

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

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SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

1. INTRODUCTION

1.1 General Requirements

1.1.1 The Operating Company shall undertake the activities specified in this Part in respect of:

- (i) all claims for damages associated with the Unit made by third parties against the Scottish Ministers, and
- (ii) Damage to Crown Property, including claims by the Scottish Ministers against third parties.

1.1.2 If a claimant submits a claim to Transport Scotland, the Director will acknowledge receipt in writing to the claimant and forward a copy of the claim to the Operating Company for action.

1.1.3 Where a third party claim arises from work undertaken on the Unit by any other organisation appointed by the Scottish Ministers, the Operating Company shall forward the claim to the organisation within two Working Days and shall advise the claimant in writing within five Working Days of receipt of the claim that it has been passed to the organisation.

1.2 Records

1.2.1 The Operating Company shall maintain Electronic Copy records containing details of the actions carried out by the Operating Company in dealing with third party claims and related matters. These records shall include the following documents:

- (i) third party claims notice forms,
- (ii) third party claims Operating Company report forms,
- (iii) associated spreadsheets,
- (iv) letters,
- (v) explanatory notes, and
- (vi) completed Department for Work and Pensions *Notification of Claim for Compensation (CRU1)* forms.

1.2.2 The Operating Company shall maintain Electronic Copy registers and records relating to third party claims and Damage to Crown Property.

1.2.3 The Operating Company shall provide, within five Working Days of the date of the request, any information relating to claims that the Director may request.

1.2.4 The Operating Company shall provide to the Director and the Performance Audit Group secure remote access at all times to these Electronic Copy records, using the contract control and management function of the Integrated Roads Information System.

2. CLAIMS AGAINST THE SCOTTISH MINISTERS

2.1 Third Party Claims Notification

- 2.1.1 Within two Working Days after receipt of notification of a claim made against the Scottish Ministers, the Operating Company shall issue an acknowledgement to the claimant or the claimant's agent, enclosing the third party claims notice form shown at Annex 4.4/B of this Part with a letter according with the proforma letter shown in Annex 4.4/A of this Part, advising them to complete the form and return it to the Operating Company. No other documentation shall be issued by the Operating Company to the claimant or the claimant's agent.
- 2.1.2 When dealing directly with the claimant or the claimant's agent, the Operating Company shall ensure that all letters and other correspondence sent at the time of the initial intimation of claim or preliminary information gathering process are in accordance with the proforma letter. No indication shall be given in any correspondence relating to the claim that it is subject to any jurisdiction other than that of the Scottish courts, unless it is the subject of legal proceedings raised in a court outwith the jurisdiction of the Scottish courts.

2.2 Third Party Claims where the Scottish Ministers are Indemnified

- 2.2.1 In respect of third party claims, the Scottish Ministers are indemnified by the Operating Company in accordance with the other provisions of this Contract, including the provisions of Schedule 1 Part 4.
- 2.2.2 The Operating Company shall deal directly with the claimant where the Scottish Ministers are indemnified.
- 2.2.3 The Operating Company shall process all third party claims in a courteous, fair and timely manner.
- 2.2.4 The Operating Company shall put in place a process for dealing with appeals by a claimant.

2.3 Third Party Claims where the Scottish Ministers are not Indemnified

- 2.3.1 Should the Operating Company consider that the Scottish Ministers are not indemnified in respect of any claim, within five Working Days of the receipt of a completed third party claims notice form from a claimant, the Operating Company shall provide a summary of the reasons why the Scottish Ministers are not indemnified and state which exceptions apply in accordance with the provisions of Schedule 1 Part 4.
- 2.3.2 Should the Director decide that the Scottish Ministers are indemnified in respect of any claim, the Director will notify the Operating Company in writing of his decision and such claim shall be dealt with by the Operating Company in accordance with the provisions of paragraph 2.2 of this Part.
- 2.3.3 Should the Director decide that the Scottish Ministers are not indemnified in respect of any claim, the Director will notify the Operating Company in writing of his decision. Within five Working Days of receipt of such notification, the Operating Company shall supply the Director with all information related to each Incident giving rise to a claim where the Scottish Ministers are not indemnified, including:
- (i) the completed third party claims notice form, and

- (ii) a completed third party claims Operating Company report form in the format shown in Annex 4.4/C of this Part.

