

SILVERTOWN TUNNEL

POSITION STATEMENT ON THE PROPOSED LEGAL AGREEMENT BETWEEN THE APPLICANT AND THE ROYAL BOROUGH OF GREENWICH

1. INTRODUCTION

- 1.1 This document sets out the Applicant's and Royal Borough of Greenwich's ("the Council") position in respect of the legal agreement proposed to be entered into between the parties in relation to the proposed Silvertown Tunnel.
- 1.2 This position statement has been agreed between the parties.

2. LEGAL AGREEMENT

- 2.1 As confirmed during the examination, the parties have been discussing entering into a legal agreement under the Council's general powers to secure a number of obligations related to the proposed Silvertown Tunnel.
- 2.2 As submitted by the Applicant¹ at the Issue Specific Hearing on the dDCO which took place on 29 March 2017, the proposed obligations relate to:
- 2.2.1 employment, skills and training;
 - 2.2.2 the delivery of a noise barrier at Siebert Road;
 - 2.2.3 the provision of a biodiversity offsetting financial contribution;
 - 2.2.4 payment for work associated with the discharge of requirements;
 - 2.2.5 the provision of a road safety and school crossing contribution;
 - 2.2.6 a trial of a cycle shuttle bus through the Blackwall Tunnel or Silvertown Tunnel; and
 - 2.2.7 local business support commitments.
- 2.3 As stated in the summary of its submissions made at the hearing on outstanding issues including environment matter which was submitted at Deadline 6 (REP6-073), the Applicant is also considering whether low emission neighbourhood measures would be appropriate for inclusion in the legal agreement. This will form part of discussions with the Council.
- 2.4 The parties consider positive progress is being made on the terms of the legal agreement and only relatively minor matters remain outstanding, with the overarching principles agreed. However, the parties have been unable to conclude the detailed terms of the agreement by the end of the examination. The outstanding matters in respect of the legal agreement which are still being discussed between the parties are set out in tabular form at the end of this position statement.
- 2.5 In this light, the parties will continue discussing the legal agreement with a view to reaching agreement as soon as possible. Following the close of the examination, the parties will endeavour to submit a copy of any completed legal agreement to the Secretary of State as soon as possible, such that it can be taken into account during the decision-making process.

¹ Please see the Applicant's summary of its submissions made at this hearing, submitted at Deadline 6 (REP6-[XXX]) for a more detailed summary.

2.6 For reference, the latest draft of the legal agreement provided by the Applicant to the Council is attached as an appendix to this document (this replaces the draft submitted into the examination by the Applicant in response to SWQ DC2.10)².

10 April 2017

Outstanding Issues on Legal Agreement			
Issue	RBG position	TfL response	Status
Siebert Road noise barrier	Discussions ongoing on elements of the precise terms of commitment, but overall principles (and most details) are agreed.		Outstanding points (of which there are few) still under discussion.
Biodiversity offsetting	RBG is requesting an administration fee of £18,892.50 for the delivery of £41,036 of funding.	TfL accepts the need for funding of the admin function but does not agree with the level of scheme administration that RBG suggests there will be and with the suggested amount of funding required.	Still under discussion as to the final amount.
Discharge of Requirements	Discussions on figures are still continuing.		Still under discussion.
Sustainable Transport Fund	RBG requested this at DL5 and DL6 and would like it to be an obligation within the legal agreement.	In response to requests from RB Greenwich for a sustainable transport fund, text was added to the Monitoring and Mitigation Strategy (M&MS) at DL6 (paragraphs 5.2.7 and 5.2.8, and the final row of Appendix F) to explain that measures to encourage sustainable and active travel could be implemented as part of the M&MS to offset any residual adverse impacts not fully mitigated by other measures. As these measures would be progressed in the same way as other measures in the M&MS TfL don't think this needs to be explicitly referenced in the legal agreements.	Not agreed.

² Please note that this also includes some minor amendments to the employment and skills and local transitional support schedules not seen by the Council. However, these are considered 'improvements' of the offer and have been agreed with the London Borough of Tower Hamlets. As such, amendments have been made in the other legal agreements for consistency.

