

WORK IN PROGRESS DOCUMENT
SUBJECT TO ONGOING DISCUSSION

DATED 2011

- (1) SHEPWAY DISTRICT COUNCIL
- (2) LONDON ASHFORD AIRPORT LIMITED
- (3) HSBC BANK PLC

NOTE – the following plans/agreement need finalising:-

- **Appendix 1** – The Airport Site
- **Appendix 2** – The Airport Operator's and Council's interest in the Airport Site
- **Appendix 3** – The Runway Extension Additional Land
- **Schedule 5** – Supplemental Deed

PLANNING OBLIGATION BY AGREEMENT

made pursuant to section 106 of the Town and Country Planning Act 1990, section 111 of the Local Government Act 1972 and all other powers them enabling

relating to land known as London Ashford Airport of Lydd, Kent, TN29 9QL



Pinsent Masons

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BETWEEN:-

- (1) **SHEPWAY DISTRICT COUNCIL** of Castle Hill Avenue, Folkestone, Kent, CT20 2QY (the "Council");
- (2) **LONDON ASHFORD AIRPORT LIMITED** (No 04140620) whose registered office is at Lydd Airport, Lydd, Kent, TN29 9QL (the "Airport Operator"); and
- (3) **HSBC BANK PLC** (No 00014259) whose registered office is at 8 Canada Square, London, E14 5HQ (the "Mortgagee").

WHEREAS:-

- (A) Shepway District Council is the local planning authority for the purposes of the 1990 Act for the area in which the Airport Site is situated and by whom the obligations contained in this Deed are enforceable.
- (B) The Airport Operator is the Relevant Airport Operator of the Airport and:-
 - (B.1) is the freehold owner of those parts of the Airport Site shown for illustrative purposes only coloured [] on the plan attached at Appendix [2] and which the same is registered with title absolute under title number K561277 at the Land Registry; and
 - (B.2) is the leasehold owner of those parts of the Airport Site shown for illustrative purposes only coloured [] on the plan attached at Appendix [2] and which the same is registered with title absolute under title number K534821 at the Land Registry.
- (C) Pursuant to a charge dated 30 May 2001, the Mortgagee is the legal mortgagee of those parts of the Airport Site of which the Airport Operator is the freehold owner and leasehold owner as detailed in Recital (B).
- (D) The Council is the freehold owner of those parts of the Airport Site shown for illustrative purposes only coloured [] on the plan attached at Appendix [2] and which the same is registered with title absolute under title numbers K256543 and K414727 at the Land Registry and which is the only superior title to the Airport Operator's long leasehold title as detailed in Recital (B.2).
- (E) On 15 December 2006 the Airport Operator submitted the Applications to the Council.
- (F) At a special meeting of the Council held on 3 March 2010, the Council resolved to grant the Planning Permissions.
- (G) The Parties have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and other enabling powers without which planning permission for the Runway Extension and Terminal Building would not be granted.

NOW IT IS HEREBY AGREED and WITNESSED as follows:-

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed where the context so admits the following expressions shall have the following meanings:-

"1980 Act"	means the Highways Act 1980;
"1990 Act"	means the Town and Country Planning Act 1990;
"ABAP"	means the airfield biodiversity action plan to be submitted to and approved by the Council pursuant

to the Runway Extension Planning Permission;

"Abnormal Indivisible Load Vehicle"	means a vehicle under the control of the Airport Operator or under the control of the Airport Operator's agents or contractors and whose reason for visiting the Airport is for the construction of the Runway Extension or Terminal Building and which carries an "abnormal indivisible load" as defined in the Road Vehicles (Authorisation of Special Types) (General) Order 2003 (Statutory Instrument 2003 No. 1998);
"Aeroplane"	means an aircraft with a fixed wing and which is powered by propellers or turbojet engine or turbofan engine;
"Airport"	means London Ashford Airport, Lydd, Kent, TN29 9QL;
"Airport Consultative Committee"	means the committee established pursuant to section 35 of the Civil Aviation Act 1982 and any replacement body forming a similar function from time to time;
"Airport Operator Land"	means that part of the Airport Site shown for illustrative purposes only coloured [redacted] and [redacted] on the plan attached at Appendix [2] and which is more particularly described in Recital (B);
"Airport Site"	means the redline of the Runway Extension Planning Application, of which the redline of the Terminal Building Planning Application forms part, comprising the Airport together with other land as shown edged red on the plan attached at Appendix [1];
"Air Show"	means any air show or organised flying display held at the Airport;
"Applications"	means the Runway Extension Planning Application and the Terminal Building Planning Application;
"ATC"	means the air traffic control function at the Airport;
"Best Practice"	means practice which is more often than not accepted by small airports with a throughput capacity of no more than [redacted]ppa as the preferred or most appropriate way to accomplish a task;
"Bird Control Plan"	means the bird control plan to be submitted to and approved by the Council pursuant to the Runway Extension Planning Permission;
"Business Day"	means a day other than a Saturday or Sunday or public holiday in England or the period between 24 December and 1 January inclusive;
"CAA"	means the body corporate known as the Civil Aviation Authority established pursuant to the Civil Aviation Act 1971 and any statutory successor or

	replacement body forming a similar function from time to time;
"Calendar Year"	means 12 months in any given year, commencing on 1 January and ending on 31 December;
"Car Park Management Scheme"	means a scheme to be approved by the Council for the management and regulation of the car parking spaces in relation to the Runway Extension and Terminal Building to provide for the matters referred to in paragraph 4.2 of Schedule 1;
"Challenged Permission"	means either of the Planning Permissions being the subject of any judicial review proceedings or other legal challenge including, but not limited to, the application for permission to apply for judicial review;
"Commencement"	means the commencement of any material operation (as defined in section 56(4) of the 1990 Act) forming part of the Runway Extension or Terminal Building (as the context so requires) OTHER THAN (for the purposes of this Deed and for no other purpose) a Preparatory Operation and the words " Commence " and " Commenced " shall be construed accordingly;
"Completion"	means in relation to any works of construction forming part of the Runway Extension or the Terminal Building (as the context so requires), the date of issue of a certificate of practical completion of those works by the Airport Operator's architect or other designated project consultant and the word " Completed " shall be construed accordingly;
"Consent"	means any of the following: approval agreement licence authorisation confirmation certification expression of satisfaction consent permission or any other kind of authorisation however expressed;
"Emergency and Governmental Activities"	means:- <ul style="list-style-type: none"> 1. activities to assist in the relief of any danger to the life or health of any person or animal including any emergency activities associated with the movement of organ transplants; 2. activities (for both operational and training purposes) of the: <ul style="list-style-type: none"> 2.1 naval, military and air force of any country; 2.2 customs authorities of any country; 2.3 police of any country; 2.4 search and rescue of any country; 2.5 fire fighting authorities of any country;

2.6 coastguard of any country;

2.7 immigration authorities of any country;

or any other similar activities or services of any country;

3. the diversion of any aircraft from another airport to the Airport due to adverse weather conditions, technical problems, security alerts or onboard emergency or for any other emergency that the Airport may be informed of;
4. activities carried out by or on behalf of Her Majesty's Government of the United Kingdom of Great Britain and Northern Ireland;
5. activities involving any aircraft being constructed for the naval, military or air force of any country; and
6. activities involving any aircraft in respect of which there is in force a certificate issued by the Secretary of State for Transport that the aircraft is to be treated for the purposes of the Air Navigation Order 2009 (statutory instrument 2009/3015) as a naval, military or air force aircraft of any country;

"End Date"

means the date when the Runway Extension and the Terminal Building (as appropriate in the context) cease to Operate and, where the Airport Operator re-commences the Operation of the Runway Extension and/or the Terminal Building with the approval of the Council pursuant to Clause 7.4, the date when the Runway Extension and/or the Terminal Building ceases to Operate following such re-commencement;

"Environment Agency"

means the body known as the Environment Agency established pursuant to the Environment Act 1995 or any statutory successor or replacement body forming a similar function from time to time;

"Expert"

means the expert appointed by any of the Parties pursuant to Clause 11;

"ICAO"

means the International Civil Aviation Organisation established pursuant to the Convention on International Civil Aviation (known as the Chicago Convention, 7 December 1944) and any successor or replacement body forming a similar function from time to time;

"Infrastructure Levy"

means the Community Infrastructure Levy as defined in the Planning Act 2008 and further defined in the subsequent Community Infrastructure Levy Regulations 2010 (Statutory Instrument 2010 No. 948);

"Lydd Airport Action Group"	means the residents group known as the Lydd Airport Action Group or any successor or replacement residents' group forming a similar function from time to time;
"Natural England"	means the body known as Natural England established pursuant to the Natural Environment & Rural Communities Act 2006 or any statutory successor or replacement body forming a similar function from time to time;
"Occupation"	means to occupy or permit or suffer to be occupied for use of the Terminal Building as a building to process passengers to enable them to board a Public Transport Aircraft but not including occupation by personnel engaged in construction, testing, fitting out, finishing or decoration, or occupation for marketing or display or occupation in relation to security operations and "Occupy" shall be construed accordingly;
"Operate"	means in relation to: <ol style="list-style-type: none"> 1. the Runway Extension, the use of the Runway Extension by Aeroplanes departing from the Airport; and 2. the Terminal Building, the Occupation of the Terminal Building and "Operation" and "Operational" shall be construed accordingly;
"Parties"	means the parties to this Deed and "Party" shall be construed accordingly;
"Partner Organisations"	means the organisations known as:- <ol style="list-style-type: none"> 1. the Romney Resource Centre; 2. Connexions; 3. Job Centre Plus; and 4. Kent County Council;
"Phase 1 Jobs and Business Strategy"	means a strategy which sets out initiatives to provide education and/or training opportunities and/or apprenticeships and/or employment advice and/or programmes for local residents to enable them to obtain knowledge, skill, experience, confidence and the opportunity to gain employment in the construction of the Terminal Building;
"Phase 2 Jobs and Business Strategy"	means a strategy which sets out initiatives to provide education and/or training opportunities and/or apprenticeships and/or employment advice and/or programmes for local residents to enable them to obtain knowledge, skill, experience, confidence and the opportunity to gain employment in jobs relating to the Airport expanding up to

