

DATED _____

FINAL

- (1) LG PARK FREEHOLD LIMITED**
- (2) LG PARK LEASEHOLD LIMITED**
- (3) THURROCK BOROUGH COUNCIL**

AGREEMENT

**Pursuant to s.106 and 106A Town and Country Planning
Act 1990 and section 120 Local Government Act 1972
relating to the London Gateway Logistics Park Local
Development Order**



Pinsent Masons

THIS AGREEMENT is made on the

day of

2013

BETWEEN:-

- 1 **LG PARK FREEHOLD LIMITED** (a company registered in Guernsey with registration number 49182) whose registered office is at 1st and 2nd Floors, Elizabeth House, Les Ruettes Bayes, St Peter Port, Guernsey, GY1 1EW ("**LG Park Freehold**");
- 2 **LG PARK LEASEHOLD LIMITED** (a company registered in Guernsey with registration number 49200) whose registered office is at 1st and 2nd Floors, Elizabeth House, Les Ruettes Bayes, St Peter Port, Guernsey, GY1 1EW ("**LG Park Leasehold**"); and
- 3 **THURROCK BOROUGH COUNCIL** whose office is at Civic Offices, New Road, Grays, Thurrock, Essex, RM17 6SL ("**TBC**").

WHEREAS:

- 1 On 30 May 2007, Outline Planning Permission was granted by the Secretary of State on appeal for the development set out in application no THU/02/00084/OUT being in summary the redevelopment of the former Shell Haven oil refinery and associated refinery expansion land to provide a major road and rail linked logistics and commercial centre, now referred to as the London Gateway Logistics Park.
- 2 Further planning permissions were granted on 5 July 2008, 6 December 2008 and 5 November 2009 under s.73 of the Act effectively varying the Outline Planning Permission to allow the development permitted without complying with certain conditions of the Outline Planning Permission.
- 3 Shell U.K. Limited, Shell Property Company Limited (together "Shell"), TBC, Thurrock Thames Gateway Development Corporation and The Peninsular and Oriental Steam Navigation Company entered into an agreement dated 18 May 2007 pursuant to s.106 and s.106A of the Act and section 120 of the Local Government Act 1972 as a prerequisite for obtaining the Outline Planning Permission in relation to the Property from the Secretary of State ("the Old Agreement").
- 4 Shell formerly owned the Property. In January 2010, the LG Companies acquired the Property from Shell by a series of transactions, including:
 - (a) a transfer dated 15 January 2010 made between Shell and LG Park Freehold by which the freehold reversion to all the Plot Leases were transferred to LG Park Freehold together with the freehold of the remainder of the Property; and

(b) an agreement for an overriding lease dated 31 December 2009 by which LG Park Freehold agreed to grant to LG Park Leasehold a 201 year term lease of (amongst other things) the Property.

5 The LG Companies are accordingly the owners of the Property and the successor in title to Shell who were signatories to the Old Agreement.

6 The Old Agreement was varied by a Deed of Variation dated 27 March 2012.

7 TBC as the local planning authority is proposing, with the support of the LG Companies to promote a local development order under the powers conferred on TBC by sections 61A-61D of and Schedule 4A to the Act and pursuant to the Town and Country Planning (Development Management Procedure) (England) Order 2010. The LDO will authorise development on the Property which will be substantively the same, with certain modifications, as the development authorised by the Outline Planning Permission, being the London Gateway Logistics Park.

8 Accordingly, the Parties now wish to enter into a fresh agreement under s.106 and s.106A of the Act in relation to the LDO and to cancel the Old Agreement and the Deed of Variation..

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 The following terms in this Agreement shall have the meanings hereby respectively assigned to them:

the Act	the Town and Country Planning Act 1990 (as amended);
ALEP	means an Apprenticeships and Local Employment Plan within the meaning of paragraph 7.2 of Schedule 2;
Alternative Works	the design and construction of works to enhance bus turning facilities in the vicinity of Stanford-le-Hope railway station that may be proposed by TBC in substitution of the Works (provided TBC have used Reasonable Endeavours to procure the Works) and which shall be reasonably agreed by LG Park Freehold and/or LG Park Leasehold such agreement not to be unreasonably withheld or delayed;
Charging Schedule	means a charging schedule issued by TBC under s.211(1) of the Planning Act 2008 as approved and published under s.213 of that Act and Part 3 of the CIL Regulations which applies to the Property;
CIL	means the levy under s.205 of the Planning Act 2008;

CIL Regulations	means the Community Infrastructure Levy Regulations 2010;
Commercial Building	a building provided as part of the Development for Class B1(b) or B1(c) or B2 or B8 use or any combination of Class B1(b) and (c), B2 and B8;
Commercial Floorspace	gross internal area to be provided within the Commercial Buildings to be calculated in accordance with the RICS Code of Measuring Practice (sixth edition) and where any mezzanine floors in buildings are to be included in the calculation unless those floors are solely to provide for safe and efficient access to stacked or stored goods;
Complete	means practically complete and capable of beneficial use notwithstanding that minor snagging items may remain and "Completed" and "Completion" shall be construed accordingly;
Condition Precedent	any of the following in relation to the development of the Training Facility: <ul style="list-style-type: none"> i. securing the necessary funding to enable construction of the Training Facility; ii. obtaining all necessary consents and approvals for the construction of the Training Facility; and iii. commencement of the construction of the Training Facility;
the Deed of Variation	the deed of variation dated 27 March 2012 entered into by the LG Companies, TBC and the UDC which varied the Old Agreement;
the Development	the development on the Property permitted in accordance with the LDO;
the Director	TBC's Director of Planning and Transportation or such other proper officer of TBC for the time being responsible for the planning and highways function within the area of the borough of Thurrock;
the First Variation	the planning permission dated 5 July 2008 (ref: 08/00684/TTGCND), granted pursuant to s.73 of the Act by the UDC;
the Harbour Authority	London Gateway Port Limited or such body to which its functions may be transferred under article 46 of the HEO;