APPENDIX – LATEST DRAFT OF THE LEGAL AGREEMENT

DATED _____ **2017**

(1) ROYAL BOROUGH OF GREENWICH

(2) TRANSPORT FOR LONDON

AGREEMENT
relating to the proposed Silvertown Tunnel


Pinsent Masons

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[to be updated]

BETWEEN:-

- (1) **ROYAL BOROUGH OF GREENWICH** of Town Hall, Wellington Street, Woolwich, London, SE18 6PW (the "**Council**"); and
- (2) **TRANSPORT FOR LONDON** of Windsor House, 42-50 Victoria Street, London, SW1H 0TL ("**TfL**");

RECITALS:-

- (A) TfL has developed proposals to construct a twin bore highway tunnel (known as the Silvertown Tunnel) under the river Thames and applied on 3 May 2016 to the Secretary of State under the Planning Act 2008 for an order providing development consent to build, operate and maintain the tunnel.
- (B) The Council is the local planning authority within which the Silvertown Tunnel would be located on the south side of the river Thames. The London Borough of Newham is the local planning authority for the part of the Silvertown Tunnel located on the north side of the river Thames.
- (C) TfL and the Council are entering into this agreement to secure the performance by TfL of certain obligations requested by the Council which it considers are required in its area in relation to the proposed tunnel.

IT IS AGREED as follows:-

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed the following words and expressions have the following meanings unless the context requires otherwise:-

" 2011 Act "	means the Localism Act 2011;
" the Biodiversity Action Plan and Mitigation Strategy "	means the document forming Appendix 9.H of the Environmental Statement certified as being the Environmental Statement for the purposes of the Order under article 64 of the Order and known as the Biodiversity Action Plan and Mitigation Strategy;
" Commence "	has the same meaning as in article 2 of the Order;
" Comply "	means comply, perform, fulfil or discharge or procure compliance, performance, fulfilment or discharge, and " Compliance " shall be construed accordingly;
" Deed "	means this Deed made under all enabling powers;
" the Design Principles "	has the same meaning as in article 2 of the Order;
" the Development "	means the development authorised by the Order;
" Expert "	means an independent person of at least 10 years standing in the area of expertise relevant to the dispute to be agreed between the Parties or, failing agreement, to be nominated at the request and option of any of them, at their joint expense, by or on behalf of the President for the time being of the Law Society;

"Greenwich Businesses"	means businesses whose principal place of business is in the Royal Borough of Greenwich;
"Greenwich Residents"	means persons whose principal or only home is in the Royal Borough of Greenwich;
"Index"	means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors (or by any other successor organisation) or (if the index is no longer published or is unavailable for use) an alternative comparable basis for indexation agreed between TfL and the Council;
"Interest"	means interest at 4% above the base lending rate of Lloyds Bank plc from time to time;
"Local Training Skills and Job Brokerage Strategy"	means the Local Training Skills and Job Brokerage Strategy prepared and submitted to the Council for approval in accordance with Schedule 1;
"London Living Wage"	means the basic hourly wage current at the date of this Deed (before tax, other deductions and any increase for overtime) that the Mayor of London has directed any persons engaged by TfL must be paid as may be revised from time to time by the Mayor of London or any other body or agency whose directives, decisions, instructions, rulings, laws, or regulations are directly enforceable against TfL;
"Newham Businesses"	means businesses whose principal place of businesses is in the London Borough of Newham;
"Newham Residents"	means persons whose principal or only home is in the London Borough of Newham;
"the Order"	means a development consent order made under the Planning Act 2008 authorising the construction, operation and maintenance of the Silvertown Tunnel in the form in which it is made by the Secretary of State;
"the Order Limits"	means the "Order limits" as defined in the Order;
"Parties"	means the parties to this Deed and "Party" shall be construed accordingly;
"the Programme"	means the programme provided by TfL to the Council (or any amendment made to it under paragraph 1.5 Schedule 2), showing the envisaged timescales for the construction of the noise barrier (and related obligations) under Schedule 2 ;
"Reasonable Endeavours"	means attempt to fulfil the relevant obligation by expending effort and money as in all the circumstances may be reasonable to expect, which may include engaging professional and other advisers as appropriate but does not require a Party to take proceedings (including any appeal) in any court, public inquiry, or other hearing (unless specified to the contrary);
"SLNT"	means TfL's Strategic Labour Needs and Training

	initiative;
"SLNT Policy"	means TfL's SLNT Policy attached to this Deed at Appendix 1 as may be revised from time to time;
"Skills and Employment Manager"	means the individual employed to manage the delivery of the Local Training Skills and Job Brokerage Strategy;
"Strategic Equality and Diversity Plan"	means the Strategic Equality and Diversity Plan prepared in accordance with Schedule 1;
"Supplier Diversity Plan"	means the Supplier Diversity Plan prepared in accordance with Schedule 1;
"Supply Chain Engagement Manager"	means the individual appointed to manage the delivery of the Supplier Diversity Plan;
"Tower Hamlets Businesses"	means businesses whose principal place of business is in the London Borough of Tower Hamlets;
"Tower Hamlets Residents"	means persons whose principal or only home is in the London Borough of Tower Hamlets; and
"Working Day"	means a day other than a Saturday or Sunday or public holiday in England.