500,000ppa;

"Planning Permissions"

means the Runway Extension Planning Permission and the Terminal Building Planning Permission or either of them (as the context so requires) and the term **"Planning Permission"** shall mean either the Runway Extension Planning Permission or the Terminal Building Planning Permission as appropriate to its context;

"ppa"

means Public Transport Aircraft passengers per annum in any Calendar Year;

"Precision Approach Path Indicator"

means the light system positioned beside Runway 03 and Runway 21 that provides a visual indication of an Aeroplane's position on approach for the associated runway;

"Preparatory Operation"

means an operation or item of work of or connected with or ancillary to archaeological investigations, exploratory boreholes, trial pits, surveys of existing structures, demolition, site clearance, excavation, site preparation, site reclamation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, preliminary landscaping, diversion decommissioning and/or laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, erection of hoardings and scaffolding, the construction of temporary access(es) and service roads, and other works and site establishment preparatory to the commencement of construction including temporary and/or permanent extinguishment and closure of public rights affecting the Airport Site and operations permitted by the Town and Country Planning (General Permitted Development) Order 1995;

"Public Transport Aircraft"

means:

1. an Aeroplane flying, or intended by the operator of the Aeroplane to fly, for the purpose of a commercial air transport flight (as defined in article 255(1) of the Air Navigation Order 2009 (statutory instrument 2009/3015); and
2. an Aeroplane flying, or intended by the operator of the Aeroplane to fly, for the purpose of a public transport flight (as defined in article 255(1) of the Air Navigation Order 2009 (statutory instrument 2009/3015)

excluding Aeroplanes flying or intended to fly for the Air Show, Emergency and Governmental Activities, charity flights, parachuting, training and

	support activities;
"Relevant Airport Operator"	has the meaning given in section 57 of the Airports Act 1986;
"Relevant Leasehold Interest"	means a leasehold interest in the Airport Site or part thereof of which at least one year remains unexpired and granted to the Relevant Airport Operator of the Airport;
"Requisite Consent"	means such grant of planning permission and the obtaining of Consents (statutory or otherwise) including the grant or acquisition of necessary land interests as in each case are necessary for the relevant purpose;
"Royal Society for the Protection of Birds"	means the charity known as the Royal Society for the Protection of Birds and registered as a charity in England and Wales under registration number 207076
"Runway 03"	means the runway at the Airport when Aeroplanes arrive and depart in a north-easterly direction;
"Runway 21"	means the runway at the Airport when Aeroplanes arrive and depart in a south-westerly direction;
"Runway Extension"	means the extension of the existing runway at the Airport by 294 metres at the northern end with a further 150 metres acting as a starter extension together with a runway end safety area and all other ancillary infrastructure and facilities as more fully described in the Runway Extension Planning Application;
"Runway Extension Additional Land"	means that part of the Airport Site, but not comprising the Airport Operator Land, shown for illustrative purposes only coloured [] on the plan attached at Appendix [3];
"Runway Extension Construction Traffic Management Plan"	<p>means a plan managing the arrival and departure of Abnormal Indivisible Load Vehicles to the Airport during the period between the Commencement of the Runway Extension and Completion of the Runway Extension, such plan to include:-</p> <ol style="list-style-type: none"> 1. the route to be followed by Abnormal Indivisible Load Vehicles (save that this route shall not apply where all or any part of the route is closed or blocked for whatever reason and such closure or blockage prevents access to the whole or part of the route); 2. details of how the route will be communicated to drivers of Abnormal Indivisible Load Vehicles which may include, so far as it is legally possible, signage on the highway network; and 3. the time periods when Abnormal Indivisible Load Vehicles will be permitted to arrive at and

depart from the Airport;

"Runway Extension Jobs and Business Strategy"	means a strategy which sets out initiatives to provide training opportunities and/or apprenticeships and/or employment advice or programmes for local residents to enable them to obtain knowledge, skill, experience, confidence and the opportunity to gain employment in jobs relating to the Airport expanding up to 300,000ppa;
"Runway Extension Obligations"	means the obligations undertakings covenants and agreements on the part of the Airport Operator detailed in Schedule 4;
"Runway Extension Planning Application"	means the application for planning permission submitted to the Council on 15 December 2006 and given reference number Y06/1648/SH;
"Runway Extension Planning Permission"	means the planning permission subject to conditions that may be granted by the Secretary of State for Communities and Local Government for the proposals detailed in the Runway Extension Planning Application;
"Runway Extension Updated Travel Plan"	means a revised travel plan document based on and consistent with the Travel Plan that identifies the sustainable transport methods the Airport will promote in reaching a throughput of 300,000ppa;
"SAC"	means the Dungeness Special Area of Conservation (Natura 2000 site code: UK 0013059);
"Section 73 Permission"	means an application pursuant to section 73 of the 1990 Act and made in respect of a Planning Permission and such application leads to a planning permission
"Secretary of State for Transport"	means the Secretary of State for Transport or such other Minister of Her Majesty's Government for the time being having or being entitled to exercise the powers conferred on him by the Air Navigation Order 2009 (statutory instrument 2009/3015);
"SSSI"	means the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (National Grid Reference TR069201);
"Sufficient Interest"	means any estate (whether freehold or leasehold), interest, easement, right, licence or restrictive covenant and in all cases whether legal or equitable;
"Supplemental Section 106 Agreement"	means the supplemental section 106 agreement to be entered into pursuant to the provisions of Clause 7.2 of this Deed and to be in the form annexed hereto at Schedule 3 and in accordance with all necessary enabling powers;
"Terminal Building"	means the erection of a three storey terminal building on an existing area of hardstanding

adjacent to bravo apron together with all other ancillary infrastructure and facilities as more fully described in the Terminal Building Planning Application;

"Terminal Building Construction Traffic Management Plan"

means a plan managing the arrival and departure of Abnormal Indivisible Load Vehicles to the Airport during the period between the Commencement of the Terminal Building and Completion of the Terminal Building, such plan to include:-

1. the route to be followed by Abnormal Indivisible Load Vehicles (save that this route shall not apply where all or any part of the route is closed or blocked for whatever reason and such closure or blockage prevents access to the whole or part of the route);
2. details of how the route will be communicated to drivers of Abnormal Indivisible Load Vehicles which may include, so far as it is legally possible, signage on the highway network; and
3. the time periods when Abnormal Indivisible Load Vehicles will be permitted to arrive at and depart from the Airport;

"Terminal Building Obligations"

means the obligations undertakings covenants and agreements on the part of the Airport Operator detailed in Schedule 5;

"Terminal Building Planning Application"

means the application for planning permission submitted to the Council on 15 December 2006 and given reference number Y06/1647/SH;

"Terminal Building Planning Permission"

means the planning permission subject to conditions that may be granted by the Secretary of State for Communities and Local Government for the proposals detailed in the Terminal Building Planning Application;

"Terminal Building Updated Travel Plan"

means a revised travel plan document based on and consistent with the Travel Plan and, if applicable, the Runway Extension Updated Travel Plan, that identifies the sustainable transport methods the Airport will promote in reaching a throughput of 500,000ppa;

"Travel Plan"

means the travel plan contained within Appendix 15 to Volume 8 of the Supplementary Environmental Information dated August 2008 submitted in support of the Applications;

"UK AIP"

means the United Kingdom Aeronautical Information Publication published from time to time by the Civil Aviation Authority.

1.2 Unless the context otherwise requires:-

- 1.2.1 reference in this Deed to any Recital, Clause, paragraph, Schedule or Appendix is a reference to the Recital, Clause, paragraph, Schedule or Appendix in this Deed so numbered;
- 1.2.2 words importing the singular meaning include the plural meaning and vice versa;
- 1.2.3 words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner;
- 1.2.4 any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it;
- 1.2.5 references to any Party shall include the successors in title to that Party and any person deriving title through or under that Party and in the case of the Council the successors to its statutory functions;
- 1.2.6 headings where they are included are for convenience only and are not intended to influence the interpretation of this Deed.

2. **LEGAL BASIS**

- 2.1 This Deed is made pursuant to section 106 of the 1990 Act and section 111 of the Local Government Act 1972 and all other powers them enabling.
- 2.2 The obligations on the part of the Airport Operator contained in Clause 7 constitute (as far as capable) planning obligations for the purposes of the 1990 Act and so as to bind the Airport Operator Land and otherwise shall take effect as personal covenants pursuant to section 111 of the Local Government Act 1972 and subject to Clauses 5.1 and 9.1 the said obligations are entered into with the intent that they shall be enforceable by the Council against the Airport Operator.

