



dated 10<sup>th</sup> FEBRUARY 2022

**Farnborough Airport Freehold Limited**

and

**Farnborough Airport Limited**

in favour of

**Rushmoor Borough Council**

## **Unilateral Undertaking - Supplemental Deed**

in relation to development at Farnborough Airport Farnborough

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## Supplemental deed

dated 10<sup>th</sup> FEBRUARY 2022

### Parties

- (1) **Farnborough Airport Freehold Limited** (company registration number 06419050) whose registered office is at Business Aviation Centre Farnborough Airport Farnborough Hampshire GU14 6XA (the **Owner**); and
- (2) **Farnborough Airport Limited** (company registration number 03454447) whose registered office is at Business Aviation Centre Farnborough Airport Farnborough Hampshire GU14 6XA (the **Company**)

In favour of

- (3) **Rushmoor Borough Council** of Council Offices Farnborough Road Farnborough Hampshire GU14 7JU (the **Council**).

(together the **Parties**)

### Introduction

- (A) The Owner is the registered freehold owner of those parts of the Site under title numbers HP585935, HP697359 and HP697360.
- (B) The Company is the registered leasehold owner of parts of the Site and registered under title numbers HP625923, HP600867 and HP600817.
- (C) A section 106 Agreement was entered into on 29<sup>th</sup> June 2010 made between (1) the Council, (2) Hampshire County Council, (3) TAG Farnborough Airport Freehold Limited (4) TAG Farnborough Airport Limited and (5) Lloyds TSB Bank Plc (the **2010 Section 106 Agreement**).
- (D) Planning permission (ref: 09/00313/REVPP) was granted by way of appeal (ref: APP/P1750/A/09/2118357 on 10 February 2011 (the **2011 Planning Permission**)).
- (E) A section 73 application to remove conditions 5 and 22 of the 2011 Planning Permission was validated by the Council on 1 December 2020 and allocated reference number 20/00871/REVPP (the **Variation Planning Application**).
- (F) This Supplemental Deed seeks to bind the obligations of the 2010 Section 106 Agreement to the new planning permission pursuant to the Variation Planning Application (the **Variation Planning Permission**).
- (G) The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated.
- (H) This Supplemental Deed is required to ensure that the development pursuant to the Variation Planning Permission is bound by the obligations, covenants, agreements and other provisions contained in the 2010 Section 106 Agreement and that the 2010 Section 106 Agreement will be enforceable against the development pursuant to the Variation Planning Permission.

- (l) For the avoidance of doubt this Supplemental Deed shall supersede the Supplemental Deed dated 24 June 2021 given by (1) Farnborough Airport Freehold Limited and (2) Farnborough Airport Limited in favour of (1) Rushmoor Borough Council and from the date hereof the Supplemental Deed dated 24 June 2021 shall cease to have effect.

### **Agreed terms**

#### **1 Operation of this Supplemental Deed**

1.1 This Supplemental Deed and the obligations contained in it are:

- 1.1.1 made pursuant to Sections 106 and 106A of the Town and Country Planning Act 1990 and all other enabling powers;
- 1.1.2 executed by the Owner and the Company so as to bind the development pursuant to the Variation Planning Permission to the obligations, covenants, agreements and other provisions contained in the 2010 Section 106 Agreement; and
- 1.1.3 enforceable in accordance with this Supplemental Deed and the 2010 Section 106 Agreement against the Owner and the Company and their successors in title to the Site by the Council acting as the local planning authority.

#### **2 The Owner's and Company's obligations**

- 2.1 The Owner and the Company hereby covenant, agree and undertake (for themselves and their respective successors in title to the Site) that the development pursuant to the Variation Planning Permission shall be bound by the obligations, covenants, agreements and other provisions contained in the 2010 Section 106 Agreement insofar as they relate to the Site (and to the extent that they remain outstanding at the date of this Deed) and are expressed as being obligations of (or covenants or agreements made by) the Owner and the Company.
- 2.2 The Owner and the Company acknowledge that from the date of this Deed the provisions of the 2010 Section 106 Agreement (to the extent that they remain outstanding at the date of this Deed) shall remain enforceable by the Council against the Owner and the Company as freehold and leasehold owners of the Site and their successors in title to the Site.