1.2 In this Deed, unless otherwise indicated, reference to any:-

- 1.2.1 words and expressions in this agreement have the same meaning as they have in the Order;
- 1.2.2 Recital, Clause, sub-clause, paragraph number, Schedule, Appendix or plan is a reference to a Recital, Clause or sub-clause of, paragraph number of, Schedule to, Appendix to or plan annexed to this Deed;
- 1.2.3 words importing the singular meaning include the plural meaning and vice versa;
- 1.2.4 words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, other corporate bodies, firms or legal entities and all such words shall be construed interchangeably in that manner; and
- 1.2.5 Act of Parliament shall include any amendment, modification, extension, consolidation or re-enactment of that Act for the time being in force and in each case shall include all statutory instruments, orders, regulations and directions for the time being made, issued or given under that Act or deriving validity from it.

1.3 Headings where they are included are for convenience only and are not intended to influence the construction and interpretation of this Deed.

1.4 Any notice, notification, consent, approval, agreement, request or statement or details to be made, given or submitted under or in connection with this Deed shall be made or confirmed in writing.

1.5 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.

1.6 Each of the Parties to this Deed shall act in good faith and shall co-operate with each of the other Parties to facilitate the discharge and performance of all obligations on them contained in this Deed and TfL shall comply with any reasonable requests of the Council to provide documentation

within its possession (such documentation to be provided by TfL at its own expense) for the purposes of monitoring compliance with the obligations contained in this Deed.

2. LEGAL BASIS

- 2.1 This Deed is made under sections 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000, section 1 of the Localism Act 2011 and all other enabling powers that may be relevant to the enforcement of the obligations contained in this Deed.
- 2.2 So far as the obligations, covenants and undertakings in this Deed are given by or to the Council, they are entered into under the relevant powers referred to in Clause 2.1 and those obligations, covenants and undertakings are enforceable by or against the Council.
- 2.3 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of their statutory powers, duties, functions or discretions.

3. CONDITIONAL ENTRY INTO FORCE

- 3.1 Subject to Clause 3.2 this Deed is conditional upon and will not take effect until:
 - 3.1.1 the Order is made by the Secretary of State; and
 - 3.1.2 the Development is Commenced.
- 3.2 Clauses [5, 6, 10, 13, 18, Schedule 1, Schedule 3, paragraphs 1.4 and 1.5 of Schedule 2 and Schedule 5] come into effect on the date of this Deed.

4. DURATION

- 4.1 This Deed will end (to the extent it has not already been complied with), if the Order:-
 - 4.1.1 is quashed or revoked at any time so as to render this Deed or any part of it irrelevant, impractical or unviable; or
 - 4.1.2 expires before Commencement,
 - provided that any works which have been commenced under Schedule 2 at the date this Deed ends must be completed by TfL.
- 4.2 Where this Deed ends the Council must repay to TfL any unspent financial contributions payable under clauses 8 and 10, Schedule 3 and Schedule 5 except where the Council has committed to expend such sums which would remain payable on the ending of the Deed.

5. NOTICE OF COMMENCEMENT OF DEVELOPMENT

- 5.1 TfL must give the Council notice:
 - 5.1.1 at least 6 months prior to the expected date of the Commencement of the Development; and
 - 5.1.2 5 Working Days prior to the Commencement of the Development.

6. EMPLOYMENT AND SKILLS

- 6.1 The provisions contained in Schedule 1 to this Deed have effect.
- 6.2 The Council acknowledges that TfL is entering into agreements with the London Boroughs of Newham and Tower Hamlets in respect of the Development which contains the same obligations in Schedule 1 as to the promotion of opportunities for labour and business in their areas. The Council must not enforce the obligations in Schedule 1 in respect of its own area in

any way that prejudices the ability of TfL or its contractor to comply with the its equivalent obligations in respect of Newham or Tower Hamlets.

7. SIEBERT ROAD NOISE BARRIER

7.1 The provisions contained in Schedule 2 to this Deed have effect.

8. BIODIVERSITY OFFSETTING

8.1 The provisions contained in Schedule 3 to this Deed have effect.

9. DISCHARGE OF REQUIREMENTS

9.1 The provisions contained in Schedule 4 to this Deed have effect.

10. ROAD SAFETY

10.1 The provisions contained in Schedule 5 to this Deed have effect.

11. CYCLE SHUTTLE BUS

11.1 The provisions contained in Schedule 6 to this Deed have effect.

12. LOCAL BUSINESS TRANSITIONAL SUPPORT

12.1 The provisions contained in Schedule 7 to this Deed have effect.

13. COVENANTS OF THE PARTIES

13.1 The Council and TfL must at all times act reasonably and in particular must not unreasonably withhold or delay the giving of any approval or expression of satisfaction which is required under this Deed.

