

**DATE: 25 OCTOBER 2023**

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**THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND  
GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023**

**NOTE ON MODIFICATIONS TO THE ORDER**

**THE COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

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**NATIONAL GRID ELECTRICITY TRANSMISSION PLC**

**ELECTRICITY ACT 1989**

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## 1. INTRODUCTION

- 1.1 National Grid Electricity Transmission plc (NGET) has made The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023 (the **Order**) (CD D.1) under the provisions of the 1989 Act. The Order has been made in order to acquire the land and rights necessary to deliver the English Onshore Scheme components of the Project.
- 1.2 Following the making of the Order, a number of objections were submitted to the Secretary of State. The Secretary of State has caused an Inquiry to be held in accordance with The Compulsory Purchase (Inquiries Procedure) Rules 2007 (the **CPO Inquiries Rules**). The Inquiry sat on 26 and 27 September 2023, with a site visit taking place on 28 September 2023.
- 1.3 This submission has been prepared in response to the Inspector's procedural decision to allow submissions on potential modifications to the Order.
- 1.4 At the Inquiry, reference was made by the Inspector to the potential for modifications to be made to the following aspects of the drafting of The Order:
- 1.4.1 **Change of Use and Adjoining Land Modifications:** modifications to the provisions within various rights classes to restrict the use of the plots;
  - 1.4.2 **Temporary Use Modification:** modification to address the fact that some rights are for temporary activities but are acquired as permanent rights;
  - 1.4.3 **Definitions:** the inclusion of further definitions of certain terms such as construction and/or decommissioning;
  - 1.4.4 **Cable Depth Modification:** identifying a minimum cable depth; and
  - 1.4.5 **Make Good Modification:** including a proviso that any damage to the Order land is made good as soon as reasonably practicable in respect of soil and drainage matters.
- 1.5 This submission sets out NGET's position, and where appropriate potential wording or alternative solutions, in respect of each of the above.

## 2. EXECUTIVE SUMMARY

### Minor Modifications

- 2.1.1 **Change of Use Modification:** the intention is that the current wording in the Order in relation to change of use serves to prevent any change of use or change to the surface level of the Order land which affects the rights. Additional wording (shown in green) is proposed to address the Inspector's concerns at Appendix 1.
- 2.1.2 **Adjoining Land Modification:** it is important that this right is retained on the basis that it allows access across land to contiguous plots both within and outside the Order land over which NGET has lawful authority to access (i.e., a right of access allows for both access to the plot itself and to other plots or land). The term adjoining land is used throughout the Order. NGET's position is that no modifications are required in respect of this proposed modification because the right as drafted is already clear and necessary. If the Inspector disagrees and considers modifications are necessary, possible wording (shown in red) is proposed at Appendix 1.
- 2.1.3 **Temporary Use Modification:** NGET's position is that no modifications are appropriate. There is substantial precedent in made CPOs for the inclusion of rights for

activities which are which are temporary in nature. The rights themselves are not time limited or temporary, they are simply rights to carry out activities which are in their nature inherently temporary (such as construction activities). If the Inspector disagrees and considers modifications are necessary, possible wording (shown in red) is proposed at Appendix 1.

- 2.1.4 **Definitions:** NGET's position is that no modifications are appropriate (including in relation to a definition of Decommissioning). There is substantial precedent in made CPOs supporting a similar approach to definitions. NGET considers the Order is drafted with sufficient precision that additional definitions are not necessary. See further 11 below.

### **Cable Depth and Make Good Modifications**

#### *Relationship with Land Use Planning Conditions*

- 2.2 From a land-use planning position, mitigation is secured by conditions attached either to a specific planning permission or to a general grant of planning permission (referred to as permitted development rights). NGET's position is that it is not appropriate to seek to replicate any such mitigation through the compulsory purchase process. This was a matter for the local planning authority (**LPA**) when imposing conditions to the planning permission, when screening the cable development as non-EIA development and for the UK Parliament when imposing conditions on the relevant permitted development rights. However, it is noted that the permitted development rights for temporary construction operations require that such land is: "*as soon as reasonably practicable, reinstated to its condition before that development was carried out.*": see section 8.5 to section 8.7.

#### *Environmental Impact*

- 2.3 From an environmental perspective, the English Onshore Scheme was subject to a screening decision by the LPA which confirmed that it was not likely to have significant environmental effects. The English Onshore Scheme was also subject to an environmental appraisal report which confirmed that the English Onshore Scheme would not give rise to significant environmental effects. NGET's position is that, in the context of the land-use planning position and environmental position, it is not appropriate to impose any further mitigation through the Order.

#### *Impact on, and Engagement with, Landowners*

- 2.4 There is no evidence in front of the Inquiry to demonstrate that the construction of the English Onshore Scheme will prejudice landowners in terms of soil, drainage and reinstatement. Indeed, there is substantial alignment in practice between NGET and the landowners because ultimately NGET's core interest is to ensure that the Project is safely and responsibly implemented and remains operational in the long term.
- 2.5 NGET has sought to engage with landowners over a number of years, and Heads of Terms have been issued to landowners which address cable depth (committing to a depth in accordance with the prescribed industry standard), soil, drainage and reinstatement. NGET cannot compel landowners to sign these Heads of Terms. These Heads of Terms would secure matters which are appropriate pursuant to a voluntary agreement but which are not appropriate for the compulsory acquisition regime and which cannot be secured pursuant to the Order – this is because the Order authorises the acquisition of land or rights in land, and as such the Order cannot be conditional, require the approval of a third party, or impose reciprocal obligations on that third party. The purpose of a compulsory purchase order is not to replicate all the terms of a negotiated agreement

– its purpose is to allow the acquisition of land and rights to allow for the delivery of infrastructure in the public interest in the event that it has not been possible reach negotiated agreement.

