

DATED

2025

**(1) MAYOR AND BURGESSES OF THE LONDON BOROUGH OF
BEXLEY**

(2) CORY ENVIRONMENTAL HOLDINGS LIMITED

(3) THAMES WATER UTILITIES LIMITED

**DEED OF DEVELOPMENT CONSENT
OBLIGATIONS**

**pursuant to Section 106 of the Town and
Country Planning Act 1990, Section 111 of the
Local Government Act 1972, Section 1 of the
Localism Act 2011 and Section 16 of the
Greater London Council (General Powers) Act
1974 relating to the Cory Decarbonisation
Project in the London Borough of Bexley**



Pinsent Masons

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DEED

relating to

Section 106 of the Town and Country Planning Act 1990, section 174 of the Planning Act 2008, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 in relation to the Cory Decarbonisation Project development at Norman Road North, Belvedere, London, DA17 6JY.

THIS DEED is made on

2025

BETWEEN:

- (1) The Mayor and Burgesses of the London Borough of Bexley, whose registered office is at Civic Offices, 2 Watling Street, Bexleyheath, DA6 7AT (“the **Council**”);
- (2) Cory Environmental Holdings Limited, whose registered office is at Level 5, 10 Dominion Street, London, EC2M 2EF (company number 05360864) (“the **Developer**”); and
- (3) Thames Water Utilities Limited, whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB (company number 02366661) (“**TWUL**”).

BACKGROUND:

- (A) The Council is the local planning authority for the purposes of s106 of the 1990 Act for the area in which the Order land is situated and is the enforcing authority for the purposes of section 106 of the 1990 Act.
- (B) On 21 March 2024 the Developer submitted the Application to the Secretary of State for development consent to construct, operate and decommission the Project. The Application was accepted for examination by the Secretary of State on 18 April 2024.
- (C) It is intended that the Developer will be the undertaker for the purposes of the Development Consent Order and the Developer intends to construct, operate and decommission the Project as authorised by the Development Consent Order.
- (D) TWUL are the owners of the Crossness LNR TWUL Land (under freehold title numbers K165385 and SGL695283), which will become part of an extended Crossness LNR created by the Development Consent Order.
- (E) This Deed is entered into to manage the on-going management of the extended Crossness LNR created by the Development Consent Order and should be read alongside the terms of the Development Consent Order.

IT IS AGREED:

1. INTERPRETATION

In this Deed unless the context otherwise requires the following terms (arranged in alphabetical order) shall have the following meanings:

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| “1972 Act” | means the Local Government Act 1972; |
| “1974 Act” | means the Greater London Council (General Powers) Act 1974; |
| “1990 Act” | means the Town and Country Planning Act 1990; |
| “1994 Agreement” | means the agreement entered into pursuant to (inter alia) section 106 of the 1990 Act between The Mayor and Burgesses of The London Borough of Bexley (1); and Thames Water Utilities Limited (2) dated 21 January 1994 (as amended from time to time) |
| “2008 Act” | means the Planning Act 2008; |
| “2011 Act” | means the Localism Act 2011; |
| "Application" | means the application for a development consent order under section 37 of the 2008 Act in relation to the Project and submitted to the Secretary of State on 21 March 2024 and given reference number EN010128; |
| “Authorised Development” | has the same meaning as in Article 2 of the Development Consent Order; |
| “Commence” | has the same meaning as in Article 2 of the Development Consent Order and the words “Commencement” and “Commenced” and cognate expressions are to be construed accordingly; |
| “Crossness LNR” | means the area currently designated as Crossness Local Nature Reserve and as extended pursuant to the Development Consent Order; |
| “Crossness LNR TWUL Land” | means that part of the Crossness LNR which falls within TWUL’s ownership, and is within the Order land as shown coloured light purple on the plan annexed to this Deed; |
| Date of Final Commissioning | has the same meaning as in Article 2 of the Development Consent Order; |
| “Date of Decommissioning” | means the date on which the Developer commences the decommissioning of the Project in accordance with the timetable set |

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| | out in the Decommissioning Environmental Management Plan approved under requirement 23 of the Development Consent Order; |
| “Deed” | means this deed made under section 106 of the 1990 Act, Section 111 of the 1972 Act and Section 1 of the 2011 Act; |
| “Development Consent Order” | means the development consent order to be made pursuant to the Application; |
| “Expert” | means the expert appointed pursuant to Clause 21; |
| “Interest” | means a freehold interest, leasehold interest or enjoying the benefit of rights over land; |
| “Landscape, Biodiversity, Access and Recreation Delivery Strategy” | means the landscape, biodiversity access and recreation delivery strategy approved by the Council pursuant to requirement 12 of Schedule 2 to the Development Consent Order; |
| “Member’s Area Land” | means that part of the Crossness LNR which falls within TWUL’s ownership, and is outside of the Order land as shown coloured dark purple on the plan annexed to this Deed; |
| “Monitoring Contribution” | means the sum of £15,000 (fifteen thousand pounds) to be paid by the Developer to the Council as a contribution towards the costs incurred by the Council in respect of the monitoring and administration of the obligations secured in this Deed; |
| “Norman Road Field Land” | means that land which will become part of the Crossness LNR pursuant to the Development Consent Order, as shown coloured yellow on the plan annexed to this Deed; |
| “Notice” | means the written notification given by any Party to the other Parties of their intention to refer to the Expert any dispute arising between the Parties in respect of any matter contained in this Deed, such notice to specify the matters set out in Clause 21; |
| “Order land” | means the “Order land” as defined in Article 2 and Schedule 1 of the Development Consent Order; |
| “Parties” | means the Council, the Developer and TWUL and “Party” means any one of them as the context so requires; |