14. SUCCESSORS TO THE COUNCIL

14.1 References in this Deed to the Council include any successors to the Council's statutory functions and include persons deriving title through or under them.

15. TRANSFER OF POWERS

15.1 If any of the powers of TfL under the Order are transferred to another person under article 58 of the Order, TfL must procure prior to the transfer of such powers a direct covenant from that person to observe the obligations of TfL under this Deed as they relate to the exercise of the powers which have been transferred.

15.2 Upon TfL procuring the direct covenant referred to in clause 15.1, TfL is released from such of its obligations under this Deed which relate to the exercise of the powers which have been transferred (save in respect of any subsisting breach arising prior to parting with such powers).

16. ENFORCEMENT PROTOCOL

16.1 Before taking action to enforce any of the provisions of this Deed the Council will give written notice to TfL stating the nature of the breach, the steps required to remedy the breach and specifying a reasonable timescale for TfL for remedying the breach.

16.2 The Council will also give TfL the opportunity to discuss the breach with the Council and the timescale and steps for remedying it prior to the remedy being carried out. The Council will take into account any reasonable representations made by TfL.

16.3 If TfL does not diligently remedy the breach within the time period agreed under the notice (or such longer period subsequently agreed with the Council) the Council shall before taking

further enforcement action and where applicable seek to utilise any bond, guarantee, surety or other financial provision in place in respect of the relevant obligation in order to remedy the breach.

- 16.4 If no bond, guarantee, surety or other financial provision is in place and if TfL does not use Reasonable Endeavours to remedy the breach within the stated time period or longer period as agreed with the Council the Council will be able to pursue legal remedies.

17. DISPUTE RESOLUTION

- 17.1 If a dispute between the Parties persists beyond 10 Working Days and relates to any matter contained in this Deed (excluding a matter of law) the dispute may be referred to the Expert by any Party. The Expert will act as an expert and not as an arbitrator. The Expert's decision shall be final and binding on the Parties.

- 17.2 Each Party will bear its own costs and the Expert's costs will be paid as determined by the Expert.

- 17.3 The Expert will be appointed subject to an express requirement that the Expert's must make a decision and communicate it to the Parties within the minimum practical timescale allowing for the nature and complexity of the dispute, and in any event not more than 20 Working Days from the date of the Expert's appointment. The Expert's decision will be given in writing with reasons and in the absence of manifest error will be binding on the Parties.

- 17.4 The Expert will be required to give notice to each of the Parties, inviting each of them to submit within 10 Working Days written submissions and supporting material and will afford to the Parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material.

18. LEGAL COSTS

On completion of this Deed TfL will pay to the Council the reasonable legal costs incurred in the negotiation, preparation and execution of this Deed of no more than £3,000 (three thousand pounds).

19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

Nothing in this Deed creates any rights in favour of or is enforceable by any person who is not a party to this Deed under the Contracts (Rights of Third Parties) Act 1999.

20. ENTIRE AGREEMENT

This Deed constitutes the whole agreement between the Parties and supersedes all previous agreement between the Parties relating to its subject matter.

21. NOTICES

- 21.1 Any notice or other written communication to be served on a Party or given by one Party to any other under the provisions of this Deed will be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party on whom it is to be served or to whom it is to be given and will conclusively be deemed to have been received on:-

- 21.1.1 if delivered by hand, the next Working Day after the day of delivery;
- 21.1.2 if sent by post, the day 2 Working Days after the date of posting; or
- 21.1.3 if sent by recorded delivery, at the time delivery was signed for.

- 21.2 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.
- 21.3 The address for any notice or other written communication shall be within the United Kingdom.
- 21.4 Where proceedings have been issued in the Courts of England the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.
- 21.5 A notice or communication will be served or given:-
- 21.5.1 on TfL at [Windsor House, 42-50 Victoria Street, London, SW1H 0TL], or such other address as notified in writing to the Council from time to time, marked for the attention of *(name)*;and
- 21.5.2 on the Council at [Town Hall, Wellington Street, Woolwich, London, SE18 6PW] or such other address notified in writing to TfL from time to time, marked for the attention of *(insert details)*;
- 21.6 Any notice or other written communication to be given by the Council will be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

22. JURISDICTION AND LEGAL EFFECT

- 22.1 This Deed will be governed by and interpreted in accordance with English Law.
- 22.2 If any provision of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability will not affect the validity or enforceability of the remaining provisions of this Deed.
- 22.3 No waiver (whether expressed or implied) by the Council of any breach or default by TfL in Complying with any obligation, covenant or undertaking in this Deed will constitute a continuing waiver and no waiver will prevent the Council from enforcing any obligation, covenant or undertaking or from acting upon any subsequent breach or default of any obligation, covenant or undertaking by TfL.

