

**PROTECTIVE PROVISIONS FOR THE PROTECTION OF NORTH
TEES LIMITED, NORTH TEES LAND LIMITED, NORTH TEES
LANDFILL SITES LIMITED AND NORTH TEES RAIL LIMITED**

1. For the protection of the NT Group (as defined below), the following provisions have effect, unless otherwise agreed in writing between the undertaker and the NT Group.

2. In this Schedule—

“NT Group” means NTL, NTLL, NTLSL and NTR;

“NTL” means North Tees Limited (company number 05378625) whose registered office is The Cube, Barrack Road, Newcastle upon Tyne, Tyne and Wear, NE4 6DB and any successor in title to it;

“NTLL” means North Tees Land Limited (company number 08301212) whose registered office is The Cube, Barrack Road, Newcastle upon Tyne, Tyne and Wear, NE4 6DB and any successor in title to it;

“NTLSL” means North Tees Landfill Sites Limited (company number 10197479) whose registered office is The Cube, Barrack Road, Newcastle upon Tyne, Tyne and Wear, NE4 6DB and any successor in title to it;

“NTR” means North Tees Rail Limited (company number 10664592) whose registered office is The Cube, Barrack Road, Newcastle upon Tyne, Tyne and Wear, NE4 6DB and any successor in title to it;

“operations” means, for each of NTL, NTLL, NTLSL and NTR, their respective freehold land within the Order limits; and

“works details” means—

- (a) plans and sections;
- (b) details of the proposed method of working and timing of execution of works;
- (c) details of vehicle access routes for construction and operational traffic; and
- (d) any further particulars provided in response to a request under paragraph 3.

Consent under this Schedule

3.—(1) Before commencing any part of the authorised development which would have an effect on the operations or access to any land owned by NTL, NTLL, NTLSL and NTR which is adjacent to the Order limits, the undertaker must submit to the NT Group the works details for the proposed works and such further particulars as the NT Group may, within 28 days from the day on which the works details are submitted under this paragraph, reasonably require.

(2) No works comprising any part of the authorised development which would have an effect on the operations or access to any land owned by NTL, NTLL, NTLSL and NTR which is adjacent to the Order limits are to be commenced until the works details in respect of those works submitted under sub-paragraph (1) have been approved by the NT Group.

(3) Any approval of the NT Group under sub-paragraph (2) must be given in respect of NTL, NTLL, NTLSL and NTR, must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as the NT Group may require to be made for them to have reasonable access with or without vehicles to the operations and any land owned by NTL, NTLL, NTLSL and NTR which is adjacent to the Order limits.

(4) The authorised development must be carried out in accordance with the works details approved under sub-paragraph (2) and any requirements imposed on the approval under sub-paragraph (3).

(5) Where there has been a reference to an arbitrator in accordance with article 46 (arbitration) and the arbitrator gives approval for the works details, the authorised development must be carried out in accordance with the approval and conditions contained in the decision of the arbitrator under article 46.

Boreholes

4. The authorised development must be carried out so as to enable NT Group to access boreholes MW1, MW3, DM306, DM502 and DM602 at all times unless otherwise agreed by NT Group acting reasonably or in the event of emergency.

Huntsman Drive

5. The construction and maintenance of the authorised development must be carried out so as not to prevent usage of Huntsman Drive by NT Group unless otherwise agreed by NT Group acting reasonably or in the event of emergency

Indemnity

654.—(1) Subject to sub-paragraphs (2) and (3), if by direct reason or in direct consequence of the construction of any of the works referred to in paragraph 3, any damage is caused to the operations or access to any land owned by NTL, NTLL, NTLSL and NTR which is adjacent to the Order limits is obstructed, the undertaker must—

- (a) bear and pay the cost reasonably incurred by NTL, NTLL, NTLSL and NTR in making good any such damage; and
- (b) make reasonable compensation to NTL, NTLL, NTLSL and NTR for any other expenses, loss, damages, penalty or costs incurred by each of them, by direct reason or in direct consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or obstruction to the extent that it is attributable to the act, neglect or default of the NT Group, its officers, employees, servants, contractors or agents.

(3) Each of NTL, NTLL, NTLSL and NTR must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Each of NTL, NTLL, NTLSL and NTR must use their reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph 4 applies.

(5) If requested to do so by the undertaker, NTL, NTLL, NTLSL and NTR must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1).

(6) The undertaker shall only be liable under this paragraph 4 for claims reasonably incurred by NTL, NTLL, NTLSL and NTR.