2.3.4 The Director will deduct from any of the Operating Company's accounts, invoices and Statements any losses and expenses suffered by it as a result of any inadequacy or inaccuracy in the information provided by the Operating Company which it is required to hold and provide to the Director in accordance with the provisions of this Contract.

2.3.5 The Operating Company shall not make any admission of liability on its own behalf, or on behalf of the Scottish Ministers, in respect of any matters pertaining to third party claims where the Scottish Ministers are not indemnified.

2.4 Third Party Claims in respect of Personal Injury

2.4.1 In the event of a third party claim for personal injury, the Operating Company shall notify the Department for Work and Pensions Compensation Recovery Unit within 14 days of receipt of the claim, using the Department's form CRU1 which is available on the Department for Work and Pensions website.

2.5 Responsibility for Third Party Claims Arising from Incidents Prior to Contract Expiry Date

2.5.1 In accordance with the requirements of this Part, the Operating Company shall deal with all third party claims arising from Incidents that occur before the Contract Expiry Date. Such claims continue to be the responsibility of the Operating Company after the Contract Expiry Date.

3. DAMAGE TO CROWN PROPERTY

3.1 General

3.1.1 Damage to Crown Property includes:

- (i) damage caused by third parties,
- (ii) theft,
- (iii) damage caused by theft and attempted theft,
- (iv) vandalism,
- (v) spillages,
- (vi) shed loads, and
- (vii) debris from road traffic accidents or from other causes.

3.1.2 Repair of Damage to Crown Property means repair and any associated clearing, cleaning, Design, renewal and replacement to make good Damage to Crown Property.

3.1.3 When the Operating Company becomes aware of any incidence of Damage to Crown Property, it shall immediately:

- (i) arrange for the damage to be assessed and repaired,
- (ii) enter details of the Incident into the contract control and management function of the Integrated Roads Information System and thereafter update the contract control and management function of the Integrated Roads

Information System with further relevant information as soon as it becomes known, and

- (iii) include the unique damage reference number generated by the contract control and management function of the Integrated Roads Information System in any related Operations Instruction.

3.1.4 The Operating Company shall maintain a "Damage to Crown Property Consolidated Report" in the format shown in Annex 4.4/D of this Part, and shall submit it in electronic form to the Director every three months.

3.2 Damage to Crown Property of Value not more than £10,000

3.2.1 The Operating Company shall undertake all repairs of Damage to Crown Property where the valuation of repair of individual incidents is not more than £10,000, unless the damage was a result of the exceptions referred to in paragraph 3.4 of this Part.

3.2.2 The Scottish Ministers and the Operating Company shall execute an assignment of rights agreement (in the form shown in Annex 4.4/E of this Part) prior to the Commencement of Service Date.

3.2.3 After the Operating Company has undertaken repair of Damage to Crown Property, the following provisions shall apply:

- (i) the Operating Company is entitled to send to the person or organisation causing the Damage to Crown Property a notice of assignment of rights (in the form shown in Annex 4.4/E of this Part) which has been addressed to that person or organisation and which describes the relevant Damage to Crown Property,
- (ii) such notice of assignment of rights shall at the same time be notified to the Scottish Ministers in accordance with this Contract,
- (iii) the Operating Company may pursue a claim in its own right against the person or organisation causing the Damage to Crown Property to recover the costs incurred in the repair of Damage to Crown Property that it has undertaken as Core Operations and may keep the proceeds of any successful claim, and
- (iv) the Operating Company shall indemnify and keep indemnified the Scottish Ministers against all losses, actions, claims, costs, damages, demands and expenses (including but not limited to all legal costs and disbursements) arising in connection with any claim which the Operating Company makes against a person or organisation pursuant to the assignment of rights agreement and any notice of assignment of rights.

