number of counterparts, each of which is an original and all of which together evidence the same deed.

22 Indexation of contributions

- 22.1 The following payments are Index-Linked:
- 22.1.1 Sports Pitches and Changing Room Re-provision Contribution payable to LBC;
 - 22.1.2 The Wigmore Valley Park Management Fund; and
 - 22.1.3 The annual payments made under paragraph 1.1 of Schedule 5.

~~22.1.4 the STF cap and levies referred to in paragraph 0 and 0 respectively of Schedule 9.~~

23 Mortgagee Consent

- 23.1 The Mortgagee consents to LLAOL's obligations at clause 5.3 and acknowledges that the Site(s) shall be bound by them save that the Mortgagee (or any subsequent mortgagee or chargee) shall not be obliged to perform them unless it becomes a mortgagee in possession of the Site(s). The Mortgagee, and any future mortgagee of the Site(s), shall have no liability after

it has discharged the security or has disposed of the Site(s) which is subject to its security whether by sale or otherwise PROVIDED ALWAYS that the Mortgagee will not be released from any liability incurred prior to this.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

1 Site(s) (as shown on the Site Plans)

The Applicant	Title Number BD180578 - Freehold BD200841- Freehold Part of BD147909 - Freehold HD583959 - Freehold
LLAOL	BD206048 - Leasehold BD216008 - Leasehold

SCHEDULE 2

1 Re-provision of sports pitches

- 1.1 The Applicant covenants with LBC to pay the Sports Pitch and Changing Room Re-Provision Contribution to LBC on taking possession either compulsorily or by agreement where such possession restricts access to any part of Wigmore Valley Park by the public permanently for the purposes of constructing infrastructure for the purposes of expansion of the Airport [pursuant to the DCO](#) and no such possession of Wigmore Valley Park may occur until the Sports Pitch and Changing Room Re-Provision Contribution has been paid to LBC.
- 1.2 The Sports Pitch and Changing Room Re-Provision Contribution shall be used to provide a step 5 football facility (an artificial grass football pitch suitable for non-league senior football up to step 5 of the football pyramid and associated facilities including parking provision and changing rooms) at either one or more of the following locations; Stopsley/Lothair recreation ground, Luton and/or Ely Way/Lewsey Park recreation ground, Luton and/or the replacement of, or improvements to existing adult football facilities (playing pitches and supporting facilities such as changing rooms and car parking) at either one or more of the following locations: Stopsley/Lothair recreation ground, Luton and/or Lewsey Park recreation ground, Luton.
- 1.3 Should a payment be made to LBC by the Applicant relating to the Sports Pitch and Changing Room Re-Provision Contribution under Schedule 4 of the Green Horizons Park s106 the amount paid under that agreement will be set off against the Sports Pitch and Changing Room Re-Provision Contribution payable under this Agreement.
- 1.4 If any part of the Sports Pitch and Changing Room Re-Provision Contribution made under this schedule has not been applied in accordance with paragraph 1.1 of this part of this schedule by the ~~fifth~~[tenth](#) anniversary of that payment then any unspent sums shall be repaid to the Applicant forthwith whether or not requested by the Applicant and the Applicant shall be entitled to request and promptly receive from LBC at any time after the relevant anniversary full details and supporting evidence of how sums paid by the Applicant under this schedule have been applied.

SCHEDULE 3

1 Future Management of Wigmore Valley Park

1.1 The Applicant covenants with LBC:

1.1.1 to use best endeavours to establish the Wigmore Valley Park Community Trust no later than the date that the Replacement Land has been laid out and made ready for public use pursuant to a scheme submitted in accordance with article 35(1) of the Development Consent Order (failing which to do so as soon as practicable thereafter) and to do so in accordance with paragraph 1.2 as regards the membership of the Wigmore Valley Park Community Trust;

1.1.2 to act as the secretariat to the Wigmore Valley Park Community Trust as regards its responsibilities to manage Wigmore Valley Park once the Wigmore Valley Park Community Trust Operational Management Plan has been approved.

1.2 Members of the Wigmore Valley Park Community Trust shall comprise a minimum of;

1.2.1 1 LBC councillor invited by LBC;

1.2.2 1 director from the Applicant; and

1.2.3 two members of the local community who have been invited by LBC to become members of the Community Trust.