3. **CONDITIONAL ENTRY INTO FORCE**

- 3.1 Save where expressly provided for in this Deed, this Deed is conditional upon and shall not take effect until both of the following events have occurred:-
 - 3.1.1 the grant of the Runway Extension Planning Permission or both of the Planning Permissions (as applicable); and
 - 3.1.2 development pursuant to either Planning Permission has been Commenced and then this Deed shall take effect only in respect of matters relating to the Planning Permission which has been Commenced.
- 3.2 Clauses 1 to 3 (inclusive), 5, 6, 7.2, 8 (but only in respect of paragraph 2 of Schedule 2), 9 to 21 (inclusive) and paragraph 2 of Schedule 2 shall come into effect immediately upon completion of this Deed.
- 3.3 Clause 4 and Clause 8 (but only in respect of paragraph 1 of Schedule 2) and paragraph 1 of Schedule 2 shall come into effect immediately upon the grant of the Runway Extension Planning Permission or both the Planning Permissions (as applicable).

4. **DURATION**

- 4.1 If there is a Challenged Permission:-

- 4.1.1 ***Notification of a challenge***

- then from the date that the Council is aware of such proceedings, the Council shall forthwith notify the Airport Operator of such proceedings;

4.1.2 ***Where the Airport Operator does not Commence development or ceases works following a challenge***

where the Airport Operator does not Commence development pursuant to the Challenged Permission or ceases to carry out any further works pursuant to the Challenged Permission, then the Airport Operator's requirement to comply with or comply further with the Runway Extension Obligations and/or the Terminal Building Obligations (as applicable to the Challenged Permission) shall be suspended temporarily (save to the extent (if at all) that this Deed remains relevant to the Planning Permission which is not the Challenged Permission and save also in respect of the rights of the Council in relation to any subsisting breach of this Deed arising before the cessation of works pursuant to the Challenged Permission by the Airport Operator) until the final disposal of the legal proceedings at which time, if the Challenged Permission has not been quashed, the requirement to comply or further comply with the Runway Extension Obligations and/or the Terminal Building Obligations (as applicable and as may be varied by order of the court) shall recommence with immediate effect and any time-limits for compliance with the Runway Extension Obligations and/or the Terminal Building Obligations (as applicable) shall be extended by the period of the suspension under this Clause;

4.1.3 ***Where the Airport Operator carries on works following a challenge***

where the Airport Operator either Commences development or carries out any further works pursuant to the Challenged Permission, this Deed shall, subject to Clause 4.1.4, remain in full force and effect; and

4.1.4 ***Where a Challenged Permission is quashed***

if following the conclusion (following any appeal or challenge) of such proceedings or challenge the Challenged Permission is quashed then without prejudice to any liability which may have arisen pursuant to this Deed prior to it being quashed, the provisions of this Deed will cease to have any further effect as from the date upon which the Challenged Permission is quashed save to the extent (if at all) that this Deed remains relevant to any Planning Permission which has not been quashed.

4.2 This Deed shall cease to have effect and be extinguished automatically (in so far only as it has not already been complied with) in relation to a Planning Permission which is revoked or otherwise withdrawn or, without the consent of the Airport Operator, is modified by any statutory procedure or expires before Commencement save to the extent (if at all) that this Deed remains relevant to any Planning Permission which has not been quashed.

4.3 Save in respect of Clause 7.4, this Deed shall cease to have effect and be extinguished automatically upon the End Date of both of the Runway Extension and Terminal Building.

4.4 Unless the parties otherwise agree and/or unless it would be inconsistent or unnecessary or unreasonable for the provisions of this Deed to apply to any Section 73 Permission, this Deed shall apply to any Section 73 Permission in the same way as it applies to the relevant Planning Permission in respect of which the application under section 73 of the 1990 Act was made.

5. **PROVISIONS FOR RELEASE**

5.1 Any person shall, upon parting with the whole or any part of their interest in the Airport Operator Land, be released from all obligations undertakings covenants and agreements contained 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 Council in relation to any antecedent breach of those obligations undertakings or covenants.

5.2 Except in respect of any of the obligations undertakings covenants and agreements under the terms of this Deed that are to be performed until the End Date, upon the performance discharge or other fulfilment of any of the obligations undertakings covenants and agreements under the terms of this Deed such obligations undertakings covenants or agreements shall absolutely cease and determine save in respect of any antecedent breach.

5.3 The Council hereby covenants with the Airport Operator and the Mortgagee that it will upon reasonable request from any such party (and subject to payment of the Council's reasonable and proper professional costs and charges in connection with a request under this Clause 5.3) after any of the obligations undertakings covenants and agreements contained in this Deed have been discharged by performance or otherwise fulfilled (whether in whole or in part) issue written confirmation of that fact and shall enter a note on the Register of Local Land Charges confirming the discharge by performance or fulfilment and if so requested by any such party will (as and if appropriate) execute a deed of release or partial release from the relevant obligations undertakings covenants and agreements of this Deed and shall enter a note of the deed of release or partial release on the Register of Local Land Charges.

5.4 Where the Council is obliged to execute a deed of release or partial release pursuant to Clause 5.3, the other Parties shall enter into such deed to the extent necessary to effect the release or partial release.

6. **OTHER DEVELOPMENT**

Nothing in this Deed shall prohibit or limit the right to develop any part of the Airport Operator Land in accordance with a planning permission (other than the Planning Permissions) granted (whether or not on appeal) after the date of this Deed.

7. **AIRPORT OPERATOR'S COVENANTS WITH THE COUNCIL**

The Airport Operator covenants with the Council so as to bind the Airport Operator's interest in the Airport Operator Land:-

7.1 to observe and perform the covenants and obligations in Schedule 1;

7.2 if it acquires a Sufficient Interest in the Airport Site which is not at the date of this Deed part of the Airport Operator Land, unless otherwise agreed with the Council, to enter into the Supplemental Section 106 Agreement for the purpose of ensuring that the relevant obligations undertakings covenants or agreements in this Deed shall be binding on any such part of the Airport Site to the extent of the Airport Operator's Sufficient Interest in such part of the Airport Site;

7.3 not to permit the Runway Extension coming into Operation unless and until the Airport Operator has a Sufficient Interest in the Runway Extension Additional Land to enable the Airport Operator to comply with and carry out the obligations on its part contained in this Deed and to comply with and carry out the conditions attached to the Runway Extension Planning Permission but in each case only so far as they relate to the Runway Extension Additional Land; and

7.4 unless otherwise agreed with the Council, following the End Date not to re-commence Operation of the Runway Extension and the Terminal Building (as applicable).

8. **THE COUNCIL'S COVENANTS**

The Council covenants with the Airport Operator to observe and perform the covenants and obligations on its part contained in Schedule 1 and in Schedule 2.

9. **ENFORCEMENT**

9.1 The obligations undertakings covenants and agreements contained in this Deed shall not be binding upon or enforceable against:-

9.1.1 any statutory undertaker or other person who acquires any part of the Airport Site or any interest in it for the purposes of the supply of electricity, gas, water, drainage telecommunication services or public transport services (save in respect of a Relevant Airport Operator);

9.1.2 any person after he has disposed of his interest in the Airport Site, or in the event of a disposal of part, in the part disposed of, but not so as to release that person from any antecedent breach, non-performance or non-observance of his obligations;

- 9.1.3 the Mortgagee after he has disposed of his interest in the Airport Site, or in the event of a disposal of part, in the part disposed of, but not so as to release the Mortgagee from any antecedent breach, non-performance or non-observance of his obligations;
- 9.1.4 any person having a leasehold interest in the Airport Operator Land or the Airport Site the unexpired term of which is not less than seven years; and
- 9.1.5 any chargee or mortgagee (including any chargee or mortgagee of any tenant) from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Airport Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee or receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Airport Site or part thereof to which such obligation undertaking covenant or agreement relates.

10. THE MORTGAGEE

The Mortgagee acknowledges and declares that:-

- 10.1 this Deed has been entered into by the Airport Operator with his consent; and
- 10.2 the Airport Operator Land shall be bound by the provisions in this Deed.

11. DISPUTE RESOLUTION

- 11.1 In the event of any dispute arising between the Parties in respect of any matter contained in this Deed the same may be referred to the Expert by any Party notifying the other Parties of such intention (the "**Notice**").
- 11.2 The Notice must specify:-
 - 11.2.1 the nature, basis and brief description of the dispute;
 - 11.2.2 the Clause of this Deed or paragraph of a Schedule of this Deed to which the dispute has arisen; and
 - 11.2.3 the proposed Expert.
- 11.3 The Expert shall be an independent person of at least ten years standing in the area of expertise relevant to the dispute and in the event that the Parties are unable to agree whom should be appointed as the Expert within ten Business Days after the date of the Notice then any Party may request:-
 - 11.3.1 if such dispute shall relate to matters concerning the construction, interpretation and/or the application of this Deed, the Chairman of the Bar Council to nominate the Expert;
 - 11.3.2 if such dispute shall relate to matters necessitating any calculation or otherwise concerning a financial aspect of this Deed, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert;
 - 11.3.3 if such dispute shall relate to matters in connection with aviation matters, the President of the British Association of Aviation Consultants to nominate the Expert;
 - 11.3.4 if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;
 - 11.3.5 if such dispute shall relate to matters requiring a specialist chartered civil engineer, the President of the Institution of Civil Engineers to nominate the Expert; and
 - 11.3.6 in all other cases, the President of the Law Society to nominate the Expert.