3.2.4 The Operating Company shall not make or commence any claims, actions or proceedings whatsoever in the name of the Scottish Ministers in connection with repair of Damage to Crown Property pursuant to any rights of subrogation. The Operating Company undertakes to the Scottish Ministers:

- (i) not to exercise any rights of subrogation that the Operating Company may have in connection with repair of Damage to Crown Property, and
- (ii) not to assign or otherwise transfer to a third party, or permit a third party to exercise, any rights of subrogation that the Operating Company may have in connection with repair of Damage to Crown Property.

3.3 Damage to Crown Property of Value more than £10,000

- 3.3.1 Subject to an Order, the Operating Company shall undertake all repair of Damage to Crown Property where the valuation of repair of individual Incidents is more than £10,000.
- 3.3.2 Where the estimated valuation of repair of Damage to Crown Property for an individual incident is more than £10,000, the Operating Company shall immediately after discovery of the Damage to Crown Property notify the Director in writing and within five Working Days of notification submit to him a "report of an incidence of Damage to Crown Property" in the format shown in Annex 4.4/F of this Part.
- 3.3.3 The Director will pursue recovery of Transport Scotland's costs of repair and associated costs of police reports and of establishing, maintaining and removing traffic management prior to repair Operations.
- 3.3.4 Within 20 Working Days of completing a repair of Damage to Crown Property of individual value more than £10,000, the Operating Company shall provide the Director with a "notification of the final valuation of repair of an incidence of Damage to Crown Property" report in the format shown in Annex 4.4/G of this Part, including invoices, sub-contractor costs and all other relevant information. The valuation listed and totalled within this report shall be deemed to be whole and final in respect of such an incidence of Damage to Crown Property.

3.4 Exceptions

- 3.4.1 When an Incident causing Damage to Crown Property has resulted in a fatality, or has been solely caused by a vehicle operated by a United Kingdom national government department or national government agency, the Director will deal with the pursuit of claims. The Operating Company shall operate as if the repair valuation is greater than £10,000 and repair of Damage to Crown Property shall be subject to an Order.

3.5 Damage to Structures

- 3.5.1 Where any damage to a Structure occurs, the Operating Company shall notify the Director by telephone as soon as possible and within one Working Day confirm the details in writing to the Director.

The Director may require repairs to damage to a Structure to be undertaken by specialist contractors nominated by the Director. Such requirement will be subject to an Order.

In all cases of Damage to Crown Property where there is damage to a Structure, the Operating Company shall not carry out permanent repairs without the prior written consent of the Director.

3.6 Damage to Crown Property which Occurred Prior to the Commencement of Service Date

- 3.6.1 During the 20 Working Days prior to the Commencement of Service Date, the Operating Company shall liaise with the previous operating company and compile a detailed list of Damage to Crown Property within the Unit that will not be repaired prior to the Commencement of Service Date.
- 3.6.2 The previous operating company will remain responsible for Repair of Damage to Crown Property where the estimated valuation of repair of individual Incidents is not

more than £10,000 and is not as a result of one the exceptions listed in paragraph 3.4 of this Part.

- 3.6.3 If the previous operating company does not fulfil its obligations in respect of paragraph 3.6.2 of this Part, the Scottish Ministers may issue an Order to complete the work under the provisions of this Contract.
- 3.6.4 On the Commencement of Service Date, the Operating Company shall become responsible for the repair of Damage to Crown Property where the previous operating company has estimated valuation of repair of individual incidents to be more than £10,000, or where Incidents are as a result of the exceptions listed in paragraph 3.4 of this Part. Such repair of Damage to Crown Property shall be dealt with in accordance with the provisions of paragraphs 3.3.1 to 3.3.4 of this Part.
- 3.6.5 Unless it is necessary for safety reasons to carry out repairs immediately, the Operating Company shall give not less than 48 hours' notice to the Director and the previous operating company of commencement of repairs of Damage to Crown Property that are to be carried out in accordance with paragraph 3.6.3 of this Part, in order that the previous operating company may witness such repairs.
- 3.6.6 Within five Working Days of completing a repair of Damage to Crown Property as described in paragraph 3.6.3 of this Part, the Operating Company shall provide the Director with a "notification of the final valuation of repair of an incidence of Damage to Crown Property" report in the format shown in Annex 4.4/G of this Part, including invoices, sub-contractor costs and all other relevant information. The valuation listed and totalled within this report shall be deemed to be whole and final in respect of such an incidence of Damage to Crown Property.
- 3.6.7 When required in writing by the Director, the Operating Company shall provide assistance to the Director with any claims against persons causing Damage to Crown Property in Incidents occurring prior to the Commencement of Service Date. Such assistance shall be the subject of an Order.

