

~~AGREED VERSION 22.11.23~~UPDATED DRAFT 20.12.23

Dated ~~2023~~2024

London Borough of Newham (1)

London City Airport Limited (2)

Docklands Aviation Group Limited (3)

NatWest Markets plc (4)

Transport for London (5)

Deed of Variation

**pursuant to Section 106 and Section 106A of the
Town and Country Planning Act 1990**

**relating to Development at London City Airport
Royal Docks, London E16 2PX**

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THIS DEED is made on 20232024

BETWEEN:

- (1) LONDON BOROUGH OF NEWHAM** ("the Council")
- (2) LONDON CITY AIRPORT LIMITED** (company number 1963361) whose registered office is at City Aviation House, Royal Docks, London E16 2PB ("**LCA**")
- (3) DOCKLANDS AVIATION GROUP LIMITED** (company number 5879149) whose registered office is at City Aviation House, London City Airport, London E16 9PB ("**DAGL**")
- (4) NATWEST MARKETS plc** (company number SCO90312) whose registered office is at 36 St Andrew Square, Edinburgh EH2 2YB and whose address for service in England and Wales is Syndicated Loans Agency, The Royal Bank of Scotland plc, Level 5, 135 Bishopsgate, London EC2M 3UR ("**Mortgagee**")
- (5) TRANSPORT FOR LONDON** of 5 Endeavour Square, London, E20 1JN ("**TfL**")

WHEREAS

- (A) The Council is the local planning authority for the purposes of the Act and the local highway authority for the purposes of the Highways Act 1980 for the area in which the Land is situated.
- (B) DAGL is the freehold owner of the Yellow Land and is the owner of the head leasehold interest in the Yellow Land, the Blue Hatched Land, the Blue Land and the Purple Land. DAGL is also the owner of long leasehold interests in the Pink Land and the Brown Land (other than the parts of Hartmann Road (and land adjacent thereto) transferred to LCA and registered at the Land Registry under title number TGL469846).
- (C) LCA is the occupational tenant of the Yellow Land under occupational leases dated 23 December 1998 and 28 October 1999 made between Marketspur Limited and LCA and a reversionary lease dated 28 October 1999 between Marketspur Limited and LCA. LCA is also the occupational tenant of the Blue Land, the Blue Hatched Land and the Purple Land. and is the freehold owner of the land which interest is registered at the Land Registry under title number TGL469846 (being the red-hatched land, as well as parts of parts of Hartmann Road (and land adjacent thereto) within the Brown Land and the Pink Land).
- (D) All of the interests referred to in the preceding recitals are affected by a charge and the Mortgagee is party to this deed for the purposes of clause 6.
- (E) TfL is the strategic transport authority for London and is the highway authority for the purposes of the Highways Act 1980 for certain highways in the vicinity of the Development and is also responsible for the planning and operation of the public transport serving the Land.

- (F) The Council is the local planning authority for the area in which the Land is situated.
- (G) The Planning Permission was granted on 29 July 2016.
- (H) On 27 April 2016, the parties to this Deed (as well as GLA Land and Property Limited entered into the S106 Agreement in connection with the Planning Permission.
- (I) The parties to this Deed entered into the First Deed of Variation to make amendments to the S106 Agreement in light of changes to the construction programme and changes to the programmed delivery of the energy centres.
- (J) The parties to this Deed entered into the Second Deed of Variation to make further amendments to the S106 Agreement in view of further changes to the construction phasing of the Development.
- (K) The parties to this Deed (other than Transport for London) entered into the Third Deed of Variation to the S106 Agreement to amend the timing of payment of instalments of the Education Contribution and the Employment Contribution.
- (L) The parties to this Deed entered into the Fourth Deed of Variation to amend obligations in the S106 Agreement concerning the timing of payment of instalments of the Community Recreation Contribution, the DLR Station Management Contribution, the Education Contribution and the Employment Contribution.
- (M) LCA lodged an appeal (reference APP/G5750/W/23/3326646) on 26 July 2023 following the Council's refusal of the planning application (reference 22/03045/VAR) to vary conditions attached to the Planning Permission. The parties to this Deed have agreed to amend certain obligations in the S106 Agreement and to supplement these with further obligations in order to secure the planning obligations necessary to meet policy requirements if the [Planning Inspectorate \(or Secretary of State\)](#)~~Secretaries of State~~ decides to allow the Appeal.
- (N) GLA Land and Property Limited is not a party to this Deed on the basis that there is no modification or variation of Schedule 4 of the S106 Agreement in accordance with clause 6.1(c) of the S106 Agreement.

IT IS AGREED as follows:

1 Interpretation

- 1.1 In this Deed, unless the context demands otherwise the following expressions shall have the meanings set out below:

WORDS AND EXPRESSIONS

"Appeal"	the appeal against the refusal of the application with reference 22/03045/VAR made by LCA on 26 July 2023 and given reference APP/G5750/W/23/3326646
"Appeal Decision"	means the final decision by the Secretaries of State which determines the Appeal and grants the s73 Permission
"First Deed of Variation"	the Deed of Variation dated 18 December 2018 entered into between the parties to this Deed
"Fourth Deed of Variation"	the Deed of Variation dated 11 August 2022 entered into between the parties to this Deed
"Implementation of the s73 Permission"	the date on which the Airport Companies notify the Council that the Development will proceed pursuant to the S73 Permission pursuant to paragraph 3.2 of this Deed
"s73 Permission"	the planning permission granted pursuant to the Appeal
"Second Deed of Variation"	the Deed of Variation dated 20 December 2019 entered into between the parties to this Deed
"Third Deed of Variation"	the Deed of Variation dated 17 December 2020 entered into between the parties to this Deed (other than Transport for London)
"the S106 Agreement"	the Section 106 Agreement dated 27 April 2016 entered into between the parties to this Deed (as well as GLA Land and Property Limited) as amended by the First, Second, Third and Fourth Deed of Variation

1.2 The provisions in the S106 Agreement relating to its interpretation apply equally to this Deed (except to the extent that they are expressly varied in this Deed).