the HEO	the London Gateway Port Harbour Empowerment Order 2008 (SI 2008/1261) (as may be varied or substituted from time to time) which came into force on 16 May 2008;
Implementation Date	the date on which any development under the LDO is first Implemented;
Implemented/Implementation	the carrying out of a material operation as defined in Section 56(4) of the Act but excluding site clearance, demolition of or within existing buildings, the removal, diversion or installation of any pipeline, associated structure or associated facilities, archaeological investigation, investigation for the purposes of assessing ground conditions, works to existing roads including the provision of haul roads and temporary routes within the site, the diversion creation or modification of public rights of way (if any), and the erection of means of enclosure for the purpose of site security. For the avoidance of doubt, the construction and use of the Training Facility shall not constitute Implementation for the purposes of this Agreement;
Indexed/Indexation	<p>the recalculation of any payment specified in this Agreement by applying the following formula:</p> $A \times (B/C) = D$ <p>Where:</p> <p>A = the payment specified in this Agreement in pounds sterling</p> <p>B = the figure shown in the All Items Retail Prices Index for the period last published prior to the date of the payment to be made under this Agreement</p> <p>C = the figure shown in the All Items Retail Prices Index for the period immediately prior to the date of this agreement</p> <p>D = the recalculation sum in pounds sterling payable under this Agreement or if the All Items Retail Prices Index shall cease to be compiled or the formula shall otherwise be incapable of operation then such other equivalent means as shall be agreed between the Parties or determined by arbitration in accordance with the provisions of Clause 13;</p>
Infrastructure	has the meaning given to it in s.216 of the Planning Act 2008;

Infrastructure List	means a list, within the scope of Regulation 123 of the CIL Regulations, of infrastructure projects or types of infrastructure that TBC intends will be, or may be, wholly or partly funded by CIL;
Interest	in relation to any amount or payment means interest calculated on such amount or payment calculated by averaging the previous year's London Inter-Bank 7 Day Notice Bid Rate and applying to the amount or payment;
the LG Companies	means LG Park Freehold and LG Park Leasehold, jointly and severally;
LDO	means the local development order relating to the Property that TBC proposes to make under sections 61A-61D of and Schedule 4A to the Act and pursuant to the Town and Country Planning (Development Management Procedure) (England) Order 2010 ("the LDO") substantially in the form of the draft version attached to this agreement as Appendix 1 which would authorise development largely similar to that under the Old Permissions;
LDO Design Code	means the London Gateway Logistics Park LDO Design Code setting out minimum applicable standards to be applied to the plots, infrastructure and amenity spaces within the Property;
the Manager	means London Gateway Services Limited or any other body appointed by the LG Companies to manage the common parts of the Development;
Occupy/Occupation	means the physical use of the Property following the Development for the purposes permitted by the LDO but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display, construction site administration or occupation in relation to security operations;
the Old Agreement	the agreement dated 18 May 2007 entered into by Shell U.K. Limited, Shell Property Company Limited (together "Shell"), TBC, UDC and The Peninsular and Oriental Steam Navigation Company pursuant to s.106 and s.106A of the Act and section 120 of the Local Government Act 1972 as a prerequisite for obtaining the Outline Planning Permission;
the Old Permissions	the Outline Planning Permission, the First Variation, the Second Variation and the Third Variation;
the Outline Planning	the outline planning permission granted on 30 May 2007 by the Secretary of State on appeal for the development set

Permission	out in application no THU/02/00084/OUT being in summary the redevelopment of the former Shell Haven oil refinery and associated refinery expansion land to provide a major road and rail linked logistics and commercial centre, now referred to as the London Gateway Logistics Park;
the Port	London Gateway Port as authorised under the HEO;
the Property	means that part of the freehold and leasehold land, registered at the Land Registry as set out in Schedule 1 and shown edged red on drawing number LGW-008-341 Rev 3 marked "London Gateway Property Plan" appended at Appendix 2 , which is included within the Logistics Park Area (as that term is defined in the LDO);
Reasonable Endeavours	means that the Party under such an obligation will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and / or the engagement of such professional or other advisors as in the circumstances it may be reasonable to expect to (a) satisfy the Condition Precedent in the context of the development of the Training Facility and (b) to procure the Works;
Schedule 2 Infrastructure	means any infrastructure or highway amenity improvements referred to in Schedule 2 to this Agreement;
the Second Variation	the planning permission dated 6 December 2008 (ref: 08/01127/TTGCND) granted pursuant to s.73 of the Act by the UDC;
Secretary of State	the Secretary of State for Communities and Local Government (or such responsible Minister as shall succeed to his statutory functions and responsibilities for planning);
Section 278 Agreement	an Agreement to be entered into pursuant to section 278 of the Highways Act 1980 relating to the carrying out of highway works to the trunk road network;
Serviced Condition	(in connection with the Training Facility Land) remediated to a standard fit for its end use and provided with roads sewers water electricity and a telecommunications duct to the boundary of the Training Facility Land in accordance with a schedule for servicing the Training Facility Land which the relevant LG Company shall submit to TBC as prospective landowner;
the Third Variation	the planning permission dated 5 November 2009 (ref: 09/50090/TTGCND) granted pursuant to s.73 of the Act by the UDC;