#### *Precedent and Scope for Modifications*

- 2.6 The approach to the drafting of rights pursuant to the Order is consistent with a large body of precedent of CPOs confirmed by the Secretary of State pursuant to the Electricity Act 1989. NGET has taken a proportionate approach to the acquisition of rights, and if NGET had sought to acquire land (rather than rights) then the modifications identified at the Inquiry could not be imposed through the Order as NGET would simply be authorised to acquire the freehold and would then have full control over the land as landowner. The questions arise because NGET has sought to facilitate the ongoing use of the land by the current landowner in co-existence with the Project. As set out in the Statement of Reasons and Statement of Case there is a clear compelling case in the public interest for acquisition of the rights in their current form to facilitate the Project, as indeed there would be if freehold was acquired (noting that many CPO regimes only allow for the acquisition of freehold, and not rights).

#### *Compensation*

- 2.7 Critically, there is an appropriate regime to fully and wholly deal with any loss which an Affected Landowner may suffer as a consequence of the acquisition of land or rights pursuant to the Order, being compensation pursuant to the Compensation Code.
- 2.8 Each Affected Landowner is entitled to compensation for the full scope of the rights acquired pursuant to the Order. This compensation is assessed as at the valuation date. If an Affected Landowner had concerns around the implications of the exercise of the rights pursuant to the Order on their plots, then this would be capable of being included as part of a compensation claim.
- 2.9 It is not the function of the Inquiry to deal with matters of compensation, which are separate and for agreement with affected landowners or determination by the Tribunal following the confirmation of the Order and the exercise of powers of acquisition pursuant to the Order.

#### *Conclusion*

- 2.10 As set out in detail in the Statement of Reasons and Statement of Case, the Project is required to facilitate the transmission of renewable energy from Scotland to England and is critical to achieving the UK's Net Zero obligations. Securing the necessary land rights are on the critical path for the timely delivery of the Project. The Order has been carefully and proportionately drafted, and aligns with existing precedent. There is a clear compelling case in the public interest for the confirmation of the Order without any modification in respect of the Cable Depth Modification and the Make Good Modification.

#### *Without Prejudice Position*

- 2.11 If the Inspector disagrees with NGET's reasoned position in this submission, and considers some modifications are necessary in relation to these matters, then a potential option is proposed on a without prejudice basis at Section 13. This option comprises a unilateral undertaking securing these commitments and avoiding the need to modify the CPO. Possible wording is also provided on a without prejudice basis in Section 12 (and set out in red text at Appendix 1) which could be included in the Order to secure these commitments, although as explained in Section 13 the undertaking is the more appropriate approach as it enables a degree of precision which is not possible within the limitations of describing rights to be acquired in the Order.

### **3. ENABLING POWERS**

- 3.1 NGET is the holder of the Transmission Licence, granted pursuant to section 6(1)(b) of the 1989 Act.
- 3.2 The Order is made pursuant to section 10 and schedule 3 to the 1989 Act.
- 3.3 Section 10 of the 1989 Act provides that schedule 3 to the 1989 Act has effect in relation to the holder of an electricity transmission licence. Paragraph 1(2) clarifies that licence holders are authorised to acquire rights in land as well as the title to land, and that this can be done by creating new rights as well as by acquiring existing rights. Section 10 and Schedule 3 of the 1989 Act empower NGET “*to purchase compulsorily any land (including rights in land) required for any purpose connected with the carrying on of the activities which (NGET) is authorised by (its) licence to carry on.*”

### **4. NGET’S STATUTORY DUTIES**

- 4.1 NGET is required under section 9 of the Electricity Act 1989 to bring forward efficient, coordinated and economical proposals in terms of network design, which requires taking into account current and reasonably anticipated future generation demand.
- 4.2 NGET’s approach also accords with Schedule 9 of the Electricity Act 1989 which places a duty on all transmission and distribution licence holders, in formulating proposals for new electricity networks infrastructure, to “*have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and ... do what [they] reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.*”
- 4.3 NGET has had regard to these statutory duties in designing the Project.
- 4.4 NGET is regulated by its economic regulator, Ofgem, which carries out price control reviews to set NGET’s permitted revenues. These reviews limit the amount of money that can be earned by NGET from charges to use the transmission network, thus seeking to ensure best value for the general public. Therefore, NGET is incentivised to be efficient in constructing and managing its infrastructure. This distinguishes NGET from other undertakers that have sought to compulsorily acquire land and rights in land for cable infrastructure pursuant to other licences (such as offshore wind farm developers), who may be incentivised in different ways without regard to precedent over a wide network and so favour reaching a quick consensus over a more nuanced and proportionate approach to matters such as mitigation and compensation. As such, precedent taken from the practice of other types of electricity undertaker should be treated with caution.

### **5. LAND TO BE ACQUIRED**

- 5.1 The following plots of land are to be compulsorily acquired as they are required by NGET on a permanent basis:
- 5.1.1 Plot 6-25: Substation;
  - 5.1.2 Plot 7-28: Converter Station;
  - 5.1.3 Plot 7-19: Converter Station Compound and Biodiversity Net Gain and Landscaping Land; and
  - 5.1.4 Plots 6-49 and 6-50: Replacement Public Open Space.

5.2 No objections have been received in relation to the compulsory acquisition of Plot 6-25, 6-49, 6-50, 7-19 or 7-28 pursuant to the Order.

