

Dated

200X

*[Name of the nominated undertaker]* (1)

[Name of the Local Authority]

**The Historic Buildings and Monuments Commission for England (3)**

Crossrail: Works affecting Listed Buildings

Learning Legacy Document

THIS DEED is made the \_\_\_\_\_ day of

200X

BETWEEN

[ \_\_\_\_\_ ] of [ \_\_\_\_\_ ] (“the nominated undertaker”)(1)

AND

[LOCAL PLANNING AUTHORITY]2)

AND

THE HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND [address]  
 (“English Heritage”) (3)

WHEREAS

(1) The Crossrail Act 2009 (“the Act”) has been enacted authorising works in connection with the construction and operation of Crossrail;

(2) Paragraphs 1 and 2 of Schedule 9 to the Act disapply sections 7, 38(1), 42(1) and 54 of the Planning (Listed Building and Conservation Area) Act 1990 in relation to specified listed buildings;

(3) Section [48] of the Act provides for the Secretary of State to appoint one or more bodies as nominated undertaker to carry out the works for Crossrail and the nominated undertaker has been so appointed;

(4) The nominated undertaker has been required by the Secretary of State to enter into this Deed providing for certain details of works affecting listed buildings to be approved by the local planning authority.

NOW THIS DEED WITNESSES as follows:-

## 1 Definitions

“the affected properties” means the listed buildings the subject of Schedules 1 and 2 (comprising **properties listed in Table \*\***) and “affected property” means any one of them;

“the appointed person” means a person appointed by the Secretaries of State under clause 4 for the purpose of determining outstanding matters or referring them to those Secretaries of State for determination;

“EH related request” means a request for approval under this agreement which, if it were to comprise an application for listed building consent, would require notice to be given to English Heritage by virtue of paragraph 15(2) of circular 01/01 of the Office of the Deputy Prime Minister;

“emergency” means circumstances where there is a risk to health and safety or to the preservation of an affected property such that any of the relevant construction works require to be carried out immediately;

“the national amenity societies concerned” means {**identified relevant bodies e.g. the Ancient Monuments Society and the Victorian Society**};

“relevant construction works” means in relation to an affected property –

- (a) works to be carried out to the property under the powers conferred by the Act which do not require consent under section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 by virtue of paragraph 1 or 2 of Schedule 9 to the Act but which, were it not for those paragraphs, would require such consent, and
- (b) as regards works carried out under the powers conferred by the Act below or adjacent to the building which may require works for the mitigation of settlement to be undertaken with respect to it and (ii) works carried out under the powers conferred by the Act in or below the building.

“the Secretary of State” means the Secretary of State for Transport;

“the Secretaries of State” means the Secretary of State for Transport and the Secretary of State for Communities and Local Government;

“the works details” means, in relation to relevant construction works concerning an affected property, method statements covering the matters set out in Part 2 of Schedule 1 or 2 (as the case may be); and

“the works specification” means, in relation to an affected property, the works to the property specified in Part 1 of Schedule 1 or 2 (as the case may be).

## **2 The carrying out of relevant construction works**

2.1 Any relevant construction works to an affected property must either –

- (a) fall within or be ancillary to the works specification for the property,
- (b) fall within or be ancillary to a variation of that specification requested by the nominated undertaker and agreed in accordance with clause 3 or (in the event of a failure to agree) determined under clause 4,
- (c) be works for the mitigation of settlement to the property or otherwise for the purpose of maintaining or restoring the character of the property as a building of special architectural or historical interest, or

2.2 Before commencing relevant construction works relating to an affected property, the nominated undertaker must submit to the Council the works details for those works for its approval in writing, and the submission shall –

- (a) include so far as relevant to the works details concerned the matters mentioned in Schedule 3, and
- (b) have regard to the background information set out in Part 3 of Schedule 1 or 2 (as the case may be) applicable to the affected property.

2.3 Subject to clause 2.9, the relevant construction works relating to an affected property must be constructed in accordance with the works details so approved or as may be determined under clause 4, and in accordance with any requirements subject to which the approval or determination is given.

2.4 The nominated undertaker must at the same time as submitting the works details under clause 2.2 send that information to the national amenity societies concerned and, in the case of an EH related request, English Heritage, and the Council must not approve the works details submitted to it unless either–

- (a) in the case of the Grade II listed Building a period of 6 weeks or, in the case of Grade II\* or Grade 1 (*Named Buildings*), 9 weeks has elapsed after the submission, or
- (b) the national amenity societies concerned and, in the case of an EH related request, English Heritage have either given their comments on those details to Council or have indicated that they do not intend to comment.

2.5 The approval of the Council of the works details –

- (a) shall not be unreasonably withheld;
- (b) may be given subject to reasonable amendments or requirements.

2.6 The decision of the Council to approve or refuse approval of the works details –

- (a) shall be given as soon as reasonably practicable and in any event (but subject to clause 2.7) –
  - (i) within 8 weeks of receipt of the details in the case of the Grade II
  - (ii) within 12 weeks of receipt of the details in the case of Grade I
- (b) shall be sent in writing to the nominated undertaker.