1.3 Words and expressions in the S106 Agreement have the same meaning in this Deed (except to the extent that they are expressly varied in this Deed).

2 Legal Effect

2.1 This Deed is made pursuant to Section 106 and Section 106A of the Act (and is a planning obligation for the purposes of those sections) and pursuant to Section 111 of the Local Government Act 1972.

2.2 This Deed is supplemental to the S106 Agreement and the obligations and covenants in the S106 Agreement:

- (a) are covenants and planning obligations to which the statutory provisions referred to in clause 2.1 apply; and
- (b) relate to the Land; and
- (c) are enforceable by the Council as the local planning authority; and
- (d) are for the purposes of regulation 122 of the Community Infrastructure Levy Regulations 2010 necessary, directly related to the Development, and fairly and reasonably related in scale and kind; and
- (e) are binding on the Airport Companies and (subject to clause 6 of the S106 Agreement) TfL and GLA Land and Property Limited, including their respective successors in title and assigns and any person corporate or otherwise that acquires an interest or estate created in the Land (or any part or parts thereof) as if that person had also been an original covenanting party in respect of the planning obligations which relate to the interest or estate for the time being held by that person

2.3 This Deed shall be registrable as a local land charge by the Council.

2.4 References in this Deed to the Council shall include any successor to its statutory functions.

2.5 If any provision in this Deed shall in whole or in part be found (for whatever reason) to be invalid or unenforceable then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed or the S106 Agreement.

2.52.6 If any obligation on the part of the Airport Companies as introduced by or as amended by this Deed is determined pursuant to the Appeal Decision not to constitute a reason for granting the s73 Permission because it fails to satisfy the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 then that obligation (but no other part of this Deed or the S106 Agreement) shall have no further force or effect and shall not be enforceable against any of the parties to this Deed or their respective successors in title.

3 Commencement and Notification

3.1 Save for clauses 1-3 and 5-8 of this Deed (which shall take effect on completion of this Deed) the obligations in this Agreement are conditional:-

- (a) on the grant of the s73 Permission; and
- (b) Implementation of the s73 Permission

- 3.2 LCA shall serve notice on the Council of the date on which the Development will proceed pursuant to the s73 Permission.

4 Variation

- 4.1 Save as expressly varied by this Deed the S106 Agreement shall remain in full force and effect.
- 4.2 The S106 Agreement is varied as provided for in the Schedules to this Deed and the cumulative effect of such variation and the amendments given effect by the First Deed of Variation, the Second Deed of Variation, the Third Deed of Variation, the Fourth Deed of Variation and this Deed is shown in the track changed version of the S106 Agreement annexed to this Deed at Annexure 1 (with changes introduced by this Deed also shown highlighted in blue).
- 4.3 The parties covenant with each other to give full force and effect to this Deed in the interpretation, performance and enforcement of the obligations in the S106 Agreement.

5 Costs

- 5.1 LCA agrees that on completion of this Deed it shall pay the Council's reasonable legal costs properly incurred in the negotiation and completion of this Deed.

6 Mortgagee's Consent

- 6.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Airport Companies with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee or any other future mortgagee (or any receiver or agent appointed on its behalf) shall only be obliged to perform them if it becomes a mortgagee in possession of the Land
- 6.2 For the avoidance of doubt neither the Mortgagee nor any other future mortgagee (nor any receiver or agent appointed on its behalf) will be liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee (or another future mortgagee as the case may be) (or any receiver or agent appointed on its behalf) is in possession of all or the relevant part of the Land to which the obligation applies.

7 Contracts (Rights of Third Parties Act) 1999

- 7.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person other than the parties to this Deed (and any successors in title assigns or successor bodies) shall have any rights under or be able to enforce the provisions of this Deed.

8 Applicable Law

- 8.1 This Deed shall be governed by and construed in accordance with English law and the parties submit to the jurisdiction of the English Courts.

IN WITNESS whereof this Deed has been executed by the parties hereto as a deed and delivered on the day and year first before written.

Schedule 1 - S106 Agreement Definitions and Operative Provisions

The following amendments shall be made to the 'Definitions' of the S106 Agreement (pages 3 to 31):

- 1 The following new definition shall be inserted after "2009 Permission":

"55dB Night Contour" means the 55 dB $L_{Aeq,8h}$ Average Mode summer night-time contour;"

- 2 The following new definition shall be inserted after "57dB Contour":

"60dB Contour" means the 60 dB $L_{Aeq,16h}$ Average Mode summer day contour"

"60dB Weekend Contour" means the 60 dB $L_{Aeq,16h}$ Average Mode summer weekend daytime contour"

"61dB Contour" means the 61 dB $L_{Aeq,16h}$ Average Mode summer day contour

"62dB Contour" means s the 62 dB $L_{Aeq,16h}$ Average Mode summer day contour"

- 3 The following new definition shall be inserted after "Act":

"Actual 55dB Night Contour" means the 55dB Night Contour based on actual aircraft night-time (23.00-07.00 local) movements for the summer period (16 June to 15 September) in the calendar year immediately preceding the due date for submission of the Annual Performance Report;"

- 4 The following new definitions shall be inserted after "Actual 57dB Contour":

"Actual 60dB Contour" means the 60dB Contour based on actual aircraft movements for the summer period (16 June to 15 September) in the calendar year immediately preceding the due date for submission of the Annual Performance Report"

"Actual 60dB Weekend Contour" means the 60dB Weekend Contour based on actual aircraft movements for the summer weekend daytime period (16 June to 15 September) in the calendar year immediately preceding the due date for submission of the Annual Performance Report"

"Actual 61dB Contour" means the 61dB Contour based on actual aircraft movements for the summer period (16 June to 15 September) in the calendar year immediately preceding the due date for submission of the Annual Performance Report;

"Actual 62dB Contour" means the 62dB Contour based on actual aircraft movements for the summer period (16 June to 15 September) in the calendar year immediately preceding the due date for submission of the Annual Performance Report;