- 11.4 If the dispute shall relate to matters falling within two or more of Clauses 11.3.1 to 11.3.6, the Parties may agree to appoint joint Experts and in the event that the Parties are unable to agree whom should be appointed as joint Experts, the Parties may request the President of the Law Society to nominate such persons falling within the descriptions of Clauses 11.3.1 to 11.3.6 to act as joint Experts.
- 11.5 The Expert shall act as an expert and not as an arbitrator and whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the Parties to the dispute in equal shares.
- 11.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine submitted jointly by the Parties) subject to an express requirement that he reaches his decision and communicates it to the Parties to the dispute within the minimum practical timescale allowing for the nature and complexity of the dispute and in any event not more than twenty Business Days from the date of his appointment to act.
- 11.7 The Expert shall be required to give notice to each of the said Parties to the dispute inviting each of them to submit to him within ten Business Days from the date of his appointment written submissions and supporting material and shall afford to the said Parties an opportunity to make counter submissions within a further five Business Days in respect of any such submission and material.
- 11.8 In the absence of manifest error the Expert's decision shall be binding on the Parties.
12. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
- 12.1 Nothing in this Deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 12.2 This Deed may be rescinded or varied without the consent of a third party.
13. **NOTICES AND APPROVALS**
- 13.1 Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post to the Party upon whom it is to be served or to whom it is to be given and will conclusively be deemed to have been received on the next Business Day after the day of delivery.
- 13.2 A notice or communication shall be served or given:-
- 13.2.1 on the Airport Operator at Lydd Airport, Lydd, Kent, TN29 9QL, marked for the attention of [REDACTED];
- 13.2.2 on the Council at Castle Hill Avenue, Folkestone, Kent, CT20 2QY, marked for the attention of [REDACTED]; and
- 13.2.3 on the Mortgagee at [REDACTED], marked for the attention of [REDACTED].
- 13.3 Any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.
- 13.4 Where in this Deed there is any reference to an expression of satisfaction certificate approval agreement or other consent (including any Requisite Consent) to be given or made by the Council such expression certificate approval agreement or other consent shall be requested in writing and the Council shall not unreasonably withhold or delay the giving or making of the same and in any event the Council shall use reasonable endeavours to provide such expression certificate approval agreement or other consent within forty-two days of receiving a request for the same.

13.5 Where in this Deed any matter is referred to dispute resolution under Clause 11, the findings of the Expert shall (save in relation to manifest error) be binding on the Parties and such finding shall be deemed to constitute the required approval or agreement for the purposes of this Deed.

13.6 Where under this Deed the support of the Council is reasonably requested by the Airport Operator in relation to negotiations with any third party in relation to any Requisite Consent, the Council shall endeavour in good faith to provide that support where reasonable in the circumstances.

14. **LOCAL LAND CHARGE**

This Deed shall be registered as a local land charge by the Council, and the Council shall immediately after the date of this Deed register it as such.

15. **SEVERANCE**

If any provision in this Deed shall in whole or in part be held (for whatever reason) to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected or impaired.

16. **WAIVER**

No waiver (whether expressed or implied) by the Council or the Airport Operator of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Airport Operator from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

17. **NO FETTERING OF DISCRETION**

This Deed shall not fetter prejudice or affect the exercise of any statutory or regulatory power duty or discretion of the Council.

18. **COMMUNITY INFRASTRUCTURE LEVY**

The Parties agree that the obligations of this Deed shall be in full and final settlement of any Infrastructure Levy which may apply to the Airport Site or to the Runway Extension Development and/or the Terminal Building Development due to, and following, the grant of the Planning Permissions in respect of the Runway Extension and the Terminal Building.

19. **LEGAL COSTS**

On completion of this Deed, the Airport Operator shall pay to the Council the reasonable legal costs properly incurred in the negotiation preparation and completion of this Deed (inclusive of any such reasonable costs properly incurred by external lawyers appointed by the Council in relation to the negotiation preparation and completion of this Deed) up to a maximum of £[] exclusive of disbursements and VAT.

20. **JURISDICTION AND LEGAL EFFECT**

20.1 This Deed shall be governed by and interpreted in accordance with the law of England.

20.2 The provisions of this Deed (other than this Clause 20.2 which shall be effective in any event) shall be of no effect until this Deed has been dated.

21. **COMPATIBILITY BETWEEN THIS DEED AND THE UK AIP AND SI 2007/1929**

In the event of any incompatibility between this Deed and the UK AIP and The Air Navigation (Restriction of Flying) (Nuclear Installations) Regulations 2007 (statutory instrument 2007/1929) (or any replacement), the UK AIP and The Air Navigation (Restriction of Flying) (Nuclear Installations) Regulations 2007 (statutory instrument 2007/1929) (or any replacement) shall take precedence over this Deed.

EXECUTED AS A DEED by the parties on the date which first appears in this Deed.

DISCUSSION DRAFT

SCHEDULE 1

THE AIRPORT OPERATOR'S COVENANTS WITH THE COUNCIL

1. RESTRICTION ON OCCUPATION OF THE TERMINAL BUILDING

The Airport Operator shall not Occupy the Terminal Building until the Completion of the Runway Extension.

2. ROUTING PLAN

2.1 Prior to the Commencement of the Runway Extension, the Airport Operator shall submit to the Council for approval the Runway Extension Construction Traffic Management Plan.

2.2 During the period between the Commencement of the Runway Extension and Completion of the Runway Extension, the Airport Operator shall use reasonable endeavours to ensure that all drivers of Abnormal Indivisible Load Vehicles arriving at or leaving from the Airport comply with the approved Runway Extension Construction Traffic Management Plan.

2.3 Prior to the Commencement of the Terminal Building, the Airport Operator shall submit to the Council for approval the Terminal Building Construction Traffic Management Plan.

2.4 During the period between the Commencement of the Terminal Building and Completion of the Terminal Building, the Airport Operator shall use reasonable endeavours to ensure that all drivers of Abnormal Indivisible Load Vehicles arriving at or leaving from the Airport comply with the approved Terminal Building Construction Traffic Management Plan.

3. TRAVEL PLAN

3.1 Prior to the Runway Extension coming into Operation, the Airport Operator shall submit to the Council for approval the Runway Extension Updated Travel Plan.

3.2 The Airport Operator shall not Operate the Runway Extension unless and until the Council has approved the Runway Extension Updated Travel Plan and the Airport Operator shall comply with the approved Runway Extension Updated Travel Plan from the date that the Runway Extension comes into Operation until the Airport Operator implements the Terminal Building Updated Travel Plan.

3.3 Prior to a throughput of 300,000ppa, the Airport Operator shall submit to the Council for approval the Terminal Building Updated Travel Plan.

3.4 No more than 300,000ppa shall be permitted to travel through the Airport unless and until the Council has approved the Terminal Building Updated Travel Plan

3.5 The Airport Operator shall comply with the approved Terminal Building Updated Travel Plan from the date that the Terminal Building comes into Operation until the End Date of both of the Runway Extension and Terminal Building (unless otherwise agreed with the Council).

3.6 Within three months of the Council approving the Runway Extension Updated Travel Plan, the Airport Operator shall designate a transport co-ordinator until the End Date of both of the Runway Extension and Terminal Building (unless otherwise agreed with the Council).

3.7 The transport coordinator will be responsible for preparing, implementing, co-ordinating and managing the Runway Extension Updated Travel Plan and, when applicable, the Terminal Building Updated Travel Plan. The transport co-ordinator's role will include:-

3.7.1 marketing and promoting both the introduction and use of public transport to and from the Airport and a reduction in the number of single car driver trips to and from the Airport;

3.7.2 marketing and promoting the shuttle bus established pursuant to paragraph 5 of this Schedule 1;

- 3.7.3 promoting improvements to bus and train services linking the Airport with public transport nodes within the Ashford sub-region;
 - 3.7.4 leading initiatives to influence and manage travel demands in relation to the Airport;
 - 3.7.5 liaising with bodies and agencies relevant to the implementation of the Runway Extension Updated Travel Plan and, when applicable, the Terminal Building Updated Travel Plan including transport operators, the police and residents groups;
 - 3.7.6 disseminating travel and transport information to those who work at, visit or otherwise use the Airport and organising and promoting periodic campaigns to raise awareness of key transport and travel issues associated with the Airport; and
 - 3.7.7 collating and organising travel data information in respect of passengers travelling to and from the Airport (to the extent that such information is made available to the travel plan co-ordinator by any airline operating out of the Airport from time to time) and employees working at the Airport.
- 3.8 Within six months of the Runway Extension coming into Operation, the Airport Operator shall designate a suitable person to monitor the Runway Extension Updated Travel Plan and, when applicable, the Terminal Building Updated Travel Plan, and thereafter produce an annual report (the "**Travel Plan Monitoring Report**") of the typical travel characteristics, total trips and modal split of users of the Airport together with progress towards meeting the targets in the Runway Extension Updated Travel Plan or the Terminal Building Updated Travel Plan (as applicable) and (where necessary) details of any remedial measures proposed to improve such progress.
- 3.9 The Airport Operator shall supply a copy of the Travel Plan Monitoring Report to the Council on the first anniversary of the date that the Runway Extension came into Operation and thereafter annually until either:
- 3.9.1 ten years from the date on which the Runway Extension came into Operation; or
 - 3.9.2 five years from Occupation of the Terminal Building
- whichever is the earlier.
- 3.10 Where the Travel Plan Monitoring Report proposes any remedial measures to improve progress towards meeting the targets in the Runway Extension Updated Travel Plan or the Terminal Building Updated Travel Plan (as applicable), the Airport Operator shall, insofar as it is within the Airport Operator's power or control to do so, comply with and carry out the proposed remedial measures.
- 4. CAR PARK MANAGEMENT SCHEME**
- 4.1 Prior to the Runway Extension coming into Operation, the Airport Operator shall submit the Car Park Management Scheme to the Council for approval.
- 4.2 The Car Park Management Scheme shall detail the following:-
- 4.2.1 the number and location of spaces (including disabled spaces) within the car parking areas required for the Operation of the Runway Extension and, when applicable, the Terminal Building together with a timetable for the provision of such spaces commensurate with ppa;
 - 4.2.2 safety, security, cleaning and other operational arrangements including barriers for maximum head room heights;
 - 4.2.3 the amounts of any car parking charges;
 - 4.2.4 the location, provision, quantity, management and security of trolleys and trolley bays (in particular, provision to ensure that trolleys are not removed from the Airport by members of the public); and

4.2.5 details of all signage, logos and similar branding to be located within the car parking areas.