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| “Project” | means the Authorised Development; |
| “Secretary of State” | means the Secretary of State for Energy Security and Net Zero or such other Secretary of State of His Majesty’s Government that has the responsibility for determining the Development Consent Order; |
| “Undertaking” | means the benefit of the Development Consent Order to construct and/or operate Work No.1 and Work No. 7 as set out in Schedule 1 to the Development Consent Order; and |
| "Working Day" | means a day other than a Saturday or Sunday or public holiday in England. |

1.1 In this Deed, unless stated otherwise:

- 1.1.1 words incorporating the singular include the plural and vice versa and words importing any gender include every gender;
- 1.1.2 words importing persons include firms, companies, corporations, and vice versa;
- 1.1.3 references to the Council include the successor(s) to its statutory function as local planning authority;
- 1.1.4 references to clauses, paragraphs and Schedule are unless otherwise stated references to the relevant clauses and paragraphs of and the Schedule of this Deed;
- 1.1.5 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause, permit or suffer any infringement of the restriction;
- 1.1.6 references in this Deed to statutes, by-laws, regulations, orders and delegated legislation shall include any statute, by-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same as current and in force from time to time;
- 1.1.7 if any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected, impaired or called into question;
- 1.1.8 the recitals and headings in this Deed are for ease of reference only and shall not affect its construction or otherwise have any binding legal effect;
- 1.1.9 in the event of any conflict between the provisions of this Deed and of any document annexed hereto or referred to herein, the provisions of this Deed shall prevail;
- 1.1.10 references to “notice” shall mean notice in writing;

1.1.11 references to “including” shall mean including without limitation; and

1.1.12 the Interpretation Act 1978 shall apply to this Deed.

2. LEGAL EFFECT

2.1 This Deed is made pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 16 of the 1974 Act and section 1 of the 2011 Act, and all other powers so enabling with intent to bind the TWUL's interests in the Crossness LNR TWUL Land and the covenants in this Deed on the part of TWUL are planning obligations for the purposes of the 1990 Act (to the extent that they fall within the terms of section 106 of the 1990 Act), and/or are covenants and undertakings for the purposes of section 111 of the 1972 Act, section 16 of the 1974 Act and section 1 of the 2011 Act.

2.2 The obligations, covenants and undertakings given by the Developer to the Council in this Deed are development consent obligations, and subject to Clause 8, entered into with the intent that they shall be enforceable by the Council against the Developer and any transferees or grantees of the benefit of the Undertaking pursuant to the Development Consent Order.

2.3 The obligations, covenants and undertakings given by TWUL to the Council in this Deed are development consent obligations, and subject to Clause 8, entered into with the intent that they shall be enforceable by the Council against TWUL

2.4 The obligations, covenants and undertakings given by TWUL to the Developer and by the Developer to TWUL (whether or not also given to the Council in each case) shall be enforceable by the Developer against TWUL and by TWUL against the Developer respectively, subject to Clause 8.

3. CONDITIONALITY

3.1 Subject to Clauses 3.2-3.4, this Deed is conditional upon and will not take effect until both the Development Consent Order has been made and the Authorised Development has Commenced.

3.2 Clauses 1, 2, 3, 7 and 10 to 21 inclusive shall come into effect on the date of this Deed.

3.3 Clauses 4 to 6 inclusive, in respect of paragraphs 2 to 5 of the Schedule to this Deed only, and Clauses 8 and 9, shall come into effect on the date of this Deed and the Development Consent Order coming into force.

3.4 Where the Development Consent Order becomes the subject of any judicial review proceedings under section 118 of the 2008 Act the terms and provisions of this Deed will remain without effect under the final determination of those judicial review proceedings.

3.5 Wherever in this Deed reference is made to the final determination of judicial review proceedings (or cognate expressions are used) the following provisions will apply:

3.5.1 proceedings by way of judicial review are finally determined:

- (a) when permission to bring a claim for judicial review has been refused and no further application may be made;
- (b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or

- (c) when any appeal is finally determined and no further appeal may be made (including to the Supreme Court).

4. THE DEVELOPER'S OBLIGATIONS

- 4.1 The Developer covenants with the Council to observe and perform the obligations, undertakings, covenants and agreements in the Schedule of this Deed made to the Council.
- 4.2 The Developer covenants with TWUL to observe and perform the obligations, undertakings, covenants and agreements in the Schedule of this Deed made to TWUL.