3.7 Damage to Crown Property not Repaired Prior to the Contract Expiry Date

- 3.7.1 During the 20 Working Days prior to the Contract Expiry Date, the Operating Company shall liaise with the incoming operating company and provide it and the Director with a detailed list of existing Damage to Crown Property that will not be repaired prior to the Contract Expiry Date.
- 3.7.2 Damage to Crown Property that has occurred but not been repaired prior to the Contract Expiry Date remains the responsibility of the Operating Company where the valuation of repair of individual Incidents is not more than £10,000. Any repairs to such Damage to Crown Property not undertaken within 14 days after the Contract Expiry Date or by the due date for a repair, whichever comes later, may be undertaken by another organisation. In such a case the Scottish Ministers shall be entitled to:
- (i) recover from the Operating Company the costs incurred by the Scottish Ministers in connection with repair of Damage to Crown Property, or
 - (ii) deduct the amount of these costs from any amounts due, or that become due, to the Operating Company from the Scottish Ministers.

4. MISCELLANEOUS CLAIMS BY THE SCOTTISH MINISTERS

4.1 Other Repairs and Notification

- 4.1.1 It may be necessary under certain circumstances for the Operating Company to undertake work that is normally the responsibility of others. The Operating Company shall notify the Director by e-mail when it considers such work to be necessary.
- 4.1.2 The Director shall issue an Order to the Operating Company if he considers such work necessary.
- 4.1.3 The Operating Company shall submit to the Director details of any costs incurred in undertaking such work. The Operating Company shall take steps to recover from the appropriate organisation all costs incurred on behalf of the Scottish Ministers and shall reimburse the Scottish Ministers accordingly.
- 4.1.4 The Scottish Ministers will not be responsible for the repair or replacement of damaged:
- (i) tourist signs,
 - (ii) boundary signs,
 - (iii) roadside services signs,
 - (iv) motoring organisation signs,
 - (v) Ministry of Defence signs, or
 - (vi) authorised signs erected by any party other than on behalf of the Scottish Ministers.

When any damage occurs to such signs or associated vehicle restraint systems, the Operating Company shall make the location safe immediately and shall report the damage in writing within two Working Days to the party responsible for such signs and inform it of the culprits, if known.

This is Annex 4.4/A to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/A – Letter Accompanying Third Party Claims Notice Form

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/A – Letter Accompanying Third Party Claims Notice Form

Example letter to claimant to accompany the Third Party Claims Notice Form:

Operating Company name and address
Date

Dear Sir or Madam

Your letter dated ----- / telephone call of ----- * implied a claim arising from an incident on a trunk road or motorway. Please complete the attached form and return it to the address below.

Your attention is drawn to the need to complete medical mandates and the CRU Section where physical injury has been suffered.

Please note that failure to include all relevant information and sketches may delay the processing of your claim.

Yours faithfully

[Signed]

Name

Designation

*delete as appropriate.

This is Annex 4.4/B to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/B – Third Party Claims Notice Form

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/B – Third Party Claims Notice Form

Claim Reference Number

The information provided in this form will be handled in accordance with the Data Protection legislation. In addition to the person who issued this form, the information may be shared with the Scottish Ministers, their contractors, insurers and professional advisors. For more information about Data Protection, visit www.ico.gov.uk

Part 1 – About yourself

1. Name
2. Address
.....
.....
.....
.....
.....
3. Daytime Telephone Number (including STD code)

Part 2 – About your vehicle (if damaged)

1. Class (e.g. car, lorry, motorcycle, moped, bicycle)
2. Make and model
3. Registration number (if motor vehicle)
4. Name and address of insurers
.....
.....
.....
.....
5. Policyholder's name (if not claimant)
6. Have you claimed from your insurers in respect of this incident? Yes ____ No ____
7. If YES, policy number

8. Please provide in the space below a sketch of the location of the incident, showing landmarks such as bridges, road signs, motorway marker posts, etc.