5.3 Whilst these plots (save for Plots 6-49 and 6-50) include cable infrastructure, these plots of land cannot be subject to any form of Cable Depth Modification or Make Good Modification, because it is the whole freehold title which will be acquired pursuant to the Order.

## **6. RIGHTS TO BE CREATED**

6.1 Save in respect of the land identified at section 5, NGET's approach is to only acquire the interests that it requires over the various plots within the Order (**the Order land**). Accordingly, for much of the scheme NGET seeks to create new rights over land rather than to acquire land.

6.2 As set out in the Statement of Case and the proof of evidence of Elliot Chandler, a number of rights are to be created compulsorily in relation to the different elements of the English Onshore Scheme. Not all plots require the same rights, and so NGET's strategy has been to compulsorily acquire different classes of rights over different plots to ensure that it only compulsorily acquires the rights that are necessary for the relevant plot. The classes of rights are defined in the Order and explained in the Statement of Case and the proof of evidence of Elliot Chandler. This has required precise drafting, but ensures that all rights to be acquired are the minimum appropriate and so ensures that the Order is proportionate.

6.3 Some of the rights are only required for temporary purposes, such as the creation of construction compounds, and will only be exercised during the construction phase. Other rights will be permanent in nature, such as the right to keep installed, operate, maintain and decommission the HVAC and HVDC Cables. Others, such as the right to access the land for the purpose of maintaining the HVAC and HVDC Cables, will be permanent in nature but, whilst permanent in nature, will only be exercised intermittently in practice.

6.4 The separate rights packages have been drafted in this way to ensure that a proportionate approach to compulsory purchase is being taken in respect of each and every plot, so that the impact for affected landowners and occupiers is limited so far as reasonably practicable. Accordingly, if a land parcel is only required in order to facilitate limited works, the limited rights package is sought in respect of that land.

6.5 This approach ensures that the affected landowners retain their title to the Order land and allows the affected landowners to continue to operate on the Order land, subject to some restrictions around use that are necessary to protect the Project.

6.6 NGET has drafted the rights so that it has the land rights necessary to make good any damage caused. In practice NGET will do this, and it is in NGET's interest to do this in order to ensure that its exposure to compensation is minimised and because it is ultimately NGET's core interest to ensure that the Project is safely and responsibly implemented and remains operational in the long term.

6.7 The alternative approach would have been for NGET to seek to compulsorily acquire all of the Order land on a permanent basis. However, this would have deprived the landowners of their title to the Order land on a permanent basis and would not have allowed affected landowners to continue to operate on the Order land in the future. NGET considers there would remain a clear compelling case in the public interest if freehold title was acquired (noting that many CPO regimes only allow for the acquisition of freehold, and not rights), but NGET has sought to take a more tailored approach by acquiring rights.

6.8 If NGET had sought to compulsorily acquire all of the land pursuant to the Order, then there would be no opportunity for the Secretary of State to impose conditions upon the exercise of the Order in the way discussed at the Inquiry. The same argument around the potential for impacts on the remainder of the affected landowner's land would have been applicable, but would not be capable of being subject to further precision. As noted above, compensation would be the appropriate way to ensure that landowners remain in a position of equivalence following acquisition of the land. It is of note that the principles of compensation apply equally to both the acquisition of land and of rights in land, so the landowners remain equally well protected in either route.

#### Negotiations to Date

6.9 NGET have consistently offered Heads of Terms to landowners for a period in excess of one year, with Heads of Terms issued in August 2022 and September 2022. Negotiations have led to updated Heads of Terms being issued to landowners in August 2023; these provide detail that would have been secured in land agreements if Heads of Terms were agreed.

6.10 In those Heads of Terms, measures are contained to address the three key issues identified by the objectors and set out in the NFU Statement of Case. These three issues are: cable depth; soils; and drainage.

6.11 At the Inquiry, the NFU confirmed that the Heads of Terms were acceptable on the points in respect of soils and drainage and the only comment that George F. White made in respect of the Heads of Terms on drainage was that there was a lack of clarity on the term "drainage assessment". The NFU and George F. White maintained their position that there should be a minimum cable depth of 1.2m across the Project, but that assertion is in the absence of any evidence to support that position.

6.12 If voluntary landowners had signed the Heads of Terms that they have been offered, then the matters in respect of cable depth, soils and drainage would be secured for those landowners. If voluntary landowners sign Heads of Terms from now on, the matters in respect of cable depth, soils and drainage can still be secured for those landowners.

#### Next Steps

6.13 NGET will continue to seek to voluntarily acquire rights and will continue to seek to agree Heads of Terms with those landowners that are yet to agree Heads of Terms. NGET will continue to do this in good faith in parallel with the promotion of the Order, as the Order is its last resort to ensure that it has acquired all the rights that it requires to deliver the Project in accordance with the project programme.

6.14 Notwithstanding NGET's ongoing commitment to voluntary negotiations with known landowners, NGET must have certainty in respect of the land and rights that it requires in order to ensure the comprehensive and timely delivery of the Project, so as not to place at risk the delivery of its benefits in the public interest.

6.15 The CPO Guidance recognises that, whilst compulsory purchase should be a last resort, valuable time would be lost if NGET waited until voluntary negotiations have broken down before initiating the compulsory purchase process and that it is often sensible for formal procedures to be initiated in parallel.

6.16 The CPO Guidance further recognises the utility of NGET initiating compulsory purchase procedures in signalling the seriousness of its intention to landowners which may help to facilitate more meaningful negotiations.



