

SCHEDULES

SCHEDULE 12

PROTECTIVE PROVISIONS

PART 9

FOR THE PROTECTION OF NATIONAL HIGHWAYS

Payments

102.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways reasonably incurs (including costs and expenses for using internal or external staff) in relation to any specified work and in relation to any approvals sought under this Order including—

- (a) the checking and approval of the information required under paragraph 100(1);
- (b) the supervision of a specified work;
- (c) contractual costs properly payable to the highway operations and maintenance contractor as a consequence of any specified work, including costs incurred by the highway operations and maintenance contractor in carrying out the tasks referred to in sub-paragraphs (a) and (b) of this paragraph, in which case National Highways will be responsible for the payment of any sums received from the undertaker under this paragraph to the highway operations and maintenance contractor; and
- (d) the administration fee and legal costs, reasonably and properly incurred;
- (e) any value added tax which is payable by National Highways only in respect of such costs and expenses arising under this sub-paragraph 102(1) and for which it cannot obtain reinstatement from HM Revenue and Customs,

sub-paragraphs (a) to (e) together comprising “the NH costs”.

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must notify the undertaker of the amount required for the Initial Deposit as soon as reasonably practicable and the undertaker must pay an amount equal to that sum within 28 days of receipt of the notification.

(4) National Highways must provide the undertaker with a fully itemised invoice showing its estimate of the NH costs including its estimate of the administration fee prior to the commencement of a specified work and the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the specified work and in any event prior to National Highways incurring any cost.

(5) If at any time after the payment referred to in sub-paragraph (3) or (4) has become payable, National Highways reasonably believes that the NH costs will exceed the relevant sum notified to

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the undertaker it may give notice to the undertaker of the amount that it believes the NH costs will exceed the relevant sum (excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(6) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1), as a fully itemised invoice, within 30 days of the undertaker notifying to National Highways that a specified work has been completed.

(7) Within 30 days of the issue of the final account—

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; or
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(8) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 1% above the rate payable in respect of compensation under Section 32 of the 1961 Act for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.