~~together the 'Trustees'~~

1.3 A Wigmore Valley Park Community Trust Operational Management Plan will be prepared by the Applicant and submitted to LBC for its approval (and for the avoidance of doubt a refusal to give such approval shall constitute a dispute) and must include inter alia provisions for the ongoing maintenance and management of Wigmore Valley Park, provisions to the effect that the Wigmore Valley Park Community Trust must comply with all relevant requirements in the Development Consent Order insofar as they relate to the management and maintenance of Wigmore Valley Park and arrangements for the governance of the Wigmore Valley Park Community Trust, including its terms of reference.

1.4 The Wigmore Valley Park Community Trust Operational Management Plan must be submitted to LBC for their approval before the Replacement Land has been laid out and made ready for public use pursuant to a scheme submitted in accordance with article 35(1) of the Development Consent Order.

1.5 ~~1.4.1~~ Subject to ~~sub-paragraph 1.6 and 1.7~~ 1.7 LBC agrees to grant a leasehold interest in Wigmore Valley Park (including for the avoidance of doubt the Replacement Land) to the Wigmore Valley Park Community Trust for a term of at least 99 years (subject to the Wigmore Valley Park Community Trust agreeing to such grant at the relevant time) once the Replacement Land has been laid out and made ready for public use pursuant to a scheme submitted in accordance with article 35(1) of the Development Consent Order.

- [1.6](#) ~~4.4.2~~ LBC agrees to procure the Wigmore Valley Park Community Trust's agreement to manage Wigmore Valley Park in accordance with the Wigmore Valley Park Community Trust Operational Management Plan as a condition of any grant under paragraph ~~4.5~~[1.5](#).
- [1.7](#) ~~4.4.3~~ If at the time LBC would be obligated to grant a leasehold interest in Wigmore Valley Park under ~~sub-~~ paragraph ~~4.5~~[1.5](#) the Applicant is the proprietor of a leasehold interest in [all of](#) Wigmore Valley Park (~~or any part of it~~) with at least 100 years remaining then the Applicant will grant a sub lease of that land to the Wigmore Valley Park Community Trust (if the said Trust is willing to accept it) for at least 99 years such sub lease to be subject to an obligation on the said trust to manage Wigmore Valley Park in accordance with the Wigmore Valley Park Operational Management Plan~~;~~.
- [1.8](#) ~~4.4.4~~ The Applicant and LBC covenant not to deal with the land comprising Wigmore Valley Park in such a way that would or is likely to frustrate the obligations in this Schedule.
- [1.9](#) ~~4.5~~ The Applicant agrees to pay the sum of £250,000 to the Wigmore Valley Park Community Trust on an annual basis with the first payment being due when the Replacement Land has been laid out and made ready for public use pursuant to a scheme submitted in accordance with article 35(1) of the Development Consent Order or when the Wigmore Valley Park Community Trust has been established and Wigmore Valley Park has been leased to it under the provisions of this schedule (if later).

SCHEDULE 4

1 Employment and Training Strategy

- 1.1 Following service of the notice referred to in article 44(1) of the Development Consent Order, the Applicant and LLAOL covenants with [the](#) Councils to carry out [its respective obligations](#) and operate the Authorised Development in accordance with the Employment and Training Strategy [Application Document Reference: TR020001/APP/7.05] [in the form appended at Appendix 4](#) and to use ~~all~~-reasonable endeavours to meet its goals.

