

SECTION 106 AGREEMENT BETWEEN NEWHAM COUNCIL AND LONDON CITY AIRPORT

dated 9th JULY 2009

Extract from SEVENTH SCHEDULE

Part 2 - Value Compensation Scheme

- 1 The Airport Companies shall develop in consultation with the Council and Affected Landowners and shall subsequently submit to the Council for its written approval the draft Value Compensation Scheme within 11 months of the date of this Deed PROVIDED THAT the Airport Companies shall prepare a first draft of the Value Compensation Scheme for consultation purposes within six months of the date of this Deed.
- 2 The Council shall either approve or refuse to approve the draft Value Compensation Scheme within 30 days of its submission by the Airport Companies pursuant to paragraph 1 of this Part and if the Council refuse to approve the draft Value Compensation Scheme the Airport Companies shall use reasonable endeavours to obtain the approval of the Council to the Value Compensation

Scheme (including by the subsequent submission of one or more modified drafts of the same) as soon as reasonably practicable.

- 3** Subject to the prior receipt of the Council's written approval of the Value Compensation Scheme on or before the later of the following dates the Airport Companies shall adopt and operate the Value Compensation Scheme. The dates are:

 - (a) the date which is 12 months after the date of this Deed;
 - (b) the date on which revised Public Safety Zones for the Airport are published taking into account the Public Safety Zone requirements of the Development;
 - (c) the date of receipt of the Council's written approval.
- 4** Subsequent to the adoption of the approved Value Compensation Scheme pursuant to paragraph 3 of this Part the Airport Companies shall continue to operate the Value Compensation Scheme as modified from time to time with the approval of the Council for the period up to but not including the tenth anniversary of the date of this Deed and shall publicise its availability in accordance with the approved Value Compensation Scheme.

Extract from NINTH SCHEDULE

Part 17 - Value Compensation Scheme

- 1** A Value Compensation Scheme (VCS) to compensate for value that may have been lost in sites yet to be developed (including the STQ Site) covered by the extension of the Public Safety Zones ("PSZs") as a result of the Development.
- 2** Sites eligible for this scheme are those sites which are undeveloped at the date of this Deed and over which the increased PSZ extends for the first time as a result of permission being granted for this Application. Such sites may include any of the following:
 - (a) undeveloped sites without planning permission;
 - (b) undeveloped sites with the benefit of planning permission which remains unimplemented;
 - (c) sites with derelict buildings and structures but without any lawful planning use;
 - (d) sites with only temporary uses and temporary buildings which are required as a matter of law to cease or to be removed at the end of a temporary period.

- 3 A Claimant can apply for compensation under the VCS if at the time of grant of the Planning Permission they are:
- (a) the owner of a freehold interest;
 - (b) the owner of a leasehold interest with a term of years comprising at least five years unexpired;
 - (c) the owner of another interest in the relevant site and the Council acting reasonably considers they should be included which for the avoidance of doubt shall include anyone who would be a claimant (as such expression is referred to in accordance with the provisions of the Compulsory Purchase Act 1965).

The entitlement to claim will be assignable but only in its entirety and by prior written notice to the Airport Companies. Provision will be made for publicity of the VCS to Affected Landowners.

- 4 The time limit for a claim under the VCS is 10 years from the date of the Planning Permission.
- 5 Appropriate measures will be included in the VCS to ensure that actions taken in order to enhance compensation potentially payable under the VCS (such as the creation of additional interests in land) are disregarded.
- 6 The VCS will be based on the difference in value of the relevant interest in the relevant site shown in two valuations. Both valuations will assess the open market value of the interest as at the date of claim but the first valuation will assume that the PSZ was not extended beyond its extent prior to the grant of the Planning Permission - all other valuation assumptions shall be the same and in addition, in the first valuation the valuer shall be entitled to assume that if the PSZ had not been extended other adjacent and nearby sites to the valuation site may have been developed at the time of valuation to the extent that this may affect the valuation of the site being valued.
- 7 In undertaking the VCS valuations, regard shall be had to the effect of the PSZ extension on the relevant site as a whole. In other words, any loss of development floor space caused by the PSZ extension across part of the site could have beneficial or adverse knock on effects within the remainder of the site and these should be taken into account in the valuations.
- 8 The open market value shall take account of all factors that may impact on a willing seller and a willing buyer in the open market at the date of claim. This includes the future development potential of the site and the desirability in valuation terms of implementing planning permissions extant at the time of the grant of the Planning Permission.
- 9 Compensation offered will be the difference between the values assessed with and without the extended PSZ, will be offered on reasonable terms and conditions including provisions to ensure that there is no double recovery of compensation through the exercise of statutory rights to compensation or otherwise. Full payment should be made within three months of either agreement of values between parties or three months following the determination of an independent expert.
- 10 In the alternative to the procedure described in paragraphs 5 to 8 inclusive, the owners of all relevant interests may within two years of the date of this Deed jointly agree and request a capital sum from the Airport Companies representing payment that would otherwise be due under the Value Compensation Scheme in respect of such interests PROVIDED THAT LCA shall only be obliged to pay such sum if it agrees to do so in its absolute discretion and PROVIDED FURTHER THAT the amount of the sum shall first be approved by the Council.
- 11 In the event that a claim results in compensation being paid, LCA will cover the claimant's reasonable and proper costs (both legal and agents' costs) in making the claim and entering any agreement to record the compensation.

- 12** Provision will be made in the VCS for independent expert determination of values in the event of dispute. This expert will be required to request and receive submissions from the parties to the dispute and to give a reasoned determination.