4.3 The Airport Operator shall not Operate the Runway Extension unless and until the Council has approved the Car Park Management Scheme and the Airport Operator shall not:-

4.3.1 bring into use any of the 287 car parking spaces to be provided in relation to the operation of the Airport following the Runway Extension coming into Operation unless that part of the Car Park Management Scheme related to Airport operations following the Runway Extension coming into Operation has been implemented and, unless otherwise agreed with the Council, the 287 car parking spaces will thereafter be provided and managed in accordance with the applicable part of the approved Car Park Management Scheme until the End Date of the Runway Extension; and

4.3.2 bring into use any of the 352 further car parking spaces to be provided in relation to the operation of the Airport following the Terminal Building coming into Operation unless that part of the Car Park Management Scheme related to Airport operations following the Terminal Building coming into Operation has been implemented and, unless otherwise agreed with the Council, the 352 car parking spaces will thereafter be provided and managed in accordance with the applicable part of the approved Car Park Management Scheme until the End Date of both of the Runway Extension and Terminal Building.

4.4 Within three months of the implementation of the Car Park Management Scheme, the Airport Operator shall designate a car park monitor to monitor the Car Park Management Scheme and the Airport Operator shall thereafter produce an annual report (the "**Car Park Management Monitoring Report**") of the usage of the car parking areas together with details of any breaches of the Car Park Management Scheme that have occurred over the period the subject of the Car Park Monitoring Report and (where necessary) details of any remedial measures proposed to try and prevent those breaches re-occurring.

4.5 The Airport Operator shall supply a copy of the Car Park Management Monitoring Report to the Council on the first anniversary of the implementation of the Car Park Management Scheme in accordance with paragraph 4.3 of this Schedule 1 and thereafter annually until either:

4.5.1 ten years from such date; or

4.5.2 five years from Occupation of the Terminal Building

whichever is the earlier.

4.6 Where the Car Park Management Monitoring Report proposes any remedial measures to try and prevent any issues identified in the Car Park Management Monitoring Report from re-occurring, the Airport Operator shall, insofar as it is within the Airport Operator's power or control to do so, use reasonable endeavours to comply with and carry out the proposed remedial measures.

5. **SHUTTLE BUS**

5.1 Following the Runway Extension coming into Operation and prior to a throughput of 30,000ppa, the Airport Operator shall submit to the Council for approval a scheme for a shuttle bus service between the Airport and Ashford International Train Station (the "**Shuttle Bus Service**"), such scheme to provide for:-

5.1.1 the Shuttle Bus Service to be an "on request" Shuttle Bus Service for all passengers flying from the Airport on a Public Transport Aircraft;

5.1.2 the Shuttle Bus Service to be an "on request" Shuttle Bus Service for all passengers flying to the Airport on a Public Transport Aircraft;

5.1.3 publicising the Shuttle Bus Service;

5.1.4 measures to encourage passengers and staff to use the Shuttle Bus Service;

- 5.1.5 the submission of quarterly patronage figures of the Shuttle Bus Service to the Council;
and
- 5.1.6 a date for implementation of the scheme which shall be prior to a throughput of 30,000ppa.
- 5.2 The Airport Operator shall not permit a throughput of 30,000ppa at the Airport unless and until the Council has approved the scheme submitted to the Council pursuant to paragraph 5.1 of this Schedule 1.
- 5.3 The Airport Operator shall implement the scheme submitted to the Council pursuant to paragraph 5.1 of this Schedule 1 on the date for implementation as set out in the submitted scheme and thereafter, but subject always to paragraph 5.5 of this Schedule 1, the Airport Operator shall comply with and carry out the said scheme until the End Date of both of the Runway Extension and Terminal Building.
- 5.4 Following the establishment of the Shuttle Bus Service the Airport Operator shall submit quarterly patronage figures to the Council showing the daily and monthly use of the Shuttle Bus Service.
- 5.5 The Airport Operator may at any time following the establishment of the Shuttle Bus Service submit to the Council details of a revised scheme for the Shuttle Bus Service, such details to be accompanied by reasons for the revised scheme, and where the Council approves the revised scheme the Airport Operator shall comply with and carry out the said scheme until the End Date of both of the Runway Extension and Terminal Building.

6. HIGHWAYS WORKS

6.1 The entrance to the Airport

- 6.1.1 Upon the Airport reaching a throughput of 30,000ppa, the Airport Operator shall carry out an access monitoring survey (the "**Access Monitoring Survey**") to assess the road traffic safety conditions at the junction of the B2075 and the Airport access and thereafter the Airport Operator shall repeat the Access Monitoring Survey on the date specified in the preceding Access Monitoring Survey (such date to be calculated by having regard to the predicted ppa throughput growth at the Airport) **PROVIDED THAT** there shall be no requirement to repeat the Access Monitoring Survey more frequently than every eighteen months.
- 6.1.2 The Access Monitoring Survey to be carried out pursuant to paragraph 6.1.1 of this Schedule 1 shall include a crash analysis, capacity analysis and a safety audit at the junction of the B2075 and the Airport access together with (where necessary) details of any recommended necessary remedial measures to alleviate and/or improve the safety of the junction of the B2075 and the Airport access arising directly as a result of the ppa throughput of the Airport.
- 6.1.3 Prior to carrying out the first Access Monitoring Survey pursuant to paragraph 6.1.1 of this Schedule 1, the Airport Operator shall submit to the Council for approval (in consultation with Kent County Council) the identity of the person(s) the Airport Operator proposes to appoint to carry out the Access Monitoring Survey together with the proposed methodology (including the proposed measurement locations) for the Access Monitoring Survey and the Access Monitoring Survey shall be carried out by the approved person(s) and in accordance with the approved methodology or in accordance with any variations to those approvals as may be approved by the Council from time to time.
- 6.1.4 The Airport Operator shall submit the results of each Access Monitoring Survey to the Council, following which the Airport Operator and the Council shall discuss and agree whether some or all of the recommended necessary remedial measures proposed in the Access Monitoring Survey (if any are proposed) should be implemented and, if so, the timescale for such implementation.

- 6.1.5 To the extent that it is within the Airport Operator's power or control to do so and subject to the Airport Operator securing all necessary Requisite Consents (which the Airport Operator shall use reasonable endeavours to secure), the Airport Operator shall implement the remedial measures agreed between the Airport Operator and the Council within the timescale for implementation agreed pursuant to paragraph 6.1.4 of this Schedule 1.
- 6.1.6 In the event that the remedial measures agreed between the Airport Operator and the Council are not implemented within the timescale for implementation agreed pursuant to paragraph 6.1.4 of this Schedule 1 due to all or any of the measures not being in the Airport Operator's power or control to implement or any of the Requisite Consents necessary for the implementation of the remedial measures have not been secured, the Airport Operator shall use reasonable endeavours to agree with the Council such alternative remedial measures that perform the same or substantially the same purpose as the remedial measures agreed pursuant to paragraph 6.1.4 of this Schedule 1 and which are within the Airport Operator's power or control to implement and which do not require any Requisite Consents to be secured.
- 6.1.7 This paragraph 6.1 shall cease to have effect on the earlier of the:-
- (a) End Date of both of the Runway Extension and Terminal Building; and
 - (b) three consecutive years of ppa throughput through the Airport being less than 30,000 (the provisions of this paragraph 6 to be re-activated once the ppa throughput through the Airport again exceeds 30,000).

6.2 **The Camber Road (C24)**

- 6.2.1 Prior to the Runway Extension coming into Operation, the Airport Operator shall carry out automatic traffic counts on the C24 at a suitable location between the village of Camber and the town of Lydd (such location to be agreed between the Airport Operator and the Council (in consultation with East Sussex County Council)) for a period of one week in a neutral non-holiday traffic month (such month to be taken from the period October to April) and for a period of one week in a holiday month (such month to be taken from the period May to September) in order to ascertain the average weekly traffic flow of the C24 between the village of Camber and the town of Lydd during the holiday and non-holiday seasons.
- 6.2.2 The Airport Operator shall submit the results of the automatic traffic counts carried out pursuant to paragraph 6.2.1 of this Schedule 1 to the Council and to East Sussex County Council.
- 6.2.3 Upon the Airport reaching a throughput of 30,000 ppa, the Airport Operator shall carry out an automatic traffic count on the C24 at the same location as the automatic traffic counts were carried out pursuant to paragraph 6.2.1 of this Schedule 1 and thereafter the Airport Operator shall repeat the automatic traffic count at the same location annually for a period of five years.
- 6.2.4 The Airport Operator shall submit the results of the automatic traffic counts carried out pursuant to paragraph 6.2.3 of this Schedule 1 to the Council and to East Sussex County Council.
- 6.2.5 If the results of any of the automatic traffic counts carried out pursuant to paragraph 6.2.3 of this Schedule 1 show an increase in the average daily traffic flow compared with the results of the corresponding (holiday and non-holiday) automatic traffic counts carried out prior to the Runway Extension coming into Operation in excess of 5% of the average traffic increase in the vicinity of the village of Camber and the town of Lydd (such traffic averages in the vicinity to be calculated from the Department for Transport estimated traffic volume for all motor vehicles on all roads except trunk roads, by local authority), a sum shall be paid by the Airport Operator to the Council as a contribution towards the

cost of traffic management measures in Camber **SUBJECT TO** the Council having provided to the Airport Operator:-

- (a) details as to the proposals for traffic management measures; and
- (b) the sum required as a contribution for the proposed traffic management measures.