Traffic Monitoring Strategy	means the traffic monitoring strategy set out at Appendix 3 ;
the Training Facility	the training facility to be constructed on the Training Facility Land comprising a new building of a maximum of 8,334 square metres (GIA) with land adjacent to the new building which will allow ancillary uses which may include the manoeuvring of heavy goods vehicles and fork lift trucks and vehicle parking. The training facility will offer training assistance and guidance to persons working in and wishing to work in the Development and to others, to support the acquisition of logistical and other necessary skills (for example, management, industry, warehousing and energy generation amongst others) to enable them to acquire the necessary skills to be employed in the types of jobs created by the Development;
Training Facility Contribution	the sum of £30,000 (thirty thousand pounds) towards the construction of the Training Facility;
the Training Facility Land	a plot of land with an area of 1 hectare within the Property to be identified either prior to Occupation of the Development or at such other point in time as may be agreed between LG Park Freehold or LG Park Leasehold and TBC acting reasonably which land will be reasonably capable of accommodating the Training Facility;
Travel Plan	means the London Gateway Logistics Park LDO Travel Plan at Appendix 4 ;
the UDC	the Thurrock Thames Gateway Development Corporation; and
the Works	the design and construction of a turning facility for buses at Stanford-le-Hope railway station.

- 1.2 The expression "TBC" shall include any successor authority exercising planning powers under the Act or as highway authority and LG Park Freehold and LG Park Leasehold shall include their respective successors in title and assigns.
- 1.3 Where in this Agreement reference is made to a recital, clause, paragraph, schedule, plan or drawing such reference (unless the context otherwise requires) is a reference to a recital, clause, paragraph, or schedule in this Agreement or in the case of a plan or drawing a plan or drawing annexed to this Agreement.
- 1.4 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.5 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.

- 1.6 Words denoting an obligation on a Party to do any act, matter or thing include an obligation to procure that it be done and words placing a Party under a restriction include an obligation not to cause permit or knowingly suffer any infringement of the restriction.
- 1.7 Any reference to an Act of Parliament shall include any modification, extension, re-enactment or substitution thereof for the time being in force and shall include all instrument, orders, plans, regulations, permissions and directions for the time being made issued or given thereunder or deriving validity therefrom.
- 1.8 Where the agreement, approval, consent, confirmation or an expression of satisfaction is required by any Party under the terms of this Agreement from any other Party that agreement, approval, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.
- 1.9 Headings contained in this Agreement are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of this Agreement to which they relate.
- 1.10 TBC enters into this Agreement in its capacity as local planning authority and as local highway authority.

2. **PLANNING HISTORY**

- 2.1 The LG Companies undertake that following the coming into force of the LDO, they will not commence any new development on the Property in reliance on any of the Old Permissions and will only proceed with the Development or such other development as may be authorised in the future by the LDO or any new planning permission.
- 2.2 TBC, in its own right and as successor to the UDC and the LG Companies agree that the Old Agreement and the Deed of Variation will, as of the date of the coming into force of the LDO, be cancelled and of no further effect and will in all respects be superseded by the provisions of this Agreement.
- 2.3 The Parties acknowledge that the LG Companies have already performed certain of the obligations under the Old Agreements that related to aspects of the development authorised by the Old Permissions and they are set out in Schedule 3.

3. **GENERAL PROVISIONS**

3.1 In the event of:

- 3.1.1 a local development order being made in respect of the Property that is not the LDO;
- 3.1.2 the LDO expiring before the Implementation Date;
- 3.1.3 the revocation of the LDO pursuant to an order confirmed or made by TBC or the Secretary of State;
- 3.1.4 the modification of the LDO pursuant to an order confirmed or made by TBC or the Secretary of State, without the prior agreement of LG Park Leasehold and LG Park Freehold; or
- 3.1.5 the quashing of the LDO

then the planning obligations entered into by the LG Companies under this Agreement shall thereupon cease and determine absolutely and TBC will upon written request from LG Park Leasehold and LG Park Freehold cancel all entries made in TBC's Register of Local Land Charges in respect of this Agreement.

- 3.2 Each Party shall act in good faith and shall co-operate with the other to facilitate the discharge and performance of all obligations contained there.
- 3.3 No waiver (whether expressed or implied) by TBC of any breach or default by the LG Companies or any of their successors in title or any person otherwise claiming through or under them in performing or observing any of the covenants, obligations or restrictions contained in this Agreement shall constitute a continuing waiver and no waiver shall prevent TBC from enforcing any of the said covenants, obligations or restrictions or from acting upon any subsequent breach or default in respect thereof by the LG Companies or any person claiming through or under the LG Companies.
- 3.4 TBC will on written request of any of the LG Companies once any planning obligation in this Agreement has been performed or otherwise discharged issue written confirmation of such performance or discharge.
- 3.5 If any provision in this Agreement shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.

