

**DATE: 18 NOVEMBER 2025**

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**THE SEA LINK PROJECT  
WRITTEN REPRESENTATION**

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CMS Cameron McKenna Nabarro Olswang LLP  
1-3 Charter Square  
Sheffield  
S1 4HS  
T +44 114 279 4000  
F +44 20 7367 2000  
[cms.law](http://cms.law)

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**1. INTRODUCTION**

- 1.1 We act for Southern Gas Networks Plc (**SGN**).
- 1.2 The draft DCO (**dDCO**) for the application by National Grid Electricity Transmission (**the Promoter**) for an order (**the Order**) granting development consent for the Sea Link project contains development which may affect SGN's apparatus.
- 1.3 SGN is the licensed gas transporter for the Order area, having several gas pipelines and associated apparatus (**the Apparatus**) located within the Order limits which may be affected by works proposed and for which further details on interactions will be required. SGN objects so as to ensure the protection of its interests in land and Apparatus and the safe and effective operation of its gas transportation network. As a responsible statutory undertaker, SGN's primary concern is to meet its statutory obligations and ensure that any development does not impact in any adverse way upon those statutory obligations.
- 1.4 The Promoter seeks powers within the DCO for the compulsory acquisition of land and rights in which SGN has interests. SGN therefore wishes to protect its position in light of existing apparatus which is both within, and in the vicinity of, the proposed Order boundaries through suitable protective provisions being secured in the Order. SGN's rights to retain its infrastructure in situ and rights of access to inspect, repair and renew such apparatus within the limits of the respective Order must be maintained at all times, and access by SGN and its servants and agents to that apparatus for the purpose of its undertaking must not be restricted.
- 1.5 Accordingly, SGN will require appropriate protective provisions to be included within the Order to protect its statutory undertaking and to ensure that public safety is not compromised. Equally both the Examining Authority and the Secretary of State will need to be satisfied that the Project will not cause a serious detriment to the carrying out by SGN of its statutory undertaking before granting consent to the proposed Order.
- 1.6 In view of the above, and pending agreement with the Promoter, SGN objects to the Promoter's application and reserves its right to make further representations during the Examination process should that be so necessary. However, SGN is in the process of reviewing the draft Order and associated plans and looks forward to engaging constructively with the Promoter in an effort to resolve all issues of concern.
- 1.7 This submission is made on behalf of SGN in response to the Examining Authority's Rule 8 letter dated 10 November 2025 which identifies that written representations must be submitted by 18 November 2025.

- 1.8 Should the Examining Authority require any additional information from SGN further to this representation, please contact Kenna Gordon at CMS via [Kenna.Gordon@cms-cmno.com](mailto:Kenna.Gordon@cms-cmno.com) or 0131 200 7812.

**2. THE DRAFT DCO**

- 2.1 SGN's preferred form of protective provisions are included at Appendix 1 (**SGN's Protective Provisions**). SGN's Protective Provisions are in SGN's standard form and have been developed to afford full protection to SGN and its undertaking.
- 2.2 We, as solicitors for SGN, emailed the SGN Protective Provisions to the Promoter's solicitors in May 2025. To date, no substantive engagement has been had on the form of the protective provisions.
- 2.3 The Promoter has not included a form of protective provisions in the dDCO for the benefit of SGN.

**3. NEXT STEPS**

- 3.1 SGN request that the Examining Authority recommend that the final DCO, if made, includes the protective provisions in the form at Appendix 1.

**CMS Cameron McKenna Nabarro Olswang LLP**  
**18 November 2025**

## **APPENDIX 1**

### **SGN'S PROTECTIVE PROVISIONS**

# SCHEDULES

## SCHEDULE [X] PROTECTIVE PROVISIONS

### PART [X] FOR THE PROTECTION OF SOUTHERN GAS NETWORKS PLC

#### *Application*

1. For the protection of SGN the following provisions will, unless otherwise agreed in writing between the undertaker and SGN, have effect.

