

## SCHEDULE 10

### Protective provisions

## PART 14

### For the protection of PEEL NRE Limited

**169.** The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Peel and, in the case of paragraph 183 of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

**170.** In this Part of this Schedule—

“alternative access road(s)” means the existing access road at Plots 1-01a and 1-01 as identified on the Land Plans and the access road proposed to be constructed by Peel to connect Plot 1-01a to Plot 1-04 as identified on the Land Plans D2.2 Sheet 1 pursuant to planning application Ref: 23/01239/FUL for construction of gas fired electricity generators, enclosures with ancillary equipment, metering station, transformer compound and access from Grinsome Road;

“existing access road” means the existing access road over Plot 1-01 as identified on the Land Plans;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“CEMP” means Construction Environmental Management Plan;

“CTMP” means Construction Traffic Management Plan;

“LEMP” means Landscaping Environmental Management Plan;

“DEMP” means Decommissioning Environmental Management Plan;

“Network Rail Standard” means Network Rail Standard reference ‘NR/L2/CIV/044 ‘Planning, Design and Construction of Undertrack Crossings’;

“Peel” means Peel NRE Limited (company number 04480419), whose registered office is at Venus Building, 1 Old Park Lane, Traffordcity, Manchester, M41 7HA and any associated company of Peel NRE Limited which holds property;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of relevant property;

“relevant property” means:

- (a) any land, works, apparatus and equipment belonging to Peel; and
- (b) any easement or other property interest held or used by Peel or a tenant or licensee of Peel for the purposes of such land, works, apparatus or equipment;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, relevant property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

“working days” Monday to Friday inclusive but excluding days which are public holidays.

**171.—(1)** Where Peel is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld or delayed but may be given subject to reasonable conditions. If by the end of the period of 30 working days beginning with the date on which consent is requested Peel

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has not intimated their refusal together with the grounds of any such refusal, Peel will be deemed to have given its consent.

(2) In the event that Peel constructs and makes available for use by the undertaker the alternative access road the undertaker must not—

- (a) commence that part of Work No. 3 to which the existing access road relates;
- (b) use the existing access road; or
- (c) otherwise exercise the powers conferred by the provisions listed in sub-paragraph (1) over the existing access road,

provided that Peel has granted the undertaker a right to pass and repass over the alternative access road with or without vehicles.

**172.**—(1) The undertaker must before commencing construction of any specified work supply to Peel proper and sufficient plans of that work for the reasonable approval of Peel and the specified work must not be commenced except in accordance with such plans as have been approved in writing by Peel or settled by arbitration under article 49 (arbitration).

(2) The approval of Peel under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Peel and Peel has not intimated their disapproval together with the grounds of any such disapproval of those plans, Peel will be deemed to have approved the plans as submitted.

**173.**—(1) Any specified work must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 172;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of Peel;
- (c) in such manner as to cause as little damage as is possible to relevant property; and

(2) If any damage to relevant property or any such interference or obstruction is caused by the carrying out of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Peel all reasonable and proper expenses to which Peel may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction provided that the undertaker shall only be liable up to a maximum of £20,000,000.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Peel or its servants, contractors or agents or any liability on Peel with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**174.**—(1) The undertaker must pay to Peel all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be reasonably incurred by Peel —

- (a) by reason of the construction, maintenance or operation of a specified work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) in respect of any damage caused to or additional maintenance required to relevant property;

and the undertaker must indemnify and keep indemnified Peel from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission provided that the undertaker shall only be liable up to a maximum limit of £20,000,000.

- (2) Peel must –
- (a) give the undertaker reasonable written notice of any such sums referred to in sub-paragraph (1) as soon as reasonably possible after Peel become aware of the same;
  - (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker;
  - (c) take all reasonable steps to mitigate any liabilities; and
  - (d) keep the undertaker informed and have regard to the undertaker’s representations in relation to any such sums referred to in sub-paragraph (1).

**175.**—(1) The undertaker must consult with Peel prior to submitting any CTMP relating to or in the vicinity of relevant property (including any CTMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 6. The undertaker will provide a draft CTMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft CTMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will only be required to have due regard to any representations timeously made by Peel in accordance with the timescales stipulated in this paragraph in finalising the CTMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(2) The undertaker must consult with Peel prior to submitting any LEMP relating to or in the vicinity of relevant property (including any LEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 11. The undertaker will provide a draft LEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft LEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the LEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(3) The undertaker must consult with Peel prior to submitting any CEMP relating to or in the vicinity of relevant property (including any CEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 5. The undertaker will provide a draft CEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft CEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the CEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

(4) The undertaker must consult with Peel prior to submitting any DEMP relating to or in the vicinity of relevant property (including any DEMP affecting land adjacent to relevant property) to the relevant planning authority for approval in accordance with Requirement 19. The undertaker will provide a draft DEMP to Peel no later than 25 working days prior to submission and confirm to Peel the intended date of submission at the same time. Peel may make representations on the draft DEMP to the undertaker no later than 10 working days prior to the notified intended date of submission. The undertaker will have due regard to any representations made by Peel in finalising the LEMP for submission and will seek to incorporate any reasonable requests made by Peel where practicable.

**176.** The undertaker will procure that in carrying out Work No. 4 at Plots 1-19, 1-20, 1-22, 1-23 and 1-24, as identified on the Land Plans, the Network Rail Standard (as in force when the works are being carried out) shall be complied with.