4. **A PLANNING OBLIGATION**

This Agreement is executed by the Parties as a deed and is made pursuant to Sections 106 and 106A of the Act and Section 120 of the Local Government Act 1972 and the undertakings stipulation and covenants, herein contained:-

- 4.1 are planning obligations, arising from the Development, for the purposes of Section 106 of the Act; and
- 4.2 relate to the Property; and
- 4.3 may be enforced by TBC against the LG Companies as owners of the Property and all persons deriving title in the Property from the LG Companies subject to clauses 5.2 and 7.

5. **LG COMPANY COVENANTS**

- 5.1 Subject to clause 5.2, the LG Companies hereby covenant with TBC (so as to bind the Property as provided for in the before mentioned statutory provision) to observe and perform and cause to be observed and performed the planning obligations on their part contained in Schedule 2.
- 5.2 For the avoidance of doubt on the transfer of any part of or the whole of the Property bound by this Agreement, the LG Companies shall be released from the obligations hereunder in respect of the part of or the whole of the Property so transferred and shall no longer be liable under the terms of this Agreement in respect of the part or the whole of the Property so transferred except for antecedent breaches (if any).
- 5.3 The LG Companies covenant with TBC to give notice (specifying the Implementation Date) to TBC if either LG Park Leasehold or LG Park Freehold Implements the Development.
- 5.4 Subject to the provisions of clause 6, from the Implementation Date onwards the LG Companies undertake to perform all the obligations under this Agreement.
- 5.5 Notwithstanding any other provision of this Agreement, no LG Company shall be required to make any payment or take any action under this Agreement to the extent that a similar payment has already been made, or a similar action taken, for example the carrying out of infrastructure works, by, or on behalf of the Harbour Authority in respect of any requirement under the HEO or any planning obligation relating to the HEO.

6. **COMMENCEMENT**

- 6.1 Subject to clauses 6.2 and 6.3 below, this Agreement is conditional upon Implementation of the Development within the Property and the obligations and covenants in this Agreement shall not take effect unless and until Implementation of the Development within the Property.
- 6.2 Clauses 1, 2.3, 3, 4, 5.2, 5.3, 6, 7, 8, 10, 11, 12, 13, 14, 15 and 16 are operative from the date of this Agreement.
- 6.3 Clauses 2.1 and 2.2 are operative from the date on which the LDO comes into force.

7. **LIABILITY AFTER DISPOSAL**

Save for any antecedent breach no Party shall be liable for any breach of the covenants, restrictions, obligations or other matters contained in this Agreement in respect of any period during which that Party no longer has an interest in the Property or the part in respect of which such breach occurs.

8. **UTILITIES APPARATUS**

No utilities apparatus or statutory undertakers' facilities existing with the Property either at the time of this Agreement or at any time thereafter shall be bound by this Agreement.

9. **TBC'S COVENANTS**

- 9.1 TBC (so far as it lawfully may without fettering its statutory discretion and subject to the obtaining of all necessary consents which it shall use all reasonable endeavours to obtain) shall:-
- 9.1.1 use all reasonable endeavours to complete the building which will house the Training Facility and provide the Training Facility therein as soon as reasonably practicable following the purchase of the Training Facility Land;
- 9.1.2 meet all fees and costs of TBC associated with the transfer to it of the Training Facility Land;
- 9.1.3 obtain all necessary consents for the Training Facility, such facility not to exceed 8334 square metres (90,000 sq ft) GIA (including, but not exhaustively, detailed planning permission, and building regulation approval);
- 9.1.4 use all reasonable endeavours to ensure that the design of the Training Facility will comply with and respect the principles of the LDO Design Code and will complement and be in keeping with the Development;
- 9.1.5 fully consult the LG Companies on the planning application for the Training Facility, the design of the Training Facility and the approval process and TBC shall co-operate and have regard to any reasonable comment made by the LG Companies and shall seek approval from LG Companies (whose consent shall not be unreasonably withheld or delayed) to the design and specification of the Training Facility, its surrounding hard and soft landscape and its signage, lighting and perimeter treatment such that they are fully in keeping with the design ethos of the Development;
- 9.1.6 use all reasonable endeavours, in respect of the occupation and use of the Training Facility, to comply with all proper and reasonable requirements of the Manager and to contribute to a reasonable service charge;
- 9.1.7 indemnify the LG Companies in respect of all costs for which TBC is responsible under paragraph 9.1.6 should the Training Facility be occupied by a third party;

- 9.1.8 fully comply with all planning conditions and planning obligations which apply to the Training Facility commensurate with the land occupied by and affected by the Training Facility;
 - 9.1.9 hold and retain title to the Training Facility Land and the Training Facility constructed thereon in perpetuity for the benefit of the employees working at the Development or employees wishing to work at the Development and others save that this shall not prevent the construction or operation of the building for the Training Facility being assigned by TBC to a partnership organisation or another training organisation;
 - 9.1.10 subject to paragraph 9.1.9, not assign or part with possession of the Training Facility except to another training facilities provider approved by the relevant LG Company;
 - 9.1.11 not use the Training Facility for purposes other than as a training establishment including, for the avoidance of doubt, any ancillary activities connected therewith; and
 - 9.1.12 not use or permit to be used the Training Facility Land for any purpose whatsoever which competes with any use or ancillary use permitted on the Property.
- 9.2 Except where otherwise stated in this Agreement, TBC will immediately repay any monies paid over to TBC by the LG Companies pursuant to this Agreement which remain unused by TBC for the purpose indicated in this Agreement for the payment on the tenth anniversary of the payment together with Interest.
- 9.3 Without prejudice to the provisions of clause 3.1, should TBC be minded to revoke or revise the LDO once it is made, TBC will give the LG Companies advance notice of its intention to revoke or revise the LDO, the reasons therefor and, in the case of a revision, details of that proposed revision. Such advance notice must be given not less than 12 months before the date on which any revision or revocation would take effect. TBC will take into account any comments made by the LG Companies in relation to the proposed revocation or revision.