5. THE COUNCIL'S OBLIGATIONS

- 5.1 The Council covenants with the Developer to observe and perform the covenants and obligations on their part contained in the Schedule of this Deed made to the Developer.
- 5.2 The Council covenants with TWUL to observe and perform the covenants and obligations on their part contained in the Schedule of this Deed made to TWUL.

6. TWUL'S OBLIGATIONS

- 6.1 TWUL covenants with the Developer to observe and perform the covenants and obligations on their part contained in the Schedule of this Deed made to the Developer.
- 6.2 TWUL covenants with the Council to observe and perform the covenants and obligations on their part contained in the Schedule of this Deed made to the Council.

7. REGISTRATION AS LOCAL LAND CHARGE

- 7.1 This Deed shall be registered by the Council as a local land charge in the register of local land charges pursuant to the Local Land Charges Act 1975.
- 7.2 The Council must remove this Deed from the register of local land charges upon the Date of Decommissioning, unless already removed pursuant to Clause 12.

8. RELEASE AND ASSIGNMENT

- 8.1 No person shall be liable for any breach of any covenants, restrictions or development consent obligations in this Deed:

8.1.1 in respect of the Developer, after it shall have parted with its Interest in the Order land or the relevant part thereof or transferred the benefit of the Development Consent Order pursuant to article 9 (consent to transfer the benefit of the Order) of the Development Consent Order save in relation to Clause 9.1, which shall remain enforceable by TWUL against the Developer, subject to Clause 9.2;

8.1.2 in respect of TWUL after it shall have parted with its interest in the Crossness LNR TWUL Land, the Member's Area Land or (in either case) the part in relation to which any such breach relate,

but without prejudice to any rights of the Parties in respect of any antecedent breach of those obligations.

8.2 No person shall be liable for any breach of any provision of this Deed that relates to land in which they do not have an Interest and for the purposes of this Clause the Parties agree that TWUL does not hold an Interest in the Norman Road Field Land.

8.3 In the event that:

8.3.1 any person other than the Developer is appointed as an “undertaker” (as defined in the Development Consent Order) for the purposes of the Development Consent Order; or

8.3.2 powers of the “undertaker” under the Development Consent Order are devolved or transferred to any other person in connection with the Project; or

8.3.3 any person other than the Developer performs any physical works connected with the Authorised Development;

and the provisions of this Deed are not otherwise made directly enforceable against any such person (the “**Transferee**”), the Developer will without delay require the Transferee to enter into a deed in favour of the Council and TWUL that the Transferee shall observe and perform such of the covenants and obligations on the Developer under this Deed (including without limitation those under Clause 9) as though the Transferee had been an original party to this Deed and notwithstanding any other provision of this Deed, the Developer shall not be released from liability under this Deed unless and until such time as such Transferee has entered into such deed.

8.4 If the Secretary of State determines that any obligation (or part of an obligation) contained in this Deed does not constitute a development consent obligation for the purposes of the 1990 Act, then such obligations shall be considered to be obligations for the purposes of section 111 of the 1972 Act, section 16 of the 1974 Act and section 1 of the 2011 Act.

9. **INDEMNITIES**

9.1 The Developer covenants with TWUL to indemnify and keep indemnified TWUL from and against all actions costs claims demands and liability arising or resulting from or in connection with this Deed save to the extent that such liability is caused solely by TWUL (save where such causation results from a request or direction of the Developer), including for the avoidance of doubt:

9.1.1 any actions costs claims demands and liability arising or resulting from or in connection with this Deed which relate to the Crossness LNR TWUL Land and arise prior to the date on which it is agreed (if it is so agreed), in accordance with paragraph 3 of the Schedule of this Deed, that TWUL will take primary responsibility for delivering the management measures in the Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land, pursuant to a confirmation being provided under paragraph 3.3 of the Schedule of this Deed; or

9.1.2 any other arrangement other than TWUL taking primary responsibility for delivering the management measures in the Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land is taken forward pursuant to paragraph 3.1 of the Schedule of this Deed.

9.2 For the avoidance of doubt, the covenants in Clause 9.1 are binding on the Developer until the deed referred to in Clause 8.3 is completed.

- 9.3 From the date on which it is agreed (if it is so agreed), in accordance with paragraph 3 of the Schedule of this Deed, that TWUL will take primary responsibility for delivering the management measures in the approved Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land (and not before), TWUL covenants with the Developer to indemnify and keep indemnified the Developer (until the date on which the decommissioning works for the Project have completed as notified pursuant to paragraph 7.5 of the Schedule to this Deed) from and against all actions costs claims demands and liability arising or resulting from or in connection with the Council taking enforcement action in relation to TWUL's obligations in this Deed to undertake the management measures in the approved Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land, save to the extent that such liability is caused or exacerbated by the Developer and FOR THE AVOIDANCE OF DOUBT the indemnity to which this Clause 9.3 refer shall not apply in relation to any provisions of this Deed which relate to the Norman Road Field Land.

10. FURTHER CONSENTS

Nothing in this Deed shall be construed as prohibiting or limiting the rights of the Developer to use or develop any part of the Order land in accordance with and to the extent permitted by a certificate of lawful use, planning permission, development consent order, consent under the Electricity Act 1989 or other statutory authority granted either before or after the date of this Deed, other than the Development Consent Order.