- 5 A new definition of “Additional Employment Contribution” shall be inserted after the new definition of “Additional Education Contribution” as follows:

“**Additional Employment Contribution**” means the sum of one million, eight hundred and ninety seven thousand and eight hundred pounds (£1,897,800) ~~Index Linked~~With Indexation payable by the Airport Companies to the Council in three equal instalments as prescribed in paragraph 3 of Schedule 5 towards the following employment initiatives to be offered by the Council in connection with the S73 Permission:

- (a) supporting people in gaining entry into work associated with the Airport and the Development including through Newham Workplace (including any equivalent replacement body); and
- (b) ensuring local residents are given the opportunity to access jobs at the Airport or related to the Development”

- 6 A new definition of “Area of Benefit” shall be inserted after the definition of “the Application” as follows:

“**Area of Benefit**” means the area encompassing the London Boroughs of Barking and Dagenham, Bexley, Greenwich, Hackney, Havering, Newham, Lambeth, Lewisham, Redbridge, Southwark, Tower Hamlets and Waltham Forest and Epping Forest District Council”

- 7 A new definition of “CCCAP” shall be inserted after the definition of “CADP Noise Insulation Schemes” as follows:

““**CCCAP**” means a Carbon and Climate Change Action Plan setting out measures for reducing and offsetting greenhouse gas emissions from Airport activities and a programme of delivery, with such plan to include the following three key targets (or any revised targets as agreed between the Airport Companies and the Council in a revised CCCAP):

- (a) reduce the emissions the airport controls (Scope 1 and 2) to net zero by 2030 and to zero by 2040;
- (b) work with airlines to reduce flight emissions to net zero by 2050; and
- (c) buildings associated with the Development to achieve BREEAM ‘Very Good’ certification as a minimum”

- 8 A new definition of “Deed of Variation Five” shall be inserted after the definition of “DAGL” as follows:

“**Deed of Variation Five**” means the deed of variation to this Agreement entered into in connection with the S73 Permission”;

- 9 In the definition of “Eastern Energy Centre” the following shall be inserted following ‘as part of the Development’:

“, utilising technologies such as heat pumps and/or photovoltaics and/or other renewable technologies in place of gas-fired combined heat and power, in the location”

- 10 A new definition of “Eligible Projects” shall be inserted after the definition of “Education Contribution” as follows:

“**Eligible Projects**” means projects to be funded by grants from the London City Airport Community Fund which make a contribution towards:

- (a) Improving amenity in areas local to the Airport and along its flight paths including, but not limited to, creation of/improvements to playgrounds, parks, sporting facilities and community recreation facilities; and/or
- (b) Building stronger, safer and healthier communities; and/or
- (c) Creating more sustainable and greener communities; and/or
- (d) Raising aspirations of East Londoners; and/or
- (e) Creating pathways into employment”

- 11 The following new definitions shall be inserted after “First Tier Scheme”:

““**Future Growth 55dB Night Contour**” means the maximum extent 55dB Night Contour in connection with the S73 Permission shown on Plan 20”;

““**Future Growth 57dB Contour**” means the maximum extent 57dB Contour in connection with the S73 Permission shown on Plan 21”

““**Future Growth 60dB Contour**” means the maximum extent 60dB Contour in connection with the S73 Permission shown on Plan 22”;

““**Future Growth 66dB Contour**” means the maximum extent 66dB Contour in connection with the S73 Permission shown on Plan 23”;

- 12 A new definition of “Implementation of the S73 Permission” shall be inserted following the definition of “Implementation Date” as follows:

“**Implementation of the S73 Permission**” means the date on which the Airport Companies notify the Council that the Development will proceed pursuant to the S73 Permission”

13 The definition of "Intermediate Tier Scheme" shall be amended to add "and, as from Implementation of the S73 Permission, within the Actual 60dB Weekend Contour (with Eligible Properties within additional Noise Contours covered by future dates as specified in Annexure 12)" after "Actual 63 dB Contour".

14 A new definition of "London City Airport Community Fund" shall be inserted following the definition of "London Buses" as follows:

"London City Airport Community Fund" means the fund launched by the Airport Companies in 2019 with registered charity number 1182642 which has as its purpose supporting Eligible Projects within the Area of Benefit"

15 A new definition of "London City Airport Community Fund Contribution" shall be inserted following the definition of "London City Airport Community Fund" as follows:

"London City Airport Community Fund Contribution" means the sum of three million, eight hundred and fifty thousand pounds (£3,850,000) ~~Index-Linked~~With Indexation payable by the Airport Companies in accordance with Schedule 20 to this Agreement"

16 A new definition of "London City Airport Community Fund Terms of Reference" shall be inserted following the new definition of "London City Airport Community Fund Contribution" as follows:

"London City Airport Community Fund Terms of Reference" means the terms of reference in respect of the London City Airport Community Fund including the establishment of a board of Trustees, a grant committee, governance, eligibility, trust objectives, arrangements for applications for funding, meetings, reporting and monitoring, as set out in the document entitled "London City Airport Community Fund Terms of Reference" attached at Annexure 15 and as many be modified from time to time by the Trustees PROVIDED THAT the London City Airport Community Fund shall always be operated for the purpose of supporting Eligible Projects within the Area of Benefit"

17 A new definition of "New Neighbouring Authority Agreement" shall be inserted following the definition of "Neighbouring Authority Agreement" as follows:

"New Neighbouring Authority Agreement" means a binding agreement to be entered into between the Airport Companies and any London Borough within whose administrative boundary the Actual 57dB Contour falls and such agreement shall comprise a binding commitment by the Airport Companies (and their respective successors in title) to comply with the obligations in this Agreement contained in paragraphs 1 to 8 of Part 1 of Schedule 9 (with such variations to the same as are a consequence of the S73 Permission) in the administrative area of that London Borough and the New Neighbouring Authority Agreement shall be substantially in the form included at Annexure 13"