#### **3 Miscellaneous provisions**

- 3.1 Subject to paragraphs 3.3 of this Supplemental Deed, the terms of this Supplemental Deed are enforceable by the Council as local planning authority against the Owner and the Company.
- 3.2 For the purposes of this Supplemental Deed the following terms shall have the following meanings unless otherwise stated or unless otherwise inconsistent with the context:  
  
**Operational Land** means the land shown edged red on the plan at Appendix 1 of this Supplemental Deed with reference PLN-GPDO-CD-001-A entitled 'Airport Operational Planning Area Map'.
- 3.3 For the avoidance of doubt, any land (or parts thereof) owned by the Owner and the Company registered under those title numbers referred to at recitals (A) and (B) of this

Supplemental Deed which fall outside of the Site shall not be bound by the provisions of this Supplemental Deed or the obligations, covenants, agreements and other provisions contained within the 2010 Section 106 Agreement.

- 3.4 All words and phrases in this Supplemental Deed shall bear the same meaning as defined in the 2010 Section 106 Agreement except where defined otherwise in this Supplemental Deed.
- 3.5 This Supplemental Deed shall be registrable as a local land charge by the Council.
- 3.6 The Owner shall pay to the Council on completion of this Supplemental Deed their reasonable legal costs incurred in the negotiation, preparation and execution of this Supplemental Deed.
- 3.7 No person shall be liable for breach of covenant contained in this Supplemental Deed after parting with all its interest in the Site or the part thereof in respect of which such breach occurs but without prejudice to his liability for any subsisting breach of covenant prior to parting with such interest.
- 3.8 Nothing in the Supplemental Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Variation Planning Permission) granted (whether or not on appeal) after the date of this Supplemental Deed.
- 3.9 No provision of this Supplemental Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 3.10 None of the obligations of this Supplemental Deed shall be enforceable against any statutory authority or utility service company acquiring part of the Site or any electricity sub-station, gas governor or other land within the Site.
- 3.11 Any invalidity illegality or unenforceability of any clause or paragraph in the 2010 Section 106 Agreement or this Supplemental Deed shall not affect the validity or enforceability of the remaining provisions in this Supplemental Deed.
- 3.12 This Supplemental Deed shall immediately cease to have effect if and to the extent that the 2010 Section 106 Agreement ceases to have effect and in any such circumstance all reference to this deed shall be removed from the local land charges register.