11. EXPIRY

If the Development Consent Order expires or is quashed or revoked prior to Commencement then this Deed shall immediately determine and cease to have effect and the Council shall cancel all entries made in their register of local land charges in respect of this Deed.

12. CERTIFICATES OF COMPLIANCE

The Council shall upon written request certify compliance with the development consent obligations in this Deed.

13. NOTICES

- 13.1 Any notice, consent or approval required to be given under this Deed shall be in writing (which shall include email) and shall be sent to the address (or email address) and marked for the attention of the persons identified below or instead to such other persons as may be substituted for them from time to time.

- 13.2 Any such notice delivered by hand or by pre-paid special delivery post shall conclusively be deemed to have been received:

13.2.1 if delivered by hand, on the next Working Day after the day of delivery; and

13.2.2 if sent by special delivery post and posted within the United Kingdom, on the day 2 Working Days after the date of posting.

- 13.3 Any such notice delivered by email shall conclusively be deemed to have been received on the day of transmission or, if sent after 4pm, on the next Working Day.

- 13.4 A notice or communication shall be served or given:

13.4.1 on the Developer at its address given above or such other address for service as shall have been previously notified in writing to the other Parties and any

such notice shall be marked for the attention of Richard Wilkinson (or any replacement of him as project lead for the Cory Decarbonisation Project notified by the Developer to the Council and TWUL) and copied to General Counsel;

13.4.2 on the Council at its address given above or such other address for service as shall have been previously notified in writing to the other Parties and any such notice shall be marked for the attention of the Head of Development Control; and

13.4.3 on TWUL at its address given above or such other address for service as shall have been previously notified in writing to the other Parties and any such notice shall be marked for the attention of Head of Property.

14. APPROVALS

Where any approval, agreement, consent, confirmation or an expression of satisfaction is required under the terms of this Deed such approval, agreement, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

15. THE COUNCIL'S AND TWUL'S POWERS

Nothing in this Deed shall fetter the statutory rights, powers or duties of the Council as local planning authority or as highway authority as the case may be or of TWUL as statutory undertaker.

16. GOOD FAITH

The Parties agree with each other to act reasonably and in good faith in the discharge of the obligations contained in this Deed.

17. RIGHTS OF THIRD PARTIES

It is not intended that any person who is not a party to this Deed shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed

18. JURISDICTION

18.1 This Deed including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

18.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

19. COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which is an original and all of which may together evidence the same agreement.

20. **COSTS**

The Developer shall pay on completion of this Deed the reasonable legal and planning costs of each of the Council and TWUL incurred in the preparation, negotiation and execution of this Deed.

21. **DISPUTE RESOLUTION**

21.1 In the event of any dispute arising between any of the Parties in respect of any matter contained in this Deed, senior representatives of the Parties to the dispute in question shall meet to try and resolve the dispute within ten (10) Working Days of the dispute arising.

21.2 In the event of any dispute arising between the Parties not being able to be resolved pursuant to Clause 21.1, that dispute may be referred to the Expert by any Party serving the other Party(s) to the dispute in question with a Notice.

21.3 The Notice must specify:

21.3.1 the nature, basis and brief description of the dispute;

21.3.2 the Clause of this Deed to which the dispute has arisen; and

21.3.3 the proposed Expert.

21.4 The Expert shall be an independent person possessing expertise relevant to the dispute and in the event that the Parties are unable to agree whom should be appointed as the Expert within twenty (20) Working Days after the date of the Notice then any Party may request:

21.4.1 if such dispute shall relate to matters concerning the construction, interpretation and/or the application of this Deed, the Chairman of the Bar Council to nominate the Expert;

21.4.2 if such dispute shall relate to matters necessitating any calculation or otherwise concerning a financial aspect of this Deed, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert;

21.4.3 if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert; or

21.4.4 in all other cases, the President of the Law Society to nominate the Expert.

21.5 The Expert shall act as an expert and not as an arbitrator and whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the Parties to the dispute in equal shares.

21.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine submitted jointly by the Parties) subject to an express requirement that he reaches his decision and communicates it to the Parties to the dispute within the minimum practical timescale allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of his appointment to act.

- 21.7 The Expert shall be required to give notice to each of the said Parties to the dispute inviting each of them to submit to him within twenty (20) Working Days from the date of his appointment written submissions and supporting material and shall afford to the said Parties an opportunity to make counter submissions within a further ten (10) Working Days in respect of any such submission and material.
- 21.8 In the absence of manifest error the Expert's decision shall be binding on the Parties.

SCHEDULE

1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

“Access Improvements” means improvements to existing public rights of way or routes otherwise utilised by pedestrians and cyclists in Belvedere or Thamesmead undertaken not pursuant to the Development Consent Order;

“Access Improvements Contribution” means a contribution of £50,000 to the cost of the Access Improvements.

