

SCHEDULE 8

PART 4

FOR THE PROTECTION OF THE LOCAL HIGHWAY AUTHORITY

1. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and the local highway authority.

2. In this Part of this Schedule—

“Commutated Sum” means the sum to be paid by the undertaker to the local highway authority for the future maintenance of Non-standard Highway Assets not previously forming part of the local highway which will be transferred to the local highway authority, as calculated in accordance with paragraph 15 of this Part of this Schedule;

"Detailed Information" means the following drawings, specifications and other information relating to the local highway, which must be in accordance with the detailed design approved under requirement 12 of Schedule 2:

- (a) Boundary, environmental and mitigation fencing;
- (b) road restraint systems (vehicle and pedestrian);
- (c) drainage and ducting;
- (d) earthworks;
- (e) road pavements;
- (f) kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) road lighting (including columns and brackets);
- (i) electrical work for road lighting and traffic signs;
- (j) highway structures;
- (k) landscaping, planting and any boundary features which will form part of the local highway;
- (l) utility diversions;
- (m) a schedule of timings for the works, including dates and durations for any closures of any part of the local highway;
- (n) traffic management proposals including any diversionary routes;
- (o) a schedule of condition of the affected local highway; and
- (p) where local highway is occupied under this Order in connection with any Works but is not itself subject to Works, specification of the condition in which the local highway will be returned post occupation.

“local highway” means any public, vehicular highway which vests or is intended at the completion of works to vest in or be otherwise maintainable by the local highway authority;

“local highway authority” means Somerset County Council;

“Non-standard Highway Assets” means new highway assets which the local highway authority will become responsible for maintaining and which incur maintenance costs beyond the normal costs of maintaining the public highway having regard to the lists of standard and non-standard assets set out in paragraph 15(2) of this Part of this Schedule.

3. Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must provide to the local highway authority the Detailed Information relating to the interference, and the works must not be carried out except in accordance with the Detailed

Information submitted to the local highway authority or as otherwise agreed between the undertaker and the local highway authority.

4. (1) Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must use reasonable endeavours to agree with the local highway authority a detailed local operating agreement covering the following:
 - (a) Communications and Customer Care: communication with stakeholders and identification of which party is responsible for each activity;
 - (b) Operational Areas – Scheme Operational Areas: definitions and scheme extents for the works areas, zone of influence and Free Recovery Area;
 - (c) Asset Handover: describing the scheme existing assets and activities to be undertaken to enable commencement and completion of works, and the party responsible for each;
 - (d) Asset Inspection;
 - (e) Routine Maintenance and Repair;
 - (f) Winter Maintenance and Severe Weather;
 - (g) Continuity of Technology;
 - (h) Occupancy Management;
 - (i) Incidents;
 - (j) Traffic Management: provides the key activities to be undertaken with regard to the design, installation, maintenance and removal of Traffic Management; and
 - (k) Claims made by and against the undertaker.
 - (2) Any agreement completed under sub-paragraph (1) must continue in force until the completion of the works or the removal of the undertaker from all local highways, whichever is the earlier.
 - (3) Where agreement cannot be reached under sub-paragraph (1), the terms of the detailed local operating agreement will be resolved by arbitration under article [45] (arbitration)
- 5.(1) Any officer of the local highway authority duly appointed for the purpose may at all reasonable times, on giving to the undertaker not less than two working days' notice, enter upon and inspect any part of the authorised development which—
 - (b) is in, over or under any local highway, or
 - (c) which may affect any local highway or any property of the local highway authority,during the carrying out of the Works, and the undertaker must give to such officer all reasonable facilities for such inspection.
 - (2) The testing of materials used in any works affecting local highways must be carried out at the expense of the undertaker. The local highway authority must receive copies of all test certificates and results which have been requested by it in writing as soon as reasonably practicable. Notwithstanding the foregoing, the local highway authority have full power to test all or any materials used or proposed to be used in any work to the local highway at its own expense and the undertaker must provide such information and materials as is reasonably necessary to facilitate such testing.
 - (3) The undertaker must not alter, disturb or in any way interfere with any property of the local highway authority on or under any local highway, or the access thereto (except to the extent authorised under the powers conferred by this Order), without the consent of the local highway authority.
6. (1) The undertaker must procure that an appropriately qualified safety auditor undertakes road safety audit stages 3 and 4 on the Works including any Works to local highways in accordance with DMRB Volume 5 Section 2 Part 2 (GG 119) or any replacement or modification of that standard and must provide copies of the reports of such audits to the local highway authority.