Part 4 – Particulars of damage and/or loss

1. Details of damage to vehicle
.....
.....
2. Details of damage to property or other material loss
.....
.....
3. Did you suffer any physical injury as a result of this incident? Yes ____ No____
If YES, please complete the CRU Section of this form. Please also describe your
injuries and indicate who treated you and when
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
4. Amount of claim (please enclose written estimate/receipts) £.....

5 In order to prevent and detect fraud, additional investigations may be carried out as appropriate.

If you are making a claim in respect of personal injuries, please complete the mandates attached. These documents authorise the hospitals, your general practitioner or other health or medical institutions that treated you to provide us with a medical report, disclose your medical history and your medical records only as regards the injuries you sustained arising from the circumstances of this claim. Complete the mandate in BLOCK CAPITALS and do not detach it. We require you to complete more than one mandate if you received treatment at more than one health or medical institution in respect of this incident, as these institutions may not accept photocopies of signed mandates.

Your attention is also drawn to the need to complete the enclosed CRU Section form.

Mandate

(Enter below the full name and address of the hospital, general practitioner or other health or medical institution where you received treatment and to which this mandate relates)

To:

.....
.....
.....
.....
.....

I, (enter your full name)

of (enter your address)

born on (enter your date of birth)

hereby authorise you to provide to the Operating Company and/or to the Scottish Ministers a full medical report, full statement of my medical history and all books, medical records, charts, X-rays, notes and other documents held by you relating to me showing or tending to show the nature, extent and cause of all injuries sustained by me on [enter date of accident], the treatment received by me since this date and my certificate of discharge, if any.

Signature Date

Mandate

(Enter below the full name and address of the hospital, general practitioner or other health or medical institution where you received treatment and to which this mandate relates)

To:

.....
.....
.....
.....
.....

I, (enter your full name)

of (enter your address)

born on (enter your date of birth)

hereby authorise you to provide to the Operating Company and/or to the Scottish Ministers a full medical report, full statement of my medical history and all books, medical records, charts, X-rays, notes and other documents held by you relating to me showing or tending to show the nature, extent and cause of all injuries sustained by me on [enter date of accident], the treatment received by me since this date and my certificate of discharge, if any.

Signature Date

Mandate

(Enter below the full name and address of the hospital, general practitioner or other health or medical institution where you received treatment and to which this mandate relates)

To:

.....
.....
.....
.....
.....

I, (enter your full name)

of (enter your address)

born on (enter your date of birth)

hereby authorise you to provide to the Operating Company and/or to the Scottish Ministers a full medical report, full statement of my medical history and all books, medical records, charts, X-rays, notes and other documents held by you relating to me showing or tending to show the nature, extent and cause of all injuries sustained by me on [enter date of accident], the treatment received by me since this date and my certificate of discharge, if any.

Signature Date

Part 5 – About witnesses to the incident

1. Please provide names and addresses of other occupants of your vehicle (if any)

Name Name

Address Address

.....

.....

Name Name

Address Address

.....

.....

2. Were the police involved? Yes_____ No_____

If YES, please give details and police reference (if known)

.....

.....

3. Please provide names and addresses of other witnesses to the incident and say why they are witnesses (e.g. passer-by, other motorist)

.....

.....

.....

.....

.....

.....

.....

.....

.....

Part 6 – Other information and signature

1. Please use this space to supply any other information that you think is relevant to the claim or to make any other comments

.....

.....

.....

.....

.....

.....

2. Please sign and date the form

Signature Date

NAME IN BLOCK CAPITALS

CRU SECTION

*ONLY TO BE COMPLETED IF
YOU SUFFERED PHYSICAL INJURY*

THE SOCIAL SECURITY (RECOVERY OF BENEFITS) REGULATIONS 1997

Please provide the following which must by law be passed to the Department for Work and Pensions by the party being claimed against. (Do not detach this form)

Full Name

National Insurance No

Date of Birth

Details of your solicitor or representative (if appropriate)

Name

Address
.....
.....