“Council Post-Decommissioning Scenario” means the scenario, where pursuant to paragraph 7.2.2 of this Schedule, the Council agrees to take on management of the Crossness LNR TWUL Land as part of the Crossness LNR;

“Crossness LNR Manager” means the manager of Crossness LNR TWUL Land and the Member’s Area Land;

“Crossness LNR Endowment” means an endowment payment paid for the on-going management and maintenance of the Crossness LNR after the decommissioning of the Project, calculated in accordance with paragraph 6 of this Schedule;

“Crossness LNR TWUL Land Endowment Sum” has the meaning given in paragraph 7.1.2(b)(i) of this Schedule;

“Crossness LNR TWUL Land Index Sum” means the sum arising when Indexation is applied to the Crossness LNR TWUL Land Endowment Sum from the date that is agreed or determined pursuant to paragraph 7.4 of this Schedule until the date that it is paid under paragraph 7.8 of this Schedule;

“Indexation” means the application of the Consumer Prices Index to the Crossness LNR TWUL Land Endowment Sum and/or the Norman Road Field Endowment Sum (as appropriate);

“Norman Road Field Endowment Sum” has the meaning given in paragraph 7.1.2(b)(ii) of this Schedule;

“Norman Road Field Index Sum” means the sum arising when Indexation is applied to the Norman Road Field Endowment Sum from the date that is agreed pursuant to paragraph 7.4 of this Schedule until the date that it is paid under paragraph 7.6 of this Schedule;

“TWUL LNR Increased Costs” means the reasonable and proportionate increased annualised costs to TWUL agreed pursuant to paragraph 5 of this Schedule arising as a result of complying with paragraph 3.5 of this Schedule and (in the event it agrees to do so pursuant to paragraph 3.1 of this Schedule) of managing the Crossness LNR TWUL Land in accordance with the Landscape, Biodiversity, Access and Recreation Delivery Strategy, including the costs of the Crossness LNR Manager and any other staffing costs compared to its current costs of managing that land as part of the current Crossness Local Nature Reserve.

2. CROSSNESS LNR MANAGER

- 2.1 In the event that the Developer and TWUL agree, pursuant to paragraph 3.1 of this Schedule, that TWUL is to take primary responsibility for delivering the management measures in the Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land, TWUL covenants to the Council and the Developer that it will continue to employ the Crossness LNR Manager (in respect of the Crossness LNR TWUL Land only) for the operational lifetime of the Project, unless otherwise agreed with the Council and the Developer.

3. CROSSNESS LNR TWUL LAND

- 3.1 Prior to the submission of a Landscape, Biodiversity, Access and Recreation Delivery Strategy to the Council under requirement 12 of Schedule 2 to the Development Consent Order which incorporates measures in relation to the Crossness LNR TWUL Land the Developer and TWUL must, subject to paragraph 3.3 of this Schedule, agree details of how the Crossness LNR TWUL Land is to be managed by the Developer or TWUL and who is to take responsibility for delivering the management measures in the Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land
- 3.2 The Developer covenants with the Council and TWUL that the Developer shall deliver the capital works in the Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land.
- 3.3 The draft Landscape, Biodiversity, Access and Recreation Delivery Strategy put forward for approval by the Council under requirement 12 of Schedule 2 to the Development Consent Order must include confirmation that and how a position has been reached under paragraph 3.1 of this Schedule, or in the absence of agreement under that paragraph, set out how the Crossness LNR TWUL Land shall be managed by the Developer in accordance with the management measures in the Landscape, Biodiversity, Access and Recreation Delivery Strategy.
- 3.4 The Developer covenants to the Council that, from the date a Landscape, Biodiversity, Access and Recreation Delivery Strategy is approved (and for the avoidance of doubt, not before this date), it will manage or permit the management by TWUL (as applicable, pursuant to what is determined following paragraph 3.1 of this Schedule) of the Crossness LNR TWUL Land in accordance with the Landscape, Biodiversity, Access and Recreation Delivery Strategy (including the information provided pursuant to paragraph 3.3 of this Schedule) once it is approved.
- 3.5 TWUL covenants to the Council that, from the date a Landscape, Biodiversity, Access and Recreation Delivery Strategy is approved (and for the avoidance of doubt, not before this date), it will manage or permit the management by the Developer of (as applicable, pursuant to what is determined following paragraph 3.1 of this Schedule) the Crossness LNR TWUL Land in accordance with the Landscape, Biodiversity, Access and Recreation Delivery Strategy.
- 3.6 TWUL covenants to the Council that it will use reasonable endeavours to manage the Member's Area Land in a manner that is consistent with management of the Crossness LNR TWUL Land (whether by the Developer or TWUL) being undertaken in accordance with the Landscape, Biodiversity, Access and Recreation Delivery Strategy, PROVIDED THAT nothing in this paragraph requires TWUL to undertake any action which would put it in breach of the 1994 Agreement.
- 3.7 The Developer covenants to TWUL and the Council to bring forward a Landscape, Biodiversity, Access and Recreation Delivery Strategy which commits the Developer to use reasonable endeavours to ensure that the management of Norman Road Field and

the Crossness LNR TWUL Land (whether by the Developer or TWUL) is co-ordinated with management of the Member's Area Land