SCHEDULE 5

1 Green Controlled Growth – Funding Elements

- 1.1 The Applicant covenants to make annual payments to ~~CBC, HCC, LBC and NHDC as those of~~ the Councils which are members of ESG and/or a Technical Panel according to the table in this Schedule (the “Table”) to assist them in meeting their obligations arising in relation to the ESG (or any successor body) and any related Technical Panel on account of the Authorised Development on the basis that doing so imposes on them additional cost burdens over and above their general duties and responsibilities and in particular discharging the obligations mentioned in the Table and any other responsibilities arising from their responsibilities on the ESG and/or a Technical Panel.
- 1.2 The payments shall be made annually, the first payment being due on the establishment of the ESG under requirement 19 of the Development Consent Order.
- 1.3 The payments made under this Schedule shall be applied by the relevant Councils for the purposes described in this Schedule and for no other purposes.
- 1.4 Should the payments made to those of the Councils who are a part of ESG and/or a Technical Panel in accordance with this Schedule 5 be exhausted the relevant Council may submit a detailed and reasoned written request to the Applicant to claim any additional costs over and above the amount paid according to the Table where the work is reasonably incurred in relation to time spent on ESG and/or Technical Panel related work and following approval of the request by the Applicant (which approval shall not be unreasonably withheld or delayed), the Applicant shall pay the additional costs to the relevant Council within 25 Business Days of the relevant claim.
- 1.5 No payments or further payments shall be due from the Applicant under this schedule to the extent that equivalent payments to serve the same purpose as those payable under this schedule are required to be made by the Applicant directly to the ESG as a corporate entity capable of receiving them.

Table

ESG	£2,500 per year per Council (3 days per year to cover involvement at a single annual ESG meeting, inclusive of prep time)
Technical Panel	£5,500 £5,000 per year per Council (7 days per year to cover attendance at public meeting, review of monitoring data, reporting, and if necessary, attendance at a single meeting)

SCHEDULE 6

1 Prospect House Day Nursery

- 1.1 The Applicant covenants with LBC that it will commission an assessment by a firm of consultants with the relevant expertise of capacity requirements in respect of nursery place provision (“the Assessment”) to ascertain whether it is necessary to replace in whole or part capacity that would be lost on account of the closure of the Prospect House Day Nursery, 140 Prospect Way, (the “Nursery”) on account of the Authorised Development.
- 1.2 The Assessment will be carried out at least eighteen months before the Applicant anticipates demolishing the building currently occupied by the Nursery (the “Nursery Building”) for the purposes of the Authorised Development.
- 1.3 A draft copy of the Assessment will be provided to LBC for comment and the Applicant and the appointed consultant will have regard to any comments made by LBC within 21 days of receipt in finalising the Assessment, a copy of which will be provided to LBC.
- 1.4 If the Assessment concludes that there is a need for nursery places to be provided on account of the closure of the Nursery on account of the Authorised Development, then the Applicant covenants with LBC that it will:
 - 1.4.1 take appropriate and reasonable steps to ensure that the Nursery is re-provided in an alternative location to meet the identified need; or
 - 1.4.2 take such alternative steps in response to the need as have been approved by LBC.
- 1.5 The Applicant shall not be obliged to take any steps under this schedule to the extent that such steps or such re-provision is provided for under the Compensation Code.
- 1.6 The Applicant shall not demolish the Nursery Building unless it has taken such steps as are required under paragraph ~~4.5~~[1.4](#) unless such steps fall to be taken after the demolition has taken place.

SCHEDULE 7

1 Compensation Policies

- 1.1 The Applicant covenants with the Councils to comply with and implement the Compensation Policies, Measures and Community First document [Application Document Reference: TR020001/APP/7.10] in the form appended at **Appendix 45**.

SCHEDULE 8

1 TRIMMA – Residual Impact Fund

- ~~1.1 The Applicant covenants with CBC, HCC, LBC and NHDC as prospective members of the ATF Steering Group that the Residual Impact Fund will be made available such that funds can be drawn down by the relevant highway authority at the request of the ATF Steering Group no later than the first meeting of the ATF Steering Group (following service of the notice referred to in article 44(1) of the Development Consent Order) in accordance with the operation of the TRIMMA.~~
- ~~1.2 The Applicant will establish the ATF Steering Group in accordance with the terms of reference set out in the TRIMMA.~~

SCHEDULE 9

1 Sustainable Transport Fund

1.1 LLAOL covenants with the Councils that:

~~1.1.1~~ the STF will be made available no later than the first meeting of the ATF Steering Group (following service of the notice referred to in article 44(1) of the Development Consent Order).

~~1.1.2~~ LLAOL will administer and collect the STF.

~~1.1.3~~ the STF will be funded through a levy imposed on on-site passenger car parking and passenger drop-off with levies of 20p per parking transaction and 30p per drop-off transaction being applied by LLAOL commencing no later than the service of the notice under article 44(1) of the Development Consent Order.