23. INDEXATION, LATE PAYMENT AND VAT

- 23.1 Any sum to be paid to the Council under this Deed will be adjusted by an amount equivalent to the change in the Index from the date of this Deed to the date on which such sum is paid. Where the change in the index is negative the sum payable will be reduced accordingly.
- 23.2 If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.
- 23.3 The Parties to this Deed acknowledge and agree in accordance with the guidance set out in HMRC Reference: Notice 742 (June 2012) and in particular paragraphs 8.4 and 8.6 that whilst such guidance remains applicable the financial contributions payable under clauses 8 and 10, Schedule 3 and Schedule 5 to this Deed are not subject to VAT treatment and no VAT should be charged or recoverable in addition to the amount of those contributions specified in the Deed.

EXECUTED AS A DEED by the parties and delivered on the date which first appears in this Deed.

SCHEDULE 1

EMPLOYMENT AND SKILLS

1. LOCAL TRAINING SKILLS AND JOB BROKERAGE STRATEGY

- 1.1 TfL must require its contractor, no later than three months prior to Commencement of the Development, to submit to the Council for approval a Local Training Skills and Job Brokerage Strategy.
- 1.2 TfL must require its contractor to carry out the Development in accordance with the Local Training Skills and Job Brokerage Strategy.
- 1.3 The Local Training Skills and Job Brokerage Strategy must provide that TfL or its contractor must:
 - 1.3.1 use Reasonable Endeavours to recruit at least 25% of the total workforce for and during the construction of the Development from Newham Residents, Greenwich Residents or Tower Hamlets Residents;
 - 1.3.2 employ one 'new start' apprentice or one SLNT 'output' (as defined in the SLNT Policy) for every £3 million of construction contract value applicable to the construction of the Development, with such arrangements to be based on the following:
 - (a) TfL must use Reasonable Endeavours to employ any apprentices [or SLNT 'outputs'] from Newham Residents, Greenwich Residents or Tower Hamlets Residents; and
 - (b) any person who is employed as an apprentice must be in a low or unskilled position immediately prior to the start of the apprenticeship.
 - 1.3.3 employ a Skills and Employment Manager whose principal place of work is located within the Order Limits to manage the commitments provided for under the Local Training Skills and Job Brokerage Strategy, including being responsible for job brokerage, outreach and to help maximise opportunities for minority groups;
 - 1.3.4 notify the Council and the London Boroughs of Newham and Tower Hamlets at least three months in advance of the employment and skill requirements of each phase of the Development;
 - 1.3.5 have regard to plans promoted by the Construction Industry Training Board, the National Skills Academy and any equivalent organisation as may be agreed to by TfL;
 - 1.3.6 supply a Resource Plan to job brokerages nominated by the Council and the London Boroughs of Newham and Tower Hamlets upon Commencement of the Development, which must be updated on a quarterly basis;
 - 1.3.7 notify job brokerages nominated by the Council and the London Boroughs of Newham and Tower Hamlets or BuildLondon of any job vacancies arising from the construction of the Development and to allow a minimum of 48 hours from that notification for the relevant job brokerage to fill the vacancy;
 - 1.3.8 interview any suitable candidates put forward by the job brokerages under paragraph 1.3.7; and
 - 1.3.9 provide quarterly monitoring returns to the Council and the London Boroughs of Newham and Tower Hamlets in respect of compliance with the Local Training Skills and Job Brokerage Strategy.

2. **STRATEGIC EQUALITY AND DIVERSITY PLAN**

- 2.1 TfL must require its contractor, prior to Commencement of the Development, to prepare in consultation with the Council a Strategic Equality and Diversity Plan.
- 2.2 TfL must require its contractor to carry out the Development in accordance with the Strategic Equality and Diversity Plan.
- 2.3 The Strategic Equality and Diversity Plan must set out TfL or its contractor's proposals for using Reasonable Endeavours to promote access to employment and training opportunities connected with the construction of the Development for Greenwich Residents, Newham Residents and Tower Hamlets Residents, and specific disadvantaged groups, including recruitment interviewing targets in respect of the same.
- 2.4 The Strategic Equality and Diversity Plan must provide that TfL or its contractor provide annual monitoring returns to the Council and the London Boroughs of Newham and Tower Hamlets in respect of compliance with the Strategic Equality and Diversity Plan and such monitoring must include information on the following elements in respect of the workforce employed by the contractor:
 - 2.4.1 age;
 - 2.4.2 ethnicity;
 - 2.4.3 gender;
 - 2.4.4 the London Borough of residence;
 - 2.4.5 disability; and
 - 2.4.6 previous employment status.