2.7 Where under clause 2.5(b) the Council proposes reasonable amendments or requirements to the works details (“the Council’s proposals”), the nominated undertaker shall in writing within 4 weeks of receipt –

- (a) confirm acceptance of the Council’s proposals, or
- (b) propose further amendments to the Council’s proposals (“further amendments”), or
- (c) unless otherwise agreed between the Council and the nominated undertaker, apply for the matter to be determined under clause 4.

2.8 Where the nominated undertaker proposes further amendments under clause 2.7(b) the Council shall in writing within 4 weeks of receipt –

- (a) confirm acceptance of the further amendments, or
- (b) unless otherwise agreed between the Council and the nominated undertaker, apply for the matter to be determined under clause 4.

2.9 Clauses 2.1 to 2.3 do not apply in the case of emergency, but the nominated undertaker must inform the Council and, in a case where if there were to be a request for approval for emergency works under this agreement the request would comprise an EH related request, English Heritage, as soon as reasonably practicable of the nature of the emergency and the works to be carried out or which have been carried out, and shall so far as reasonably practicable take into account any proposals made by the Council and (where English Heritage were required to be informed as aforementioned) by English Heritage, where the emergency works have not yet been carried out.

2.10 Where the carrying out of works falling within paragraph (a) of the definition of “relevant construction works” (whether approved for the purposes of this clause 2 or emergency works carried out under clause 2.9) causes damage to an affected property for the remedying of which provision is not made in approved method statements, the nominated undertaker shall as soon

as reasonably practicable submit details for the carrying out of remedial works to make good the damage (so far as such remedial works can reasonably be carried out notwithstanding the presence of the permanent works or other things constructed or installed under the Act), and the approvals procedures under clause 2.4 to 2.9 and clauses 3 and 4 shall apply to details submitted for the purposes of this clause 2.10 as they apply to works details submitted under clause 2.2; and subject to clause 2.11 the nominated undertaker shall carry out the remedial works as so approved.

2.11 The duty to carry out remedial works under clause 2.10 is subject to the obtaining of any necessary consents, agreements or other approvals required for the purpose, which the nominated undertaker shall use reasonable endeavours to obtain.

2.12 Without prejudice to the generality of the requirements of clause 2.3, where works details approved for the purposes of this clause 2 include a method statement making provision for a structure which is to be dismantled to be subsequently re-erected (whether on the original site or elsewhere), the nominated undertaker shall use reasonable endeavours to procure the re-erection in accordance with the method statement, and where such re-erection requires amendments to the method statement from time to time, to propose amendments for approval in accordance with clause 3.

### **3 Changes to works specification or to approved works details**

3.1 Where the nominated undertaker wishes to make changes to the works specification, or to any revised works specification or works details previously approved by the Council under this Deed or determined under clause 4, the nominated undertaker shall submit a revised works specification or (as the case may be) further works details to the Council for approval.

3.2 The approvals procedures under clauses 2.4 to 2.9 and clause 4 shall apply to the revised works specification or (as the case may be) to the further works details as they apply to works details submitted under clause 2.2.

3.3 Where the nominated undertaker submits a revised works specification for approval under clause 3.1, the Council may, not later than the time at which it gives any approval to the revised works specification, specify in writing any changes to the matters set out in Part 2 of the Schedule relevant to the building to which the works specification relates and which in its opinion are required in consequence, and the extent to which any works details previously approved in relation to the works in question require to be resubmitted for approval; and where it does so the works details requiring approval under clause 2 shall (subject to clause 4.4 and any further change proposed under clause 3.1) have effect subject to the changes and requirements for resubmission so specified.

### **4 Determination**

4.1 In the event that the nominated undertaker and the Council cannot agree all the elements of works details or of a revised works specification, either of them may submit any outstanding matter to an appointed person for the purpose of his determining that matter or (if so directed by the Secretaries of State) of making recommendations to the Secretaries of State to enable the Secretaries of State to determine it.

4.2 The circumstances in which the nominated undertaker and the Council shall not be taken to have agreed for the purposes of clause 4.1 include a case where –

- (a) the nominated undertaker is dissatisfied with an amendment or requirement specified by the Council under clause 2.5(b), or
- (b) no decision is given by the Council in respect of a submission by the nominated undertaker within the respective periods mentioned in clause 2.6(a).

4.3 In approving any works details or a revised works specification under this clause 4 the appointed person or the Secretaries of State may give the approval subject to any amendments or requirements which the Council could specify under clause 2.5(b) or (in the case of a revised works specification) clause 3.3, and the determination of the appointed person or of the Secretaries of State shall be final and binding.

4.4 If the nominated undertaker is dissatisfied by any change specified, or requirement for resubmission made, by the Council under clause 3.3, the preceding provisions of this clause 4 shall also apply for the determination of the dispute as they apply to a failure to agree the revised works specification to which the change or resubmission relates.

