

## MINUTE OF AGREEMENT

between

THE SCOTTISH MINISTERS and their successors and assignees (hereinafter referred to as “the Roads Authority”)

and

[ ], a company incorporated under the Companies Acts (registered number [ ]) and having their registered office at [ ](hereinafter referred to as “the Developer”)

### WHEREAS

- A The Developer intends to develop certain subjects at [ ] (“the Subjects”) by constructing a [residential/commercial] development (“the Development”);
- B In connection with the Development, the Developer wishes to carry out certain works which affect part of the A[ ] (which Trunk Road is hereinafter referred to as the “Road”) at [ ] but before doing so requires the permission of the Roads Authority; and
- C The Roads Authority hereby grants its permission subject to the terms and conditions set out herein.

NOW IT IS AGREED by and between the Parties as follows:

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement unless the context otherwise requires:

“Agreement “ means this Minute of Agreement and all additions, amendments and variations made under the Agreement from time to time

“Approved Drawings” means drawings numbered [ ] prepared by [ ] which are annexed and signed as Part One of the Schedule, or any modified, replacement or other drawings or plans submitted by the Developer in connection with the Works and approved by the Roads Authority prior to the commencement of the Works.

“Bond” means the performance bond to be provided by the Developer in accordance with Clause 3 of this Agreement.

“CDM Regulations” means the Construction (Design and Management) Regulations 2015 as the same may be amended from time to time;

“Certificate of Practical Completion” means the certificate or statement to be issued by the Roads Authority certifying that the Works have been completed in accordance with the Specification to the satisfaction of the Roads Authority

“Certificate of Final Completion” means the certificate or statement to be issued by the Roads Authority in accordance with the provisions of Clause 10.4 of this Agreement.

“Commencement Date“ means the date on which the Works commence in accordance with Clause 4.1 of this Agreement

“Date of Practical Completion” means the date on which the Certificate of Practical Completion is issued.

“Date of Final Completion” means the date on which the Certificate of Final Completion is issued

“Default” means any breach of the obligations of the Developer or any other default, act, omission, negligence or negligent statement of the Developer in connection with or in relation to the Agreement and in respect of which the Developer is liable to the

Roads Authority, and includes any failure by the Developer to comply with any time limits or periods as may be specified in the Agreement.

“Defects Maintenance Period” means the period(s) for the rectification of any defects as set out in Clause 11 of this Agreement

“Design Manual” means the Design Manual for Roads and Bridges published by the Stationery Office, as amended from time to time

“Exceptional Adverse Weather Conditions” means weather conditions where the Developer is able to demonstrate to the Roads Authority’s satisfaction by comparing the current weather conditions to weather records from previous years that any of the following is exceptional: cumulative rainfall, the number of days with rainfall over 5mm, the number of days with minimum air temperature of less than 0°C and the number of days with snow lying on the ground

“Force Majeure Event” means any event outside the reasonable control of the Developer affecting its performance of its obligations under this Agreement arising from acts, events or omissions, beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by the Developer, including acts of God, riots, war or armed conflict, acts of terrorism, fire, flood, storm or earthquake, Exceptional Adverse Weather Conditions and any Unforeseeable Ground Conditions, but excluding any industrial dispute relating to the Developer, or any failure in the Developer’s or a sub-contractor’s supply chain.

“Necessary Consents” means all approvals, permissions, consents, licences, registrations and authorisations (whether statutory or otherwise) which are required from time to time for the purposes of carrying out the Works whether required in order to comply with any legal requirement or as a result of any rights of any third party including, where applicable (and without limitation):

- (i) under and in terms of the Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008

- (ii) planning permission
- (iii) the consent of any undertakers (as that expression is defined in sections 107(4) and (5) and 148(3) of the New Roads and Street Works Act 1991) or any electricity, gas, telecommunications or water companies or authorities whose property, operations or works might be affected by the execution of the Works
- (iv) building or other warrants
- (v) the consent of any local or other regulatory authority

“Party” means a party to this Agreement and the "Parties" means both the Roads Authority and the Developer

“Road Safety Audit” means the stage 1,2,3 and 4 Road Safety Audits required to be carried out in accordance with the provisions of Volume 5 Part 2 of the Design Manual

“Schedule” means the schedule in three parts annexed to and forming part of this Agreement

“Specification” means together the Approved Drawings and the Works Specification

“Specification for Highway Works” means the Specification for Highway Works, published by the Stationery Office as Part 1 of the Manual of Contract Documents for Highway Works (dated December 1991), together with any amendments to such Specification for Highway Works as may be, or have been, published from time to time

“Site” means the area where the Works are to be carried out as marked on the Approved Drawings.