#### *Interpretation*

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than:  
(i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means a third party liability insurance effected and maintained by the undertaker to a level of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance must be maintained for the construction and use period of the authorised works which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an “acceptable credit provider”, such policy must include (but without limitation):

(a) SGN as a Co-Insured;

(b) a cross liabilities clause;

(c) a waiver of subrogation in favour of SGN; and

(d) contractors’ pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

(a) evidence provided to SGN’s reasonable satisfaction that the Undertaker has a tangible net worth of not less than £50,000,000.00 (Fifty Million Pounds (or an equivalent financial measure);

(b) a parent company guarantee from a parent company in favour of SGN to cover the undertaker’s liability to SGN to a cap of not less than £50,000,000 (fifty million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to SGN and where required by SGN, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(c) a bank bond or letter of credit from an acceptable credit provider in favour of SGN to cover the undertaker’s liability to SGN for an amount of not less than £50,000,000 (fifty million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to SGN);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of SGN to enable SGN to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, SGN for the purposes of SGN’s undertaking together with any replacement apparatus and such other apparatus

constructed pursuant to this Order that becomes operational apparatus of SGN for the purposes of SGN's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article [x] of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by SGN (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for SGN's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

["maintain" and "maintenance" [have effect as if SGN's existing apparatus was authorised development and as if the term maintain includes protect and use / will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SGN including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus];

"parent company" means a parent company of the undertaker acceptable to SGN and which will have been approved by SGN acting reasonably;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"rights" includes rights and restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

"SGN" means Southern Gas Networks PLC (05167021) whose registered office address is St Lawrence House, Station Approach, Horley, Surrey, RH6 9HJ and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"SGN's undertaking" means the rights, duties and obligations of SGN as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995); and

"specified works" means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise; or
- (c) include any of the activities that are referred to in CD/SP/SSW/22 SGN's policies for safe working in proximity to gas apparatus Specification for safe working in the vicinity of SGN Assets

“undertaker” means the undertaker as defined in article 2 of this Order.

#### *On Street apparatus*

3.—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and SGN are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 4, 9, 10 and 11; and
- (b) where sub-paragraph (2) applies, paragraphs 6 and 7.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Notwithstanding article [x] or any other powers in the Order generally, s85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of SGN under the 1991 Act.

(4) The Protective Provisions in this Part of this Schedule apply and take precedence over article [x] of the Order which do not apply to SGN.

#### *Apparatus of SGN in stopped up streets*

4.—(1) Where any street is stopped up under article [x] (permanent stopping up of streets), if SGN has any apparatus in the street or accessed via that street SGN is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to SGN, or procure the granting to SGN of, legal easements reasonably satisfactory to SGN in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph affects any right of the undertaker or of SGN to require the removal of that apparatus under paragraph 6.

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article [x] (temporary stopping up of streets), SGN will be at liberty at all times to take all necessary access across any such street and to execute and execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

#### *Protective works to buildings*

5.—(1) The undertaker, in the case of the powers conferred by article [x] (*protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of SGN and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of SGN or any interruption in the supply of gas by SGN, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by SGN in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

- (a) pay compensation to SGN for any loss sustained by it; and
- (b) indemnify SGN against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by SGN, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of SGN or its contractors or workmen; and SGN will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by SGN, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

#### *Acquisition of land*

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate,

acquire, extinguish, interfere with or override any easement or other interest in land of SGN otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between SGN and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SGN and/or affects the provisions of any enactment or agreement regulating the relations between SGN and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SGN reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SGN and the undertaker acting reasonably and which must be no less favourable on the whole to SGN unless otherwise agreed by SGN, and it will be the responsibility of the undertaker to procure and/or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and SGN agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SGN and other enactments relied upon by SGN as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by SGN under paragraph 8 or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of SGN in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release SGN from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any SGN right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 6 do not apply, the undertaker must—

- (a) retain any notice of SGN's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of SGN's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of SGN's easement, right or other interest in relation to such acquired land.

#### *Removal of apparatus*

7.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 5, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of SGN to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the satisfaction of SGN and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SGN advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SGN reasonably needs to move or remove any of its apparatus) the undertaker must afford to SGN to its satisfaction (taking into account paragraph 7(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus).



