

SCHEDULES

SCHEDULE 16

PROVISIONS FOR PROTECTION OF SPECIFIED UNDERTAKERS

PART 4

TRANSPORT FOR LONDON

SECTION 3

Protection for Highways Structures

1. The provisions of this Part of this Schedule shall have effect unless otherwise agreed in writing by the undertaker and TfL.

2. In this Part of this Schedule—

“approval” in relation to specified works means approval of the engineer appointed by TfL, such approval not to be unreasonably withheld or delayed;

“construction” shall include reconstruction, altering, replacing, relaying, removal, maintenance and repair of the specified works;

“designated works” means—

the construction of Work No. 1a beneath Great West Road at British Grove (A4);

the construction of Work No. 7 beneath Wandsworth Plain, Armoury Way and Wandsworth High Street (A3);

the construction of Work No. 10b beneath York Road (A3200);

the construction of Work No. 1b adjacent to Chelsea Embankment (A3212);

the construction of Work No. 1c beneath Kirtling St (A3205);

the construction of Work No. 1c, 15a, 15b and 15c (beneath Vauxhall Bridge (A202);

the construction of Work No. 1c beneath Lambeth and Westminster Bridges A3203 and A302;

the construction of Work No. 1c beneath Victoria Embankment (A3211);

the construction of Work No. 17b (low level sewer interception chamber at Blackfriars Bridge, works to Blackfriars bridgehead structure the North Western link from Blackfriars bridge down onto the A3211);

the construction of Work No. 1d beneath Limehouse Link (A1203), Commercial Road (A13), Burdett Road (A1205) & Blackwall Tunnel Northern Approach (A12); and

the construction of Work No. 20 (beneath Jamaica Road (A200);

Falconbrook Pumping Station (relocation of bus stops on York Road – part of Work no. 10c);

Kirtling Street (relocation of bus stops on Cringle Street – part of Work no. 13b);

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Deptford Church Street (relocation of bus stops on Deptford Church Street – part of Work no. 22b)

“engineer” means the engineer appointed by TfL;

“LBSL” means London Bus Services Limited;

“plans” includes sections, designs, drawings, specifications, soil reports, staging proposals, programmes, calculations, methods of construction, risk assessments and details of the extent, timing and duration of any proposed occupation of protected property and “approved plans” means plans approved or deemed to be approved or settled by arbitration in accordance with the provisions of this Part of this Schedule;

“protected property” means any lands held or used by TfL for the purposes of its operational highway undertaking and any works, apparatus and equipment connected therewith for the maintenance or operation of which TfL is responsible when the relevant specified works are begun;

“the specified works” means so much of the designated works as may be situated within 50 metres (measured in any direction) of, or may in any way affect, protected property and includes the construction of any such work.

“TfL” means Transport for London and in paragraph 9 includes LBSL.

3.—(1) The undertaker shall not in the exercise of the powers conferred by or under this Order, without the consent of the TfL, acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over protected property.

(2) The undertaker shall not exercise the powers under article 22 above or the powers under section 11(3) of the 1965 Act, in respect of any protected property except with the consent of TfL.

4.—(1) The undertaker shall, before commencing the specified works, furnish to TfL such proper and sufficient plans of the specified works as may reasonably be required for the approval of the engineer and shall not commence the specified works until the plans have been approved in writing by the engineer or settled by arbitration.

(2) If, within a period of 56 days beginning with the date on which plans have been furnished to TfL under sub-paragraph (1) above, the engineer has not notified their disapproval and the grounds of their disapproval, they shall be deemed to have approved the plans as submitted.

(3) If the undertaker, in the course of carrying out specified works on protected property (i) uses any materials that the engineer considers inferior or unfit for the purpose intended, (ii) executes any work which will have an adverse effect on the safe and efficient operation of the roads or (iii) makes any material deviation from materials approved by the engineer, then TfL shall give notice to the undertaker that TfL desires itself to construct that part of the specified works which in the opinion of the engineer will or may affect the stability of, or the safe operation of protected property, then, provided that TfL has first given the undertaker the opportunity to remedy the specified works, if the undertaker desires such part of the specified works to be constructed, TfL shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with approved plans.

(4) Upon signifying their approval of the plans the engineer may specify any protective works, whether temporary or permanent, which in their opinion should be carried out before the commencement of the specified works to ensure the stability of protected property, the continuation of the safe and effective operation of TfL’s operational undertaking including any relocation of works, apparatus and equipment necessitated by the specified works and the comfort and safety of users of the roads comprised within protected property and such protective works as may be reasonably necessary for those purposes shall be constructed with all reasonable dispatch, and the

undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed.

5.—(1) The undertaker shall give to the engineer not less than 56 days' notice of its intention to commence the construction of any of the specified works and also, except in an emergency (when it shall give such notice as may be reasonably practicable), of its intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with protected property.