10. **NOTICES**

- 10.1 Any notice or other document to be served on any Party under the terms of or in connection with this Agreement shall be deemed served if it is left or delivered at, or sent by post addressed to:-
- 10.1.1 the Party's registered office for the time being; or
 - 10.1.2 such other address as may be notified by that Party to the other Parties in writing from time to time.
- 10.2 Any notice or other document, if sent by registered post or through the recorded delivery system addressed to any address referred to above, (for service on TBC addressed to the Director) shall be deemed to have been served 48 hours after the time of posting (unless returned by the Post Office undelivered).

11. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person other than the Parties shall have any rights under or be able to enforce the provisions of this Agreement.

12. **LOCAL LAND CHARGE**

- 12.1 TBC shall register this Agreement in its Local Land Charges Register immediately upon completion of this Agreement.
- 12.2 TBC shall effect a cancellation of any entry made in its Local Land Charges Register relating to this Agreement within 7 days of receipt of evidence that the planning obligations therein have been wholly performed or discharged.

13. **ARBITRATION**

13.1 Any dispute or difference arising out of or in connection with this Agreement (including without limitation any question regarding its existence, validity, interpretation, performance or termination) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration ("the Rules"), which Rules are deemed to be incorporated by reference into this clause.

13.2 It is agreed that:

13.2.1 the number of arbitrators shall be one;

13.2.2 the appointing authority for the purposes of the Rules shall be the London Court of International Arbitration;

13.2.3 the seat, or legal place, of arbitration shall be London;

13.2.4 the language to be used in the arbitration shall be English; and

13.2.5 the governing law of the arbitration and this Agreement shall be the substantive law of England and Wales.

14. **VAT**

14.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable in respect thereof.

14.2 If at any time VAT is, or becomes, chargeable in respect of any supply made in accordance with the terms of this Agreement to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

15. **INDEXATION**

The sums referred to in Schedule 2 shall, unless otherwise stated, be Indexed.

16. **OBLIGATIONS TO NOTIFY**

The LG Companies covenant with TBC that they will serve written notice upon TBC.

16.1 within 7 days after the disposal by the LG Companies of any legal interest in the entirety of the Property giving details of the disponent; and

16.2 forthwith upon any Flow Trigger referred to in Schedule 2 to this Agreement being Breached giving the date by which it was Breached.

In Witness whereof the Parties have executed this document as their Deed and delivered it the day and year first above written.

SCHEDULE 1
Land Owned By The LG Companies

Description of Property

Title No. at HM Land Registry

Land	Owner		Ownership	Title number
Property	1	LG Park Freehold Limited	Freehold	EX848385 & EX857549
	2	LG Park Leasehold Limited	Leasehold	EX848386 & EX871128

SCHEDULE 2
Planning Obligations Entered Into By The LG Companies

1. **INTERPRETATION**

1.1 In this Schedule, the following terms have the following meanings:

the Acoustic Fencing means the construction of acoustic barriers on the A13 and A1014 in accordance with drawings LG-FBM-ROA-A13-C6010-DRA-CIV-0101 to 0106 and LG-FBM-ROA-MNW-C6010-DRA-CIV-0101 to 0105 appended as **Appendix 5**;

AM Peak means the period between 08:00 and 09:00;

the A1014 Landscaping means a landscaping scheme on the A1014 in accordance with the 7 drawings appended at **Appendix 6**;

Breached in relation to any Schedule 2 Infrastructure means when any of the Flow Triggers that apply to it (whether AM Peak, PM Peak or Development Peak, interchangeably) are exceeded in respect of any one day (which need not be the same day) within the week for a period of twelve consecutive weeks;

the Contribution has the meaning given to it in paragraph 5.1;

Development Peak means the period between 14:00 and 15:00;

Flow Trigger means the two-way flow of vehicles (excluding construction traffic) along the Port / Park Road at the relevant period (AM Peak, PM Peak, Development Peak as specified);

HGV means any vehicle over 3.5 tonnes gross vehicle weight;

the Low-Noise Surfacing means re-surfacing works to provide a low-noise road surface on the A1014 between (i) its junction with the A13 and (ii) the Sorrells Roundabout junction;

the M25 Junction 30 Works means the works to provide a third lane on the A282 indicated on the drawing with reference 14242-01 appended as **Appendix 7**;

OGV2 means (i) all rigid vehicles with four or more axles and (ii) all articulated vehicles;

PCU means a passenger car unit calculated on the basis of the following equivalences:

- one HGV (including an OGV2)= two PCUs; and
- all other vehicles = one PCU;