Post Code

Reference

Details of your employment at the time of the accident (if appropriate)

Name of Employer
.....
.....

Post Code

Department

Clock or Works Number

I declare that the above information is correct to the best of my knowledge.

Signed Date

* Claimant/claimant's representative

Block Capitals

* Delete as appropriate

This is Annex 4.4/C to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/C – Third Party Claims Operating Company Report Form

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/C – Third Party Claims Operating Company Report Form

SECTION A: SUMMARY INFORMATION

Claim Reference Number:
Date of Notification of Claim.....
Date of transmission of Third Party Claims Notice form to claimant
Date of receipt of completed Third Party Claims Notice form
Date of completion of Third Party Claims Operating Company Report form
Decision on claim by Operating Company

SECTION B: DETAILED REPORT

1. Operating Company
2. Trunk Road and exact location of incident (sketch, OS extract, photograph etc. shall be attached)
3. Date and time of Incident
4. State source of information provided at question 2 and 3 above
Particulars of witnesses (other than those provided by claimant) to the incident. If Operating Company employees, this shall be stated and precognitions attached.
Name Address
.....
Name Address
.....
5. Were the police involved? Yes..... No.....
If YES, a police report shall be obtained and sent out as soon as possible.
6. Does the claim refer to an incident alleged to be due to roadworks? Yes..... No

If YES, by whom were the works being carried out? Operating Company.....
Contractor..... Undertaker.....
7. Contractor, Undertaker name and address if appropriate
.....

8. Nature of Roadworks

9. What were the weather and road conditions at the time of the incident?

.....

10. Was Winter Constructional Plant called out? Yes..... No.....

If YES, provide full details.....

.....

11. Was precautionary treatment carried out at the locus prior to the incident?

Yes..... No.....

If YES, give time, date, spread rates and any other relevant information

.....

.....

NB In the event that the claimant or a police report alleges that the road surface was icy or had poor skid resistance etc, full details countering or agreeing with this allegation should be given. Pertinent Precautionary Treatment Operations records and carriageway condition survey results shall be included.

12. Is the incident alleged to have been caused through a Defect or obstruction in the road?

Yes..... No.....

If NO, go to question 13.

If YES:

12.1 Had the Operating Company received notice or was it otherwise aware of the Defect or obstruction prior to the incident?

.....

.....

.....

12.2 If unaware, please comment on why regular inspections failed to identify the Defect?

.....

.....

.....

.....

12.3 What is the inspection regime for this Trunk Road? (e.g. safety inspection, safety patrol, Winter Patrol)

.....

.....

.....

.....

- [illegible]

- [illegible]

.....

15. Form completed by:

NAME IN BLOCK CAPITALS

Designation Telephone No.

Signature Date

16. Form Countersigned by Traffic Officer:

Signature Date

This is Annex 4.4/D to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/D – Damage to Crown Property Consolidated Report

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/D – Damage to Crown Property Consolidated Report

Title:

Damage to Crown Property Consolidated Report

Operating Company Name

Unit

Provide data, where the information is known by the Operating Company, from the following fields from the contract control and management function of the Integrated Roads Information System and reference such data to the field name to form a consolidated report listing all Incidents of Damage to Crown Property (also refer to Schedule 4 Part 1):

- (i) unique damage identifier,
- (ii) Scheme reference,
- (iii) date damage logged,
- (iv) date of repair,
- (v) location of damage,
- (vi) type and extent of damage,
- (vii) Structure reference number if applicable,
- (viii) names of culprits,
- (ix) details of repair,
- (x) status with regard to recovery,
- (xi) date Director notified, where estimated valuation of repair exceeds £10,000,
- (xii) estimated valuation of repair, excluding associated costs,
- (xiii) actual valuation of repair excluding associated costs (valued in accordance with Section 10 of Schedule 1),
- (xiv) actual valuation of associated costs (valued in accordance with Section 10 of Schedule 1),
- (xv) total valuation of repair (the sum of (xiii) and (xiv)),
- (xvi) amount recovered from culprit,
- (xvii) final Statement number (if appropriate) (which shall be the Statement submitted by the Operating Company in accordance with Section 10 of Schedule 1 that contains the final claim for payment in respect of the Incident to which the unique damage identifier applies), and
- (xviii) difference between Total valuation of repair (xv) and Amount recovered from culprit (xvi).