~~1.2~~ The Applicant covenants that, provided the first Travel Plan (as approved under requirement 30 of the Development Consent Order) demonstrates a need for early funding in excess of the initial revenues of the STF it will pay into the STF as demonstrated by the Travel Plan as being necessary up to £1,000,000 of pump priming funding no later than the first meeting of the ATF Steering Group.

~~1.3~~ The parties acknowledge that the Applicant may upon request recoup from the STF an amount equal to the pump priming funding contribution it has made under paragraph 0 from STF revenues in other instalments and/or repayment period as agreed between the Applicant and LLAOL. Repayment of such pump priming should not deplete the STF by more than 25% at any time, and any such repayment process is subject to agreement between the Applicant and LLAOL.

~~1.4~~ In circumstances where LLAOL (as the current operator of the Airport) is no longer the operator of the Airport the Applicant will procure that the obligations to which LLAOL is subject under this agreement are met by any future operator of the Airport.

2 STF Terms of Use

2.1 LLAOL covenants that;

~~2.2~~ LLAOL will make funds available from the STF according to the recommendations of the ATF Steering Group such recommendations to be made in accordance with the following principles:

~~2.2.1 Purpose:~~ The STF's purpose will be to contribute towards realising the Surface Access Strategy's [Application Document Reference: TR020001/APP/7.12] vision, objectives and priority areas as set out in the successive Travel Plans, with focused funding of interventions and measures identified through monitoring against Travel Plan targets.

~~2.2.2 Eligibility:~~ Any intervention proposed by the ATF Steering Group, including LLAOL, to be considered for funding must be evidenced, necessary, and fairly and reasonably related to the development. The ATF Steering Group will consider a proposed

intervention against agreed criteria (to be defined by the ATF Steering Group upon their establishment). The ATF Steering Group must be satisfied that the interventions proposed for funding are likely to provide a positive impact on sustainable mode share and the Surface Access Strategy's [Application Document Reference: TR020001/APP/7.12] vision, objectives and priority areas.

~~**2.2.3. Modal considerations:** There should be a reasonable balance between mode spending across the six surface access priority areas – (1) Luton DART and Rail, (2) Managing Vehicle access, parking, private hire vehicles and taxis, (3) Bus and coach, (4) Walking and cycling, (5) Highway interventions (excluding those covered by the TRIMMA that promote sustainable modes), (6) Technology and communications.~~

~~**2.3** In circumstances where the STF is in surplus at the end of any anniversary of the inception of the STF up to 25% of that surplus may be re-distributed (upon the recommendation of the ATF Steering Group) to the Community First scheme (being part of the Compensation Policies, Measures and Community First document), the Community Fund or the Residual Impacts Fund and re-distribution to the Residual Impacts Fund will be on condition that the Residual Impacts Fund has been exhausted at the time of re-distribution.~~

~~**2.4** For the purposes of paragraph 0 a surplus exists at the anniversary in question if funds remain in the STF which have not been committed for future expenditure in conformity with recommendations of the ATF Steering Group, the surplus being the amount of those remaining uncommitted funds.~~

~~**2.5** In circumstances where the STF is in surplus upon any anniversary following the throughput of passengers at the Airport exceeding 31.5 million for the year in which that anniversary falls the ATF Steering Group, if it considers that the STF is no longer needed for the purpose stated at paragraph 0 of this Schedule or the amount of funds being raised by the levies mentioned in paragraph 0 exceed what is necessary to serve that purpose, then the ATF Steering Group may recommend that the levies be reduced to a lower amount as stipulated by the ATF Steering Group or reduced to zero and the STF discontinued and upon such a recommendation the levies to be charged shall be reduced or removed accordingly.~~