PM Peak means the period between 17:00 and 18:00;

the Port / Park Road	means the section of the new access road between (i) the junction of The Sorrells with the Manorway and (ii) the Port / Park roundabout as shown on drawing LG-AEC-APP-ALZ-C6010-SKT-CIV-0022- Rev 0.1 at Appendix 8 ;
the Second Contribution	means a financial contribution (equivalent to 1.4% of the Total Cost) to further widening of, or other works to, the A13 Link 5, in addition to the Contribution, in recognition of the proportional benefit that the widening or other works will bring to the Development;
the Solaguard Barrier System	means the installation on the A1014 between (i) its junction with the A13 and (ii) the Sorrells Roundabout of a system to enable the creation of a contraflow traffic system in the event of disruption of the normal operation of traffic on that road;
the Sorrells / A1014 Junction Scheme	means the works indicated on the drawing with reference Figure 1 appended as Appendix 9 ;
the Subway Improvements	means a scheme of improvements to the two pedestrian subways adjacent to Abbots Hall Chase and Silvertown Avenue, Stanford-le-hope to include CCTV, litter bins, landscaping, access controls and improved lighting and surfacing; and
the Total Cost	has the meaning given to it in paragraph 5.3;
Vehicle	means any motorised vehicle including motorcycles;

1.2 All measurement of traffic, including the identification of when particular Flow Triggers are exceeded (and any calculations needed therefor) necessary for the purposes of this Schedule will be carried out in accordance with the provisions of the Traffic Monitoring Strategy.

2. THE TRAINING FACILITY

LG Park Freehold and LG Park Leasehold covenant as follows:

- 2.1 LG Park Freehold and LG Park Leasehold shall prior to Occupation (or such other time as may be agreed between TBC, LG Park Freehold and LG Park Leasehold) identify the Training Facility Land.
- 2.2 LG Park Freehold or LG Park Leasehold shall not cause or permit Occupation without having granted to TBC in consideration of £1 an option for 5 years ("Option Period") to acquire the freehold of the land for £1, such option ("the Option") to be in the form reasonably required by LG Park Freehold and LG Park Leasehold and to incorporate the Special Conditions of Sale set out in Schedule 4.
- 2.3 Once TBC has exercised the Option, it shall have 2 months in which to complete the purchase. If the transfer does not take place within the 2 months then, unless the period is extended in writing by LG Park Freehold or LG Park Leasehold, the Option shall expire and LG Park Freehold and LG Park Leasehold will be released in full from all obligations under this Agreement in respect of the Training Facility Land .

- 2.4 LG Park Freehold and LG Park Leasehold shall be responsible for providing the Training Facility land in a Serviced Condition. The route and capability of the services and roads shall be at the discretion of LG Park Freehold and LG Park Leasehold.
- 2.5 If all appropriate and necessary consents and approvals are not granted for the construction of the Training Facility and construction is not commenced within 12 months of the end of the Option Period then TBC will convey the Training Facility Land back to LG Park Freehold or such other LG Company as LG Park Freehold may specify.
- 2.6 LG Park Freehold may at any time up to the date of expiration of the Option Period extend the Option Period by written notice to that effect given to TBC.
- 2.7 TBC shall use all Reasonable Endeavours to satisfy the Condition Precedent during the Option Period or within the 12 months following the end of the Option Period.
- 2.8 Notwithstanding paragraph 2.5 above, if TBC can show that Reasonable Endeavours have been used to satisfy the Condition Precedent then the Option Period shall be extended by a further 2 years.

3. TRAVEL PLAN AND PUBLIC TRANSPORT MEASURES

- 3.1 The LG Companies will procure the implementation of the Travel Plan, including as to payments to the Council according to its terms.
- 3.2 TBC acknowledges in respect of the Travel Plan, the payments set out in Schedule 3.
- 3.3 Subject to TBC first obtaining dedication in perpetuity of the necessary land, obtaining all necessary consents and being in a position to let a construction contract for either: (i) the Works within 2 years of the Implementation Date; or (ii) the Alternative Works within 4 years of the Implementation Date, LG Park Freehold and LG Park Leasehold shall pay to TBC upon written demand the sum of £545,095 (five hundred and forty-five thousand and ninety-five pounds) for either carrying out of the Works or the Alternative Works. TBC shall Complete the Works or the Alternative Works within 12 months of the receipt of the above sum unless otherwise agreed by LG Park Freehold or LG Park Leasehold. TBC will repay to LG Park Freehold or LG Park Leasehold any of the said sum which remains unused or uncommitted for the purposes of this provision at the expiration of the period of 15 months from the receipt of the sum, unless otherwise agreed by the Parties.

4. HIGHWAYS IMPROVEMENTS

- 4.1 Only operational traffic will be considered for the purposes of this paragraph 4.
- 4.2 The LG Companies will make the following payments or procure the carrying out of the following works for highways improvements so that the payment is made or the work Completed before any of the Flow Triggers set out in relation to that work or payment in the following Table are Breached:

	Work or payment	Period	Flow Trigger	
			PCUs	OGV2s
1	Sorrells /A1014 Junction Scheme	Development Peak	1458	-

2	Installation of a signalised pedestrian phased Toucan crossing across The Manorway dual carriageway at its junction with Gifford Cross Road.	AM Peak	204	-
		PM Peak	176	-
		PM Peak	486	-
3	Second Contribution (subject to the provisions of paragraph 5)	AM Peak	1482	-
		PM Peak	1533	-
4	M25 Junction 30 Works	AM Peak	-	189
		PM Peak	-	189
		PM Peak	164	-
5	The Subway Improvements	AM Peak	204	
		PM Peak	216	
6	The Sologuard Barrier system	AM Peak	204	
		PM Peak	216	
7	The Low-Noise Surfacing	AM Peak	612	
		PM Peak	668	
8	The Acoustic Fencing	AM Peak	216	
		PM Peak	228	
9	The A1014 Landscaping	AM Peak	216	

Highway amenity improvements

4.3 On first occupation of any development under the LDO, the LG Companies will pay to TBC of a sum of £1,262,740 (one million two hundred and sixty-two thousand seven hundred and forty pounds). Such sum is to be used by TBC for local highway or highway related improvements arising as a result of the Development.