- 6.17 The Government recognises in the Land Rights and Consents for Electricity Network Infrastructure Call for Evidence dated 4 August 2022 (the **Call for Evidence**) (CD B.11) that: “*in some cases, costs and delays as a result of land rights and consenting processes can hinder or prevent electricity network infrastructure projects from going ahead*”. NGET initiated the CPO process to ensure that the costs and delays as a result of land rights do not hinder or prevent the Project given the requirement to commence construction in 2024.
- 6.18 NGET will continue to negotiate actively with landowners in parallel with the compulsory acquisition process.
- 6.19 NGET’s approach to voluntary negotiations and compulsory acquisition is in accordance with the CPO Guidance.

## **7. THE ROLE OF COMPENSATION**

- 7.1 The protection for landowners in respect of land or rights over land to be acquired pursuant to a CPO is compensation, and the CPO regime provides for a comprehensive Compensation Code.
- 7.2 The date for assessing compensation is the valuation date (which will be the date that any land rights vest in NGET pursuant to a general vesting declaration (**GVD**) or entry is taken pursuant to the notice to treat (**NTT**) process).
- 7.3 Each Affected Landowner is entitled to compensation for the full scope of the rights sought pursuant to the Order. This compensation is assessed as at the valuation date. If an Affected Landowner had concerns around the implications of the exercise of the rights (including future exercise, such as maintenance) pursuant to the Order on their plots, then this would be capable of being included as part of a compensation claim.
- 7.4 Please see our note on the compensation position dated 11 October 2023 for further information.

## **8. THE PLANNING POSITION FOR THE ENGLISH ONSHORE SCHEME**

- 8.1 The planning position of the English Onshore Scheme was set out in the Statement of Case and the evidence of Hugh Smith presented to the Inquiry. This section of this Statement addresses how mitigation measures are secured in respect of the English Onshore Scheme through the planning regime.
- 8.2 Several components of the English Onshore Scheme do require a specific planning permission. The section 106 agreement was completed on 27 July 2023 (CD C.5). Outline planning permission (reference DM/22/01663/OUT) was granted subject to planning conditions on 28 July 2023 (the **Outline Planning Permission**) (CD C.4).
- 8.3 Several components of the English Onshore Scheme do not require a specific planning permission on the basis that it is permitted by a general grant of planning permission pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the **GPDO**).
- 8.4 Article 3(1) of the GPDO grants planning permission for certain developments comprised in Schedule 2 to the GPDO, subject to any exception, limitation or condition specified in Schedule 2 to the GPDO. Permitted development rights are also subject to general restrictions specified within Article 3 and Article 4 of the GPDO.
- 8.5 Class A of Part 4 to Schedule 2 to the GPDO (the **Construction Operations PD Right**) permits the “*provision on land of buildings, moveable structures, works, plant or machinery required*”

*temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land”.*

8.6 Conditions to the Construction Operations PD Right require the following:

*“Development is permitted by Class A subject to the conditions that, when the operations have been carried out—*

*(a) any building, structure, works, plant or machinery permitted by Class A is removed, and*

*(b) any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out.”*

8.7 This secures reinstatement. This is enforceable by Durham County Council as the LPA.

8.8 The English Onshore Scheme is not EIA development for the purposes of the EIA Directive, and the component parts are not EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the **EIA Regulations**) or the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 (the **Electricity Works EIA Regulations**).

8.9 The English Onshore Scheme has been screened out as EIA development by Durham County Council pursuant to the EIA Regulations. DCC concluded that the English Onshore Scheme: *“would not be likely to have significant effects on the environment”* (see the DCC Screening Opinion, appended as a new CD C.8). This is important in the context of proposed modifications to the Order and in assessing the compelling case in the public interest for the confirmation of the Order.

8.10 Whilst the English Onshore Scheme was not EIA development, the planning application for the Outline Planning Permission was subject to an environmental appraisal report (**EAR**). The EAR included an assessment of the cables forming part of the English Onshore Scheme on hydrology and land drainage (Chapter 11) and soils (Chapter 12) and concluded that the impacts were not significant in environmental terms (Chapters 11 and 12 are appended as new CD C.9 and C.10 respectively).

#### **Substation & Converter Station**

8.11 The Substation and Converter Station have been consented pursuant to the Outline Planning Permission. The permanent access to this substation will be via the existing access.

8.12 The Outline Planning Permission is subject to condition 17 (in respect of the Converter Station) and condition 31 (in respect of the Substation) which both require the submission of a soil and land drainage management plan. NGET will be bound to comply with this and submitted an Outline Construction Soil Management Plan (appended as a new CD C.11). The Outline Construction Soil Management Plan is intended to apply to the cable development as well and identifies that it must be implemented by NGET’s contractor. This will be secured through commercial contracts with contractors.

#### **Temporary Compounds and Converter Station Compound**

8.13 The various compounds are permitted by the Construction Operations PD Right. As identified above, the Construction Operations PD Right is subject to reinstatement conditions.

#### **Cable Development**

- 8.14 Class B(a) of Part 15 of Schedule 2 to the GPDO (the **Cable PD Right**) permits development by statutory undertakers for the generation, transmission, distribution or supply of electricity for the purposes of their undertaking consisting of the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line.
- 8.15 The Cable PD Right is not subject to any condition which requires the cable to be installed to a minimum depth. If Parliament considered it appropriate to impose such a condition, it would have done so. Where Parliament has deemed it appropriate to grant PD rights subject to conditions regarding maximum or minimum extents, it has done so. For example, please see Conditions A.1 and A.2 of Class A of Part 16 of Schedule 2 to the GPDO.
- 8.16 The Cable PD Right is not expressly identified as being subject to any express condition requiring reinstatement or restoration of soils or drainage. If Parliament's intention was to impose such a condition, it would have done so. Where Parliament has deemed it appropriate to grant PD rights subject to conditions addressing the prior approval of restoration matters, it has done so. For example, please see Condition B.2 of Class B of Part 11 of Schedule 2 to the GPDO.
- 8.17 The Cable PD Right is not subject to any form of prior approval in respect of matters regarding cable depth, drainage or soils. If the Government's intention was to impose such a condition, it would have done so as a condition to the GPDO.
- 8.18 The language used in the Order in respect of the cable is consistent with the wording in the Cable PD Right.