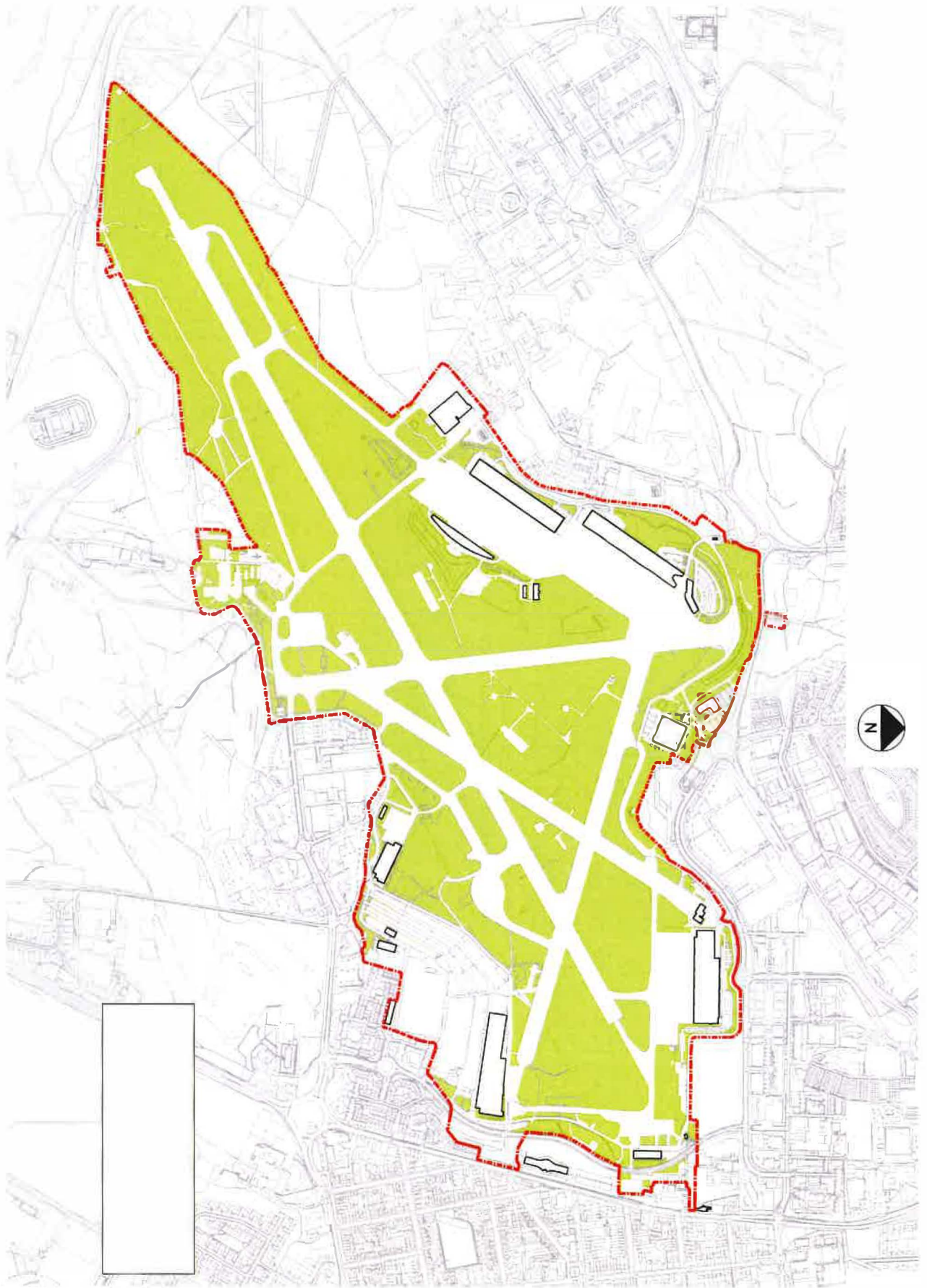
#### **4 Variation to the 2010 S106 Agreement**

- 4.1 The definition of Operational Land shall be inserted into clause 1.1 of the 2010 S106 Agreement.

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

**Appendix 1**

Operational Land Plan



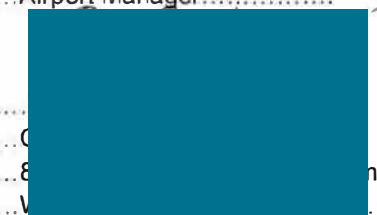
Executed as a deed by )  
**Farnborough Airport Freehold Limited** )  
acting by its duly authorised attorneys, )  
SIMON GEERE \_\_\_\_\_ in the presence of )  
Colm Doherty ..... )  
and LES FREER \_\_\_\_\_ in the presence of )  
Colm Doherty ..... )  
under a validly executed power of attorney )  
dated 23 December 2021 )

witness signature: .....  
name: .....  
address: .....



occupation: ... Airport Manager.....

witness signature: .....  
name: .....  
address: ..... 8 ..... n.....



occupation: ... Airport Manager.....



..... as attorney  
for **Farnborough Freehold Airport Limited**



..... as attorney  
for **Farnborough Airport Freehold Limited**

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..... as attorney  
for **Farnborough Airport Limited**



..... as attorney  
for **Farnborough Airport Limited**