(2) The specified works shall, when commenced, be carried out—

- (a) with all reasonable dispatch in accordance with approved plans;
- (b) under the supervision (if given), and to the reasonable satisfaction, of the engineer; and
- (c) in such manner as to cause—

- (i) as little damage as may be to protected property, and
- (ii) as little interference as may be with the conduct of TfL's undertaking and the use by vehicles and pedestrians of the highways comprised within protected property.

(3) If any damage to protected property or any such interference is caused by the carrying out of the specified works, the undertaker shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to TfL all reasonable expenses to which TfL may be put and compensation for any loss which TfL may sustain by reason of any such damage or interference.

(4) Nothing in this paragraph shall impose any liability on the undertaker with respect to any damage, cost, expense or loss to the extent that such damage, cost expense or loss is attributable to the act, neglect or default of TfL or its servants or agents.

6. Without prejudice to the generality of paragraphs 4 and 5 above TfL may, in approving the plans of or in supervising the carrying out of the specified works or of any protective works carried out by the undertaker by virtue of the provisions of paragraph 5(3) above, require that—

- (a) nothing shall be done by or on behalf of the undertaker which unreasonably impedes the free, uninterrupted and safe flow of vehicles and pedestrians;
- (b) dust sheets and other works and working methods are used so as to prevent so far as practicable any dust or dirt from the relevant works affecting such persons; and
- (c) adequate signing of all alterations of routes for such persons and of any hazards or obstructions to the free movement of such persons is provided.

7. The undertaker shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to those specified works or the method of construction thereof.

8. During the construction of any part of the specified works under this Part of this Schedule by TfL under this Part of this Schedule, TfL shall at all times afford reasonable facilities to the undertaker and its agents for access to those works, and shall supply the undertaker with such information as they may reasonably require with regard to such works or the method of construction thereof.

9.—(1) If any alterations or additions either permanent or temporary, to protected property are reasonably necessary during the construction of the specified works, or during a period of 12 months after the completion thereof, in consequence of the construction of the specified works, then, provided TfL has first given the undertaker the opportunity to carry out the protective works itself, such alterations and additions may be carried out by TfL after giving the undertaker reasonable notice of its intention to carry out such alterations or additions and the undertaker shall pay TfL the reasonable cost thereof as certified by the engineer, including in respect of permanent alterations and additions a capitalised sum representing any increase in the costs which may be expected to

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be reasonably incurred by TfL in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing protected property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to TfL under this paragraph.

10. The undertaker shall repay to TfL all costs, charges and expenses reasonably incurred by TfL—

- (a) in constructing any part of the specified works on behalf of the undertaker or any protective works under the provisions of paragraph 4 above, including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by TfL in maintaining and renewing such works;
- (b) in respect of the employment of any inspectors, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting its protected property in order to prevent, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;
- (c) resulting from any speed restrictions, diversions or delays to bus services which may, in the opinion of the engineer, be required to be imposed by reason of the construction or failure of the specified works, or from the substitution of bus service (whether temporary or permanent) which may be reasonably necessary for the same reason and any loss of revenue which may be incurred by TfL due to the specified works;
- (d) in respect of any additional temporary lighting of its protected property in the vicinity of the specified works, being lighting made reasonably necessary by reason of the construction or failure of the specified works; and
- (e) in respect of the consideration of plans and the supervision by the engineer of the construction of the specified works.

11. If at any time after the completion of a specified work, not being a work vested in TfL, TfL gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of protected property, the undertaker shall, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect protected property.

12. Any additional expenses which TfL may reasonably incur in altering, reconstructing or maintaining protected property under any powers existing at the making of this Order by reason of the existence of a specified work shall, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to TfL.

13.—(1) The undertaker shall be responsible for and make good to TfL, all costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to, or reasonably incurred by, TfL—

- (a) by reason of the construction of the specified works or the failure thereof, or
- (b) by reason of any act or omission of the undertaker, of any person in its employ, or of its contractors or others whilst engaged upon the construction of the specified works,

and the undertaker shall indemnify TfL from and against all such claims and demands arising out of or in connection with the construction of the specified works or any such failure, act or omission, and the fact that any act or thing may have been done in accordance with any requirement of the engineer or under their supervision, shall not (if it was not attributable to the act, neglect or default

of TfL, or of any person in their employ, or of their contractors or agents) excuse the undertaker from any liability under the provisions of this Part of this Schedule.

(2) TfL shall give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertaker such consent not to be unreasonably withheld.

14. Any difference arising between the undertaker and TfL under this Part of this Schedule (other than a difference as to the meaning or construction of this Part of this Schedule) shall be resolved by arbitration under article 63 (*arbitration*). referred to and settled by arbitration under article 63 (*arbitration*)