

SCHEDULES

SCHEDULE 8

PROTECTIVE PROVISIONS

PART 4

FOR THE PROTECTION OF NATIONAL HIGHWAYS

Payments

34.—(1) The Company must fund the whole of the cost of the NH works and all costs incidental to the NH works and must also pay to National Highways in respect of the NH works a sum equal to the whole of any costs and expenses which National Highways reasonably incurs (including reasonable costs and expenses for using internal or external staff) in relation to the NH works including—

- (a) the checking and approval of the information required under paragraph 31(1);
- (b) the supervision of the NH works;
- (c) all costs in relation to the transfer of any land required for the NH works;
- (d) all legal and administrative costs in relation to paragraphs (a), (b) and (c); and
- (e) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the NH costs”.

(2) The Company must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the NH works.

(3) National Highways must, within 28 days of receipt of a written request from the Company to do so, provide the Company with a schedule showing its estimate of the NH costs prior to the commencement of the NH works and the Company must pay to National Highways the estimate of the NH costs prior to commencing the NH works and in any event prior to National Highways incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the Company of the amount that it believes the NH costs will exceed the estimate of the NH costs (excess) and the Company must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the Company a final account of the costs referred to in sub paragraph (1) within 91 days of the issue of the provisional certificate pursuant to paragraph 35.

(6) Within 28 days of the issue of the final account—

- (a) if the account shows a further sum is due to National Highways the Company must pay to National Highways the sum shown due to it in that final account; and

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(b) if the account shows that the payment or payments previously made by the Company have exceeded the costs incurred by National Highways, National Highways must refund the difference to the Company.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 2% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.