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SCHEDULE

BELL'S BRIDGE

For protection of Port Authority

16 For the protection of the Port Authority and other protected parties the provisions of this section shall, unless otherwise agreed in writing between Scottish Enterprise and the Port Authority, apply and have effect—

(1) In this section “other protected parties” means the persons (other than the Port Authority) referred to in the second proviso to paragraph (13) below:

(2) Before commencing the construction of a tidal work, or any work situated on, under, over or which may affect or interfere with the river Clyde or the property of the Port Authority, including all temporary works, Scottish Enterprise shall deliver to the Port Authority for their approval (which shall not be unreasonably withheld) plans, sections and specifications of the work, and such work shall not be constructed otherwise than in accordance with such plans, sections and specifications as may be approved by the Port Authority or determined by arbitration, and all such works shall be executed to the reasonable satisfaction of the engineer of the Port Authority:

Provided that if the Port Authority fail to signify their approval or disapproval of any such plans, sections and specifications within six weeks after the receipt thereof they shall be deemed to have approved thereof:

Provided further that before commencing the construction of such a work Scottish Enterprise shall give 28 days' notice of their intention to do so to the Port Authority except in a case of emergency when such notice as is practicable shall be given:

(3) Scottish Enterprise shall allow the engineer of the Port Authority and his authorised representatives to inspect and survey all or any of the tidal works or any work on, under, over or which may affect or interfere with the river Clyde or the property of the Port Authority, while in course of construction, and shall give all reasonable facilities for so doing and shall repay to the Port Authority all expenses reasonably incurred in connection therewith:

(4) Nothing in this Order shall authorise or empower Scottish Enterprise without the previous consent of the Port Authority (which consent shall not be unreasonably withheld) to embank, encroach upon or interfere with any part of the bed, foreshore or banks of the river Clyde except as is authorised by this Order:

(5) Each tidal work shall be so executed and each operation of Scottish Enterprise so performed as in no way to obstruct or interfere with the free, uninterrupted and safe navigation of the river Clyde or the due exercise by the Port Authority of their statutory functions, and if any such obstruction or interference shall be caused or take place Scottish Enterprise shall pay to the Port Authority if injuriously affected thereby compensation in respect thereof, and shall indemnify and relieve the Port Authority in respect of all claims arising as a result of the works and operations of Scottish Enterprise:

Provided that during the execution of each tidal work and during the performance of each operation Scottish Enterprise shall comply with all directions of the Port Authority that may be given for the general safety or convenience of navigation on

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the river Clyde in respect of or relating to the movement and mooring of vessels or plant during or after construction of a tidal work:

- (6) Each tidal work shall be so executed and each operation of Scottish Enterprise in connection therewith so performed as not to obstruct or interfere with any work of dredging and deepening the river Clyde executed by the Port Authority in the exercise of their statutory functions:
- (7) Scottish Enterprise shall give immediate notice to the Port Authority of any obstruction, danger or interruption which may be occasioned by a tidal work or by the operations of Scottish Enterprise to the free passage of vessels approaching or passing under or near a tidal work, and in the event of Scottish Enterprise failing or neglecting to give such notice they shall be responsible for all loss or damage incurred by the Port Authority including loss of revenue which may be occasioned to them through such failure or neglect, and shall indemnify, free and relieve the Port Authority in respect of all claims and expenses which may be made against or incurred by the Port Authority by reason or in consequence of such failure or neglect:
- (8) While any tidal work is in course of construction, reconstruction, renewal or alteration Scottish Enterprise shall repay on demand any expense reasonably incurred by the Port Authority—
 - (a) in taking such measures as the Port Authority deem necessary and proper for placing and maintaining buoys or other marks upon or near the tidal work and upon or near any temporary erections, appliances or obstructions which may be placed or caused by Scottish Enterprise or their contractors in or above the river Clyde and for efficiently lighting the said river in the vicinity thereof;
 - (b) in providing such efficient means of communication as the Port Authority deem necessary for the regulation of the passage of vessels approaching or passing under or near the tidal work and in maintaining and working the same during the construction of the tidal work until completion thereof:
- (9) Except with the prior approval of the Port Authority Scottish Enterprise shall not deposit any material on the bed or foreshore of the river Clyde, and nor shall Scottish Enterprise allow any such material to fall or be washed into the said river:
- (10) Scottish Enterprise shall upon reasonable notice in writing from the Port Authority requiring them so to do and in any event, whether or not notice has been given, within six months after the completion of any work remove any temporary works and materials for temporary works which may have been placed by Scottish Enterprise in the river Clyde or on the banks, bed or foreshore thereof for the construction of that work and which are no longer in use, and if Scottish Enterprise fail so to do the Port Authority may remove the same and charge Scottish Enterprise with the expense reasonably incurred by the Port Authority in so doing and Scottish Enterprise shall forthwith repay to the Port Authority any such expense:
- (11) All responsibility for or in connection with Bell's Bridge and all or any of the works (both temporary and permanent) connected therewith (whether of construction or maintenance) and for loss and damage occasioned thereby shall be and remain with Scottish Enterprise. The Port Authority shall, except as hereinafter provided, in no way be responsible or answerable for any damage or injury to Bell's Bridge or any of such works or to any cycle, person, goods or things on or using or being conveyed along Bell's Bridge or to any persons employed on or in connection with Bell's Bridge caused by or attributable to—