3.8 TWUL covenants to the Council and the Developer that:

3.8.1 from the date of the approval of the Landscape Biodiversity Access and Recreation Delivery Strategy, at the latest, until, at the earliest, the date of the notice served under paragraph 7.1 of this Schedule, it will continue to permit the grazing of horses by the graziers who are at the date hereof permitted to graze horses on the Crossness LNR TWUL Land on such reasonable terms as TWUL considers appropriate (in its absolute discretion) PROVIDED THAT TWUL may (in its absolute discretion) permit the grazing of horses by other graziers from time to time and may grant grazing licences to those graziers for that grazing on such terms as TWUL considers appropriate (in its absolute discretion)

3.8.2 upon receiving notice from the Developer requesting it, to, within 30 Working Days of receiving that notice, grant access rights over any access tracks built on the Crossness LNR TWUL Land, to any parties identified by the Developer as requiring such rights, on such terms as TWUL considers appropriate (in its absolute discretion).

3.9 The Developer covenants with TWUL and the Council that from the date on which a Landscape, Biodiversity, Access and Recreation Delivery Strategy is approved by the Council, construction of the Project and the Project's decommissioning works shall not prevent TWUL, at any time, from complying with its obligations in this Schedule and FOR THE AVOIDANCE OF DOUBT the indemnity in Clause 9.1 shall apply to this paragraph 3.9 in the event TWUL is prevented from such compliance due to such construction and/or decommissioning works.

4. **NORMAN ROAD FIELD LAND**

4.1 The Developer covenants to the Council that it shall not Commence until it has acquired the freehold interest in the Norman Road Field Land.

4.2 The Developer covenants to the Council that, once acquired, the Norman Road Field Land shall be managed in accordance with the Landscape, Biodiversity, Access and Recreation Delivery Strategy once it is approved PROVIDED THAT nothing in this paragraph 4.2 imposes any liability on TWUL.

5. **TWUL COSTS**

5.1 This paragraph 5 applies only in the event that the Developer and TWUL agree, pursuant to paragraph 3.1 of this Schedule, that TWUL is to take primary responsibility for delivering the management measures in the Landscape, Biodiversity, Access and Recreation Delivery Strategy within the Crossness LNR TWUL Land.

5.2 TWUL covenants to the Developer that, no later than thirty (30) Working Days following approval of the Landscape, Biodiversity, Access and Recreation Delivery Strategy (or such other period as may be agreed between TWUL and the Developer (acting reasonably)), it will submit to the Developer for approval its proposals for the initial value of TWUL LNR Increased Costs for the forthcoming three years (or such other period as is agreed between the Developer and TWUL), and such costs may include a reasonable allowance to account for indexation (pursuant to the Consumer Prices Index) for the three year period (or such other period as may be agreed).

- 5.3 The Developer may either approve the value presented to it pursuant to paragraph 5.2 of this Schedule, or it may refer the value to dispute resolution under Clause 21.
- 5.4 Upon the Developer either:
- 5.4.1 having approved the value of the TWUL LNR Increased Costs, or
 - 5.4.2 the dispute resolution process under Clause 21 having completed,
- the Developer covenants to TWUL that it will pay the TWUL LNR Increased Costs to TWUL within thirty (30) Working Days of that approval being given, or dispute resolution process having completed, as appropriate.
- 5.5 The process under this paragraph 5 shall be repeated on every third anniversary (or any other period agreed in writing between the Developer and TWUL and notified to the Council) of the date that a payment is made under paragraph 5.4 of this Schedule until the Date of Decommissioning PROVIDED THAT for the avoidance of doubt the Developer will pay the TWUL LNR Increased Costs incurred by TWUL during the Project's decommissioning period to TWUL unless and until the Crossness LNR Endowment Sum has been paid to TWUL in accordance with paragraph 7 of this Schedule.
- 5.6 TWUL covenants to notify the Council within thirty (30) Working Days of receiving those monies from the Developer.

6. CALCULATION OF THE CROSSNESS LNR ENDOWMENT

- 6.1 The Crossness LNR Endowment shall be calculated as following:

$$C = A \times B$$

where:

A = the costs:

- (a) to the Developer or TWUL (as applicable, pursuant to what is determined following paragraph 3.1 of this Schedule) of managing the Crossness LNR TWUL Land as part of the Crossness LNR; and
- (b) to the Developer of managing the Norman Road Field Land as part of the Crossness LNR,

in accordance with the Landscape, Biodiversity, Access and Recreation Delivery Strategy in the previous calendar year prior to the date of the notice required by paragraph 7.1 of this Schedule;

B = the period of remaining years between the date of the notice required by paragraph 7.1 of this Schedule and 31 December 2093; and

C = the Crossness LNR Endowment.