6.2.6 The maximum liability of the Airport Operator under paragraph 6.2.5 of this Schedule 1 is limited to £25,000.

6.2.7 On the fifth anniversary of the Airport reaching a throughput of 30,000 ppa, this paragraph 6.2 shall cease to have any further effect and the Airport Operator shall be released from this paragraph 6.2 and from all liability, claims and demands in respect of any breach or non-observance of the same but without prejudice to any antecedent breach of this paragraph 6.2.

7. **SIGNAGE STRATEGY**

7.1 Prior to the Runway Extension coming into Operation, the Airport Operator shall use reasonable endeavours to agree a suitable signage strategy (the "**Signage Strategy**") with the Council (in consultation with Kent County Council and East Sussex County Council) in order to direct passengers travelling to and from the Airport in cars to use the most appropriate route(s).

7.2 The Airport Operator shall not later than three months after agreeing the Signage Strategy with the Council commission (at the Airport Operator's expense) the implementation and completion of the Signage Strategy to the extent that it is within the Airport Operator's power or control to do so **SAVE THAT** this obligation is subject to the Airport Operator securing all necessary Requisite Consents for the Airport Operator to implement to the Signage Strategy.

7.3 The Airport Operator shall ensure that travel information for passengers of the Airport will identify the route(s) set out as being the most appropriate under the Signage Strategy.

8. **OFF SITE BIRD HABITAT MANAGEMENT**

8.1 The Bird Control Plan shall include details of any off-site bird control measures that may be utilised to supplement the on-site bird control measures. For the avoidance of doubt, the Runway Extension Planning Permission requires the Bird Control Plan to be in accordance with the bird control management plan dated December 2010 and submitted in support of the Applications and such bird control management plan details the proposed off-site bird control measures that may be utilised to supplement the on-site bird control measures.

8.2 Save in respect of off-site bird control measures required in an emergency to counter an immediate birdstrike threat, prior to carrying out any of the off-site bird control measures approved as part of the Bird Control Plan, the Airport Operator shall submit to the Council details as to the use of the off-site bird control measures, such details to include:

8.2.1 the measures to be deployed and the duration; and

8.2.2 the scope and location of the measures

and where the off-site bird control measures include a change in land use, the change shall either be consistent with agricultural practices in the vicinity of the Airport or shall be designed so as to have a conservation benefit without increasing the risk of birdstrike.

8.3 Save in respect of off-site bird control measures required in an emergency to counter an immediate birdstrike threat, the Airport Operator shall not carry out any of the off-site bird control measures approved as part of the Bird Control Plan unless and until the Council, in consultation with Natural England, has approved the details submitted pursuant to paragraph 8.2 of this Schedule 1.

8.4 Following the Runway Extension coming into Operation, the Airport Operator shall carry out the off-site bird control measures in accordance with the approved Bird Control Plan and the details approved pursuant to this paragraph 8 until the End Date of both the Runway Extension and the Terminal Building.

8.5 The Airport Operator shall review the off-site bird control measures as part of the annual review of the operation of the Bird Control Plan pursuant to the Runway Extension Planning Permission.

9. NOISE MANAGEMENT

9.1 Noise Management Plan

9.1.1 Prior to the Runway Extension coming into Operation, the Airport Operator shall submit to the Council for approval a noise management plan (the "**First Noise Management Plan**") which complies with Directive EC/2002/30.

9.1.2 The Airport Operator shall not Operate the Runway Extension unless and until the First Noise Management Plan has been approved by the Council and implemented by the Airport Operator.

9.1.3 Prior to permitting any Aeroplane with a maximum take-off weight of 45 tonnes or more to land or depart from the Airport, the Airport Operator shall submit to the Council for approval a second noise management plan (the "**Second Noise Management Plan**") which complies with Directive EC/2002/30.

9.1.4 The Airport Operator shall not permit any Aeroplane with a maximum take-off weight of 45 tonnes or more to land or depart from the Airport unless and until the Second Noise Management Plan has been approved by the Council and implemented by the Airport Operator.

9.1.5 The First Noise Management Plan shall include:-

- (a) the siting of ground operations to ensure that sensitive receptors are not subject to unnecessary ground noise;
- (b) the establishing of lines of communication between the Airport Operator and local residents to facilitate the addressing of any concerns relating to noise emanating from the Airport; and
- (c) the production of retrospective noise contours for the previous Operating Calendar Year illustrating the annual and summer average noise levels in the previous Operating Calendar Year and the calculation of the geographical area covered by the 57 dB(A) noise contour, such contours to be produced using data from the previous Operating Calendar Year including actual Aeroplane movement numbers, their weight bands, their aircraft Chapter and runway use.

9.1.6 The Second Noise Management Plan shall incorporate all of the details of the First Noise Management Plan together with:-

- (a) noise abatement operating procedures including a penalty system for those pilots of Aeroplanes using excessive thrust when departing the Airport, excessive thrust to be determined through the use of departure noise infringement limits to be agreed between the Airport Operator and the Council through the submission of the Second Noise Management Plan. Any fines resulting from the penalty system to be donated to a community fund to be administered jointly by the Council and the Airport Operator for the environmental improvement of community and recreational projects within a 5 kilometre radius of the Airport;

- (b) the methodology for the monitoring of thrust from Aeroplanes departing the Airport to identify any breaches by the use of thrust of the agreed departure noise infringement limits;
- (c) a target noise performance standard for Aeroplanes using the Airport commensurate with CAA guidelines and ICAO guidelines, such target to be agreed between the Airport Operator and the Council through the submission of the Second Noise Management Plan;
- (d) the methodology for the monitoring of the noise performance of Aeroplanes using the Airport to identify any breaches of the agreed target noise performance for Aeroplanes using the Airport;
- (e) the monitoring of ground operations at the Airport;
- (f) the provision of [] noise monitoring stations at locations to be agreed with the Council (such monitoring positions to be unaffected by other noise sources as far as is reasonably possible); and
- (g) a requirement for the monitoring results, before they are submitted to the Council, to be audited by suitably qualified noise consultants employed at the expense of the Airport Operator.

9.1.7 Unless otherwise agreed with the Council, from the date that the Runway Extension comes into Operation until the earlier of the End Date of both of the Runway Extension and Terminal Building and the date that the approved Second Noise Management Plan is implemented, the Airport Operator shall comply with and carry out the First Noise Management Plan approved by the Council pursuant to paragraph 9.1.1 of this Schedule 1.

9.1.8 Unless otherwise agreed with the Council, from the date of implementation of the Second Noise Management Plan to the End Date of both of the Runway Extension and Terminal Building, the Airport Operator shall comply with and carry out the Second Noise Management Plan approved by the Council pursuant to paragraph 9.1.3 of this Schedule 1.

9.2 As soon as reasonably practicable at the end of every Operational Calendar Year (the first Calendar Year being the first full Calendar Year following the Runway Extension coming into Operation) the Airport Operator shall submit the retrospective noise contours carried out pursuant to the First Noise Management Plan and, when applicable, the results (together with the audit) of the monitoring and the retrospective noise contours carried out pursuant to the Second Noise Management Plan.

9.3 If:-

9.3.1 the results of the monitoring carried out pursuant to this paragraph 9 identify any breaches by the use of thrust of the agreed departure noise infringement limits; or

9.3.2 the results of the monitoring carried out pursuant to this paragraph 9 identify any breaches of the agreed target noise performance for Aeroplanes using the Airport; or

9.3.3 the retrospective noise contours produced pursuant to this paragraph 9 demonstrate that the geographical area enclosed by the 57dB(A) Leq 16hr contour exceeds a total area of 1.9km²;

the Airport Operator shall:-

- (a) as soon as reasonably practicable following submission of the said results to the Council submit a scheme of noise response measures to the Council for approval taking into account both the need for appropriate response measures

to be taken to seek to reduce noise levels and the need to maintain reasonable Airport operations; and

- (b) implement, as far as within the control of the Airport Operator and subject to the Airport Operator securing all necessary Requisite Consents, the scheme approved by the Council pursuant to paragraph 9.3.3(a) of this Schedule 1 as soon as reasonably practicable and in any event no later than six months of the Council's approval (unless otherwise agreed with the Council).