#### **Accesses**

- 8.19 Class B of Part 2 of Schedule 2 to the GPDO (the **Access PD Right**) permits the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in Schedule 2 to the GPDO (other than by Class A of Part 2).
- 8.20 The Access PD Right is not subject to any express conditions regarding reinstatement.

#### **Conclusion**

- 8.21 Several components of the English Onshore Scheme are subject to, and will be permitted by, the Outline Planning Permission which secures planning conditions in respect of soil and drainage.
- 8.22 Several components of the English Onshore Scheme benefit from planning permission granted under the GPDO. These components have been confirmed as not having a likely significant effect on the Order land through the competent authority (DCC's) screening opinion (without the need to secure mitigation) and have been assessed as having a not significant impact on the Order land through the EAR.

### **9. EXTENT OF CPO**

- 9.1 A CPO cannot fully replicate the form or substance of a private agreement with an affected landowner. This is because a private agreement can take the form of a contract between the parties, whereby the parties can both grant rights and covenant to comply with certain measures.
- 9.2 A CPO can only authorise the acquisition of land or, in the case of a CPO pursuant to the Electricity Act 1989, rights in land. Paragraph 1(2) of Schedule 3 to the Electricity Act 1989 provides that "*the power of the Secretary of State under this paragraph includes power to*

*authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones*". Paragraph 1(2) of Schedule 3 to the Electricity Act 1989 does not extend to the power to authorise the imposition of conditions or obligations. As such, a CPO is a relatively 'blunt' instrument, to be used where a voluntary agreement cannot be reached, providing for the acquisition of land or rights but not imposing reciprocal obligations.

- 9.3 A CPO can secure the rights to reinstate land and make good any damage caused, but it cannot be subject to a condition requiring or otherwise regulating such reinstatement. This is because a CPO cannot be granted subject to conditions. This is recognised at Section 154 of the CPO Guidance, which confirms that the Secretary of State has no powers to confirm an order subject to conditions. As set out in section 12, it is considered that language could be introduced limiting the scope of the rights acquired to effectively require reinstatement as part of their exercise, but NGET's position remains that this is unnecessary and inappropriate, and the Secretary of State would need to be satisfied such language does not amount to imposing a condition on the Order.
- 9.4 A CPO cannot be conditional upon the approval of a third party, as this would introduce a form of conditionality into the CPO.
- 9.5 A CPO is not concerned with land use planning matters; it is purely concerned with the acquisition of land and land rights.
- 9.6 A CPO is not required to deal with matters of compensation, nor is a CPO inquiry process, which are separate and for agreement with affected landowners or determination by the Tribunal following the confirmation of a CPO and the exercise of powers of acquisition pursuant to a CPO.

## **10. NGET'S POSITION ON THE PROPOSED MODIFICATIONS**

- 10.1 At the Inquiry, reference was made to a number of minor modifications to the Order identified below. These are addressed below.
- 10.2 In respect of the ability to prevent a change of use or change to the surface level of the Order land (the **Change of Use Modification**), which is set out in the: HVAC Rights; HVDC Rights; Landfall Rights; Overhead Line Rights; and Overhead Line Removal Rights, the intention is that this acts to prevent any change of use or change to the surface level of the Order land which affects the rights. Additional wording is proposed to address this (see the text in green at Appendix 1).
- 10.3 In respect of the definition of adjoining land (the **Adjoining Land Modification**), which is used, it is important that this right is retained on the basis that it allows access to contiguous plots both within and outside the Order land over which NGET has lawful authority to access. The term adjoining land is used throughout the Order. NGET's position is that no modifications are required in respect of this proposed modification. This is addressed further in section 11 of this Statement. If the Inspector does not agree with NGET's position, potential wording is provided at Section 12 of this Statement on a without prejudice basis.
- 10.4 In respect of the rights which are temporary in nature (the **Temporary Use Modification**), being the: Construction Compound Rights; Electricity Infrastructure Construction Rights; and Temporary Access Rights, these rights are simply rights providing for construction activities (which will of course complete when construction is complete) and are appropriate as the compulsory acquisition legislation does not allow for the creation of temporary rights. NGET's position is that no modifications are required in respect of this proposed modification. This is addressed further in section 11 of this Statement. If the Inspector does not agree with NGET's

position, potential wording is provided at Section 12 of this Statement on a without prejudice basis.