Enforcement

- 4.4 Where any Flow Trigger under this paragraph 4 (Highways Improvements) is Breached without the Completion of any works required to be Completed under this paragraph 4 or the payment of any monies required under this paragraph 4 then:
- (a) the LG Companies shall take all measures to ensure that the flow of vehicles along the Port / Park Road is reduced below the relevant Flow Trigger until such time as the relevant payment is made or the relevant works are Completed;
 - (b) in the case of any such payment, the payment amount shall be deemed to be a debt immediately due to the Council; and
 - (c) in the case of the completion of any such works, the LG Companies may not occupy or permit the occupation of any further part of the development unless and until the relevant works are Completed.

5. A13 CONTRIBUTION

- 5.1 Subject to the following provisions of this paragraph 5, LG Park Freehold or LG Park Leasehold will pay, upon written demand by TBC, a contribution ("**the Contribution**") to the 3 lane widening of the A13 Link 5 or alternative measures to improve capacity or enhance safety on A13 Link 5 in recognition of the proportional benefit that the widening or alternative measures will bring to the Development.
- 5.2 TBC may only issue a written demand for the Contribution once TBC has obtained all necessary consents for the 3 lane widening of the A13 Link 5 (or the alternative measures) and is in a position to let a construction contract for the 3 lane widening of the A13 Link 5 (or the alternative measures).
- 5.3 The amount of the Contribution will be an amount equal to 11.4% of the cost of the 3 lane widening of the A13 Link 5 (or the alternative measures) minus £1,900,000 ("**the Total Cost**") but in any event will not exceed the amount of £6,939,000.
- 5.4 TBC shall Complete the 3 lane widening of the A13 Link 5 works or alternative measures within 36 months of the receipt of the Contribution unless otherwise agreed by LG Park Freehold or LG Park Leasehold.
- 5.5 TBC will repay to LG Park Freehold or LG Park Leasehold any of the Contribution which remains unused or uncommitted for the purposes of this provision at the expiration of the period of 42 months from the receipt of the Contribution, unless otherwise agreed by LG Park Freehold or LG Park Leasehold.
- 5.6 Subject to paragraph 5.7, at any point in time after a Charging Schedule comes into effect, upon written request of any of the Parties, the Parties shall in good faith seek to agree a variation to this paragraph 5, in order to ensure that the LG Companies are not double-charged in respect of the 3 lane widening of the A13 Link 5 (or alternative measures) and to ensure an equitable amount of contribution (which in any event shall not exceed the Contribution) by the LG Companies.
- 5.7 If a Charging Schedule is proposed by the Council which sets a differential rate for the Property as a strategic site which is lower than the rate which would otherwise apply to the Property and which differential rate reasonably reflects the commitment on the part of the LG Companies to pay the Contribution, the LG Companies may give notice to TBC that paragraph 5.6 shall not apply.
- 5.8 Where paragraph 5.6 applies, if the Parties cannot agree on a suitable variation to this paragraph 5, the LG Companies may, at their cost, give written notice to TBC referring the matter to binding arbitration and the arbitrator shall seek to find agreement between the Parties, but if the arbitrator fails to find such agreement the arbitrator shall be duly authorised to revise the amount of the

Contribution or the Second Contribution in his or her own expert opinion in accordance with the principles in paragraph 5.6 and the decision of the arbitrator will be duly ratified by the Parties.

- 5.9 The arbitrator in paragraph 5.8 shall be a person agreed between the Parties, or failing such agreement within a period of 28 days from the written notice, shall be such person as is nominated for the purpose by the President of Royal Institute of Chartered Surveyors.

6. **ENFORCEMENT OF THE SECTION 278 AGREEMENT**

The LG Companies covenant with TBC that they will observe and perform their obligations contained in any Section 278 Agreement to the effect that any covenant given by LG Park Freehold and LG Park Leasehold to the Secretary of State for Transport in the Section 278 Agreement shall (for the purposes of this Agreement) be treated as if it were also a covenant given by LG Park Freehold and LG Park Leasehold to TBC on the same terms.

7. **APPRENTICESHIPS AND LOCAL EMPLOYMENT**

- 7.1 In respect of each plot or element of common infrastructure of the Development, no later than:

7.1.1 one month prior to the commencement of construction (in relation to the construction of that plot or element); and

7.1.2 one month prior to first occupation or beneficial use (in relation to the operational use of that plot or element),

the LG Companies, or their contractors or the plot occupiers on the LG Companies' behalf (as applicable), must submit to TBC an Apprenticeships and Local Employment Plan (an "ALEP").