3. **SUPPLIER DIVERSITY PLAN**

- 3.1 TfL must require its contractor, prior to Commencement of the Development, to prepare in consultation with the Council a Supplier Diversity Plan.
- 3.2 TfL must require its contractor to carry out the Development in accordance with the approved Supplier Diversity Plan.
- 3.3 The Supplier Diversity Plan must provide that TfL or its contractor must:
 - 3.3.1 employ a Supply Chain Engagement Manager to be responsible for engagement with Greenwich Businesses, Newham Businesses and Tower Hamlets Businesses to maximise their opportunities arising from the Development;
 - 3.3.2 organise engagement activities such as events for meeting TfL or its contractor, procurement workshops and specific engagement with trade associations or industries;
 - 3.3.3 use the online procurement portal *Competefor* to advertise contracts for the Development;
 - 3.3.4 use the East London Business Alliance to promote opportunities for Greenwich Businesses, Newham Businesses and Tower Hamlets Businesses;
 - 3.3.5 provide annual monitoring returns to the Council and the London Boroughs of Newham and Tower Hamlets in respect of compliance with the Supplier Diversity Plan; and
 - 3.3.6 use Reasonable Endeavours to promote opportunities for Greenwich Businesses, Newham Businesses and Tower Hamlets Businesses.

4. **LONDON LIVING WAGE**

TfL must require its contractor to ensure members of the workforce employed by it and any sub-contractors in respect of any works authorised by the Order are paid an hourly wage (or equivalent of any hourly wage) of no less than the London Living Wage.

SCHEDULE 2

SIEBERT ROAD NOISE BARRIER

1. PROVISION OF SIEBERT ROAD NOISE BARRIER

- 1.1 Subject to paragraph 1.7, TfL must construct a noise barrier adjacent to the A102 in the Council's area within the [area edged red] on the plan attached to this Deed.
- 1.2 TfL must carry out consultation with the Council and the residents of the Siebert Road and Westcombe Hill area on the design and appearance of the noise barrier before commencing construction pursuant to the obligation in paragraph 1.1.
- 1.3 The design and appearance of the noise barrier must, as far as reasonably practicable recognising the uncertain engineering, land availability and other constraints, together with the outcome of the consultation under paragraph 1.2, conform with the Design Principles.
- 1.4 As soon as practicable following the making of the Order by the Secretary of State, TfL must provide the Programme to the Council.
- 1.5 Should circumstances arise which TfL considers, in its sole discretion, necessitate a change to the Programme, TfL must notify the Council of this and provide it with an updated programme in respect of its obligations under this Schedule, which shall become the Programme for the purposes of this Schedule.
- 1.6 TfL must use Reasonable Endeavours to:
 - 1.6.1 carry out its obligations under this Schedule in accordance with the Programme; and
 - 1.6.2 in any case (but only insofar as it is consistent with the Programme) undertake the detailed design of the noise barrier and consultation required under this Schedule without unreasonable delay following the Commencement of the Development, and commence construction of the noise barrier as soon as reasonably practicable following this.
- 1.7 The obligation in paragraph 1.1 is subject to:
 - 1.7.1 further detailed studies carried out by TfL showing that the noise barrier is feasible from a land availability perspective provided that TfL has used Reasonable Endeavours to secure the land necessary for the noise barrier, and that the studies show it will be effective in reducing traffic noise at the façade of properties currently affected in the Siebert Road and Westcombe Hill area;
 - 1.7.2 consultation with residents of the Siebert Road and Westcombe Hill area carried out by TfL or the Council showing a majority of support for the provision of a noise barrier;
 - 1.7.3 the works required falling within the scope of TfL's powers under Class A of Part 9 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 or TfL, after using Reasonable Endeavours, being able to obtain planning permission under Part 3 of the Town and Country Planning Act 1990; and
 - 1.7.4 the completion of the works not resulting in the total cost to TfL being more than £[933,000] (but recognising that other sources of funding could be utilised to meet the full cost of the works should that cost be more than £[933,000], but always subject to TfL not being under any obligation under this Deed to source such funding itself).
- 1.8 In this Schedule, "effective in reducing traffic noise at the façade of properties currently affected in the Siebert Road and Westcombe Hill area" means [XXX].