“Unforeseeable Ground Conditions” means ground conditions (excluding those caused by weather) which the Developer did not know of, and could not reasonably have foreseen, having regard to any information which the Developer had or ought reasonably to have ascertained

“Works” means the works to be carried out to the Road by the Developer and all associated works, as described more fully in the Works Specification and indicated on the Approved Drawings, and any other works which the Roads Authority shall reasonably require by reason of or in consequence of the foregoing.

“Works Specification” means the description of the Works annexed hereto as Part Two of the Schedule, as the same may be amended by agreement between the Parties

“Working Day” means any day other than a Saturday, Sunday or public holiday in Scotland.

1.2 In this Agreement:

1.2.1 the headings of the Clauses shall not affect their interpretation;

1.2.2 references to statutory provisions shall be construed as references to those provisions as amended or re-enacted, or as their application is modified by other provisions, from time to time;

1.2.3 any consent, approval or permission to be issued or granted by either Party in terms of this Agreement shall require to be in writing by a person having appropriate authority.

1.2.4 the singular implies the plural and vice versa and the masculine includes the feminine.

## **2 DEVELOPER OBLIGATIONS**

2.1 The Developer shall design, carry out and complete the Works in a good and workmanlike manner and in accordance with:

2.1.1 the Specification;

- 2.1.2 the Design Manual;
- 2.1.3 the Necessary Consents
- 2.1.4 The Specification for Highway Works
- 2.1.5 Transport Scotland's Roads for All - Good Practice Guide for Roads;
- 2.1.6 Transport Scotland's Cycling by Design; and
- 2.1.7 the relevant provisions of the Equality Act 2010.

In the event of any conflict between the Design Manual, the Equality Act 2010 and Transport Scotland's Roads For All - Good Practice Guide for Roads, then the Equality Act 2010 and Transport Scotland's Roads For All - Good Practice Guide for Roads shall prevail.

- 2.2 The Developer shall provide to the Roads Authority such drawings, specifications and other information in connection with the Works as the Roads Authority may at any time reasonably request.
- 2.3 Where the Works constitute a notifiable project under the CDM Regulations:
  - 2.3.1 For the purposes of the Works under the CDM Regulations the Developer elects to be the only client.
  - 2.3.2 The Developer shall prepare a relevant data manual (including "As-Built" drawings and such other information as the Roads Authority may reasonably stipulate) for the Works which shall in due course form part of any "Health and Safety File" as defined in and required under the CDM Regulations.
- 2.4 The Developer shall not appoint any contractor, and any such contractor shall not appoint any sub-contractor, to execute the Works or any part thereof without the prior written consent of the Roads Authority, which consent shall not be unreasonably

withheld or delayed. For the avoidance of doubt, it is hereby expressly declared that the appointment by the Developer of any contractor or sub-contractor to carry out the Works shall not relieve the Developer of any obligation or duty incumbent upon it in terms of this Agreement. The Developer shall ensure and procure that all contractors and sub-contractors appointed by it or on its behalf to execute the Works or any part thereof comply in all respects with all provisions of this Agreement in relation to the execution of the Works

2.5 In relation to the Works:-

2.5.1 the materials, goods and standards of workmanship to be specified in the Works Specification and used in the execution of the Works shall be in accordance with the Specification for Highway Works, and any special directions given to the Developer by the Roads Authority in connection with the Works; and

2.5.2 all materials proposed to be used in the Works must be tested by or on behalf of, and to the reasonable satisfaction of, the Roads Authority and if, for any reason whatsoever, the Roads Authority deems any material proposed to be used in the Works to be unsuitable for such use, such materials shall not be used for any purpose whatsoever in the execution of the Works

2.6 The Developer shall not commence the Works unless and until:-

2.6.1 the Developer has made all necessary notifications and obtained all Necessary Consents for the execution of the Works, and has provided the Roads Authority with copies of all Necessary Consents.

2.6.2 the Developer and the Roads Authority have agreed the arrangements for traffic management which shall be implemented by the Developer during the execution of the Works;

2.6.3 those parts of the Road Safety Audit to be carried out prior to the commencement the Works in accordance with the Design Manual have been

carried out and any amendments to the Specification required by the findings of such Road Safety Audit have been made, all to the satisfaction of the Roads Authority and at the expense of the Developer.

2.6.4 the Developer has delivered to the Roads Authority a duly executed Bond.