18 The definition of "Noise Contours" shall be amended to read as follows:

- (a) the Actual 55dB Night Contour
- (b) the Actual 57dB Contour
- (c) the Actual 60dB Contour
- (d) the Actual 60dB Weekend Contour
- (e) the Actual 61dB Contour
- (f) the Actual 62dB contour
- (g) the Actual 63dB Contour
- (h) the Actual 66dB Contour
- (i) the Actual 69dB Contour
- (j) the Predicted 55dB Night Contour
- (k) the Predicted 57dB Contour
- (l) the Predicted 60dB Contour
- (m) the Predicted 60dB Weekend Contour
- (n) the Predicted 61dB Contour
- (o) the Predicted 62dB Contour
- (p) the Predicted 63dB Contour
- (q) the Predicted 66dB Contour
- (r) the Predicted Reduced 55dB Night Contour
- (s) the Predicted Reduced 57dB Contour
- (t) the Predicted Reduced 60dB Contour

(u) the Predicted Reduced 60dB Weekend Contour

(v) the Predicted Reduced 61dB Contour

(w) the Predicted Reduced 62dB Contour

(x) the Predicted Reduced 63dB Contour

(x)(y) the Predicted Reduced 66dB Contour

- 19 The following new definitions shall be inserted after “Plan 19” and the plans attached to this Deed at Annexure 6 shall be inserted after Plan 19:

“Plan 20” means the plan attached hereto and numbered “20”

“Plan 21” means the plan attached hereto and numbered “21”

“Plan 22” means the plan attached hereto and numbered “22”

“Plan 23” means the plan attached hereto and numbered “23”

- 20 The following new definition shall be inserted after “Practical Completion”:

“**Predicted 55dB Night Contour**” means the 55dB Night Contour based on forecast aircraft night-time movements (23.00-07.00) for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report;”

- 21 The following new definitions shall be inserted after “Predicted 57dB Contour”:

“**Predicted 60dB Contour**” means the 60dB Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report

“**Predicted 60dB Weekend Contour**” means the 60dB Weekend Contour based on forecast Aircraft Movements at the Airport for the summer weekend daytime period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report

“**Predicted 61dB Contour**” means the 61dB Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report

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“Predicted 62dB Contour” means the 62dB Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report

- 22 The following new definition shall be inserted after “Predicted 66dB Contour”:

““Predicted Reduced 55dB Night Contour” means the 55dB Night Contour based on forecast aircraft night-time movements (23.00-07.00) for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report but reduced to take into account likely cancellation of Aircraft Movements and other matters affecting numbers of Aircraft Movements by reference to the highest proportion of predicted Aircraft Movements which actually occurred in the preceding five calendar years;”

- 23 The following new definitions shall be inserted after “Predicted Reduced 57dB Contour”:

““Predicted Reduced 60dB Contour” means the 60dB Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report but reduced to take into account likely cancellation of Aircraft Movements and other matters affecting numbers of Aircraft Movements by reference to the highest proportion of predicted Aircraft Movements which actually occurred in any of the preceding five calendar years”

““Predicted Reduced 60dB Weekend Contour” means the 60dB Weekend Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report but reduced to take into account likely cancellation of Aircraft Movements and other matters affecting numbers of Aircraft Movements by reference to the highest proportion of predicted Aircraft Movements which actually occurred in any of the preceding five calendar years”

““Predicted Reduced 61dB Contour” means the 61dB Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report but reduced to take into account likely cancellation of Aircraft Movements and other matters affecting numbers of Aircraft Movements by reference to the highest proportion of predicted Aircraft Movements which actually occurred in any of the preceding five calendar years”

““Predicted Reduced 62dB Contour” means the 62dB Contour based on forecast Aircraft Movements at the Airport for the summer period (16 June to 15 September) in the calendar year of the due date for submission of the Annual Performance Report but reduced to take into account likely cancellation of Aircraft Movements and other matters affecting numbers of Aircraft Movements by reference to the highest proportion of predicted Aircraft Movements which actually occurred in any of the preceding five calendar years”

- 24 A new definition of “S73 Permission” shall be inserted following the definition of “Road Signage Contribution”, as follows:

“**S73 Permission**” means the planning permission granted pursuant to the appeal against the refusal of the application with reference 22/03045/VAR made by LCA on 26 July 2023 and given reference APP/G5750/W/23/3326646”

- 25 The definition of “Second Tier Scheme” shall be amended to add “and, as from Implementation of the S73 Permission, the Actual 55dB Night Contour” after “the Actual 66 dB contour”.

- 26 A new definition of “STF Qualifying Initiatives” shall be inserted following the definition of “Start Date” as follows:

“**STF Qualifying Initiatives**” means feasibility studies, mode share monitoring and analysis, direct funding of sustainable transport initiatives (including infrastructure and STF Priority Projects) and contributions towards the Council or TfL for the delivery of sustainable transport initiatives (including transport service subsidies, infrastructure and STF Priority Projects) all of which have as their aim the achievement of STF Qualifying Purposes and “**STF Qualifying Initiative**” shall be construed accordingly”

- 27 A new definition of “STF Qualifying Purposes” shall be inserted following the new definition of “STF Qualifying Initiatives” as follows:

“**STF Qualifying Purposes**” means contributing towards the Airport achieving its mode share targets, reducing the impact of private car journeys, decreasing carbon and pollution emissions and encouraging the use of sustainable modes of transport”

- 28 A new definition of “STF Priority Projects” shall be inserted following the new definition of “STF Qualifying Purposes” as follows:

“**STF Priority Projects**” means priority projects for consideration by the Transport Forum for the application of the Sustainable Transport Fund which shall include but not be limited to the following and which shall be subject to periodic review by the Transport Forum:

- (a) earlier DLR services to and from the Airport (subject to DLR engineering assessment) ;
- (b) improving connectivity between the Airport and the Elizabeth Line, informed by feasibility studies;
- (c) improvement of local bus routes serving the Airport (including improved frequencies);
- (d) integration with future bus routes south of the Thames via the Silvertown Tunnel;

- (e) transport measures identified through the Airport's staff and passenger travel plans (PROVIDED THAT such measures represent enhancements to the Airport's existing approved travel plans or are secured through future approved travel plans);
- (f) measures to improve walking and cycling infrastructure around the airport and within the Royal Docks; and
- (g) wayfinding and accessibility improvements within Canning Town DLR and Jubilee Line station and adjacent bus station

and "STF Priority Project" shall be construed accordingly."

