

SUMMARY OF TERMS:

INTRODUCTION

In summary, the proposed agreement envisages that in the event that a number of pre-conditions are satisfied, (or waived) the Development will then proceed, subject to the viability test referred to at para 7 below. The Long Stop Date for satisfaction of the pre-conditions is 5 years from the date of the agreement extendable by agreement or where the decision of the Secretary of State or Court is awaited or as a consequence of force majeure. Each party has to act in good faith with the other party. Nothing in the proposed agreement can fetter the Council's statutory duties and obligations.

The pre-conditions are;

1. LAND ASSEMBLY CONDITION

This Condition will be satisfied when all third party land has been acquired by agreement or CPO. A Land Assembly Working Group will be established, with representatives of PCC and developer to progress land acquisition.

The Council will at its own cost procure the services of a Land Referencing Agent and Valuation Surveyor. Following any decision by the Council to make a CPO, the developer, (Hawksworth Securities plc) will negotiate with landowners of third party land, and when terms are agreed (verified by the Council's valuer) the Council will acquire those interests at its own cost. In the event that the Council resolves to make a CPO, the Council will pursue the CPO at its own cost, including appointment of Counsel and any necessary external consultants.

In relation to any land acquired by the Council, and in relation to the Council's existing land , once the pre-conditions have been met, the Council will recover all its costs and transfer the properties at market value to the developer; alternatively the developer itself may elect to acquire such interests.

In the event that the developer is unable to progress the development due to failure of the CPO, or for other reasons, the Council could either dispose of any interests acquired or could acquire the land assets at North Westgate then owned by the developer at market value and progress the development either itself or with and through another developer.

Following the satisfaction of the Land Assembly condition, the developer will commence (if it has not already done so) and thereafter use reasonable endeavours to diligently pursue the satisfaction of the remaining pre-conditions, which are;

2. PLANNING CONDITION

The Planning Condition will be satisfied once a full planning permission and/or all reserved matters has been granted by the Council as Planning Authority, free from legal challenge and all pre-commencement planning conditions attached to either the relevant planning permission(s) have been satisfied.

3. HIGHWAY CONDITION

The Highway Condition will be satisfied once:

-any necessary highway agreement with the Highways Authority has been entered into, that facilitates the works to the public highway contemplated as part of the Development;

-any Road Closure Order, necessary for the Development has been granted, free from challenge

-any Traffic Regulation Order, necessary for the Development has been granted free from challenge

4. REQUISITE CONSENTS CONDITION

This condition will be satisfied when all other statutory consents have been secured, free from challenge, such as agreement(s) with all necessary statutory undertakers have been entered into for the diversion, closure, stopping up and/or replacement of any gas, electricity, water, telecoms, drainage infrastructure etc.

5. THE PRE-LET CONDITION

This condition will be satisfied when agreements for lease have been entered into respect of the following:

A supermarket

The hotel

The medical centre

The food hall

50% of the net lettable area of the offices

50% of the class A1-A5 & D2 uses in addition to the supermarket and the food hall

6. THE FUNDING CONDITION

This condition will be satisfied for the Development as a whole, when the developer has secured sufficient funding and/or finance for the estimated total development development costs (including land) on terms acceptable to the developer, allowing for sufficient developer's profit/risk margin, acting reasonably.

7. VIABILITY TEST

Prior to entering into any construction contract with a contractor, or funding agreement with a funder/financier, that would commit Hawksworth to commence construction of the Development, a detailed financial viability assessment will be undertaken to satisfy the developer that the Development remains financially viable.

For the purposes of this viability test, any financial result showing less than the following will be deemed insufficient

Profit on cost – 20%

Internal rate of return – 15%

Development yield – 7.5%

Equity multiple – 1.5%

The developer may waive the Viability Test

8. TERMINATION

There are provisions for termination prior to the Long Stop Date, if for example the Council as planning authority fails to make a CPO, or the CPO is rejected by the Secretary of State. If so, following attempts to consider an alternative development, either party may terminate the agreement and the parties will each meet 50% of the sum of the Council's and developer's external professional advisers costs incurred in progressing the CPO up to that point..

9. ASSIGNMENT

The developer is able to assign its interest in the agreement provided it assigns in parallel the ownership of its property to the same party subject to the Council's consent, not to be unreasonably withheld or delayed.