### **3 BOND**

3.1 The Developer shall, at its own expense, obtain and deliver to the Roads Authority the Bond for a maximum amount of [ £ ] substantially in the form of the draft set out at Part Three of the Schedule, with any amendments to it being subject to the approval of the Roads Authority.

3.2 The Bond shall be obtained from a reputable insurance company or bank approved by the Roads Authority

3.3 Exceptionally, and at the Roads Authority's sole discretion, the Developer may provide to the Roads Authority a Standby Letter of Credit in place of a Bond, in a form to be approved by the Roads Authority.

### **4 COMMENCEMENT**

4.1 The Developer shall not commence the Works until such time as it has received written authorisation from the Roads Authority, which written authorisation shall not be unreasonably withheld or delayed and shall specify the date on which the Works will commence ("the Commencement Date") which date will be within three months of the date of issue of the written authorisation. Prior to the issue of any such written authorisation, the Roads Authority will consult with the Developer regarding the Commencement Date and will endeavour to accommodate the Developer's reasonable requests in this regard.

4.2 The Developer shall complete the Works within a period of [*Insert period*] weeks from the Commencement Date.



4.3 If there any delay in completion of the Works which is attributable to a Force Majeure Event then the period for completion of the Works shall be extended by such period as the Roads Authority considers to be reasonable in all the circumstances.

4.4 In the event of the Works being destroyed or damaged in whole or in part by whatever cause prior to their completion, this Agreement shall remain in full force and effect and the Developer shall forthwith at its own expense procure reinstatement of the Works to the condition which they were in prior to such destruction or damage and thereafter complete the Works, all in accordance with the provisions of this Agreement, and the period for completion of the Works shall be extended by such period as the Roads Authority considers to be reasonable in all the circumstances.

## **5 TRAFFIC MANAGEMENT**

5.1 During the execution of the Works, the Developer shall:-

5.1.1 have due regard for the safety of traffic using the Road and all other roads which may be affected by the Works and shall implement a system of signing and traffic management in accordance with both Part 1 and Part 2 (as applicable) of Chapter 8 of the Traffic Signs Manual (2009 Edition);

5.1.2 in the event that any part of the Works involves the closure or partial closure of a traffic lane, inform Traffic Scotland:-

(i) not less than 15 minutes prior to implementing any such traffic lane closure;

(ii) immediately upon the re-opening of any such traffic lane; and

(iii) immediately upon any delay in the flow of traffic exceeding 10 minutes and thereafter at intervals of 30 minutes until such delay has ceased;

5.1.3 carry out such additional works as may be required by the Roads Authority as a result of, or arising out of or in connection with, any Road Safety Audit carried out before or during the execution of the Works;

5.1.4 implement forthwith any directions given to it by the Roads Authority in connection with the safety of traffic.

## **6 ROAD SAFETY AUDIT**

6.1 The Developer shall at its own expense procure the carrying out of a full Road Safety Audit (Stages 1, 2, 3 and 4) in respect of the Works, and the Road as affected by the Works, all in accordance with the relevant provisions of the Design Manual.

6.2 A copy of all reports produced as a result of or in connection with such Road Safety Audit shall be delivered by the Developer to the Roads Authority immediately on production. In the event that, following consideration of any such report, the Roads Authority considers that further works are required to remedy any problems relating to the safety of road users, or to implement any recommendations in such report, it may direct the Developer to carry out such works and/or recommendations within such reasonable period as it may specify by written notice to the Developer.

6.3 The Developer shall carry out such further works and/or recommendations at its own expense in accordance with such notice and within the period specified in such notice as if such further works formed part of the Works.

## **7 DEVELOPER ACCESS**

7.1 The Developer or its agents or contractors shall be entitled to such access as they may reasonably require for and in connection with the execution of the Works to the Road and all land in the vicinity of the Road which is in the ownership or control of the Roads Authority. The Developer shall make good all damage occasioned by the taking of such access by it, its agents or contractors, to the reasonable satisfaction of the Roads Authority.

- 7.2 If any land in the ownership of the Roads Authority is required for temporary use in connection with the Works and is in the possession of a lessee or tenant, the Roads Authority, at the expense of the Developer, shall take reasonable steps to obtain access for the Developer to such land.
- 7.3 If the Developer or their agents or contractors require access to other land outwith the ownership or control of the Roads Authority, then the Developer shall make, at its own expense, all necessary arrangements to obtain such access.
- 7.4 The Developer shall, at its own expense and prior to the commencement of the Works, acquire all land (not in the ownership of the Roads Authority) which will form part of the Road as modified by the Works. The Developer shall, as soon as practicable after the Date of Practical Completion of the Works (and in any event within 12 months), convey to the Roads Authority free of charge by means of a valid and properly executed conveyance in the form specified in Schedule A to the Land Clauses Consolidation (Scotland) Act 1845, all the land which it acquired and which forms part of the Road as modified by the Works.