SCHEDULE 3

BIODIVERSITY OFFSETTING

1. BIODIVERSITY OFFSETTING CONTRIBUTION

1.1 [Prior to the Commencement of the Development]:

1.1.1 in order to ensure a biodiversity net gain is delivered for the Scheme, TfL must pay a financial contribution of £[41,036] to the Council; and

1.1.2 TfL must pay an administration financial contribution of £[XXX] to the Council.

1.2 The contribution payable by TfL to the Council:

1.2.1 under paragraph 1.1.1 must only be used by the Council for the purposes of biodiversity offsetting outside of the Order Limits in accordance with the principles set out in the Biodiversity Action Plan and Mitigation Strategy; and

1.2.2 under paragraph 1.1.2 must only be used for administering the contribution payable paragraph 1.1.1 for the purposes set out in paragraph 1.2.1.

1.3 If the Council has not used the full extent of any of the financial contributions payable to it under paragraph 1.1 within [10] years from the date of this Deed, any unspent portions of the financial contributions must be repaid to TfL as soon as reasonably practicable.

SCHEDULE 4

DISCHARGE OF REQUIREMENTS

1. FEES FOR DISCHARGE OF REQUIREMENTS

- 1.1 Where an application is made to the Council for a written consent, agreement or approval under Part 1 of Schedule 2 to the Order, TfL must, upon the making of the application, pay a fee to the Council in accordance with the following table:

<u>Application</u>	<u>Fee</u>
For design approval of permanent above ground buildings and structures' under paragraph 4(1) of Part 1 of Schedule 2 to the Order.	£[XXX] for each individual Work No. listed in paragraph 4(3) of Part 1 of Schedule 2 to the Order that is the subject of an application.
For approval of any plan listed in paragraph 5(3) of Part 1 of Schedule 2 to the Order.	£[XXX] for each plan submitted for approval.
For approval of a written landscaping scheme under paragraph 6(1) of Part 1 of Schedule 2 to the Order.	£[XXX] for each scheme submitted for approval.
For design approval of surface water drainage systems under paragraph 8(1) of Part 1 of Schedule 2 to the Order.	£[XXX] for each individual surface water drainage system that is the subject of an application.
For approval of details of external lighting under paragraph 9(1) of Part 1 of Schedule 2 to the Order.	£[XXX] for each application.
For approval of a signage strategy under paragraph 10(1) of Part 1 of Schedule 2 to the Order.	£[XXX] for each strategy submitted for approval.
For approval of details of operational noise mitigation measures under paragraph 12(1) of Part 1 of Schedule 2 to the Order.	£[XXX] for each application.

- 1.2 For the avoidance of doubt, if an application is made to the Council under Part 1 of Schedule 2 to the Order for written approval of a plan, scheme or strategy where it is intended for different versions of that plan, scheme or strategy to apply to different locations within the Council's area, those different versions are to be treated as separate plans, schemes or strategies for the purposes of calculating fees under paragraph 1.1.
- 1.3 Where an application is made under Part 1 of Schedule 2 to the Order in respect of which an application has been made previously, the fee payable in respect of that subsequent application is £[XXX] (but, for the avoidance of doubt, any response by TfL to a request by the Council for further information in respect of an application for a written consent, agreement or approval is not to be treated as an application for which a fee is payable).

SCHEDULE 5

ROAD SAFETY

1. ROAD SAFETY CONTRIBUTION

- 1.1 On the date on which TfL gives the Council notice under clause 5.1.1, TfL must pay a financial contribution of £[XXX] to the Council.
- 1.2 The contribution payable by TfL to the Council under paragraph 1.1 must only be used by the Council for providing funds for the Council's Road Safety Education programmes.

2. SCHOOL CROSSING PATROLS

- 2.1 On the date on which TfL gives the Council notice under clause 5.1.2, and then annually on that same date in future years (or where that date falls on a non Working Day, the first Working Day following it) until the Silvertown Tunnel opens for public use, TfL must pay a financial contribution of £[XXX] to the Council.
- 2.2 Should construction of the Development cease for a continuous period of [6] months, the obligation on TfL to pay the financial contribution under paragraph 2.1 is suspended, provided that TfL must re-commence the payment of those financial contributions upon the re-commencement of construction of the Development.
- 2.3 The contribution payable by TfL to the Council under paragraph 2.1 must only be used by the Council for funding school crossing patrols on the Greenwich Peninsula for the duration of the construction of the Development.

3. GENERAL

- 3.1 If the Council has not used the full extent of the financial contributions payable to it under paragraph 1.1 or 2.1 by the time the Silvertown Tunnel opens for public use, any unspent portions of the financial contributions must be repaid to TfL as soon as reasonably practicable.