9.3.4 In the event that scheme approved by the Council pursuant to paragraph 9.3.3(a) of this Schedule 1 is not implemented within the timescale for implementation detailed in paragraph 9.3.3(b) of this Schedule 1 due to all or any part of the approved scheme not being in the Airport Operator's power or control to implement or any of the Requisite Consents necessary for the implementation of the scheme have not been secured, the Airport Operator shall use reasonable endeavours to agree with the Council such alternative scheme that performs the same or substantially the same purpose as the scheme approved by the Council pursuant to paragraph 9.3.3(a) of this Schedule 1 and which is within the Airport Operator's power or control to implement and which does not require any Requisite Consents to be secured.

9.3.5 If the Airport Operator and the Council are unable to agree a scheme under paragraph 9.3.3(a) of this Schedule 1 then the matter may be referred to an Expert pursuant to Clause 11. In determining the scheme of noise response measures required the Expert shall consider the matters set out in paragraph 9.3 of this Schedule 1 and:-

- (a) changes in type, design and technology of aircraft using the Airport; and
- (b) advances in scientific knowledge and understanding in relation to operations of aircraft.

9.3.6 In the absence of manifest error the Airport Operator and the Council shall accept the decision of the Expert and the Airport Operator shall implement the measures within the reasonable timescale set out by the Expert.

9.3.7 The First Noise Management Plan and the Second Noise Management Plan shall not apply to the Air Show nor Emergency and Governmental Activities.

10. OPERATIONAL RESTRICTIONS

10.1 Save where incompatible with safe flying operations, the Airport Operator shall use reasonable endeavours to ensure that the operational procedures contained within the UK AIP for the Airport are followed by every operator of Aeroplanes and helicopters using the Airport in particular:-

10.1.1 every Aeroplane and helicopter to be operated in such a manner as to cause the least disturbance practicable to local residents;

10.1.2 every Aeroplane and helicopter to follow procedures promulgated by the Airport Operator for noise abatement and minimising ground noise;

10.1.3 every Aeroplane making an approach to land at the Airport to follow a descent path which will not result in the Aeroplane being lower at any time than the descent path which would be followed by the Aeroplane using the Airport's instrument landing system or that as indicated visually by the Precision Approach Path Indicator;

10.1.4 the use of reverse thrust (above idle power) after landing to be minimised consistent with the safe operation of the Aeroplane all times;

10.1.5 all departing Aeroplanes having a take off weight of 5700kg or over to use the starter extension upon departure from Runway 21;

- 10.1.6 all departing Aeroplanes are to climb straight ahead to at least a height of 500 feet or to pass the upwind end of the runway whichever is the later before commencing any turn;
 - 10.1.7 all departing Aeroplanes to climb as steeply as is compatible with safety;
 - 10.1.8 all departing Aeroplanes having a take off weight of 5700kg or over not to turn left upon departure from Runway 21;
 - 10.1.9 in accordance with The Air Navigation (Restriction of Flying) (Nuclear Installations) Regulations 2007 (SI 2007/1929) all Aeroplanes that take off or land at the Airport to remain on a flight path that is at least 1.5 nautical miles from the position specified in column 3 of Schedule 2 to the Regulations.
- 10.2 Save where incompatible with safe flying operations and where destination or origin is within the UK, the Airport Operator will use reasonable endeavours to ensure that helicopters departing from or landing at the Airport will use a north-westerly flight path in order to avoid the towns of Lydd and New Romney.
- 10.3 Within six months of the Runway Extension coming into Operation and pursuant to paragraph 9.1.5(b) of this Schedule 1, the Airport Operator shall establish and thereafter publicise and maintain a noise complaints service which shall investigate the cause of all formal and non-vexatious noise complaints made to the Airport Operator by the public. The Airport Operator shall provide a written response to each formal complaint, with a copy sent to the Council at the same time, together with the original complaint, as part of the noise complaint service indicating the outcome of the investigation and any action proposed to be taken to review or modify procedures as a result of the complaint.
- 10.4 Upon the Runway Extension coming into Operation, the Airport Operator shall keep an electronic record of:-
- 10.4.1 all Aeroplane and helicopter flight movements landing and taking off at the Airport; and
 - 10.4.2 the number of Public Transport Aircraft passengers passing through the Airport
- and every six months (the first such six months to be the first full six months in a Calendar Year following the Runway Extension coming into Operation) the Airport Operator shall compile and deliver to the Council, within a period of four weeks from the end of the six months, a written summary of the electronic record comprising details on, for the previous six months, the number of Public Transport Aircraft passengers passing through the Airport, the number of Aeroplane and helicopter flight movements (separating out the movements associated with Emergency and Governmental Activities), their weight bands, their aircraft Chapter and runway use.
- 10.5 Unless otherwise agreed with the Council, from the date that the Runway Extension comes into Operation to the End Date of both of the Runway Extension and Terminal Building the Airport Operator shall comply with this paragraph 10.
- 10.6 Sub-paragraphs 10.1.1 to 10.1.7 and paragraph 10.2 of this Schedule 1 shall not apply to the Air Show or Emergency and Governmental Activities.

11. **EMPLOYMENT AND TRAINING**

- 11.1 The Airport Operator shall submit:
- 11.1.1 prior to the Runway Extension coming into Operation, the Runway Extension Jobs and Business Strategy to the Council for approval;
 - 11.1.2 six months prior to the Commencement of the Terminal Building, the Phase 1 Jobs and Business Strategy to the Council for approval; and
 - 11.1.3 on Occupation of the Terminal Building, the Phase 2 Jobs and Business Strategy to the Council for approval.

(together known as the "**Jobs and Business Strategies**" and any one known as a "**Jobs and Business Strategy**")

As part of the Jobs and Business Strategies in order to assist local people to secure employment, the Airport Operator shall work with the Council and the Partner Organisations to develop strategies to improve training and employment opportunities and initiatives for the Council's administrative area in jobs related to the Airport, including in each case in relation to the Runway Extension and the Terminal Building (as applicable).

- 11.2 The Airport Operator shall not:-
- 11.2.1 Operate the Runway Extension unless and until it has implemented the approved Runway Extension Jobs and Business Strategy and the Airport Operator shall thereafter carry out the approved Runway Extension Jobs and Business Strategy until the earlier of the End Date of the Runway Extension and the date that the approved Phase 2 Jobs and Business Strategy is implemented (unless otherwise agreed with the Council);
 - 11.2.2 Commence the Terminal Building unless and until it has implemented the approved Phase 1 Jobs and Business Strategy and the Airport Operator shall thereafter carry out the approved Phase 1 Jobs and Business Strategy until the earlier of the End Date of the Runway Extension and the date that the approved Phase 2 Jobs and Business Strategy is implemented (unless otherwise agreed with the Council); and
 - 11.2.3 permit the Occupation of the Terminal Building unless and until it has implemented the approved Phase 2 Jobs and Business Strategy and the Airport Operator shall thereafter carry out the approved Phase 2 Jobs and Business Strategy until the End Date of both the Runway Extension and the Terminal Building (unless otherwise agreed with the Council).
- 11.3 The Airport Operator shall use reasonable endeavours to ensure contractors, airline operators, airport support operators, retail outlets and consultants working at the Airport assist in the implementation of the Jobs and Business Strategies.
- 11.4 The Airport Operator and the Council shall review each of the Jobs and Business Strategies on an annual basis or such other timescale as agreed between the Airport Operator and the Council.
- 11.5 On the implementation by the Airport Operator of the approved Phase 2 Jobs and Business Strategy both the Runway Extension Jobs and Business Strategy and the Phase 1 Jobs and Business Strategy shall cease to have any effect.
- 11.6 Within thirty Business Days following the review of a Jobs and Business Strategy pursuant to paragraph 11.4 of this Schedule 1, the Airport Operator shall produce a written report summarising the outcome of the review such report to form part of the reviewed Jobs and Business Strategy.
- 11.7 The Airport Operator shall, and shall use reasonable endeavours to ensure contractors, airline operators, airport support operators, retail outlets and consultants working at the Airport, provide the Partner Organisations with the following:-
- 11.7.1 a nominated officer who will be the key contact with whom the Partner Organisations' staff can liaise on training and employment opportunities;
 - 11.7.2 details of initial, future and ongoing skills, needs and expected job and apprenticeship vacancies at the Airport; and
 - 11.7.3 interview feedback following interviews with any people put forward by the Partner Organisations so that staff can address any skills/experience shortages that have been identified.

12. **CARBON MANAGEMENT ACTION PLAN AND CARBON AUDIT**

12.1 Within twelve months of Commencement of the Runway Extension, the Airport Operator shall submit a carbon management action plan (the "**Carbon Management Action Plan**") for the ground operational vehicles (excluding Aeroplanes and helicopters), the Shuttle Bus Service and for energy use of buildings at the Airport to the Council for approval setting out Best Practice measures to seek to minimise carbon emissions to include:

12.1.1 reasonable measures (not entailing disproportionate or excessive cost) to reduce carbon emissions at the Airport;

12.1.2 reasonable measures (not entailing disproportionate or excessive cost) to increase the use of renewable energy at the Airport;

12.1.3 the feasibility of a carbon offset scheme;

12.1.4 reasonable measures (not entailing disproportionate or excessive cost) for the phased introduction of low carbon ground operational vehicles and energy use at the Airport as soon as reasonably practicable;

12.1.5 a programme for the implementation of the measures included in the Carbon Management Action Plan; and

12.1.6 provision for an annual report on the measures taken.

12.2 Upon approval of the Carbon Management Action Plan, the Airport Operator shall implement the Carbon Management Action Plan in accordance with the reasonable timescales approved as part of the Carbon Management Action Plan until the End Date of both of the Runway Extension and Terminal Building unless otherwise approved by the Council.