- 10.5 In respect of limb (c) of the Access Rights, this limb is included to make it clear that access can be taken for the purposes of installing HDD infrastructure. NGET's position is that no modifications are required in respect of this proposed modification.
- 10.6 In respect of the term decommissioning (the **Decommissioning Modification**), which was specifically raised as a term for consideration during the Inquiry event, this term has been used precisely and is only used in:
- 10.6.1 temporary rights that are relevant to the electric lines (which comprise the overhead lines) being the: Construction Compound Rights; and Temporary Access Rights, and which is appropriate as the overhead lines and associated towers will be decommissioned as part of the overall construction programme; and
- 10.6.2 permanent rights in relation to the electricity infrastructure and electric lines being the: Access Rights; HVAC Rights; HVDC Rights; Landfall Rights; Overhead Line Rights; Overhead Line Access Rights; Overhead Line Removal Rights; Overhead Line Removal Access Rights, and which is appropriate as the rights to be acquired need to extend to the full lifetime of the Project and be broad enough to permit decommissioning.
- 10.7 Therefore, NGET's position is that no modifications are required in order to address the Decommissioning Modification and that modifications to the rights highlighted in section 10 are not necessary.
- 10.8 In respect of the potential to use additional definitions for terms like construct, install and maintain etc. (the **Definitions Modification**) we do not consider that this is necessary. Therefore, NGET's position is that no modifications are required in order to address the subject matter of the Definitions Modification. This is addressed further in section 11 of this Statement.

#### **Cable Depth Modification**

- 10.9 In respect of the Cable Depth Modification, and the proposal to identify a minimum depth in the Order, NGET's position is that:
- 10.9.1 first and foremost, NGET is aligned with the landowners in seeking to ensure that the Project can operate safely in the long term, which means ensuring the underground cables are buried at sufficient depth to be out of harm's way of the landowner's operations;
- 10.9.2 a blanket minimum cable depth across the English Onshore Scheme may prejudice the delivery of the Project;
- 10.9.3 a blanket minimum cable depth would be inconsistent with what has been offered pursuant to the heads of terms on a voluntary basis, which allow for alternative agreement between NGET and the relevant landowner as to the cable depth. It is entirely appropriate to provide flexibility to tailor and agree the cable depth as the detailed design and final alignment of the scheme is settled. It would not be possible to secure this in the Order given the need for agreement from a landowner, as the Order cannot impose obligations on the relevant landowner. The heads of terms provide as follows:

*"The Cables will be laid so as to avoid interference with existing agricultural operations and will be laid in accordance with Energy Networks Association*

*Guidance “Cable Laying on Agricultural Land” Ref: G57:Issue2:2019 to a contour of not less than 0.9 metres from the original surface level of the Final Easement Strip to the top of the protective tile above the Cables PROVIDED THAT this figure can be departed from where necessary due to agricultural practices on the land or land drainage requirements justifying a greater burial depth”*

- 10.9.4 linked to this, any voluntary agreement pursuant to which a minimum cable depth would be secured would be subject to obligations on the landowner to act reasonably and with dispute resolution mechanisms in place, and those measures cannot be replicated in the CPO process as the Order cannot impose obligations on the relevant landowner;
- 10.9.5 there is no planning justification for the minimum depth being specified on the face of the Order as there is no planning restriction on the cable depth;
- 10.9.6 there is no environmental justification for the minimum depth being specified on the face of the Order. The LPA has determined that the English Onshore Scheme will not give rise to likely significant effects;
- 10.9.7 the planning regime does not impose a minimum cable depth as part of the grant of planning permission for the English Onshore Scheme pursuant to the GPDO;
- 10.9.8 there may also be plots where a depth of 0.9m is not appropriate. This includes:
  - (a) Plots 6-21 and 6-26 comprising the HVAC Cable between the new Substation and the existing substation, being plots in which there may be a shallower burial; or
  - (b) Plot 1-07, Plots 1-21 to Plots 1-25, Plots 2-10 and 2-11, Plots 2-18 and 2-19, Plot 3-04, Plot 5-05 and Plots 7-01 and 7-02, comprising road crossings, where the ENA Guidance recommends a shallower minimum depth (0.75m); or
  - (c) Plot 3-08, comprising an access crossing, where the ENA Guidance recommends a shallower minimum depth (0.75m);
- 10.9.9 the minimum cable depth cannot be applied to the plots which are to be acquired on a permanent basis as conditions cannot be imposed on these plots; and
- 10.9.10 there is an appropriate regime to deal with any loss which an affected landowner may suffer as a consequence of the acquisition of land rights pursuant to the Order, being compensation pursuant to the Compensation Code.
- 10.10 In respect of the Cable Depth Modification, we note that some objectors requested a minimum depth of 1.2m across the English Onshore Scheme. NGET’s position is that no evidence was presented to the Inquiry to support this position.
- 10.11 Therefore, it is not appropriate to impose a blanket minimum depth across the Order land at any level and it is certainly not appropriate to impose a minimum depth of 1.2m.
- 10.12 NGET’s position is that no modifications are required in order to address the subject matter of the Cable Depth Modification. This is addressed further in sections 11 of this Statement. If the Inspector does not agree with NGET’s position, potential wording is provided at Section 12 of this Statement on a without prejudice basis, but see also the (preferable) alternative at Section 13.

### **Make Good Modification**

- 10.13 In respect of the Make Good Modification, NGET's position is that the rights to be acquired cannot be conditional upon or subject to future action; they must be precise at the point in time at which they are acquired.
- 10.14 As far as NGET is aware, there is no precedent in any confirmed CPOs under the Electricity Act for wording to address the subject matter of the Make Good Modification and no made CPO which obliges the statutory undertaker to make good damage.
- 10.15 In respect of the Make Good Modification, NGET's position is that:
- 10.15.1 there is no planning justification for reinstatement being specified on the face of the Order;
  - 10.15.2 the planning regime does not expressly impose a reinstatement condition as part of the grant of planning permission for the English Onshore Scheme pursuant to the GPDO. However, the Construction Operations PD Right is subject to a reinstatement condition;
  - 10.15.3 the Order cannot include conditions, or be conditional upon any future action or third party approval;
  - 10.15.4 the Order cannot include rights which are conditional upon future actions;
  - 10.15.5 the reinstatement provisions cannot be applied to the plots which are to be acquired on a permanent basis as conditions cannot be imposed on these plots; and
  - 10.15.6 there is an appropriate regime to deal with any loss which an affected landowner may suffer as a consequence of the acquisition of land rights pursuant to the Order, being compensation pursuant to the Compensation Code.
- 10.16 NGET's position is that no modifications are required in order to address the subject matter of the Make Good Modification. This is addressed further in section 11 of this Statement. If the Inspector does not agree with NGET's position, potential wording is provided at Section 12 of this Statement on a without prejudice basis, but see also the (preferable) alternative at Section 13.

