

Dated

200X

[Name of the nominated undertaker] (1)

The Mayor and Burgesses of the **[Relevant Local Authority]** (2)

The Historic Buildings and Monuments Commission for England (3)

Crossrail: Settlement mitigation works affecting Listed Buildings

Learning Legacy Document

(b) section 61 (scheduled monuments) of that Act,

together with [insert any relevant building] (which is dealt with in an agreement of [the same date as this agreement] making specific provision in relation to it);

“mitigation works” means works for the alteration or extension of a listed building in [relevant local authority area] which is not an excluded building, being works which fall within paragraph 2(1)(a) of Schedule 9 to the Act and which do not require consent under section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 by virtue of paragraph 2 of that Schedule 9 but which would affect the character of the building as a building of special architectural or historic interest (whether carried out in exercise of the nominated undertaker’s powers under paragraph 5 or 6 of Schedule 2 to the Act or under any agreement reached by it with a person with an interest in 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.

2 Approval of mitigation works

2.1 Subject to clause 2.7, the nominated undertaker must not carry out any mitigation works except in accordance with particulars submitted by it to the Council, and approved by the Council or determined under clause 4.

2.2 In the case of an EH related request, the nominated undertaker must at the same time as submitting particulars under clause 2.1 send that information to English Heritage, and the Council must not approve the works details submitted to it in such a case unless either–

- (a) a period of 6 weeks or, in the case of a Grade I or II* listed building, 9 weeks has elapsed after the submission, or
- (b) English Heritage have either given their comments on those particulars to the Council or have indicated that they do not intend to comment.

2.3 The approval of the Council of particulars of mitigation works –

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

2.4 The decision of the Council to approve or refuse approval of particulars of mitigation works–

- (a) shall be given as soon as reasonably practicable and in any event (but subject to clause 2.5) –
 - (i) within 8 weeks of receipt of the particulars in the case of a Grade II listed building and
 - (ii) within 12 weeks of receipt of the particulars in the case of a Grade I or Grade II* listed building;
- (b) shall be sent in writing to the nominated undertaker.

2.5 Where under clause 2.3(b) the Council proposes reasonable amendments or requirements to the particulars of mitigation works (“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.

2.6 Where the nominated undertaker proposes further amendments under clause 2.5(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.

2.7 Clause 2.1 does 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.

3 Changes to mitigation works

3.1 Where the nominated undertaker wishes to make changes to any particulars of mitigation works previously approved by the Council under this Deed or determined under clause 4, the nominated undertaker shall submit revised particulars of the mitigation works to the Council for approval.

3.2 The approvals procedures under clauses 2.2 to 2.7 and clause 4 shall apply to the revised particulars as they apply to particulars submitted under clause 2.1.

4 Determination

4.1 In the event that the nominated undertaker and the Council cannot agree all the elements of the mitigation works, 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 2.3(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 2.4(a).

4.3 In approving any particulars of mitigation works 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 2.3(b), and the determination of the appointed person or of the Secretaries of State shall be final and binding.

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 particulars of mitigation works subject to amendments or requirements, or where the nominated undertaker amends its particulars of mitigation works or includes provisions within its particulars of mitigation works 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.

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 Mayor and Burgesses of the **[relevant local authority]**
was affixed 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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