

This is Document “Schedule 7 Part 6” referred to in this Contract

SCOTTISH MINISTERS’ REQUIREMENTS

SCHEDULE 7 PART 6

NEW ROADS AND STREET WORKS ACT 1991

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1 DEFINITIONS

1.1 General

- 1.1.1 For the purposes of Part 6 of this Schedule 7 the term “road works authority” shall have the meaning given to it in Part IV of Section 108 (1) and the term “register” shall have the meaning given to it in Part IV of Section 112 of the New Roads and Street Works Act 1991 (NRSWA) or any amendment thereto.

2 DELEGATED FUNCTIONS

2.1 Operating Company Obligations

- 2.1.1 Notwithstanding any other provisions of this Contract the Operating Company as road works authority in terms of the NRSWA shall be responsible for carrying out those Statutory Functions listed in Annex 3.9/A to Part 9 of Schedule 3 or any amendment to the sections listed in paragraph 6 of Annex 3.9/A to Part 9 of Schedule 3.

- 2.1.2 The Operating Company shall comply with all statutory requirements including but not limited to

- (i) statutory instruments
- (ii) codes of practice
- (iii) rules
- (iv) regulations
- (v) orders
- (vi) notices
- (vii) directions
- (viii) consents or
- (ix) permissions

made or given in relation to any matter concerned with the NRSWA.

Any reference to any statutory instrument code of practice rule regulation order notice direction consent or permission shall be construed as a reference to any subsequent revision or replacement of the relevant document.

- 2.1.3 The Operating Company shall also comply with

- (i) non-statutory codes of practice
- (ii) non-statutory parts of codes of practice
- (iii) best practice guidance
- (iv) advice notes and the like

that shall be issued by any authorised body in pursuance of or in relation to Undertakers' works on the Trunk Road as shall be applicable from time to time.

3 GENERAL REQUIREMENTS

3.1 Coordination and Monitoring

- 3.1.1 The Operating Company shall co-ordinate the execution of all Undertakers' work activities affecting the Unit or part of the Unit and shall monitor the performance of all Undertakers to fulfil the requirements of section 118 sub-sections (1) and (2) of the NRSWA or any amendments thereto.

The Transport (Scotland) Act 2005 has amended sections of the NRSWA and the Operating Company shall comply with any consequential amendments to the Delegated Statutory Functions listed in Annex 3.9/A to Part 9 of Schedule 3 and any amendment to the sections listed in paragraph 6 of Annex 3.9/A to Part 9 of Schedule 3 arising as a result of such new legislation.

4 THE SCOTTISH ROAD WORKS REGISTER

4.1 Establishing and Maintaining the Register

- 4.1.1 Pursuant to the requirements of Section 112 of the NRSWA and any amendments to that section the Operating Company shall employ competent persons to populate and keep up to date at all times a road works register using the Scottish Road Works Register.

The Director shall pay the costs of any membership fees or subscriptions with respect to using the Scottish Road Works Register to the extent that such membership fees or subscriptions shall be limited to the registering of information on Trunk Roads within the Unit.

- 4.1.2 The Operating Company shall provide not later than the 60 days prior to the commencement of the First Annual Period and shall maintain until the end of the last Annual Period

- (i) the necessary telecommunication links and access to the Scottish Road Works Register and
- (ii) two suitable computer terminals loaded with the appropriate software to access the Scottish Road Works Register.

- 4.1.3 Notwithstanding any other provisions of this Contract during the 60 days prior to the commencement of the First Annual Period the Operating Company shall

- (i) become fully familiar with the operation of the Scottish Road Works Register and
- (ii) liaise daily with the previous Trunk Road operating company and attend any meetings in relation to Undertakers works which shall be due to continue into or commence during the First Annual Period.

- 4.1.4 After the Operating Company has completed the connection to the Scottish Road Works Register the Operating Company shall have access to a copy of the Scottish Road Works Register for the Unit.