### **Conclusion**

- 10.17 A proposed mark-up of the front-end of the Order, identifying the modifications which NGET consider can be made to the Order and are justified in this case (shown in green text), is included at Appendix 1 (with the without prejudice wording discussed in Section 12 of this Statement shown in red text at Appendix 1).

## **11. CPO PRECEDENT**

- 11.1 There are a substantial number of precedent CPOs which have been confirmed by the Secretary of State pursuant to the 1989 Act. This is relevant to the consideration of the proposed modifications discussed at the Inquiry given the requirement for consistency of decision making.
- 11.2 This precedent is addressed in respect of the various potential modifications raised by the Inspector at the Inquiry.

### Adjoining Land Modification

- 11.3 There is substantive precedent in confirmed CPOs for the inclusion of the ability to access land and adjoining land, without any definition of adjoining land being included on the face of those CPOs. Please see for example the:

- 11.3.1 Access Only Rights and Access and Drainage Rights in The National Grid Viking Link Limited (Viking Link Interconnector) Compulsory Purchase Order 2019 (the **Viking Link CPO**)<sup>1</sup>;
  - 11.3.2 Overhead Line Rights in The National Grid Electricity Transmission (Little Horsted Substation Connection) Compulsory Purchase Order 2022 (the **Little Horsted CPO**)<sup>2</sup>;
  - 11.3.3 Access Rights in The Southern Electric Power Distribution plc (Thatcham, Berkshire to Ashford Hill, Hampshire Connection) Compulsory Purchase Order 2020 (the **Thatcham CPO**);
  - 11.3.4 Access Right in The National Grid North Sea Link Limited (East Sleekburn) Compulsory Purchase Order 2016 (the **NSL CPO**)<sup>3</sup>; and
  - 11.3.5 Access Rights in The Fab Link Limited (Budleigh Salterton to Broadclyst) Compulsory Purchase Order 2016 (the **Fab Link CPO**)<sup>4</sup>.
- 11.4 NGET's approach to the drafting of the rights in the Order is consistent with this body of precedent.
- 11.5 This is necessary to ensure that NGET has continuous access to all land that it requires for the English Onshore Scheme, particularly where it has to rely in part on its powers of compulsory acquisition pursuant to the Order and in part on voluntary agreements.

Temporary Use Modification

- 11.6 There is substantial precedent in made CPOs for the inclusion of rights for activities which are which are temporary in nature. The rights themselves are not time limited or temporary, they are simply rights to carry out activities which are in their nature inherently temporary (such as construction activities). The same compensation provisions apply to protect and 'keep whole' the landowner as with any other rights. Please see for example the:
- 11.6.1 Construction Compound Rights and Construction Access Rights in the Little Horsted CPO;
  - 11.6.2 Construction and Compound Rights, Decommissioning Rights and Decommissioning Access Rights in The National Grid Electricity Transmission plc (Dinorwig to Pentir Cable Replacement Project) Compulsory Purchase Order 2021 (the **Dinorwig CPO**)<sup>5</sup>;
  - 11.6.3 Construction and Compound Rights in The National Grid Electricity Transmission plc (Snowdonia Visual Impact Provision Project) Compulsory Purchase Order 2020 (the **Snowdonia CPO**);
  - 11.6.4 Construction Access Rights and Construction Compound Rights in The National Grid Electricity Transmission plc (London Power Tunnels 2) (Circuit 1 – Wimbledon to New Cross) Compulsory Purchase Order 2019 (the **LPT2 Circuit 1 CPO**)<sup>6</sup>, The National Grid Electricity Transmission plc (London Power Tunnels 2) (Circuit 2 – New Cross to Hurst) Compulsory Purchase Order 2019 (the **LPT2 Circuit 2 CPO**)<sup>7</sup> and The National

<sup>1</sup> <https://www.nationalgrid.com/document/130076/download>

<sup>2</sup> <https://www.nationalgrid.com/electricity-transmission/document/142511/download>

<sup>3</sup> [https://www.northsealink.com/media/1265/compulsory-purchase-order-the-national-grid-north-sea-link-as-modifi\\_.pdf](https://www.northsealink.com/media/1265/compulsory-purchase-order-the-national-grid-north-sea-link-as-modifi_.pdf)

<sup>4</sup> <https://www.fablink.net/wp-content/uploads/2016/12/The-FAB-Link-Limited-Budleigh-Salterton-to-Broadclyst-Compulsory-Purchase-Order-2016.pdf>

<sup>5</sup> <https://www.nationalgrid.com/electricity-transmission/document/148586/download>

<sup>6</sup> <https://www.nationalgrid.com/electricity-transmission/document/140661/download>

<sup>7</sup> <https://www.nationalgrid.com/electricity-transmission/document/140666/download>



Grid Electricity Transmission plc (London Power Tunnels 2) (Circuit 3 – Hurst to Crayford) Compulsory Purchase Order 2019) (the **LPT2 Circuit 3 CPO**)<sup>8</sup>;

- 11.6.5 Construction Compound Rights in the Viking Link CPO;
  - 11.6.6 Compound Rights in the Thatcham CPO; and
  - 11.6.7 Construction Right in the NSL CPO.
- 11.7 NGET’s approach to the drafting of the rights in the Order is consistent with this body of precedent.
- 11.8 The alternative approach would have been for NGET to seek to compulsorily acquire all of the Order land on a permanent basis in relation to these plots. However, this would have deprived the landowners of their title to the Order land on a permanent basis and would not have allowed affected landowners to continue to operate on the Order land in the future.
- 11.9 In respect of the Temporary Use Modification, NGET’s position is that no modifications to the Order are required.