Arbitration

765. Any difference or dispute arising between the undertaker and the NT Group under this Schedule must, unless otherwise agreed in writing between the undertaker and the NT Group (acting together), be referred to and settled by arbitration in accordance with article 46 (arbitration).

Apparatus

876. Where, in the exercise of powers conferred by the Order, the undertaker acquires any interest in land in which any apparatus owned by NTL, NTLL, NTL SL and NTR is placed and such apparatus is to be relocated, extended, removed or altered in any way, no relocation, extension, removal or alteration shall take place until NTL, NTLL, NTL SL and NTR (as the case may be) has approved contingency arrangements in order to conduct its operations, such approval not to be unreasonably withheld or delayed.

1. North Tees Group Limited made submissions (through their Agents, Deloitte LLP) regarding the appropriate form of PPs for North Tees Group Limited at Deadline 8 [Rep 8-067 and REP 8-068].
2. North Tees Group expressed concern at Deadline 7 that the draft DCO did not contain PPs relating to the protection of the linkline corridor that is operated by Sembcorp. [Rep 7-053]. It is noted that PPs were incorporated in Schedule 42 of the draft DCO [REP7a-003] at Deadline 7A in this regard (Protective Provisions for the Protection of the Sembcorp Protection Corridor), as updated at Deadline 8 [REP8-012 and REP8-013].
3. Submissions from North Tees Group noted that they consider protective provisions for the benefit of Sabic to be appropriate for the North Tees Group. The Applicant's position on this is set out in its submissions at Deadline 7A – PPs Position Statement for North Tees [REP7a-036] and addressed further below. The Applicant notes that Sabic has a leasehold interest over part of the land owned by North Tees Group within the Order limits. Bespoke PPs are being separately negotiated with Sabic Petrochemicals UK Limited. Appropriate protections for Sabic will therefore be addressed in these PPs.
4. In respect of the first part of NTG's proposed 'Protective Provisions for the Protection of Owners and Operators of the Linkline Corridor' contained within Appendix 1 of NTG's Deadline 8 submissions [REP8-068], it is submitted that these protective provisions are not required and duplicate those contained within Schedule 42 of the draft DCO.

The provisions of Schedule 42 have effect for the benefit of owners and operators in the Sembcorp Protection Corridor (including NTG) and have been agreed between the Applicant and Sembcorp Utilities (UK) Limited, as the manager of that corridor representing the interests of all owners and operators in the corridor (as defined).

Owners and operators are also expressly referenced in many of those protective provisions including in respect of apparatus removal and diversion, replacement land rights for such apparatus, payment of expenses and the indemnity provisions. As an owner within the Sembcorp Protection Corridor, NTG would already be protected under the agreed Sembcorp protective provisions, without specific reference being made to NTG or relevant entities.

5. Regarding the second part of Appendix 1 [REP8-068], 'For the Protection of North Tees Limited, North Tees Rail Limited and North Tees Land Limited,' these protective provisions are understood to be based on an amended version of the protective provisions for the benefit of Sabic contained within Schedule 34 of the draft DCO [REP7a-003].

The protective provisions that are being negotiated with Sabic reflect the nature of Sabic's operations in and around the Order limits, including the apparatus that Sabic operates and that it operates COMAH sites. Such protective provisions are not appropriate for a commercial landlord such as NTG, who is the freehold owner of land and does not operate apparatus which requires protection due to potential interactions with the Proposed Development. NTG has not provided any clear justification for why the Sabic protective provisions are considered to be more appropriate for the protection of NTG in preference to those that the Applicant has proposed and therefore the Applicant is unable to respond directly on any such reasoning.

6. The Applicant's proposed protective provisions (with some minor changes) were determined to be appropriate by the Secretary of State in the Net Zero Teesside Order 2024 and the interactions with NTG's land are broadly similar for the Proposed Development. The Applicant therefore considers that these protections are appropriate for the Proposed Development. It is also noted that the Secretary of State did not consider that NTG needed to be specifically referenced in the Sembcorp protective provisions.
7. The Applicant notes that it has however, made some changes to the protective provisions for the benefit of NTG as shown in track changes above. Having reviewed NTG's written submissions [Rep 7-053], the Applicant has sought to provide specific assurances on access to monitoring boreholes and access via Huntsman Drive to ensure that clear protections are provided to address these matters. The works details consenting process would be appropriate to address other matters contained in NTG's written submissions and provide comfort that consent will be sought and can be given subject to reasonable requirements relating to access.