## **8 ROADS AUTHORITY ACCESS**

- 8.1 The Roads Authority shall be entitled to access at all reasonable times to the Site or any part thereof for the purpose of inspecting the progress of the Works and ascertaining that the Specification is being adhered to and to satisfy itself that the Works are being carried out in a good and workmanlike manner and in accordance with the terms of this Agreement. The exercise, or non-exercise, by the Roads Authority of its right under this Clause shall not in any way prejudice any claim which the Roads Authority may have against the Developer, whether arising under this Agreement or otherwise.

## **9 INSPECTION**

- 9.1 On completion of the Works, a joint inspection thereof shall be conducted by the Parties. If the Roads Authority considers that the Works have been completed

satisfactorily, it shall issue a Certificate of Practical Completion in respect of the Works.

- 9.2 If the Roads Authority considers that the Works have not been completed satisfactorily, the Roads Authority shall issue a direction in writing specifying those parts of the Works which require to be completed by the Developer before a Certificate of Practical Completion may be issued. The Developer shall implement forthwith any such direction and following a further joint inspection of the Works, the Roads Authority shall, if satisfied, issue a Certificate of Practical Completion.
- 9.3 For the avoidance of doubt, it is hereby expressly declared that the issue of the Certificate of Practical Completion shall not absolve, exempt or relieve the Developer in any manner or to any extent from the performance of any duty or obligation, or any liability, which they may have in terms of this Agreement.

## **10 COMPLETION**

- 10.1 Forthwith after the Date of Practical Completion, the Developer, their agents and contractors shall vacate the Site and remove all goods, gear, machinery, effects and others therefrom, leaving the Site vacant and in a clean and tidy condition, all to the reasonable satisfaction of the Roads Authority. The Developer shall make good any damage caused to the Site caused by the Developer, their agents or its contractors, all to the reasonable satisfaction of the Roads Authority.
- 10.2 As soon as practicable after the Date of Practical Completion (and in any event within a period of 8 weeks from that date), the Developer shall prepare and deliver to the Roads Authority:-
- 10.2.1 "As Built" information in a format reasonably acceptable to the Roads Authority showing in full detail the Works, including the materials used and indicating the true position of all culverts, drains, fences and all underground cables, mains and the like together with any relevant information in relation to earth works and geotechnical conditions;

10.2.2 all records of surveys, investigations and all tests of materials used in the Works.

10.2.3 the Health and Safety File as required under the CDM Regulations.

As soon as practicable after the Date of Final Completion (and in any event within a period of 8 weeks from that date), the Developer shall prepare and deliver to the Roads Authority updated information (if any) in relation to the above which may arise as a consequence of any further works and/or rectification of defects required in accordance with clauses 6.2 and 11.2.

10.3 The Developer shall not [commence any work on the Subjects arising out of or in connection with the Development]/[ commence trading from the Development] unless and until the Certificate of Practical Completion has been issued.

10.4 The Roads Authority shall issue a Certificate of Final Completion certifying either that (i) the Stage 4 Road Safety Audit has been completed and any further works (if required) carried out to the satisfaction of the Roads Authority or (ii) following the expiry of the latest Defects Maintenance Period, that all defects (if any) have been made good to the satisfaction of the Roads Authority and no further works are required, whichever is the later.

10.5 For the avoidance of doubt, it is hereby expressly declared that the issue of the Certificate of Final Completion shall not absolve, exempt or relieve the Developer in any manner or to any extent from the performance of any duty or obligation, or any liability, which they may have in terms of this Agreement

## **11 DEFECTS MAINTENANCE PERIOD**

11.1 The Defects Maintenance Periods shall commence on the Date of Practical Completion.

11.2 The Developer shall make good at its own expense and to the reasonable satisfaction of the Roads Authority any defects (whether due to bad workmanship or otherwise),

which may appear in the Works, and any damage to the Road or any other property of the Roads Authority arising out of or in any way connected with the said defects, which are notified to the Developer within the following Defects Maintenance Periods:

- (i) five years from the Date of Practical Completion in the case of thin surfacing defects
- (ii) three years from the Date of Practical Completion in the case of landscaping defects; and
- (iii) two years from the Date of Practical Completion in the case of all other defects,

## **12 INDEMNITY AND INSURANCE**

12.1 The Developer shall indemnify and keep indemnified the Roads Authority from and against all claims, proceedings, actions, damages, costs, charges, expenses and any other liabilities in connection with

- (i) injury to or death of any person;
- (ii) loss of or damage to any property (other than the Works) but including surface or other damage to land within the Site suffered by any persons who own or occupy such land; and/or
- (iii) any fault, failure, defect or negligence in the Works

that may arise out of, in connection with, or in consequence of (whether directly or indirectly) either the Works, and/or any Default or negligent acts or omissions of the Developer, its agents or contractors.

12.2 The Developer shall effect and maintain with a reputable insurance company public liability insurance in the sum of not less than £10,000,000 (ten million pounds) in respect of each and every claim.

12.2.1 Such insurance must be maintained from the Commencement Date and for a minimum of 5 years following the Date of Practical Completion

12.2.2 The Developer shall deliver to the Roads Authority, on request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

### **13 REIMBURSABLE EXPENSES**

13.1 This Agreement is entered into on the understanding that the execution of the Works, and all matters related to, or arising out of or in connection with the Works are to be carried out and accomplished at no cost to the Roads Authority, and that all costs, expenses, disbursements and outlays of whatsoever nature incurred by the Roads Authority arising out of or in connection with any of the foregoing are to be reimbursed by the Developer.

13.2 The Developer shall reimburse to the Roads Authority within 28 days of demand all expenses reasonably and properly incurred by the Roads Authority as a result of or in any way connected with the Works or the execution thereof or this Agreement, including, but not restricted to:

13.2.1 the reasonable costs of checking that the Specification (including any design ) is to a standard acceptable to the Roads Authority and is being adhered to by the Developer;

13.2.2 the costs of testing materials proposed to be used in the Works;

13.2.3 the cost of all Site inspections carried out during the execution of the Works;

13.2.4 the cost of all inspections carried out during the Defects Maintenance Period;

13.2.5 the carrying out of any Road Safety Audit or other investigation as to whether or not the Works or any proposals in respect thereof meet appropriate safety requirements and standards; and

13.2.6 the payment of any compensation or valuation or legal expenses under Part 1 of the Land Compensation (Scotland) Act 1973

in all cases whether such expenses or costs are or were incurred by the Roads Authority prior to the execution of this Agreement, or before, during or after the execution of the Works.

13.3 If payment of any sums due by the Developer to the Roads Authority in terms of this Agreement is not made within 28 days of their being demanded by the Roads Authority, interest shall accrue on a day to day basis on such sum or sums as are due at the rate of 4 per cent above the Bank of Scotland Base Lending Rate (or its equivalent) for the time being in force, from the date the same falls due until payment in full.

## **14 ASSIGNATION**

14.1 The Developer shall not assign or otherwise transfer by any means whatsoever its obligations under, or its interest in this Agreement without the prior written consent of the Roads Authority

## **15 AGENCY**

15.1 The Roads Authority may, at any time, appoint an agent to exercise on its behalf any of its functions or rights in terms of this Agreement. The Roads Authority shall notify the Developer in writing of the name and address of any such agent as soon as practicable.



## **16 TERMINATION**

- 16.1 Without prejudice to any other right or remedy the Roads Authority may have, where the Developer fails to implement any of the obligations imposed upon it in terms of this Agreement, the Roads Authority may, at its sole option, request that the Developer provides a written proposal for remedying such failure.
- 16.2 Where the Developer's proposal has been approved to by the Roads Authority, the Developer shall implement the proposal in accordance with its terms.
- 16.3 If the Developer fails to provide an acceptable proposal within 7 calendar days of any such request, or fails to implement the proposal in accordance with its terms, the Roads Authority may terminate this Agreement in accordance with the provisions of Clause 16.4.2 For the avoidance of doubt, where the Developer has failed to submit or implement an acceptable proposal the Developer shall not be entitled to the further remedy period as set out in Clause 16.4.2
- 16.4 The Roads Authority may at any time, by notice in writing to the Developer, terminate this Agreement forthwith on the occurrence of any the following events:
- 16.4.1 if the Developer passes a resolution for winding-up or dissolution (other than for the purpose of reorganisation or amalgamation) or a court makes an administration order or a winding-up order or the Developer makes a composition or arrangement with its creditors or an administrator, administrative receiver, receiver or manager is appointed by a creditor or court or possession is taken of any of its property under any floating charge
- 16.4.2 if the Developer commits a Default has not remedied the Default to the satisfaction of the Roads Authority within 10 calendar days, or such other

period as may reasonably be specified by the Roads Authority, following the issue of a notice specifying the Default and requesting it to be remedied; or

16.4.3 if the Default is not, in the opinion of the Roads Authority, capable of remedy

16.5 On termination of the Agreement for any reason:

16.5.1 The Roads Authority may complete the Works itself or employ or procure others to so do and the Developer shall be obliged to pay the whole costs of the completion of the Works.