(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SGN may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for SGN to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SGN and the undertaker or settled by arbitration.

(5) SGN must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to SGN of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to SGN to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

#### *Facilities and rights for alternative apparatus*

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SGN facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SGN and must be no less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SGN.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SGN under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SGN (in SGN's opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 15 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SGN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### *Retained apparatus: protection of SGN*

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to SGN a plan and, if reasonably required by SGN, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to SGN under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until SGN has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of SGN given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed.

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if SGN considers that the specified works would:

- (a) cause interference with or risk of damage to its apparatus; or
- (b) prevent access to its apparatus at any time.

(6) In relation to any work to which sub-paragraphs (1) and/or (2) apply SGN may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and SGN; and
- (b) all conditions imposed under sub-paragraph (4)(a), and SGN will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where SGN requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SGN's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If SGN, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) SGN retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

(12) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to SGN notice as soon as is reasonably practicable and a plan of those works and must comply with

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) Sub-paragraph (14) at all times.

(13) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(14) At all times when carrying out any works authorised under the Order the undertaker must comply with the SGN's policies for safe working in proximity to gas apparatus.

### *Expenses*

**10.—**(1) Subject to the following provisions of this paragraph, the undertaker must pay to SGN on demand all charges, costs and expenses anticipated or incurred by SGN in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by SGN in connection with the negotiation and/or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by SGN as a consequence of SGN;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 6(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting SGN;

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 9(6).

### *Indemnity*

**11.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of SGN, or there is any interruption in any service provided, or in the supply of any goods, by SGN, or SGN becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by SGN in making good such damage or restoring the supply; and
- (b) indemnify SGN for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs incurred by, paid by or recovered from SGN, by reason or in consequence of any such damage or interruption or SGN becoming liable to any third party as aforesaid other than arising from any default of SGN.

(2) The fact that any act or thing may have been done by SGN on behalf of the undertaker or in accordance with a plan approved by SGN or in accordance with any requirement of SGN or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless SGN fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of SGN, its officers, servants, contractors or agents; and
- (b) any part of the authorised works carried out by SGN in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article [x] (consent to transfer benefit of the Order) of the Order.

(4) SGN must:

- (a) give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) The undertaker must not commence construction (and must not permit the commencement of such construction) of the authorised works on any land owned by SGN or in respect of which SGN has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres in any direction of SGN's apparatus until the following condition are satisfied:

- (a) unless and until SGN is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it will maintain such acceptable security for the construction period of the authorised works from the proposed date of

commencement of construction of the authorised works) and SGN has confirmed the same to the undertaker in writing; and

- (b) unless and until SGN is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to SGN that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and SGN has confirmed the same in writing to the undertaker.

(6) In the event that the undertaker fails to comply with 10(5) of this Part of this Schedule, nothing in this Part of this Schedule prevents SGN from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

#### *Enactments and agreements*

12. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and SGN in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

#### *Co-operation*

13.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or SGN requires the removal of apparatus under paragraph 6(2) or SGN makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of SGN's undertaking and SGN must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SGN's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, SGN's consent must not be unreasonably withheld or delayed.

#### *Access*

14. If in consequence of any agreement reached in accordance with paragraph 5(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SGN to maintain or use the apparatus no less effectively than was possible before such obstruction.

#### *Arbitration*

15. Save for differences or disputes arising under sub-paragraphs 6(2) and 6(4) any difference or dispute arising between the undertaker and SGN under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SGN, be determined by arbitration in accordance with article [x] (arbitration)

#### *Notices*

16. Notwithstanding article [x] (service of notices) the plans submitted to SGN by the undertaker pursuant to sub-paragraph 9(1) (*retained apparatus: protection of SGN*) must be sent to SGN at 1 Forbury Place, 43 Forbury Road, Reading, Berkshire RG1 3JH or such other address as SGN may from time to time appoint instead for that purpose and notify to the undertaker.