- (2) The local highway authority must be invited to participate in the stage 3 and stage 4 road safety audits conducted under sub-paragraph (1).
- (3) Where the report of stage 3 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented, provided that no works may be implemented which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement.
- (4) Any works to be carried out pursuant to the stage 3 road safety audit, must be undertaken by the undertaker prior to the completion of works under this Order and prior to any local highway being transferred or returned to the control of the local highway authority.
- (5) Where the report of stage 4 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented, provided that no works may implemented which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement.
- (6) Any works which the undertaker considers require to carried out to the local highway in accordance with the report of the stage 4 road safety audit, which works may not give rise to any new or materially different adverse effects from those identified in the Environmental Statement, must be undertaken by and at the expense of the undertaker to the reasonable satisfaction of the local highway authority.
- (7) The undertaker must use reasonable endeavours to agree with the local highway authority a programme for any works to be carried out under sub-paragraphs (4) and (6), which programme must include timing of any closures of any part of the highway, traffic management arrangements, signage and diversion routes where required.
- (8) The carrying out of works under sub-paragraphs (4) and (6) are Works under this Order.
7. Provision must be made in accordance with the local highway authority's reasonable requirements at the site of the works to prevent mud and other materials from being carried on to the adjacent highway by vehicles and plant. The operational highway in the vicinity of the site of the Works is to be swept as required to ensure its safe use as a public highway.
8. The undertaker must not, except with the consent of the local highway authority, erect or retain on or over a local highway to which the public continues to have access any scaffolding or other structure which obstructs the local highway.
9. Except in an emergency or where necessary to secure the safety of the public, no direction or instruction may be given by the local highway authority to the contractors, servants or agents of the undertaker regarding any highway operations without the prior consent in writing of the undertaker.
10. In exercising the powers conferred by the Order in relation to any local highway the undertaker must have regard to the potential disruption of traffic which may be caused, seek to minimise such disruption so far as is reasonably practicable and must at no time prevent or unreasonably impede access by emergency service vehicles to any property.
11. The undertaker must, if reasonably required by the local highway authority, provide and maintain during such time as the undertaker may occupy any part of a local highway for the purpose of the construction of any part of the authorised development, temporary ramps for vehicular or pedestrian traffic, or both, and any other traffic measures required to protect the safety of road traffic.
12. If reasonably requested by the local highway authority, the undertaker must execute and complete a transfer to the local highway authority any land and rights within the highway compulsorily acquired by the undertaker pursuant to articles [23 and 26] of the Order for the construction, operation and maintenance of the local highway or to facilitate it, or as is incidental to it, at nil consideration PROVIDED THAT the undertaker has completed all necessary works within the local highway for which that land and rights were compulsorily acquired.

(2) Paragraph (1) above does not apply in relation to any land within the local highway compulsorily acquired by the undertaker that has been or is proposed to be permanently stopped up and rights extinguished pursuant to article 16 of the Order.

13. (1) Where the undertaker carries out any Works to any local highway it must make good any defects in those works notified to it by the local highway authority within the period of 52 weeks after the date of the completion of the Works to that area of local highway to the reasonable satisfaction of the local highway authority.

(2) The carrying out of any remedial works required under sub-paragraph (1) are works under this Order.

(3) The carrying out of any remedial works required under sub-paragraph (1) requires the submission of such items of Detailed Information to the local highway authority as the undertaker deems to be reasonable in the circumstances but always including a description of the works to be carried out, a schedule of timings for the works, including dates and durations for any closures of any part of the local highway and traffic management proposals.