The Operating Company shall arrange to collect all other NRSWA records from the previous Trunk Road operating company responsible for the Unit not later than 15 days prior to the commencement of the First Annual Period.

- 4.1.5 The Operating Company shall keep the road works register up-to-date not later than 5 Working Days after the commencement of the First Annual Period and shall pass a copy of the part of the register relating to the Unit and any other paper register information pertaining to the Unit to the Director at the end of the last Annual Period or as otherwise required in writing by the Director.

The Director and the Performance Audit Group shall be entitled to have access to the road works register at any time.

The Director may require the Operating Company to provide a paper copy of the roadworks register in a format acceptable to the Director.

5 THE NATIONAL STREETGAZETTEER

5.1 Establishing and Maintaining the Gazetteer

- 5.1.1 The Operating Company shall within 26 weeks of commencement of the First Annual Period complete a review of the National Street Gazetteer published by the Ordnance Survey entries and the associated data as referred to in paragraph 6.1 of this Part 6 of this Schedule 7 for the Trunk Roads within the Unit and update the Scottish Road Works Register.

Within this 26 week period the Operating Company shall bring the gazetteer up-to-date and thereafter keep it up-to-date at all times.

Where this updating requires assistance from the local authorities the Operating Company shall provide the necessary information to allow the local authorities to update the National Street Gazetteer.

6 DESIGNATIONS

6.1 Review and Updating of Designations

- 6.1.1 During the Mobilisation Period the Operating Company shall access from the Scottish Road Works Register the inventory of the existing associated data consisting of

- (i) the designation of traffic sensitive roads
- (ii) the designation of roads with special engineering difficulties
- (iii) the designation of protected roads
- (iv) the reinstatement categories and
- (v) all non-statutory designations

for the Trunk Roads within the Unit.

- 6.1.2 The Operating Company shall keep under review the associated data for all the Trunk Roads within the Unit and shall provide a report to the Director with recommendations for any changes to the associated data for the Trunk Roads within the Unit no later than 26 weeks after the commencement of the First Annual Period and annually thereafter.

- 6.1.3 The Operating Company shall obtain the written consent of the Director before

- (i) adding
- (ii) removing or
- (iii) amending

any associated data on any existing part or additional part of the Trunk Roads within the Unit.

6.1.4 The Operating Company shall maintain and keep up-to-date the associated data and shall provide a copy of the National Street Gazetteer information and the associated data to the Director at the end of the last Annual Period in a format acceptable in writing to the Director.

6.1.5 The Operating Company shall carry out all the requirements of the NRSWA and any other necessary procedures for

- (i) making
- (ii) amending and
- (iii) withdrawing

associated data of any part of the Trunk Roads within the Unit.

7 INSPECTIONS AND INVESTIGATORY WORK

7.1 Requirements

7.1.1 Pursuant to the requirements of sections 131 and 134 of the NRSWA the Operating Company shall prepare and submit to the Director for his written consent its work programme of

- (i) investigatory inspections
- (ii) investigatory works
- (iii) coring and
- (iv) testing of the reinstatements by Undertakers of Trunk Roads within the Unit prior to carrying out any such inspections and investigatory work.

A draft programme shall be provided to the Director not later than 30 days prior to the commencement of the First Annual Period and by 28 February in each Annual Period thereafter. A final programme shall be provided to the Director not later than 30th April in each Annual Period.

The programme for the First Annual Period shall be prepared by the Operating Company in consultation with the previous Trunk Road operating company responsible for the Unit.

7.1.2 The Operating Company shall

- (i) carry out inspections and investigatory work in addition to that identified in paragraph 7.1.1 of this Part 6 of this Schedule 7 and
- (ii) ensure that the reinstatements carried out by the Undertakers do not materially affect the structure of the Trunk Road.