7. PAYMENT OF THE CROSSNESS LNR ENDOWMENT

- 7.1 The Developer covenants with TWUL and the Council
- 7.1.1 to notify TWUL and the Council that decommissioning works for the Project are intended to begin at least twelve months from the date of the notice;

7.1.2 in the notice to which paragraph 7.1.1 of this Schedule refers (save where a dispute under sub-paragraph (a) means that this information cannot be provided in the same notice, in which case the information must be provided within thirty (30) Working Days of a dispute being resolved):

- (a) set out its proposed value of the Crossness LNR Endowment by applying the calculation in paragraph 6 of this Schedule, including presenting the information it has used to calculate 'A' in that calculation (which, in relation to (a) of 'A' (to the extent applicable to TWUL following what is agreed under paragraph 3.1 of this Schedule), shall be provided by TWUL to the Developer within 30 Working Days of any request for that information from the Developer, and if that figure is not agreed by the Developer, can be subject to dispute resolution under Clause 21); and
- (b) in setting out the proposed value of the Crossness LNR Endowment it shall split that value into:
 - (i) one figure for the costs of maintaining the Crossness LNR TWUL Land as part of the Crossness LNR (**the "Crossness LNR TWUL Land Endowment Sum"**); and
 - (ii) a second figure for the costs of maintaining the Norman Road Field Land as part of the Crossness LNR (**the "Norman Road Field Endowment Sum"**); and/or
- (c) if it has used its absolute discretion to do so, that it has chosen to continue to pay for the on-going costs for the management of the Norman Road Field as part of the Crossness LNR.

7.2 Within thirty (30) Working Days of receipt of the notice received under paragraph 7.1 of this Schedule:

- 7.2.1 TWUL may notify the Council and the Developer that it proposes that the Council take on the management of the Crossness LNR TWUL Land as part of the Crossness LNR following the Project's decommissioning; and
- 7.2.2 the Council must respond to that notification within twelve (12) months of receipt to confirm whether or not it agrees to take on the management of the Crossness LNR TWUL Land as part of the Crossness LNR following the Project's decommissioning (such agreement being able to be subject to the Crossness LNR TWUL Land Endowment Sum first being agreed)
- 7.2.3 If the Council does not respond to the notice served by TWUL pursuant to paragraph 7.2.1 within twelve (12) months of receipt, then it shall be deemed that the Council has not agreed to take on management of the Crossness LNR TWUL Land as part of the Crossness LNR following the Project's decommissioning.

7.3 Where:

- 7.3.1 paragraph 7.1.2(c) of this Schedule does not apply, the Developer covenants to the Council that alongside the notice required by paragraph 7.1, it will provide a report of the ecological condition of Norman Road Field; and
- 7.3.2 paragraph 7.2.1 of this Schedule applies, TWUL covenants to the Council that alongside a notice given under that paragraph, it will provide a report of the

ecological condition of the Crossness LNR TWUL Land PROVIDED THAT in the event the Developer has been managing the Crossness LNR TWUL Land pursuant to what is determined following paragraphs 3.1 and 3.3 of this Schedule, the Developer shall provide such report to TWUL within fifteen (15) Working Days of service of the notice to which paragraph 7.1 of this Schedule refers to enable TWUL to comply with this paragraph;

- 7.4 Upon receipt of the notice received under paragraph 7.1 of this Schedule:
- 7.4.1 where paragraph 7.1.2(c) of this Schedule does not apply, the Council may approve the value of the Norman Road Field Endowment Sum; and
 - 7.4.2 the Council and TWUL may approve the value of the Crossness LNR TWUL Land Endowment Sum; or
 - 7.4.3 the relevant Party may refer the value of either sum to dispute resolution under Clause 21; and
 - 7.4.4 upon either:
 - (a) the relevant Party having each approved the value of the relevant sum, or
 - (b) the dispute resolution process in relation to the value of the relevant sum' under Clause 21 having been completed,
- paragraphs 7.6 and 7.8 of this Schedule shall apply.
- 7.5 The Developer covenants to the Council and TWUL to notify them that the decommissioning works for the Project have completed within thirty (30) Working Days of them having completed and upon service of such, paragraphs 3.5 and 3.6 of this Schedule shall no longer be applicable and shall determine absolutely.
- 7.6 Subject to paragraph 7.7 of this Schedule, in respect of the Norman Road Field Endowment Sum:
- 7.6.1 the Developer covenants to the Council to pay the Norman Road Field Endowment Sum and the Norman Road Field Index Sum to the Council on the same day as serving the notice under paragraph 7.5 of this Schedule; and
 - 7.6.2 the Council covenants to the Developer to only use the Norman Road Field Endowment Sum for purposes related to the on-going management of the Norman Road Field Land as part of the Crossness LNR and no other purposes but shall have absolute discretion in how the monies are spent for those purposes.
- 7.7 Paragraph 7.6 of this Schedule shall not apply where the Developer has made a notification under paragraph 7.1.2(c) of this Schedule.
- 7.8 In respect of the Crossness LNR TWUL Land Endowment Sum:
- 7.8.1 the Developer covenants to TWUL and the Council to pay the Crossness LNR TWUL Land Endowment Sum and the Crossness LNR TWUL Land Index Sum to the Council on the same day as serving the notice under paragraph 7.5 of this Schedule;

7.8.2 where the Council Post-Decommissioning Scenario does not arise, the Council covenants to TWUL and the Developer to transfer the Crossness LNR TWUL Land Endowment Sum within twenty-eight (28) days of its receipt from the Developer to TWUL; and

7.8.3 where the Council Post-Decommissioning Scenario does not arise, TWUL covenants to the Developer and the Council to only use the Crossness LNR TWUL Land Endowment Sum for purposes related to the on-going management of the Crossness LNR TWUL Land as part of the Crossness LNR and no other purposes but shall have absolute discretion in how the monies are spent for those purposes.