This is Annex 4.4/E to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/E – Form of Assignment of Rights Agreement and Notice of Assignment of Rights

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/E – Form of Assignment of Rights Agreement and Notice of Assignment of Rights

AGREEMENT

between

THE SCOTTISH MINISTERS

and

SCOTLAND TRANSERV

re: DAMAGE TO CROWN PROPERTY

AGREEMENT

between

(1) THE SCOTTISH MINISTERS (the "Scottish Ministers")

and

(2) **SCOTLAND TRANSERV**, being a Joint Venture consisting of Balfour Beatty Civil Engineering Limited (Company No. 04482405), having its principal office at 4th Floor, 130 Wilton Road, London SW1V 1LQ; and Mouchel Limited (Company No. 01686040), having its principal office at Export House, Cawsey Way, Woking, Surrey GU21 6QX (the "Operating Company")

WHEREAS:

- (A) The Scottish Ministers and the Operating Company have entered into a contract for management and maintenance of the Scottish trunk road network ("the Contract");
- (B) Under paragraph 3.2.1 of Schedule 4 Part 4 of the Contract the Operating Company shall undertake repairs of Damage to Crown Property (as defined in the Contract) in respect of Damage to Crown Property (as defined in the Contract) which has been caused by third parties; and
- (C) In order that the Operating Company can obtain title and interest to sue the third parties responsible for the Damage to Crown Property referred to in recital (B), the Scottish Ministers and the Operating Company have agreed and hereby agree that the Scottish Ministers will assign to the Operating Company its rights against third parties in respect of Damage to Crown Property.

IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

- 1. The Scottish Ministers hereby assign to and in favour of the Operating Company, to the extent that the Scottish Ministers may competently do so, the benefit of the Scottish Ministers' current and future rights against third parties in respect of Damage to Crown Property, including such powers, rights and remedies as may be vested in the Scottish Ministers.
- 2. The Operating Company may complete and send notices of assignment of rights (in the form set out in the schedule annexed and identified as relative to this Agreement ("the Schedule")) in accordance with paragraph 3.2.3 of Schedule 4 Part 4 of the Contract.

3. This Agreement is governed by Scots law and the Scottish Courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement: IN WITNESS WHEREOF these presents typewritten on this and the preceding page, together with the Schedule of one page annexed hereto, are executed as follows:

They are signed for and on behalf of The Scottish
Ministers

by
on2012
at
before the witness
Name.....
Address.....
.....
.....

Authorised Signatory
Witness

They are signed for and on behalf of Scotland
TranServ

by
on20xx
at
before the witness
Name.....
Address.....
.....
.....

Director/Company Secretary/Authorised Signatory*
Witness

by
on20xx
at
before the witness
Name.....
Address.....
.....
.....

Director/Company Secretary/Authorised Signatory*
Witness

This is the Schedule referred to in the foregoing Agreement between the Scottish Ministers and Scotland TranServ

Notice of Assignment of Rights: to be typed on the headed notepaper of the Operating Company

To: [Insert name and address of the relevant third party]

Date: []

Dear Sirs

Notice of Assignment of Rights

We hereby give you notice that, by an Agreement dated [], a copy of which is annexed hereto, the Scottish Ministers assigned to us the benefit of their rights against you in respect of [insert a full description of the damage caused by the third party] including such powers, rights and remedies as may be vested in the Scottish Ministers.