16.5.2 the Developer shall, if so required by the Roads Authority, take all reasonable steps to assign the benefits of any contract with a contractor or any other agreement related to the Works to the Roads Authority or its nominee; and

16.5.3 the Developer shall at the Roads Authority's request promptly deliver all documentation, plans, Specifications and any other information which the Roads Authority shall reasonably require to enable it to complete the Works

## **17 DISPUTE RESOLUTION**

17.1 The Developer and the Roads Authority shall attempt in good faith to resolve any dispute between them arising out of or in connection with this Agreement within 20 days of either Party notifying the other of the dispute (or such other timescale as shall be agreed between the Parties) and such efforts shall involve the escalation of the dispute to senior representatives of the Developer and the Roads Authority

17.2 If the Parties fail to resolve any dispute under clause 17.1 then either Party may request by notice in writing to the other Party that any dispute be referred and resolved by arbitration in accordance with the following provisions:-

17.2.1 the arbitration shall be governed by the Arbitration (Scotland) Act 2010

17.2.2 the Scottish Arbitration Rules (Schedule One to the Arbitration (Scotland) Act 2010) in force at the date that the dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Agreement, and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules.

17.2.3 The tribunal shall consist of a sole arbitrator. If the Parties fail to agree the appointment of the arbitrator within 10 days of the written notification that the matter is being referred to arbitration, or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the President for the time being of the Law Society of Scotland.

## **18 NOTICES**

18.1 No notice, request, direction, consent, approval or other communication from one Party to the other shall have any validity under this Agreement unless made in writing by or on behalf of the Party concerned.

18.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post or by recorded or special delivery service), or by facsimile transmission or electronic mail. Such letters shall be addressed to the other Party in the manner referred to in clause 18.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or 4 hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or electronic mail (such acknowledgement not to include an acknowledgement given by means of an automated electronic process).

18.3 For the purposes of clause 18.2, the address of each Party shall be:

(a) For the Developer:

[to be completed]

[Address:            ]

[                    ]

For the attention of: [name]

Tel:

Fax:

Email:

(b) For the Roads Authority:

[to be completed]

[Address:            ]

[                    ]

For the attention of: [name]

Tel:

Fax:

Email:

18.4 Either Party may change its address for service by serving a Notice in accordance with this clause 18.

## **19 MISCELLANEOUS**

19.1 No modification, variation or amendment of any provision in this Agreement shall be effective unless it is in writing and signed by a duly authorised representative of each Party.

19.2 No waiver of any breach or default under this Agreement or any of the terms hereof shall be effective unless such waiver is given in writing and has been signed by the Party waiving its entitlement.

19.3 If any term or provision of this Agreement is held to be invalid, illegal or unenforceable in whole or in part under any enactment or rule of law or otherwise such term or provision shall to that extent be deemed not to form part of this

Agreement but the validity and enforceability of the remainder of this Agreement shall continue in full force and effect.

19.4 This Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes and extinguishes any prior drafts, undertakings, representations, warranties and arrangements of any nature whatsoever whether in writing or oral relating to such subject matter.

**20 JURISDICTION**

20.1 This Agreement shall be governed by and interpreted in accordance with Scots law and the Parties submit to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF these presents typewritten on this and the [ ] preceding pages, together with the Schedule in four parts annexed as relative hereto, are executed as follows;

**SIGNED** for and on behalf of Scottish Ministers

**SIGNED** for and on behalf of [ ]

At.....

At.....

On.....

On.....

Signature.....

Signature.....

Full name .....

Full name.....

Position .....

Position.....

**In the presence of**

**In the presence of**

Signature.....

Signature.....

Full name .....

Full name.....

Address.....

Address.....

**SCHEDULE PART ONE**  
**APPROVED DRAWINGS**

**SCHEDULE PART TWO**  
**WORK SPECIFICATION**



**SCHEDULE PART THREE**

**BOND**