

IMMINGHAM EASTERN RO-RO TERMINAL DCO APPLICATION

PINS REFERENCE TR030007

PROTECTIVE PROVISIONS FOR DFDS

Introduction

1. This document contains a proposed set of protective provisions for DFDS Seaways plc to be included in Schedule 4 of the draft DCO.

Explanatory note

2. These protective provisions seek to achieve the following:
- a. That DFDS be consulted at least 28 days before the works commence and that any response is taken into account;
 - b. That any losses by DFDS as a result of the works and any claims made against it by third parties as a result of the works are compensated by the Applicant; and
 - c. That DFDS is provided with the approval of the Statutory Conservancy and Harbour Authority of the safety of the operating procedures for the works before they become operational.

SCHEDULE 4

PROTECTIVE PROVISIONS

PART X

FOR THE PROTECTION OF DFDS SEAWAYS PLC

Application

1. For the protection of DFDS the following provisions, unless otherwise agreed in writing at any time between the Company and DFDS, have effect.

Interpretation

2. In this Part of this Schedule—

“authorised work” means any work specified in schedule 1;

“DFDS” means DFDS Seaways plc, company number 01554521 registered at Nordic House, Western Access Road, Immingham Dock, Immingham, DN40 2LZ.

Consultation and notification

3. At least 28 days before the Company commences the construction of any authorised work, or any phase of any authorised work, that may interfere with DFDS' use of the Port of Immingham or the surrounding road network, it must consult DFDS in writing stating what is proposed and have regard to any response received from DFDS.

Indemnity

4. (1) The Company is responsible for and must make good to DFDS all reasonable financial costs or losses not otherwise provided for in this Part of this Schedule which may reasonably be incurred or suffered by DFDS by reason of—

(a) the construction or operation of the authorised works or the failure of the authorised works; or;

(b) any act or omission of the Company, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works,

and the Company must indemnify DFDS from and against all claims and demands arising out of or in connection with the authorised works or any such failure, act or omission.

(2) DFDS must give the Company reasonable notice of any such claim or demand as is referred to in sub-paragraph (1), and no settlement or compromise of any such claim or demand is to be made without the prior consent of the Company.

5. Before commencing marine commercial operations the Company must provide DFDS with a copy of the Statutory Conservancy and Navigation Authority's approval of the written statement of proposed safe operating procedures for access to and egress from the authorised development, including any approved alteration made from time to time.

6. Any dispute arising between the Company and DFDS under this Part of this Schedule is to be determined by arbitration as provided in article 35 (arbitration).