8. MANAGEMENT OF THE CROSSNESS LOCAL NATURE RESERVE POST-DECOMMISSIONING

8.1 Where the Council Post-Decommissioning Scenario does not arise TWUL covenants to the Developer and the Council that, no later than 30 Working Days of TWUL receiving the Crossness LNR TWUL Land Endowment Sum from the Council, TWUL shall submit to the Council its proposals for the management of the Crossness LNR TWUL Land until 31 December 2093

8.2 Where paragraph 7.1.2(c) of this Schedule applies, the Developer covenants to the Council that, as part of the notice given under paragraph 7.1 of this Schedule, it shall include proposals for the on-going management of the Norman Road Field Land as part of the Crossness LNR.

8.3 The Council may either approve the proposals presented to it pursuant to paragraphs 8.1 and 8.2 of this Schedule, or it may present alternative proposals to TWUL and/or the Developer, as appropriate PROVIDED THAT:

8.3.1 if the Council does not approve, or does not present alternative proposals to, TWUL's or the Developer's proposals (as applicable) within 56 Working Days of receipt pursuant to paragraph 8.1 or paragraph 8.2 of this Schedule (as applicable), TWUL's or the Developer's (as applicable) submitted proposals shall be deemed approved; and

8.3.2 TWUL or the Developer (as applicable) may refuse any alternative proposals presented by the Council which, in the applicable party's reasonable opinion, would result in that party incurring costs, as a result of managing the applicable land, in excess of the Crossness LNR TWUL Land Endowment Sum plus the Crossness LNR TWUL Land Index Sum or the Norman Road Field Endowment Sum plus the Norman Road Field Index Sum (as applicable).

8.4 TWUL, the Developer or the Council may refer any dispute under this part of the Schedule to dispute resolution under Clause 21.

8.5 For the avoidance of doubt and where the Council Post-Decommissioning Scenario does not arise, no obligation shall apply to TWUL in respect of the management of the Crossness LNR TWUL Land after the decommissioning works for the Project have completed until it has received both:

8.5.1 the notice to which paragraph 7.5 of this Schedule refers; and

8.5.2 the Crossness LNR TWUL Land Endowment Sum plus the Crossness LNR TWUL Land Index Sum from the Council.

8.6 Save where the Council Post-Decommissioning Scenario arises, TWUL covenants to the Council to manage the Crossness LNR TWUL Land from the date (subject to paragraph 8.5 of this Schedule) that the proposals to manage the Crossness LNR TWUL Land are agreed, deemed agreed or determined) pursuant to this paragraph 8 of this Schedule, until 31 December 2093, in accordance with the agreed, deemed agreed or determined proposals and the Council agrees that from the date of service of the notice to which paragraph 7.5 of this Schedule refers, paragraphs 3.5 and 3.6 of this Schedule are no longer applicable and shall determine absolutely.

8.7 Where paragraph 7.1.2(c) applies, the Developer covenants to the Council to manage the Norman Road Field Land from date that the proposals to manage the Norman Road Field Land are agreed pursuant to this paragraph 8 of this Schedule, until 31 December 2093, in accordance with the agreed proposals.

9. **MONITORING CONTRIBUTION**

9.1 The Developer covenants with the Council to pay the Monitoring Contribution within 30 Working Days of the Commencement of the Authorised Development.

10. **ACCESS IMPROVEMENTS CONTRIBUTION**

10.1 Prior to the Date of Final Commissioning of Work No.1, the Developer covenants to the Council that it shall pay the Access Improvements Contribution to the Council.

10.2 The Developer must notify the Council once it has completed all works under Work Nos. 4A and 7(a) of the Development Consent Order or otherwise pursuant to articles 13-18 of the Development Consent Order.

10.3 The Council covenants to the Developer that it shall not spend the Access Improvements Contribution for any other purposes other than for Access Improvements.

10.4 The Council covenants to the Developer that if it has not spent the Access Improvements Contribution within ten years of the later of the Date of Final Commissioning of Work No. 1 or receipt of a notice under paragraph 10.2 of this Schedule, it shall pay back the Access Improvements Contribution to the Developer

IN WITNESS whereof the parties hereto have executed this agreement as a deed on the date and year first before written

| | |
|---|------------------------|
| EXECUTED AS A DEED (but not delivered until dated) by affixing the Common Seal of THE MAYOR AND BURGESSES OF LONDON BOROUGH OF BEXLEY in the presence of: | |
| | Authorised signatory |
| | Authorised signatory |
| EXECUTED AS A DEED BY CORY ENVIRONMENTAL HOLDINGS LIMITED (but not delivered until dated) in the presence of: | Director |
| | Signed by (print name) |
| | Witness Signature: |
| | Witness Name: |
| | Witness Address: |
| | |
| EXECUTED AS A DEED by affixing the common seal of THAMES WATER UTILITIES LIMITED in the presence of: | |
| | Authorised signatory |

APPENDIX 1
PLAN