4.5 Clause 2.13(b) applies to a determination under this clause 4 as it applies to a determination under clause 2.

## 5 Co-operation and consultation

5.1 The nominated undertaker, the Council and where relevant English Heritage agree to co-operate so as to secure the efficient and timely operation of the processes for approval in this Deed, and in particular (and with a view to securing those ends) to consult each other regularly on the timing and likely particulars of submissions for approval under this Deed in advance of the submissions being made.

5.2 Where the Council approves settlement particulars submitted to it under this Deed subject to amendments or requirements, or where the nominated undertaker amends its settlement particulars or includes provisions within its settlement particulars to give effect to proposals of the Council, where reasonably required the Council shall give relevant assistance to the nominated undertaker in connection with any arbitration under paragraph 5 or 6 of Schedule 2 to the Act or under any provision for the resolution of disputes included in an agreement with a person with an interest in the building concerned; and where such amendments, requirements or proposals arise from recommendations of English Heritage, English Heritage shall give the like assistance.

5.3 In clause 5.2 –

“relevant assistance” means appearing and/or giving evidence at arbitration or dispute resolution proceedings or making oral or written statements and submissions at or for such proceedings, as reasonably required by the nominated undertaker; and

“settlement particulars” means such of any works details as relates to the mitigation of settlement to an affected property.

IN WITNESS of which the parties have executed this Deed and have delivered it on the date first above written.

Executed as a deed by [nominated undertaker]  
acting by:

.....Director/Secretary

.....Director

The Common Seal of the [Relevant Local Authority]

was affixed hereto in the presence of:

.....

The Common Seal of the Historic Buildings and Monuments Commission for England  
was affixed in the presence of

.....

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## Schedule 1

*{Affected Building}*

### Part 1 – Works Specification

1. *[Partial demolition...including remedial alterations, required in connection with:*
  - (a) *Works to provide a reinforced concrete escalator box*
  - (b) *The diversion of the utilities}*
  
2. *{The following works below or adjacent to the building which may require works for the mitigation of settlement to be undertaken with respect to it, namely:*
  - (a) *Works for the construction of the Eastern Ticket Hall;*
  - (b) *Works for the construction of the Western Ticket Hall for Crossrail station;*
  - (c) *Works for the construction of the platform tunnels and box for the station and for the running tunnels for Crossrail;*
  - (d) *Works for the escalators from the Eastern Ticket Hall to platform level, and for emergency escape tunnels and shaft, for passenger tunnels and for ventilation tunnels; and}*

### Part 2 – Method Statement details

1. *{A method statement is to describe the sequencing of the works to construct the escalator and passageways to the platform tunnels, and will deal with:*
  - (a) *Exploratory works to determine the nature of the foundations, girders and columns;*
  - (b) *The recording of the existing structural elements prior to their removal;*
  - (c) *The provision of appropriate protective barriers to the existing listed structure;*
  - (d) *A detailed sequence of operations for the construction process, including details of the proposed temporary support structures and the proposed method(s) of transferring loads from between permanent and temporary supports and back again;*
  - (e) *The methods to be used to control the effects of the transfer of loads from permanent to temporary support systems and back again, as well as the effects of construction, including the monitoring techniques to be employed.*
  - (f) *The interrelationship between the measures used to protect the building from damage resulting from settlement (as set out in the settlement policy) and the construction works,}*

### Part 3 – Background context information concerning the building



Schedule 2

(Grade II)

Part 1 – Works Specification

Part 2 – Method Statement details

A detailed method statement is to show how the (*item/building affected*) is to be removed, and to deal with:

Part 3 – Background context information concerning the building

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## Schedule 3

### Information to accompany submissions of works details

#### *A: General Information on Proposals*

- a description of the building and the part(s) affected by the works and their historical significance;
- an up to date location plan at a scale not smaller than 1:1,250;
- survey drawings of the areas of the buildings (including interior features and fittings of historic interest) affected at a suitable scale (floor plans and elevations); and
- a description of the proposed works in sufficient detail for officers properly to understand the proposals.

#### *B: Instances Where the Fabric of a Listed Building is Lost or Temporarily Removed*

- drawings showing elevations and floor plans at a suitable scale showing the extent of the loss;
- where appropriate drawings of sections showing proposals at a suitable scale showing the extent of the loss;
- in cases of highly modelled/decorative items or items of particular value (e.g. high quality windows or pillars) that are to be removed, where appropriate larger scale drawings; and
- where partial demolition is proposed, the details of the construction of the works including the construction phases and proposed method for protecting other parts of the building.

#### *C: Instances Where the Fabric of Listed Buildings is Altered*

- drawings showing the proposed altered elevations and floor plans at a scale not smaller than 1:200;
- where appropriate sections showing proposals at a suitable scale;
- in cases of highly modelled/decorative items or items of particular value (e.g. high quality windows or pillars) that are to be altered it may be appropriate to have larger scale drawings; and
- details of materials and finishes.