- 29 A new definition of "Sustainable Transport Fund" shall be inserted following the definition of "STQ Site", as follows:

"Sustainable Transport Fund" means a fund to be established by the Airport Companies which is to be used to fund STF Qualifying Initiatives"

- 30 A new definition of "Sustainable Transport Fund Contribution" shall be inserted following the definition of "Sustainable Transport Fund", as follows:

"Sustainable Transport Fund Contribution" means a contribution of no less than fourteen million pounds (£14,000,000) Index-Linked With Indexation towards the Sustainable Transport Fund and payable in instalments in accordance with Schedule 21 of this Agreement"

- 31 A new definition of "Trustees" shall be inserted following the definition of "the Transport Forum" as follows:

"Trustees" means the trustees serving from time to time as appointed trustees of the London City Airport Community Fund

- 32 A new definition of "With Indexation" shall be inserted following the definition of "Western Energy Centre" as follows:

"With Indexation" in relation to any sum means that sum is 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 Deed of Variation Five until the date on which such sum is paid in accordance with the following formula:

$$X = \frac{Y \times B}{A}$$

Where:

X is the sum in question after application of this formula

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£Y is the sum due under this Deed to which this formula is applied

A is the value of the RPI Index last published before the date of Deed of Variation Five; 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, any substitute index published by the Office for National Statistics shall be used"

Paragraph 9.5 shall be amended as follows:

3233 By inserting "with effect from the date of this Agreement" prior to "any London Borough" at the beginning of 9.5(a); and

3334 By inserting a new paragraph (aa) after (a)(ii) as follows:

"(aa) With effect from Implementation of the S73 Permission any London Borough within whose administrative boundary the Actual 57dB Contour falls shall have the benefit of and the right to enforce the provisions included in paragraphs 1 to 8 of part 1 of Schedule 9 (with such variations to the same as are a consequence of the S73 Permission) in relation to its local authority area subject always to the following conditions:

- (i) the benefit of and the right to enforce the provisions referred to are conditional in each case upon the relevant London Borough complying at all times with the obligations expressed in those provisions to exist on the part of the Council so far as the same affect its local authority area; and
- (ii) the relevant London Borough shall have the benefit of and the right to enforce the provisions referred to during the period from the date of Implementation of the S73 Permission up to but not including the date of completion of the New Neighbouring Authority Agreement for the relevant Borough but not further or otherwise and for the avoidance of doubt after that time their respective rights to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 shall cease"

Schedule 2 - S106 Agreement Schedule 5

Schedule 5 of the S106 Agreement shall be amended as follows:

- 1 A new paragraph 3.5 shall be added to Schedule 5 after paragraph 3.4 as follows:

“to pay the Additional Employment Contribution to the Council in three equal instalments subject to the following conditions and in the following manner:

- (a) within 7 days of any Annual Performance Report published after the date of Implementation of the S73 Permission confirming that passenger numbers for the preceding year have exceeded 6.5 million, the Airport Companies shall pay to the Council six hundred and thirty two thousand and six hundred pounds (£632,600) ~~Index-Linked~~With Indexation of the Additional Employment Contribution;
- (b) on the first and second anniversary of the payment of the instalment due under paragraph 3.5(a), the Airport Companies shall pay to the Council six hundred and thirty two thousand and six hundred pounds (£632,600) ~~Index-Linked~~With Indexation of the Additional Employment Contribution”

Schedule 3 - S106 Agreement Schedule 6

Schedule 6 of the S106 Agreement shall be amended as follows:

- 1 The Schedule shall be re-labelled "District Heating and Eastern Energy Centre"
- 2 A new paragraph 1.1 shall be inserted as follows:

"Not to commence construction of the Eastern Energy Centre unless and until details of measures to safeguard a future connection to a DHN ("**DHN Safeguarding**"), via the Eastern Energy Centre, have been submitted to and approved in writing by the Council"
- 3 Paragraph 1.1 shall be renumbered as paragraph 1.2 and shall be amended to read as follows:

"Subject to paragraphs 1.4 of this Schedule not to Occupy the Western Terminal Extension unless and until the Eastern Energy Centre (incorporating the DHN Safeguarding approved pursuant to paragraph 1.1) has been provided and commissioned and the Eastern Energy Centre is supplying heat to buildings at the Airport and to maintain the approved DHN Safeguarding for a period of up to ten years from the date on which the Eastern Energy Centre first supplies heat to buildings at the Airport or until a DHN Operator connects the Airport to a DHN, whichever is earlier"
- 4 Paragraph 1.2 shall be renumbered as paragraph 1.3 and shall be amended such that "at least six months" shall be inserted prior to "prior to Commencement"; the "Western Terminal Extension" shall be replaced with "the Eastern Energy Centre"; "within six months of such Commencement" shall be replaced with "prior to Commencement of the Eastern Energy Centre"; and "(within 500 metres of the Airport)" shall be inserted after "proposals for a DHN in the Royal Docks" in the condition at limb (a).
- 5 Paragraph 1.3 shall be renumbered as paragraph 1.4 and shall be amended such that "the approved" is replaced with "an approved"; "Occupation of the Western Terminal Extension" is replaced with "Commencement of the Eastern Energy Centre"; "paragraph 1.1" is replaced with "paragraph 1.2"; and "procured" is replaced with "used reasonable endeavours to procure".
- 6 Paragraph 1.4 shall be deleted in its entirety.