The additional inspections and investigatory works ensure that as a minimum all the following inspections shall be undertaken

- (iii) an inspection to all reinstatements during the initial reinstatement process which shall not otherwise have been inspected in accordance with requirements of paragraphs 2.1.2, 2.1.3 and 7.1.1 of this Part 6 of this Schedule 7 of such that 100 percent of reinstatements within the Unit shall be inspected during the initial reinstatement process
 - (iv) a further inspection within 28 days of the date on which the excavation commenced
 - (v) coring of reinstatements under an Order where any Defects are observed.
- 7.1.3 In addition to the inspections and investigatory works to be executed by the Operating Company in accordance with paragraphs 7.1.1 and 7.1.2 of this Part 6 to this Schedule 7 the Director may require further inspections and investigatory work to be executed under an Order.
- 7.1.4 The Operating Company shall report in a format acceptable to the Director
 - (i) the results and analysis of results of all inspections and investigatory works as part of the monthly report required in accordance with paragraph 10.1.3 of this Part 6 of this Schedule 7 and
 - (ii) provide a final report in respect of each coring programme.
- 7.1.5 The Operating Company shall liaise with the local authorities regarding the national coring programme.

The Operating Company shall submit to the Director proposals for a coring programme to assist the national coring programme.

The Director shall

 - (i) consider the coring programme submitted by the Operating Company and
 - (ii) issue an Order for any necessary coring.

One Electronic Copy and one paper copy of the results of the coring programme executed by the Operating Company shall be forwarded to

 - (iii) the local authorities carrying out the national coring programme
 - (iv) the Director and
 - (v) the Performance Audit Group
- 7.1.6 The results of all inspections and investigatory works shall be analysed and retained in a register of inspections and investigatory works or reinstatements which the Operating Company shall establish and keep up to date at all times.
- 7.1.7 Where Defects in reinstatements carried out by Undertakers shall be identified as a result of inspections and investigatory works executed under the requirements of paragraphs 7.1.1 to 7.1.5 inclusive of this Part 6 of this Schedule 7 the Operating Company shall
 - (i) pursue the relevant Undertaker and require it to rectify such Defects within the periods set out in the relevant codes of practice or
 - (ii) if no period is set out in the relevant code of practice within 30 days.

If the Undertaker fails to rectify the Defect within the required time the Operating Company shall advise the Director of the matter along with its written recommendations.

7.1.8 The Operating Company shall be responsible for identifying all sums due to be paid by Undertakers to the Scottish Ministers including but not limited to

- (i) inspections and fees
- (ii) charges and
- (iii) penalties

for which Undertakers shall be liable under the NRSWA.

The Operating Company shall provide the Scottish Ministers with a report every 3 months commencing 3 months after the start of the First Annual Period of the amounts due by each Undertaker during the preceding 3 month period together with any necessary information to support the reason for the fees charges and penalties.

8 DUTIES AS ROAD WORKS AUTHORITY AND BRIDGE AUTHORITY

8.1 Requirements

8.1.1 Notwithstanding any other provisions of this Contract the Operating Company shall undertake the following duties to enable the Scottish Ministers to comply with their obligations as road works authority and bridge authority in accordance with the requirements of sections 122 and 147 of the NRSWA

- (i) liaison with Undertakers about plans and sections for proposed work associated with Trunk Road Structures on the Unit and submit to the Director for his written consent details of each Undertaker's proposals together with the Operating Company's recommendations in regard to the Undertaker's proposals within three Working Days of the receipt by the Operating Company of the Undertaker's proposals.

The Director shall communicate his decision on such matters referred to him to the Operating Company in writing.