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- (a) the dredging and deepening (including any necessary breaking up of rock or other hard material or the removal of any obstruction including sunken vessels) of any part of the bed or foreshore of the river Clyde;
- (b) the exercise of their statutory functions; or
- (c) the use of the river Clyde for navigation of vessels, vessels sunk in the said river or sunken vessels being lifted, destroyed or otherwise dealt with in the said river in the manner provided in this subsection:

Provided that in the event of the Port Authority—

- (i) in the course of dredging and deepening the bed and foreshore of the river Clyde encountering any boulder, block of stone or rock or obstruction the removal of which would or might cause injury to Bell's Bridge; or
- (ii) being under the necessity of removing a sunken vessel where such removal would or might cause injury to Bell's Bridge;

the Port Authority shall notify Scottish Enterprise before proceeding with the removal thereof and shall consult with the engineer of Scottish Enterprise as to the method to be adopted for the removal thereof. In the event of any difference arising as to the method to be adopted such difference shall be referred to arbitration, and the arbiter shall take into consideration on the one hand the safety of Bell's Bridge and on the other hand the necessity of keeping open the navigational and other facilities of the river Clyde, and any additional cost to the Port Authority in dredging and deepening or removing sunken vessels due to the adoption of such method of removal as may have been required by Scottish Enterprise or determined by the arbiter as aforesaid or such specified part of any such additional cost as the arbiter may determine shall be repayable by Scottish Enterprise and in addition Scottish Enterprise shall make good to the Port Authority any loss of revenue sustained by them and shall indemnify, free and relieve the Port Authority in respect of any claim or claims which may be made against them in consequence of the interruption of such navigational and other facilities of the said river due to the adoption of such method of removal as may have been required by Scottish Enterprise or determined by the arbiter as aforesaid:

Provided further that nothing in this subsection shall free and relieve the Port Authority in respect of liability to Scottish Enterprise for any such damage or injury which may be caused by negligence on the part of the Port Authority, their officers, servants, agents or contractors:

- (12) The owners and masters of vessels shall not be liable to make good any damage which may be caused to Bell's Bridge except such as may arise from the default or wilful act of such owners or masters or their servants or agents:
- (13) Scottish Enterprise shall cause Bell's Bridge to be opened at such times and for such periods as the Harbour Master or other official of the Port Authority may for the purpose of enabling the passage of vessels through the navigation channel direct upon giving to Scottish Enterprise not less than six hours' prior notice prior to the completion of the work and thereafter not less than two hours' prior notice between the hours of 8 a.m. and 8 p.m. or four hours' prior notice at all other times, notwithstanding that the use by pedestrians of Bell's Bridge may be prevented, delayed or interfered with by reason or in consequence thereof:

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Provided that in cases of emergency Scottish Enterprise shall use their best endeavours to open Bell's Bridge, when requested by the Port Authority to do so in accordance with this paragraph, at shorter notice than the applicable period specified above:

Provided further that if any vessel is detained at Bell's Bridge or its passage is delayed or obstructed by reason of Scottish Enterprise failing for whatsoever reason to open Bell's Bridge after being given notice so to do in accordance with this paragraph (other than in emergency conditions arising beyond the control of Scottish Enterprise, being conditions which would prevent or render unsafe the opening of Bell's Bridge) Scottish Enterprise shall be responsible for all loss and damage suffered by the Port Authority, the owners or charterers of vessels so detained, delayed or obstructed, and the owners of their cargoes, including in the case of the Port Authority loss of revenue, which may be occasioned to them through such detention, delay or obstruction and shall indemnify and free and relieve the Port Authority in respect of all claims and expenses which may be made against or incurred by the Port Authority by reason or in consequence of such detention, delay or obstruction:

- (14) (a) Scottish Enterprise shall cause Bell's Bridge to be kept in a good and safe state of maintenance, repair and working order and, subject to the proviso below, shall from time to time maintain, repair, renew, reinstate or rebuild Bell's Bridge regardless of the cause for it needing to do so;
- (b) All such works of maintenance, repair, renewal, reinstatement or rebuilding shall be carried out to the reasonable satisfaction of the Port Authority and shall be subject to any reasonable directions that may from time to time be given in writing by the Port Authority to Scottish Enterprise:

Provided that the Port Authority shall not unreasonably refuse or delay the grant of, or subject to unreasonable terms and conditions, a licence to Scottish Enterprise under section 25 (Licence to dredge) of the Clyde Port Authority Order 1965 to dredge any part of the bed and foreshore of the river Clyde as lies within the limits of deviation, if, in the reasonable opinion of the Port Authority, such dredging is necessary from time to time to enable Scottish Enterprise properly to perform their obligations under this paragraph, and if the application for the licence is made by Scottish Enterprise in accordance with the provisions of that section:

Provided further that nothing in this Order shall prevent Scottish Enterprise (if they so determine) from removing Bell's Bridge and, in that event, they shall as soon as reasonably practicable thereafter restore the site thereof to its former condition:

- (15) If at any time after the passing of the Act confirming this Order it is agreed between Scottish Enterprise and the Port Authority after taking into account any relevant data or circumstances, or in default of agreement, it is determined by arbitration, that—
- (a) any part of the river Clyde in the immediate vicinity of Bell's Bridge has silted up or has been subjected to scouring; and
- (b) such silting up or scouring has occurred or arisen as a result of Bell's Bridge or as a result of the construction, reconstruction, renewal or alteration of a tidal work; and

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- (c) for the safety or convenience of navigation or for the protection of a tidal work, such silting up or scouring should be removed or, as the case may be, made good;

Scottish Enterprise shall pay to the Port Authority any additional expense to which the Port Authority may reasonably be put in dredging the river Clyde to remove the silting up, or in making good the scouring, in so far as it is attributable to a tidal work:

- (16) Scottish Enterprise shall from time to time during the construction of a tidal work and after the completion thereof provide, maintain and repair on or around Bell's Bridge and the dolphins and piers thereof, and the works connected with the construction of any tidal work, proper fenders, jetties or other works as may in the reasonable opinion of the Port Authority be necessary or expedient for the protection of Bell's Bridge or for the safety or convenience of vessels navigating thereby but so that the width of the navigation channel shall not be reduced to less than 35 metres:
- (17) (a) In the exercise of any of the powers granted to them by this Order Scottish Enterprise shall not lay any cable, wire or conduit in, under or over the navigation channel without the consent of the Port Authority:
- Provided that nothing in this section shall prevent Scottish Enterprise from affixing any cable, wire or conduit to Bell's Bridge for the operational purposes of Bell's Bridge;
- (b) A consent under sub-paragraph (a) above may be given subject to such terms and conditions as the Port Authority may reasonably consider necessary or appropriate:
- (18) On the completion of the work Scottish Enterprise shall as soon as practicable and not more than 7 days thereafter give notice thereof to the Port Authority and shall supply to the Port Authority without payment plans, sections and cross-sections showing the situation and levels of Bell's Bridge:
- (19) If there shall be any inconsistency between any plans or sections of a tidal work approved by the Port Authority or determined by arbitration under this section and the plans and sections approved by the Secretary of State under section 7 above, such tidal work shall be executed in accordance with the plans and sections so approved by the Secretary of State:
- (20) (a) Any notice or direction to be given under this Order to Scottish Enterprise by the Port Authority shall be given—
- (i) to the Company Secretary of Scottish Enterprise at the principal offices of Scottish Enterprise; or
- (ii) in the event of Strathclyde Regional Council or a successor authority becoming the owner of Bell's Bridge or otherwise responsible for its operation or management, to the Area Engineer of Strathclyde Regional Council at Glasgow South, Roads Department, 20, India Street, Glasgow or to the appropriate engineer of that authority;
- or in any such case to such other person and at such other address (being an address in Scotland) as Scottish Enterprise or Strathclyde Regional Council or a successor authority (as appropriate) may specify after giving not less than 14 days' notice thereof to the Port Authority;
- (b) Any notice or other document to be given or delivered under this Order to the Port Authority by Scottish Enterprise shall be given or delivered—

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- (i) to the Harbour Master of the Port Authority at their Estuary Control Ocean Terminal, in the case of plans, sections and specifications to be approved by the Port Authority pursuant to paragraph (2) above; and
 - (ii) to the Secretary of the Port Authority at their principal offices, in any other case;
- or in either case to such other person and at such other address (being an address in Scotland) as the Port Authority may specify after giving not less than 14 days' notice thereof to Scottish Enterprise:
- (21) (a) Any difference arising between Scottish Enterprise and the Port Authority under this section shall be determined by an arbiter to be mutually agreed upon between the parties, or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other;
- (b) All proceedings conducted by such an arbiter shall take place in Scotland and be governed by the law of Scotland, and the arbiter's decision shall be final and binding on both parties;
- (c) In conducting any proceedings the arbiter shall, without prejudice to any other powers available to him, have power—
- (i) to direct such surveys and inspections as may in his opinion be desirable to determine the dispute in question;
 - (ii) to order the execution of documents, the performance of works, the carrying out of repairs and the performance of any other obligation of Scottish Enterprise under this section; and
 - (iii) to award damages against either party for the benefit of the other:
- (22) Except as provided by this Order nothing in this Order shall prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the Port Authority or prohibit, defeat, alter or diminish any power, authority or jurisdiction which the Port Authority do or may lawfully claim, use or exercise and in particular, but without prejudice to the generality of the foregoing, nothing herein contained shall authorise Scottish Enterprise in the exercise of the powers granted to them by this Order to take, use, enter upon or in any manner interfere with any land, hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the river Clyde) belonging to the Port Authority.