(4) The undertaker must notify the local highway authority of the date of the completion of the works to any area of local highway within 5 working days of such completion.

14. The undertaker will hold the local highway authority harmless and indemnified from and against any liability, loss, cost or claim arising out of or incidental to the carrying out of the works (other than those arising out of or in consequence of any negligent act, default or omission of the local highway Authority) provided that no claim can be settled or liability accepted by the local highway authority without first obtaining the written approval of the undertaker, such approval not to be unreasonably withheld or delayed.

15(1) The Undertaker must, within 3 months of the date of approval of plans showing the limits of responsibility for the operational maintenance of the works under requirement 12, prepare a list of assets not previously forming part of the local highway for which the local highway authority will be responsible for maintenance following completion of the works.

(2) The undertaker must use reasonable endeavours to agree a schedule of items on the list agreed under clause sub-paragraph (1) which are Non-standard Highway Assets having regard to the following:

(a) Standard highway assets include:

- (i) Carriageways surfaced in concrete asphaltic materials (non-pigmented binder and non-coloured aggregates).
- (ii) Carriageways in shared surface roads, courtyards and housing squares surfaced in 200mm x 100mm x 80mm rectangular concrete block paving (optional).
- (iii) Footway surfaced in concrete asphaltic materials (non-pigmented binder or coloured aggregates).
- (iv) Footways adjacent to block paved carriageways also surfaced in 200mm x 100mm x 65mm thick concrete block paving (optional).
- (v) Cycleways surfaced in concrete asphaltic materials (red pigmented binders and/or aggregates).
- (vi) Pre-cast concrete kerbing.
- (vii) Gully drainage, connection pipes and gravity draining highway carrier drains.
- (viii) Galvanised pedestrian guard railing.
- (ix) Standard highway lighting layouts, columns and lanterns.
- (x) Standard illuminated and non-illuminated highway signs.
- (xi) Passively safe sign posts where required for road safety.

- (xii) Bollards and markers posts manufactured from plastic derivatives or recycled plastic/rubber.
 - (xiii) Road markings.
 - (xiv) Grass verges.
 - (b) Non-Standard Highway Assets include:
 - (i) Any culvert, bridge, retaining wall or other structure
 - (ii) Special features such as noise fencing, vehicle restraint barriers, pedestrian guard railing, knee rails and fences, gates
 - (iii) Landscaping features such as planting, trees, hedging
 - (iv) Sustainable Drainage Systems (“SuDS”) or non-standard highway drainage features such as:
 - (aa) Flow control devices and attenuation storage
 - (bb) SuDS including maintenance of any landscaping
 - (cc) Oil or petrol interceptors including the disposal of contaminated waste
 - (dd) Pumping stations and their energy charges
 - (ee) Watercourses and swales
- (3) Where the schedule prepared under paragraph (2) cannot be agreed, the determination of the schedule will be referred to arbitration under article [45] (arbitration).
- (4) Following agreement of the schedule under sub-paragraph (2) or determination under sub-paragraph (3), the local highway authority must prepare a calculation of the Commuted Sum based on the maintenance the local highway authority considers to be required for the schedule of Non-Standard Highway Assets agreed under sub-paragraph (2) or determined under sub-paragraph (3) and must use reasonable endeavours to agree it with the undertaker.
- (5) The undertaker must be provided with a complete breakdown of the calculation of the Commuted Sum by the local highway authority under sub-paragraph (4) including any assumptions used.
- (5) Where the calculation prepared under paragraph (4) cannot be agreed, the determination of the Commuted Sum will be referred to arbitration under article [45] (arbitration)
- (6) The undertaker must pay the Commuted Sum to the local highway authority in one instalment within 10 working days of the later of:
- (a) The date of completion of the authorised development; or
 - (b) The date of agreement of the value of the Commuted Sum under sub-paragraph (4) or determination under sub-paragraph (6).
16. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.
17. Any difference arising between the undertaker and the local highway authority under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) will be resolved by arbitration under article [45] (arbitration).