Schedule 4 – S106 Agreement Schedule 9

Schedule 9 of the S106 Agreement shall be amended as follows:

- 1 Paragraph 9.2 shall be amended by replacing the reference to "Schedule 8" with "Schedule 9".
- 2 New paragraphs 9.3 and 9.4 shall be inserted after paragraph 9.2 as follows:
 - "9.3 The Airport Companies shall use reasonable endeavours to enter into New Neighbouring Authority Agreements within six months of Implementation of the S73 Permission or such other longer timescale as agreed with the Council and for the avoidance of doubt upon completion of a [New](#) Neighbouring Authority Agreement the Council shall cease to have any responsibility for enforcing (in relation to the revised CADP Noise Insulation Schemes) the provisions of paragraphs 1 to 8 in Part 1 of Schedule 9 to this Agreement insofar as:
 - (a) those provisions are contained in the relevant New Neighbouring Authority Agreement and
 - (b) those provisions apply to properties within the administrative area of the London Borough with whom the relevant New Neighbouring Authority Agreement has been concluded.
 - 9.4 The Airport Companies shall not complete any New Neighbouring Authority Agreement without having obtained the prior written approval of the Council to the form and content of that Agreement Provided That the Council can only withhold its approval where the Airport Companies do not covenant with the relevant London Borough under the New Neighbouring Authority Agreement in terms which have at least the same effect as paragraphs 1 to 8 of Part 1, Schedule 9 in relation to the revised CADP Noise Insulation Schemes"

Schedule 5 - S106 Agreement Schedule 14

Schedule 14 of the S106 Agreement shall be amended as follows:

- 1 Paragraph 6.3(a) shall be amended so as to remove "14 days of receipt" and replace this with "7 days of its publication on the Airport's website"

Schedule 6 - S106 Agreement Schedule 20

A new Schedule 20 of the S106 Agreement shall be inserted after Schedule 19 as follows:

"Schedule 20

London City Airport Community Fund

- 1 The Airport Companies joint and severally covenant with the Council as follows:
 - 1.1 To maintain the London City Airport Community Fund and use reasonable endeavours to maintain the registration of the same with the Charity Commissioners as a registered charity for a period of no less than ten (10) years from Implementation of the S73 Permission.
 - 1.2 To procure the operation of the London City Airport Community Fund substantially in accordance with the London City Airport Community Fund Terms of Reference for a period of no less than ten (10) years from Implementation of the S73 Permission.
 - 1.3 To pay to the London City Airport Community Fund the London City Airport Community Fund Contribution as follows:
 - (a) pay the sum of three hundred and eighty five thousand (£385,000) [Index-Linked With Indexation](#) annually for a period of ten (10) years from Implementation of the S73 Permission;
 - (b) with the first payment to be made on Implementation of the S73 Permission and each subsequent payment to be made on the anniversary of Implementation of the S73 Permission; and
 - (c) to provide evidence to the Council of each such payment having been made."

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**Schedule 7 - S106 Agreement Annexure 15 – London City Airport Community
Fund Terms of Reference**

A new Annexure 15 of the S106 Agreement shall be inserted after Annexure 14 as follows:

Schedule 8 - S106 Agreement Schedule 21

A new Schedule 21 of the S106 Agreement shall be inserted after the new Schedule 20 as follows:

"Schedule 21

Sustainable Transport Fund

- 1 The Airport Companies joint and severally covenant with the Council and TfL as follows:
 - 1.1 To use reasonable endeavours to achieve an increase in the percentage of passenger journeys to and from the Airport being undertaken by sustainable modes of transport to 80% by 2030.
 - 1.2 To establish the Sustainable Transport Fund to take effect from Implementation of the S73 Permission and to operate this for a period of no less than seven (7) years.
 - 1.3 To ring-fence and make available the Sustainable Transport Fund Contribution in instalments of no less than two million pounds (£2,000,000) ~~Index Linked~~With Indexation per annum for the Sustainable Transport Fund for a period of seven (7) years from the Implementation of the S73 Permission.
 - 1.4 To review the recommendations of the Transport Forum in respect of the Sustainable Transport Fund on a quarterly basis per annum and to apply the Sustainable Transport Fund towards STF Qualifying Initiatives for STF Qualifying Purposes.
 - 1.5 Prior to confirming the allocation of funding towards STF Priority Projects, to procure that the Transport Forum shall review and consider the recommendations of any Working Groups/Programme Review Boards comprising London City Airport, TfL and the Council.
 - 1.6 Where the Transport Forum recommends that monies within the Sustainable Transport Fund are applied towards the delivery of an STF Priority Project, not to unreasonably withhold the release of monies from the Sustainable Transport Fund for the same.
 - 1.7 Where the total amount ring-fenced and made available for the Sustainable Transport Fund pursuant to paragraph 1.3 is not expended on STF Qualifying Initiatives in any given year, to continue to make any unexpended funds available for the Sustainable Transport Fund for the following year(s) in addition to the amounts to be ring-fenced and made available in subsequent year(s).

- 1.8 That, where any monies from the Sustainable Transport Fund are allocated and paid to TfL pursuant to this Agreement for a specific STF Qualifying Initiative (which shall include a specific STF Priority Project), TfL shall apply such monies towards the relevant STF Qualifying Initiative PROVIDED THAT, if TfL demonstrates to the reasonable satisfaction of the Airport Companies and the Council that the application of monies for such STF Qualifying Initiative is not feasible or is insufficient to deliver the relevant STF Qualifying Initiative, TfL shall be entitled to:
- (a) apply for additional monies from the Sustainable Transport Fund in order to deliver the relevant STF Qualifying Initiative (which it shall be at the Airport Companies' discretion to provide); or
 - (b) may, having given reasonable notice to the Airport Companies, apply the monies towards an alternative STF Qualifying Initiative at its discretion.
- 1.9 That the Sustainable Transport Fund shall not be applied towards any obligations which are otherwise secured by this Agreement (save for under this Schedule 21) or the Planning Permission (PROVIDED THAT this shall not exclude funding transport measures identified through the Airport's staff and passenger travel plans which represent enhancements to the Airport's existing approved travel plans or are secured through future approved travel plans).
- 1.10 That, where there is a disagreement between the Council, TfL and/or the Airport Companies in relation to the application of the Sustainable Transport Fund towards STF Qualifying Initiatives, clause 15 of this Agreement (Dispute Resolution) shall apply. For the avoidance of doubt, the exception in clause 15 relating to calculation and timings of contributions shall not apply to the application of the Sustainable Transport Fund towards any STF Qualifying Initiatives."