Yours faithfully

Authorised Signatory

cc: The Director, Trunk Road and Bus Operations, Transport Scotland, Buchanan House,
8th floor, 58 Port Dundas Road, Glasgow, G4 0HF

This is Annex 4.4/F to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/F – Report of an Incidence of Damage to Crown Property

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/F – Report of an Incidence of Damage to Crown Property

Title:

Report of an incidence of Damage to Crown Property

Operating Company Name

Unit

Provide data from the following fields from the contract control and management function of the Integrated Roads Information System and reference such data to the field name (also refer to Schedule 4 Part 1):

- (i) unique damage identifier,
- (ii) Route number,
- (iii) date and time of incident,
- (iv) source of this information,
- (v) date that the Operating Company first became aware of the Damage to Crown Property,
- (vi) location - link, section and chainage and Ordnance Survey Grid Reference,
- (vii) Structural reference number, if appropriate,
- (viii) description of property,
- (ix) type and extent of damage,
- (x) cause of damage, including name of culprits,
- (xi) are proceeding being taken by police?
- (xii) date emergency work was carried out (if any),
- (xiii) who carried out emergency work (if any)?
- (xiv) road condition e.g. good, rutted,
- (xv) weather conditions,
- (xvi) was road wet, dry or icy?
- (xvii) was Winter Constructional Plant called out?
- (xviii) details of de-icing Operations,
- (xix) was precautionary treatment carried out at the locus prior to incident?
- (xx) estimated final value,
- (xxi) estimated date for final repair,
- (xxii) names and addresses of witnesses (if any),
- (xxiii) all other relevant information, and
- (xxiv) brief account of Incident causing damage.

This is Annex 4.4/G to Schedule 4 Part 4 referred to in the foregoing Agreement between Scottish Ministers and Scotland TranServ being a Joint Venture comprising of Balfour Beatty Civil Engineering Limited and Mouchel Limited.

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/G – Notification of the Final Valuation of Repair of an Incidence of Damage to Crown Property

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 4 PART 4

DAMAGE TO CROWN PROPERTY AND THIRD PARTY CLAIMS

ANNEX 4.4/G – Notification of the Final Valuation of Repair of an Incidence of Damage to Crown Property

The information required by this Annex shall be presented in the form of a report listing against each field name the information relating to such field. The report shall be signed on each page by the Operating Company's Representative or, in his absence, the Scheme Manager responsible for Damage to Crown Property and the signatory's name shall be printed or written in block capitals adjacent to each signature.

Fields listed in this Annex shall be those within the contract control and management function of the Integrated Roads Information System and details shall be held for all estimated and final values in the contract control and management function of the Integrated Roads Information System.

Title:

Notification of the Final Valuation of Repair of an Incidence of Damage to Crown Property

The report shall contain information from the following fields and field names to form a header to the report:

- (i) unique damage identifier,
- (ii) date of repair,
- (iii) location of damage, and
- (iv) name of culprit.

Each value relating to the Incident measured in accordance with Schedule 2 Part 1, excluding the following associated costs:

- (vii) police reports, and
- (viii) establishing, maintaining and removing traffic management prior to repair Operations,

shall be listed using the following fields to form a section in the report entitled "Section A":

- (i) cost sub series,
- (ii) description (which shall include the name of and the service provided by each supplier where that supplier is not the Operating Company),
- (iii) quantity,
- (iv) unit,
- (v) rate,
- (vi) amount (which shall be the product of fields "unit" and "rate"), and
- (vii) subtotal A (which shall be the sum of all fields "amount" in this Section A).

Every associated cost relating to the incident in respect of:

- (i) police reports, and
- (ii) establishing, maintaining and removing traffic management prior to repair Operations,

shall be listed using the following fields to form a section in the report entitled "Section B":

- (i) cost sub series,
- (ii) description (which shall include the name of and the service provided by each supplier where that supplier is not the Operating Company),
- (iii) quantity,
- (iv) unit,
- (v) rate,
- (vi) amount (which shall be the product of fields "unit" and "rate"), and
- (vii) subtotal B (which shall be the sum of all fields "amount" in this Section B).

There shall be a footer containing the following fields:

- (i) total (which shall be the sum of the fields "subtotal A" and "subtotal B"),
- (ii) final Statement number (which shall be the Statement submitted by the Operating Company in accordance with Section 10 of Schedule 1 and that contains the final claim for payment in respect of the incident to which the unique damage identifier applies),

The Operating Company shall provide full supporting documentation for every value or cost listed in this Annex.