- 7.2 An ALEP is a plan in the form attached at **Appendix 10** setting out how the LG Companies, plot occupiers and their contractors will work directly with local employment or training agencies as part of an employment and training consortium, such agencies to include (but not be limited to):

7.2.1 Jobcentre Plus and the Learning & Skills Council;

7.2.2 voluntary and private sectors providers; and

7.2.3 sixth-form colleges; colleges of further education; and universities.

- 7.3 An ALEP must specify the provision for training opportunities and other initiatives in respect of the vocational and employability skills required by the LG Companies, plot occupiers and their contractors for any new jobs and business opportunities created by the construction or operation (as the case may be) of the relevant plot or element of the Development.

- 7.4 Following submission of the ALEP, and subject to amendment to address the reasonable comments and proposals of TBC, TBC shall approve the ALEP (such approval not to be unreasonably withheld or delayed) and thereafter the LG Companies shall implement and where necessary shall procure implementation by plot occupiers and the LG Companies' contractors of the ALEP within 21 days of the date of approval and thereafter the promotion of the objectives of the approved ALEP to ensure that so far as is reasonably practicable the objectives are met.

8. **MONITORING**

- 8.1 From the first occupation of the Development until the fifteenth anniversary of the coming into forces of the LDO, the LG Companies must implement the Traffic Monitoring Strategy.

- 8.2 The LG Companies will implement all mitigation, monitoring and management requirements under the Ecological Mitigation and Management Plan in so far as that Plan makes provisions which outlast the expiration or determination of the LDO.

- 8.3 Without prejudice to the provisions of paragraphs 8.1 and 8.2, TBC will monitor the implementation of the Order continually and regularly to assess its effectiveness and to check and monitor compliance with the Order and this Agreement. TBC will collect data to enable it to measure the achievement of the Order in delivering national and local growth, economic and regeneration objectives. For that purpose, the LG Companies will on the anniversary of the date of the coming into force of the Order (or on such other date as is agreed between the Parties) provide to TBC an annual monitoring report setting out:
- 8.3.1 the total number of jobs on-site at the Development;
 - 8.3.2 the nature of the enterprises present at the Development;
 - 8.3.3 the extent of employee car usage at the Development and the number of parking spaces;
 - 8.3.4 the provision for operational lorry parking;
 - 8.3.5 information on HGV movements and the proportion of them that relates to the Port;
 - 8.3.6 the number of rail movements;
 - 8.3.7 information as to sustainable buildings; and
 - 8.3.8 such other additional information as is agreed between the Parties.
- 8.4 TBC may publish the information provided as necessary to fulfil its functions.

SCHEDULE 3
Planning Obligations Under The Old Agreement (As Modified) Performed

1. The Parties acknowledge that on or before the date of the Old Agreement the sum of £15,000 was paid by POSN to the Council towards the cost of the Council promoting a traffic regulation order to reduce the speed limit on the A1014 Manorway and providing new signage advising drivers of the speed limit.
2. A Travel Plan Committee was constituted by Essex County Council, the Highways Agency, the UDC, TBC, and a representative of the LG Companies and the Harbour Authority.
3. A detailed constitution for the Travel Plan Committee ("TPC") was agreed by the Parties listed at paragraph 2 above. It is acknowledged that TBC are proposing to the other members of the TPC that the constitution of the TPC should be revised.
4. Sum of £115,233.44 received in July 2012 in respect of bus service funding under the Travel Plan.
5. A training facility contribution of £30,000 was received in 2012
6. Works with a value of approximately £100,000 were carried out in lieu of a contribution towards amenity improvements.
7. Works to the Manorway Interchange involving the widening of the junction of the A13 and A1014 to incorporate a 3 lane circulatory carriageway and introduction of signal control were practically completed on 4 October 2013.

SCHEDULE 4
Special Conditions of Sale

Incorporation of Standard Conditions

1. The Standard Conditions of Sale (Third Edition) apply to this Agreement so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the terms of this Agreement, and to that extent they are hereby expressly incorporated into this Agreement.
2. The Standard Conditions shall be varied as follows:-
 - 2.1 if any consideration is applicable, the contract rate is 4 per cent about the Royal Bank of Scotland PLC's base rate for the time being;
 - 2.2 conditions 3.1.3, 3.4, 4.1.1, 4.1.2 and 4.3.2 and 4.5.2 shall not apply;
 - 2.3 there shall be added at the end of the condition 1.2 the following:-

"and reference to the buyer of the seller are to include references to each or any of the buyers or the sellers individually";
 - 2.4 there shall be added at the end of condition 1.3.2 the following:-

"Additionally any notice or document to be served on TBC shall be sufficiently served if left at or sent to the address stated in this Agreement marked for the attention of the Director and shall be sufficiently served if left at or sent by post addressed to either its registered office or its last known place of business in the United Kingdom, or such other address as may be notified in writing to the other Party";
 - 2.5 "5.00pm" shall be submitted for "4.00pm"

Executed by the Parties as a Deed on the date set out at the head of this lease.

EXECUTED as a Deed (but not delivered)
until dated) for and on behalf of)
LG PARK FREEHOLD LIMITED)
acting by [])
its attorney under a power of attorney dated 24)
October 2013, in the presence of:-

Witness Signature:

Witness Name:

EXECUTED as a Deed (but not delivered)
until dated) for and on behalf of)
LG PARK LEASEHOLD LIMITED)
acting by [])
its attorney under a power of attorney dated 24)
October 2013, in the presence of:-)

Witness Signature:

Witness Name:

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

Authorised Signatory: