

**This is Schedule 1 referred to in the foregoing M8 M73 M74 Motorway Improvements Agreement between the Scottish Ministers and Scot Roads Partnership Project Ltd**

**SCHEDULE 1  
CONDITIONS PRECEDENT**

**PART 1**  
**SCOTTISH MINISTERS' CONDITIONS PRECEDENT**

1. Confirmation from the Scottish Ministers, addressed to the Senior Creditors, that prior to execution of this Agreement, it has received no notice of claim against it for breach of any public procurement duty or law or tender document in respect of the tender process for the Project.
2. A certified copy of the letter from the Scottish Ministers addressed to the Scottish Roads Partnership informing it that the Scottish Ministers have decided to award it preferred bidder status in relation to the Project.
3. A certified copy of the letter from the Scottish Ministers addressed to each losing consortium informing it that the Scottish Ministers have decided to award the Project to the Shareholders' consortium (but with confidential information redacted).
4. Letter from Director-General of Enterprise, Environment & Digital confirming the status of the Transport Scotland Framework Document and the consent of the Scottish Ministers and Scottish Government Finance Directorate to the Project.
5. Copy letter dated 6 February 2014 from the Chief Executive of Transport Scotland, confirming authorised signatories for all documents connected with the Project. Certified True Copy Minute of the IDM Board approving the Scottish Ministers' entry into the Project Documents to which they are a party.
6. A specimen signature page appended to the IDM Board Resolutions setting out the names and specimen signatures of the person or persons named in the IDM Board Resolutions.
7. Evidence that the Scottish Ministers have approved the HoldCo Charge (as defined in the Senior Financing Agreements) (granting security over the shares in the Company held by Holdco) pursuant to clause 67.3.2 (Change of Ownership) of this Agreement.
8. Evidence that as at the Date of this Agreement the Scottish Ministers have subscribed and paid for one B Share in the Company at a price of £1.
9. Evidence that as at the date of this Agreement the B Director has been appointed as a director of the Company, specifically:

- 9.1 B Director Letter of appointment; and
- 9.2 Confirmation from Scottish Ministers that Barry White has been approved as the B Director.
- 10. Evidence that the Scottish Ministers have consented to the appointment of Gabriel Valtuena Ramos as the Company's Representative pursuant to clause 16 (Company's Representative) of this Agreement.
- 11. Consent from the Scottish Ministers regarding the Authorisation of the Company exercising statutory functions pursuant to clause 21.2 (Delegation and Representation in respect of Statutory Functions) and the sub-contracting of the Authorisation by the Company of such functions to the Sub-Contractors.
- 12. Network Rail documentation, specifically:
  - 12.1 Clarification of Network Rail confirmed booked dates;
  - 12.2 Letter confirming underbridge agreement between the Scottish Ministers and Network Rail; and
  - 12.3 Letter confirming overbridge agreements between the Scottish Ministers and Network Rail.
- 13. Confirmation that all of the land made available to the Company is in the ownership of the Scottish Ministers or the Scottish Ministers have the necessary legal rights to provide access to the Company in terms of the Project Documents.

**PART 2**  
**COMPANY'S CONDITIONS PRECEDENT**

Unless an original document is specifically requested, a copy (certified by an officer of the Company as being a true copy) of each of the following documents is to be delivered by the Company to the Scottish Ministers on or prior to execution of this Agreement:

1. The Shareholders Agreements and certification from the Company that the Shareholders Agreements have become (or will become, simultaneously with delivery of the other documents referred to in this Schedule 1 Part 2 (Conditions Precedent)) unconditional in accordance with their terms, accompanied by evidence of the same.
2. The Initial Financing Agreements and certification from the Company that (1) the Initial Financing Agreements have become unconditional (other than any condition relating to the conditionality of this Agreement) and (2) that all conditions to the availability of funds to the Company under the Initial Financing Agreements have been satisfied or waived, accompanied by evidence of the same.
3. The New Works Agreement, the O&M Works Agreement, the Design Agreement, the Design Checker's Agreement, the Road Safety Auditor's Agreement and the Performance Guarantees, executed by the parties to such agreements.
4. An original of the Funders Direct Agreement, each of the SM Direct Agreements and the Insurance Broker's Letter, executed by the parties to such agreements (other than the Scottish Ministers).
5. Extracts from the minutes of the meeting of the board of directors (certified as true and accurate by a director of the relevant company) of each of the Company, each Shareholder, Issuer, HoldCo and each of the other parties to the documents listed in Schedule 1 Part 2 (Conditions Precedent), at which resolutions were passed approving the execution, delivery and performance of each relevant document to which such person is expressed to be a party and in each case authorising a named person or persons to execute and deliver each such document and any other documents to be delivered by it pursuant to it. For the avoidance of doubt, this requirement shall not extend to the Senior Creditors.
6. A certificate of a director of each of the companies referred to in paragraph 5 above setting out the names and specimen signatures of the person or persons named in the relevant certified extract.

7. Evidence of the share subscriptions required under the Shareholders Agreements and other shareholder funding commitments having been made by the Shareholders in the Company, Issuer and HoldCo.
8. The Company's, Issuer's and HoldCo's Certificates of Incorporation and any Certificate of Incorporation on Change of Name.
9. The Articles of Association of the Company, Issuer and HoldCo.
10. The insurance broker's letter of undertaking, evidence of the insurances required in accordance with Clause 52 (Insurances) having been taken out by the Company and that the policies comply with the requirements of this Agreement, and an estimate by the insurance broker of the premiums for the Service Period Insurances for the first year of the Service Period.
11. Two computer disk copies of the Financial Model audited by Operis Business Engineering Limited
12. Evidence that an election has been made for the Company to act as "client" for the Project for the purposes of the CDM Regulations.
13. Letter appointing Barry White as B Director.
14. Evidence that the Joint Insurance Account has been opened.
15. An original duly executed copy of this Agreement.