SCHEDULE 6

CYCLE SHUTTLE BUS

1. TRIAL OF A CYCLE SHUTTLE BUS SERVICE

- 1.1 Subject to paragraph 1.5, TfL must, in the event that an appropriate alternative is not operational (as determined by TfL in consultation with the Council), commence a 12 month trial of a cycle shuttle bus service in accordance with the provisions of this paragraph 1 within [1 month] of the Silvertown Tunnel opening for public use.
- 1.2 The cycle shuttle bus service must provide a service to transport cyclists and their bicycles through either the Blackwall Tunnel or the Silvertown Tunnel or both.
- 1.3 TfL must provide appropriate pick-up and set-down points on both sides of the river Thames and reasonable associated facilities (including bus stands), with the location of those points to be the subject of consultation with the Council before being finalised.
- 1.4 Subject to paragraph 1.5, TfL must operate the cycle shuttle bus service on weekdays and weekends, at a frequency to be determined by TfL[, following consultation with the Council].
- 1.5 TfL may cease or alter the cycle shuttle bus service at any time on the grounds of safety.

2. REVIEW OF THE CYCLE SHUTTLE BUS SERVICE

- 2.1 TfL must collect data during the 12 month trial period on:
 - 2.1.1 the level of usage of the cycle shuttle bus service;
 - 2.1.2 journey times; and
 - 2.1.3 other information it considers relevant and appropriate.
- 2.2 As soon as reasonably practicable following the end of the 12 month trial period, TfL must publish and make available to the Council and the general public a monitoring report, setting out the results of the data collection undertaken under paragraph 2.1.
- 2.3 Following the publication of the monitoring report under paragraph 2.2, TfL must consult the Council and the London Boroughs of Newham and Tower Hamlets on the future of the cycle shuttle bus service.
- 2.4 Having undertaken the consultation under paragraph 2.3, TfL must, having regard to the monitoring report, the results of the consultation and any other relevant matters, decide whether to:
 - 2.4.1 extend the trial period of the cycle shuttle bus service;
 - 2.4.2 operate the cycle shuttle bus service on a permanent basis; or
 - 2.4.3 cease the cycle shuttle bus service.

SCHEDULE 7

LOCAL BUSINESS TRANSITIONAL SUPPORT

1. BUSINESS TRANSITIONAL SUPPORT PACKAGE

- 1.1 TfL will, for a period of one year from the date the Silvertown Tunnel opens for public use, waive the initial annual registration fee payable by businesses (which fulfil the criteria under paragraph 1.4) for an online user charging account for the Blackwall Tunnel and the Silvertown Tunnel.
- 1.2 Prior to the Silvertown Tunnel opening for public use, TfL must make available and administer a sum of £[1,000,000 (one million pounds)] for the purposes of supporting local businesses (which fulfil the criteria under paragraph 1.4) in a manner which TfL considers appropriate and in accordance with the provisions of this Schedule.
- 1.3 TfL must publicise, in a manner it considers appropriate, the support being made available under this Schedule.
- 1.4 To be eligible to receive support under this Schedule, a business must:
 - 1.4.1 be registered to pay business rates in the Council's area or in the London Boroughs of Newham or Tower Hamlets;
 - 1.4.2 have fewer than 50 employees; and
 - 1.4.3 register its details with TfL in a manner to be publicised, including the type of business, vehicle uses and travel patterns.
- 1.5 The sum made available by TfL under paragraph 1.2 may fund the following:
 - 1.5.1 providing advice to businesses in order to help them adapt to the operation of the Silvertown Tunnel, including on options to increase the use of sustainable transport modes; or
 - 1.5.2 any other support mechanism TfL may consider appropriate.
- 1.6 TfL will provide the support under paragraph 1.5 until the funds have been exhausted.
- 1.7 TfL may agree with the Council, or the London Boroughs of Newham or Tower Hamlets, that they will be responsible for providing the support under this Schedule instead of TfL, notwithstanding that TfL will provide the funding for this support and will, at its discretion, decide on the type of support to be funded.
- 1.8 TfL may require any business in receipt of support under this Schedule to provide it with data for monitoring purposes which may be made public in the form of monitoring reports (subject to suitable redaction and compliance with all applicable data protection legislation).
- 1.9 TfL must consult with the Council and the London Boroughs of Newham and Tower Hamlets:
 - 1.9.1 prior to making the £[1,000,000 (one million pounds)] available under paragraph 1.2; and
 - 1.9.2 during the period set out in paragraph 1.6 as it considers appropriate,in respect of the proposed support mechanisms to be implemented under paragraph 1.5 and any publicity to be undertaken under paragraph 1.3, and take into account any comments received as part of this consultation when finalising or reviewing its proposals under this Schedule.

1.10 EXECUTION PAGE

[TfL deed execution block]

[Greenwich deed execution block]

APPENDIX 1
TFL SLNT POLICY