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Schedule 9 - S106 Agreement Schedule 22

- 1 A new Schedule 22 of the S106 Agreement shall be inserted after the new Schedule 21 as follows:

“Schedule 22

Carbon and Climate Change Action Plan

- 1 The Airport Companies joint and severally covenant with the Council as follows:
 - 1.1 No later than six (6) months following Implementation of the S73 Permission, to submit the CCCAP to the Council for the Council's written approval.
 - 1.2 Following approval of the CCCAP by the Council, to use reasonable endeavours to implement the approved CCCAP and to achieve the targets set out therein, unless a revised version of the CCCAP is submitted subsequently to the Council for the Council's written approval in which case the Airport Companies shall use reasonable endeavours to implement any such revised CCAP to achieve the targets set out therein.”

Schedule 10 - S106 Agreement Annexure 1

- 1 The ATF Terms of Reference included at Annexure 1 of the S106 Agreement shall be deleted and replaced by the following:

Schedule 11- S106 Agreement Annexure 2 (First Tier Scheme) Annexure 7 (Second Tier Scheme) and Annexure 12 (Intermediate Tier Scheme)

- 1 **Annexure 2** to the S106 Agreement (First Tier Scheme) shall be amended as follows and the effect of these changes in shown in the track changed version of Annexure 2 annexed to this Deed at Annexure 2:
 - 1.1 by amending paragraph 2.1(a) to add the following at the end of paragraph 2.1(a)(iv):

“but within the Future Growth 57dB Contour and was existing on the date of Deed of Variation Five or has been constructed subsequently pursuant to planning permission granted before the date of Deed of Variation Five; or

(v) it is outside the Future Growth 57dB Contour”
 - 1.2 by amending paragraph 6.4 to insert “the later of the receipt of pre-application advice from the Council or” after “within three months of”
- 2 **Annexure 7** to the S106 Agreement (Second Tier Scheme) shall be amended as follows and the effect of these changes in shown in the track changed version of Annexure 7 annexed to this Deed at Annexure 3:
 - 2.1 by amending paragraph 1.1 to add “(and, as from Implementation of the S73 Permission, the Actual 55dB Night Contour)” after “Actual 66dB Contour”
 - 2.2 by amending paragraph 2.1(a) to add the following at the end of paragraph 2.1(a)(iii):

“but within the Future Growth 66dB Contour and was existing on the date of Deed of Variation Five or has been constructed subsequently pursuant to planning permission granted before the date of Deed of Variation Five; or

(iv) it is outside the CADP 66dB Contour and the Future Growth 66dB Contour but within the Future Growth 55dB Night Contour (PROVIDED THAT, in the case of any Public Building, it is a building routinely used in the night-time period to which the Future Growth 55dB Night Contour relates) and was existing on the date of Deed of Variation Five or has been constructed subsequently pursuant to a planning permission granted before the date of Deed of Variation Five; or

(v) it is outside the Future Growth 66dB Contour and the Future Growth 55dB Night Contour”
 - 2.3 by replacing “and” with “or” at the end of paragraph 2.1(b)(i)(C) and adding thereafter the following to paragraph 2.1(b)(i):

“(D) as from Implementation of the S73 Permission, if it is:

(i) within the Actual 55dB Night Contour; or

(ii) within the Predicted Reduced 55dB Night Contour; or

(iii) within the Predicted 55dB Night Contour and has a façade contiguous with another Residential Dwelling which is wholly or partly within the Actual 55dB Night Contour or the Predicted Reduced 55dB Night Contour; and”

2.4 by inserting after “within three months of” in paragraph 11.5 “the later of the receipt of pre-application advice from the Council or”.

3 **Annexure 12** to the S106 Agreement (Intermediate Tier Scheme) shall be amended as follows and the effect of these changes is shown in the track changed version of Annexure 12 annexed to this Deed at Annexure 4:

3.1 by amending paragraph 1.1 to add “(and additional contours as from Implementation of the S73 Permission)” after “Actual 63 dB Contour”

3.2 by deleting from paragraph 1.2 “a contribution of £3,000 Index Linked towards the cost of installing” and adding “with the Airport Companies funding such installation up to the cost of installing secondary glazing and sound attenuating ventilators and the owner/occupier of the Eligible Property funding any additional costs” after “ventilators”;

3.3 by amending paragraph 2.1 to add the following at the end of paragraph 2.1(b):

“but within the Future Growth 60dB Contour and was existing on the date of Deed of Variation Five or has been constructed subsequently pursuant to a planning permission granted before the date of Deed of Variation Five; or

(c) it is outside the Future Growth 60dB Contour”

3.4 by replacing “and” with “or” at the end of paragraph 2.2(a)(iii) and adding the following thereafter to paragraph 2.2(a):

“(iv) as from the Implementation of the S73 Permission, if it is:

(A) within the Actual 60dB Weekend Contour; or

(B) within the Predicted Reduced 60dB Weekend Contour; or

(C) within the Predicted 60dB Weekend Contour and has a façade contiguous with another Residential Dwelling which is wholly or partly within the Actual 60dB Weekend Contour or the Predicted Reduced 60dB Weekend Contour; or

(v) as from 1 January 2027, if it is:

- (A) within the Actual 62dB Contour; or
- (B) within the Predicted Reduced 62dB Contour; or
- (C) within the Predicted 62dB Contour and has a façade contiguous with another Residential Dwelling which is wholly or partly within the Actual 62dB Contour or the Predicted Reduced 62dB Contour; or

(vi) as from 1 January 2029, if it is:

- (A) within the Actual 61dB Contour; or
- (B) within the Predicted Reduced 61dB Contour; or
- (C) within the Predicted 61dB Contour and has a façade contiguous with another Residential Dwelling which is wholly or partly within the Actual 61dB Contour or the Predicted Reduced 61dB Contour; or

(vii) as from 1 January 2031, if it is:

- (A) within the Actual 60dB Contour; or
- (B) within the Predicted Reduced 60dB Contour; or
- (C) within the Predicted 60dB Contour and has a façade contiguous with another Residential Dwelling which is wholly or partly within the Actual 60dB Contour or the Predicted Reduced 60dB Contour; and"

- 3.5 by deleting from paragraph 4.3(b) "a contribution of £3,000 Index Linked towards the cost of installing" and "(payable within 30 days of satisfactory installation)" and adding "with the Airport Companies funding such installation up to the cost of installing secondary glazing and sound attenuating ventilators and the owner/occupier of the Eligible Property funding any additional costs" after "ventilators";
- 3.6 by inserting after "within three months of" in paragraph 6.4 "the later of the receipt of pre-application advice from the Council or".
- 3.7 By deleting from paragraph 7.4 "£3,000 Index-Linked" and replacing this with "the cost of installing secondary glazing and sound attenuating ventilators";
- 3.8 by adding "the following, at the Owner's election" after "entitled to" in paragraph 8.4(c);

3.9 by deleting from paragraph 8.4(c)(ii) “or a £3,000 Index Linked towards the cost of installing” and “(payable ~~within 30 days of~~on satisfactory installation)” and adding “or the installation of” prior to “high acoustic performance” and adding “with the Airport Companies funding such installation up to the cost of installing secondary glazing and sound attenuating ventilators and the owner/occupier of the Eligible Property funding any additional costs” after “ventilators”;

3.10 by adding a new limb (f) to paragraph 8.4 after limb (e) as follows:

“(f) if the owner of an eligible dwelling elects for the installation of high acoustic performance double glazing and sound attenuating ventilators, the Airport Companies will undertake the works within six months of receipt of notice from the owner/occupier in respect of the same (with the Airport Companies funding such installation up to the cost of installing secondary glazing and sound attenuating ventilators and the owner/occupier of the Eligible Property funding any additional costs)”

Schedule 12 - S106 Agreement Annexure 6 (Reinspection Scheme)

- 1 **Annexure 6** to the S106 Agreement (Reinspection Scheme) shall be amended as follows and the effect of these changes is shown in the track changed version of Annexure 6 annexed to this Deed at Annexure 5:
 - 1.1 to delete "the owner and (if different)" prior to "the occupier" in paragraph 2(ba);
 - 1.2 to delete "the owner and (if different)" and "the owner or" prior to "the occupier" and all references to "the owner" and to replace "are notified" with "is notified" in paragraph 5(b); and
 - 1.3 to delete "the owner and (if different)" from paragraphs 2(c), 2(d), 3(a)(ii), 3(a)(iii), 3(d), 5(c) and to insert "and (if required) the owner" after "the occupier" in each case and "and (if required) the owner is/" in the latter usage at paragraph 5(c).

[AGREED VERSION 22.11.23](#)[UPDATED DRAFT 20.12.23](#)

THE COMMON SEAL OF)
THE MAYOR AND BURGESSES OF THE LONDON)
BOROUGH OF NEWHAM)
was hereto affixed in the presence of:)

Authorised Signatory:

EXECUTED AS A DEED by **London City Airport Limited**)
acting by:)

_____ Director:

[in the presence of:](#)

[Signature of witness](#)

[Name of witness](#)

[Address of witness](#)

[Occupation of witness](#)

[Director/Secretary:](#)

EXECUTED AS A DEED by **Docklands Aviation**)
Group Limited acting by:)

_____ Director:

~~AGREED VERSION 22.11.23~~UPDATED DRAFT 20.12.23

in the presence of:

Signature of witness

Name of witness

Address of witness

Occupation of witness

Director/Secretary:

EXECUTED and DELIVERED as a)
DEED by)
as a duly authorised)
signatory for and on behalf of)
for **NATWEST MARKETS PLC** (formerly known)
as The Royal Bank of Scotland plc) in its capacity)
as Facility Agent and Security Trustee for the)
Secured Parties in the presence of)

.....

.....

| [~~AGREED VERSION 22.11.23~~UPDATED DRAFT 20.12.23](#)

Executed as a deed by affixing the common seal of)

Transport for London in the presence of:)

Authorised signatory.....

| ~~AGREED VERSION 22.11.23~~[UPDATED DRAFT 20.12.23](#)

Annexure 1
Track changed version of the S106 Agreement

| ~~AGREED VERSION 22.11.23~~[UPDATED DRAFT 20.12.23](#)

Annexure 2
Track changed version of Annexure 2 – First Tier Scheme

| ~~AGREED VERSION 22.11.23~~[UPDATED DRAFT 20.12.23](#)

Annexure 3
Track changed version of Annexure 7 – Second Tier Scheme

| ~~AGREED VERSION 22.11.23~~[UPDATED DRAFT 20.12.23](#)

Annexure 4
Track changed version of Annexure 12 – Intermediate Tier Scheme

| ~~AGREED VERSION 22.11.23~~[UPDATED DRAFT 20.12.23](#)

Annexure 5
Track changed version of Annexure 6 – Reinspection Scheme

| ~~AGREED VERSION 22.11.23~~ [UPDATED DRAFT 20.12.23](#)

Annexure 6
Plans 20, 21, 22 and 23

~~AGREED VERSION 22.11.23~~UPDATED DRAFT 20.12.23

DATED

~~2023~~2024

London Borough of Newham (1)

London City Airport Limited (2)

Docklands Aviation Group Limited (3)

NatWest Markets plc (4)

Transport for London (5)

Deed of Variation

pursuant to Section 106 and Section 106A of the
Town and Country Planning Act 1990 relating to

Development at London City Airport, Royal
Docks, London E16 2PX