SCHEDULE 10

1 Community Fund

- 1.1 ~~4.1.1~~ The Applicant and LLAOL covenants covenant with the Councils that;
- 1.2 Following service of the notice referred to in article 44(1) of the DCO, LLAOL shall continue to operate and maintain the Community Fund in the following manner:
- 1.2.1 by retaining the Community Fund in an interest-bearing bank account;
 - 1.2.2 by retaining the Independent Body to administer the Community Fund ~~and shall submit or procure submission by the Independent Body for the written approval of LBC~~ in accordance with the objectives in respect of the Community Fund ~~and the criteria against which applications for grants or other funding from the Community Fund shall be assessed~~ as approved by LBC or any subsequent approval of the said funds objective approved by LBC;
 - 1.2.3 By 31 January in each year, LLAOL shall pay into the said bank account for the Community Fund a minimum of £100,000 (one hundred thousand pounds) and shall provide LBC with evidence of the deposit of such sum in the bank account on or before 1 March in each relevant year and for the avoidance of doubt these annual payments shall be in addition to any sums received by LLAOL by way of payment under any sanctions imposed on airline operators for failure to act in accordance with noise, track-keeping or other operating requirements at the airport pursuant to the ANMP;
 - 1.2.4 LLAOL shall publicise the availability of the Community Fund to communities in the Local Area;
 - 1.2.5 Any sums received by LLAOL from airlines under the Track Violation Penalty System shall be paid by LLAOL into the Community Fund; and
 - 1.2.6 Any sums received by LLAOL from airlines under the Departure Noise Violation Fine System shall be paid by LLAOL into the Community Fund.
- 1.3 In circumstances where LLAOL (as the current operator of the Airport) is no longer the operator of the Airport the Applicant will procure that the obligations to which LLAOL is subject under this agreement are met by any future operator of the Airport.

SCHEDULE ~~119~~

1 Design Review

- 1.1 LBC covenants with the Applicant that it will establish and appoint a Design Review Panel in accordance with the Design Principles [Application Document Reference: TR020001/APP/7.09].
- 1.2 The Applicant covenants with LBC that it will meet the reasonable costs of LBC commissioning and participating in a Design Review Panel.
- 1.3 The Applicant covenants with LBC to make payments as required under this Schedule within 25 Business Days of receipt of a detailed invoice for the costs in question.

-

SCHEDULE ~~42~~10

1 Councils' Obligations

1.1 Registration

- 1.1.1 This Deed shall be registered by each of the relevant Councils promptly after the date of this Deed as a local land charge in the relevant local land charges registers.
- 1.1.2 Following the performance and satisfaction of all the obligations contained in this Deed, the relevant Councils shall forthwith effect the cancellation of all entries made in the register of local land charges in respect of this Deed.

Executed as a deed by)
LONDON LUTON AIRPORT LIMITED acting)
by , a director)
in the presence of:) Director

Witness Signature
Witness Name
(block capitals)
Witness Address
.....
.....

Executed as a deed by)
LONDON LUTON AIRPORT OPERATIONS LIMITED acting.....)
by , a director)
in the presence of:) Director

Witness Signature
Witness Name
(block capitals)
Witness Address
.....
.....

Executed as a deed by)
~~CENTRAL BEDFORDSHIRE~~ LUTON BOROUGH COUNCIL acting.....)
by)
in the presence of:) Director

Witness Signature
Witness Name
(block capitals)
Witness Address
.....
.....

THE COMMON SEAL of _____)

CENTRAL BEDFORDSHIRE COUNCIL _____)

was affixed in the presence of: _____)

Authorised Signatory:

Executed as a deed by _____)
DACORUM BOROUGH COUNCIL acting _____)
by _____, a director _____)
in the presence of: _____) Director

Witness Signature

Witness Name (block capitals)

Witness Address

.....

.....

THE COMMON SEAL of _____)

~~Executed as a deed by~~

~~HERTFORDSHIRE COUNTY COUNCIL acting _____)~~
~~by _____, a director _____)~~
~~in the presence of: _____)~~ Director

~~Witness Signature~~

~~Witness Name~~

~~(block capitals~~ HERTFORDSHIRE COUNTY)

~~Witness Address~~

COUNCIL was hereunto affixed in the)

presence of:

.....
.....

Executed as a deed by)
NORTH HERTFORDSHIRE DISTRICT COUNCIL)
in the presence of:)

Witness Signature

Witness Name

(block capitals)

Witness Address

.....

EXECUTED and DELIVERED as a DEED on the date of this document

EXECUTED under the Common Seal of

NORTH HERTFORDSHIRE

DISTRICT COUNCIL

in the presence of:

.....

Security agent)
ROYAL BANK OF)
SCOTLAND acting)
by , a director)
in the presence of:) Director

Witness Signature

Witness Name

(block capitals)

Witness Address

.....

.....