13. **AIR QUALITY**

13.1 Prior to the Runway Extension coming into Operation, the Airport Operator shall submit to the Council for approval (such approval to be in consultation with Natural England):-

13.1.1 an air quality management strategy ("**AQMS**") in relation to the Operation of the Runway Extension and, when applicable, the Operation of the Terminal Building; and

13.1.2 an air quality monitoring and action plan strategy ("**AQMAPS**") in order to monitor the effectiveness of the AQMS.

13.2 The Airport Operator shall not Operate the Runway Extension unless and until the AQMS has been approved by the Council and implemented by the Airport Operator.

13.3 Prior to submitting the AQMS to the Council in accordance with paragraph 13.1.1 of this Schedule 1, the Airport Operator shall prepare the AQMS in consultation with the Council and Natural England, the AQMS to include the following provisions:-

13.3.1 measures to minimise emissions from gate activities including:-

(a) limiting the amount of time spent on auxiliary power units;

(b) new or replacement ground-support equipment to be electrically powered;

(c) switching off the engines of ground-support vehicles when not in use;

(d) planning use of air support vehicles to improve efficiency; and

(e) minimising spillages and fugitive losses from re-fuelling operations;

13.3.2 measures to minimise emissions from landside vehicles by:-

- (a) implementing the Runway Extension Updated Travel Plan for employees;
- (b) provision of low emission shuttle buses for in-airport transfers; and
- (c) providing advice to customers on minimising impacts of travel to the Airport.

13.4 Prior to submitting the AQMS to the Council in accordance with paragraph 13.1.2 of this Schedule 1, the Airport Operator shall prepare the AQMAPS in consultation with the Council and Natural England, the AQMAPS to include the following provisions:-

13.4.1 operation of an air quality monitoring programme for nitrogen oxides, nitrogen dioxide and ammonia consisting of:

- (a) a continuous nitrogen oxides monitor, at a location to be agreed with the Council (in consultation with Natural England), as close as practicable to the SAC taking into account the airport operational restrictions, such continuous monitor to comply with the standards applied to the national Automatic Urban and Rural Network, and to include routine calibration and six monthly auditing and servicing, together with call-out provision;
- (b) a minimum of twenty diffusion tube sites comprising tubes within the Airport boundary and the SAC, as well as at the roadside on routes approaching the Airport and at the site of the automatic monitor to provide calibration of the tubes, the sites to be agreed with the Council (in consultation with Natural England).

13.4.2 establishing a vegetation monitoring programme through permanent quadrats involving comparison between vegetation quality within a number of test quadrats within the SAC and SSSI, including areas close to/on the Airport and remote from the Airport, with co-location with air quality monitoring sites wherever practicable.

13.5 Unless otherwise agreed with the Council, from the date that the Runway Extension comes into Operation to the End Date of both of the Runway Extension and Terminal Building the Airport Operator shall comply with and carry out the approved AQMS and the approved AQMAPS.

13.6 As soon as reasonably practicable at the end of every Operational Calendar Year (the first Calendar Year being the first full Calendar Year following the Runway Extension coming into Operation) the Airport Operator shall issue the results of the monitoring carried out pursuant to the AQMAPS to Natural England for a period of twenty-eight Working Days consultation and at the end of such consultation the Airport Operator shall submit the results, together with any consultation comments received from Natural England, to the Council.

13.7 If the results of the continual monitoring carried out pursuant to the AQMAPS identify any exceedences of the applicable air quality regulations in force at the time or the results indicate a need for measures to avoid or prevent any significant adverse effects arising from the Operation of the Runway Extension and/or Operation of the Terminal Building (which in the case of impact on the SAC shall be to avoid or prevent any adverse impact on the integrity of the SAC), the Airport Operator shall:-

13.7.1 carry out an investigation into the causes of the exceedences and, as soon as reasonably practicable following submission of the results of the continual monitoring carried out pursuant to the AQMAPS to the Council, submit a scheme of response measures to the Council for approval (such approval to be in consultation with Natural England) detailing the measures to avoid or prevent any significant adverse effects (which in the case of impact on the SAC shall be to avoid or prevent any adverse impact on the integrity of the SAC); and

13.7.2 implement, as far as within the control of the Airport Operator and subject to the Airport Operator securing all necessary Requisite Consents, the scheme approved by the Council pursuant to paragraph 13.7.1 of this Schedule 1 as soon as reasonably

practicable and in any event no later than six months of the Council's approval (unless otherwise agreed with the Council).

14. AIRPORT CONSULTATIVE COMMITTEE

14.1 By no later than the date three months prior to the Runway Extension coming into Operation, the Airport Operator will invite (except where already attendees of the Airport Consultative Committee) each of the Council, Kent County Council, Natural England, the Environment Agency, the Royal Society for the Protection of Birds and the Lydd Airport Action Group to attend (through a single representative) the Airport Consultative Committee.

14.2 In addition to the Airport Consultative Committee's usual business at the date of this Agreement, the Airport Consultative Committee will consider, review and comment upon:-

- (a) the annual Travel Plan Monitoring Report;
- (b) the annual Car Park Management Monitoring Report;
- (c) the Access Monitoring Survey;
- (d) the monitoring carried out pursuant to the Noise Management Plan;
- (e) the passenger figures submitted to the Council pursuant to paragraph 10.4 of Schedule 1;
- (f) the Aeroplane flight movements and helicopter flight movements submitted to the Council pursuant to paragraph 10.4 of Schedule 1;
- (g) the monitoring report on the operation of the ABAP submitted to the Council pursuant to the Runway Extension Planning Permission; and
- (h) the monitoring report on the operation of the Bird Control Plan submitted to the Council pursuant to the Runway Extension Planning Permission.

14.3 The Airport Consultative Committee will meet at least every six months in every Operating Calendar Year and meetings will take place at a convenient location to the town of Lydd to be agreed by the Airport Operator and the Council from time to time.

15. TRAVEL PLAN MONITORING FEE

[Discussions on-going with KCC/SDC]

SCHEDULE 2

THE COUNCIL'S FURTHER COVENANTS

1. CONSENTS

The Council agrees to deal with the application to discharge any of the obligations contained within this Deed as expeditiously as possible.

2. STATUTORY AND OTHER CONSENTS AND ORDERS REQUIRED

The Council agrees to use reasonable endeavors to assist the Airport Operator:-

- 2.1 in obtaining any Requisite Consents, providing assistance and/or co-operation under the 1980 Act necessary to enable the Airport Operator to implement and carry out the works referred to in Schedule 1 in a timely manner or as may be required or reasonably requested by the Airport Operator; and
- 2.2 in obtaining any Requisite Consents, providing assistance and/or co-operation from Natural England, Kent County Council, East Sussex County Council or any other statutory party in connection with any aspect of the Runway Extension and the Terminal Building which involves the consent order approval assistance or co-operation of Natural England, Kent County Council, East Sussex County Council or other statutory parties.

3. APPLICATION OF FUNDS

- 3.1 Following receipt of any sums or amounts from the Airport Operator pursuant to this Deed, the Council shall:-

- 3.1.1 forthwith upon receipt to pay such sums or amounts into an interest bearing deposit account, from which the sums or amounts together with its accrued interest can be identified from periodic statements until such time as such sums or amounts (or any part thereof) are required for the purpose of this Deed;

- 3.1.2 apply such sums or amounts only for the purposes respectively for which the sums or amounts were paid as specified in this Deed; and

- 3.1.3 from time to time upon reasonable written request by the Airport Operator (but not more frequently than once every two calendar months) to provide the Airport Operator with a breakdown of expenditure from the said sums or amounts.

- 3.2 In the event that any part or all of the sums or amounts paid by the Airport Operator to the Council have not been used for the purposes for which the sums or amounts were paid as specified in this Deed within ten years from the date of payment of such sum or amount, the Council shall forthwith from the end of the said period of ten years repay such sum or amount (or part thereof) to the Airport Operator with interest calculated at the Bank of England base rate from time to time from date of payment by the Airport Operator until the date of repayment by the Council **PROVIDED THAT** the Council shall not be required to repay any sum or sums which the Council is contractually committed to pay to another party at the date of expiration of the said period.

SCHEDULE 3

SUPPLEMENTAL SECTION 106 AGREEMENT

DISCUSSION DRAFT

SCHEDULE 4

RUNWAY EXTENSION OBLIGATIONS

[To be listed once the schedule 1 obligations are agreed]

DISCUSSION DRAFT

SCHEDULE 5

TERMINAL BUILDING OBLIGATIONS

[To be listed once the Schedule 1 provisions are agreed]

DISCUSSION DRAFT

EXECUTED as a Deed (but not delivered until)
dated) by affixing the Common Seal of)
SHEPWAY DISTRICT COUNCIL in the presence)
of:-

Authorised Officer

EXECUTED as a Deed (but not delivered until)
dated) by **LONDON ASHFORD AIRPORT**)
LIMITED acting by:-)

Director

Director/Secretary

EXECUTED as a Deed (but not delivered until)
dated) by **HSBC BANK PLC** acting by:-)

Director

Director/Secretary

APPENDIX 1
THE AIRPORT SITE

DISCUSSION DRAFT

APPENDIX 2
AIRPORT OPERATOR LAND

DISCUSSION DRAFT

APPENDIX 3

THE RUNWAY EXTENSION ADDITIONAL LAND

DISCUSSION DRAFT