On receipt of such decisions of the Director the Operating Company shall immediately communicate such decisions to the Undertaker in writing

- (ii) monitoring the progress of work in on or adjacent to Trunk Road Structures on the Unit at all stages of the Undertaker's work and report to the Director when the Operating Company considers that progress shall not be
 - (a) in accordance with the programme or
 - (b) work shall not be being carried out in accordance with the designs and specifications consented to by the Operating Company or the Director
- (iii) updating the Trunk Road Bridges Database and obtain as-built records of all work referred to in this paragraph 8.1 of this Part 6 of this Schedule 7 from the Undertaker and store them in the Operating Company's Structure record file for the particular Structure affected by the Undertaker's work.

A copy of such records shall be submitted to the Director within 30 days of the Undertaker's work being completed.

9 PRIVATE APPARATUS

9.1 Operating Company Obligations

9.1.1 During the Mobilisation Period the Operating Company shall liaise with the previous Trunk Road operating company responsible for the Unit and collect any details of existing private apparatus installed pursuant to permission to execute road works under section 109 of the NRSWA or Section 61 of the Roads (Scotland) Act 1984 or under any other agreement with the Scottish Executive or Scottish Ministers.

9.1.2 Among the owners of private apparatus in the Unit is Trafficmaster which has a license from the Scottish Ministers to

- (i) install
- (ii) maintain
- (iii) operate
- (iv) alter and
- (v) upgrade

equipment used for monitoring traffic conditions.

The equipment consists of sensors fixed to bridge parapets over the carriageway or located in verges and transmission boxes at the side of the roads.

Trafficmaster shall be required to give a minimum of six weeks' notice to the Director of installation of additional equipment.

The Director shall within 3 Working Days of receipt of such notice notify the Operating Company accordingly.

9.1.3 In the event that the Operating Company requires the removal or protection of Trafficmaster equipment in order to allow the maintenance of or alteration to any part of the Unit the Operating Company shall issue a written instruction to Trafficmaster giving 30 days' notice of the requirement for such removal or protection to be arranged by Trafficmaster.

In the event that Trafficmaster fails to adequately remove or protect its equipment the Operating Company shall take all necessary measures to remove or protect the equipment and shall seek to recover all costs incurred from Trafficmaster.

The Operating Company shall in writing notify the Director of any such failures by Trafficmaster and any failure of Trafficmaster to meet the Operating Company's cost.

Any such unrecovered Operating Company costs shall be met by the Scottish Ministers.

10 OTHER DUTIES

10.1 Liaison Monitoring and Reporting

10.1.1 The Operating Company shall attend the meetings of the regional road authorities and utilities committees as formally constituted under the statutory requirements of the NRSWA whose areas of responsibility include the Trunk Roads within the Unit.

These meetings shall be held 4 times per year. The Operating Company shall also attend local Road Authorities and Utilities Committee meetings as shall be necessary to ensure effective co-ordination of Operations Works and work by authorised contractors Undertakers and the like on the Unit and/or execution of Operations.

10.1.2 During the Mobilisation Period the Operating Company shall have agreed by the Director key performance indicators for the Undertakers and shall thereafter collect statistics in pursuance of demonstrating the performance of the Undertakers in relation to their obligations under the NRSWA and

- (i) relevant statutory instruments
- (ii) statutory and non-statutory codes of practice
- (iii) rules
- (iv) regulations
- (v) orders
- (vi) notices
- (vii) directions
- (viii) consents
- (ix) permissions
- (x) best practice guidance documents
- (xi) advice notes and
- (xii) the like.

10.1.3 The Operating Company shall provide monitoring information and performance assessment reports to the Director on all Undertakers with apparatus or equipment on the Unit on a monthly basis.

10.1.4 The Operating Company shall provide annual reports on the performance of the Undertakers to the Director not later than two months after the end of each Annual Period.

The annual report shall

- (i) include a review of the effectiveness of the key performance indicators in measuring the performance of the Undertakers and
- (ii) propose any amendments and additions which are necessary to improve the effectiveness of the performance monitoring.

When required in writing by the Director, the Operating Company shall implement monitoring incorporating new and revised key performance indicators proposed by the Operating Company or as otherwise required by the Director.