#### Definitions

- 11.10 There is no precedent for confirmed CPOs to include a definition of terms such as construction, installation, alteration and maintenance etc. These terms are consistently used in confirmed CPOs without definition. This includes all CPOs identified in this section 11.
- 11.11 NGET’s approach to the drafting of the rights in the Order is consistent with this body of precedent.

#### Cable Depth Modification

- 11.12 There is substantial precedent in made CPOs for the inclusion of rights to install underground cables without specifying any minimum depth. There is some very limited precedent for a CPO in respect of underground electricity cables which has been confirmed by the Secretary of State pursuant to the Electricity Act to specify a cable depth in respect of those electricity cables. Those CPOs which do specify a cable depth are:
- 11.12.1 London Power Tunnels project and The National Grid Electricity Transmission plc (London Power Tunnels 2) (Bengeworth Road Connection) Compulsory Purchase Order 2021 (the **LPT2 Bengeworth CPO**)<sup>9</sup>, the LPT2 Circuit 1 CPO, the LPT2 Circuit 2 CPO and the LPT2 Circuit 3 CPO (the **LPT2 CPOs**), which comprised the construction of a deep ground cable tunnel at circa 20 metres below ground level; and
  - 11.12.2 the Snowdonia CPO, which comprised the construction of deep ground cable tunnels and where there were three tiers of cable rights sought due to deep burial and so where it was necessary to distinguish cable depths. The Buried Cable Right, which specified a 0.9m cable depth, only applied to a small section of that project and was used to distinguish this depth from other cable depths in the order.
- 11.13 The Project subject to the Order is a substantially different form of project to those promoted pursuant to the LPT2 CPOs and the Snowdonia CPO as it does not comprise deep ground cable tunnels.

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<sup>8</sup> <https://www.nationalgrid.com/electricity-transmission/document/140686/download>

<sup>9</sup> <https://www.nationalgrid.com/electricity-transmission/document/140651/download>

- 11.14 The approach taken in respect of cable depths is consistent with all other electricity cable CPOs referenced in this section 11. There is no blanket cable depth identified on any of the other CPOs identified in this section 11.
- 11.15 This includes the CPOs for the Western Linked project. This includes the National Grid (Western HVDC Link: Wirral Foreshore, Wallasey Embankment and Leasowe Common) (Number Two) Compulsory Purchase Order (the **Western Link CPO**), which formed part of the Western Link project (a similar in nature to the Project which connected the transmission systems of England and Scotland on the west coast of Great Britain) and where NGET constructed the electricity cable pursuant to permitted development rights. No cable depth was specified on the face of the CPO.
- 11.16 This also includes the Viking Link CPO, where the promoter had made a commitment to specify a cable depth of 1.2m. This cable depth was not secured on the face of the Viking Link CPO.
- 11.17 NGET’s approach to the drafting of the rights in the Order is consistent with this body of precedent.

Make Good Modification

- 11.18 There is no precedent for a CPO in respect of underground electricity cables which has been confirmed by the Secretary of State pursuant to the Electricity Act to:
- 11.18.1 be subject to any form of positive obligation or requirement to reinstate the land;
- 11.18.2 be subject to specific obligations or requirements to address soils or drainage matters;  
or
- 11.18.3 be subject to any broader reinstatement obligations or requirements.
- 11.19 This includes all CPOs identified in this section 11.
- 11.20 NGET’s approach to the drafting of the rights in the Order is consistent with this body of precedent.

**12. WITHOUT PREJUDICE MODIFICATIONS**

- 12.1 Notwithstanding NGET’s position that a number of the modifications are not appropriate for inclusion in any modifications to the Order and are not justified or supported by the evidence, this section of this statement sets out NGET’s without prejudice position on the form of any wording to address these modifications in the event that the Inspector considers it is necessary to identify recommended modifications. NGET does not consider that this is appropriate or necessary.

Adjoining Land Modification

- 12.2 In respect of the Adjoining Land Modification, a definition of adjoining land could be included within the Order. However, NGET’s position is that this is not necessary.
- 12.3 On a without prejudice basis, the wording could read as follows:

New Definition

“adjoining land” means land adjoining the land over which the acquiring authority has a lawful right to take access;

Temporary Use Modification

- 12.4 In respect of the Temporary Use Modification, a new definition of Construction Period, Project and Operation could be included in order to define the period in which these rights may be

exercised. However, NGET's position is that this is not necessary and does not address the fundamental point that the Order cannot authorise the acquisition of temporary rights.

12.5 On a without prejudice basis, the wording could read as follows:

Amendment to Paragraph 1 of the Order to add

“(in this order called the “Project”).”

New Definitions

“Construction Period” means the period from and including the date of commencement of construction to the date twelve (12) months from and including the date of first Operation [of the Project];

“Operation” means operated as part of the high-voltage electricity transmission network serving Great Britain;

Cable Depth Modification

12.6 In respect of the Cable Depth Modification, additional wording could be added to sub-paragraph (a) of the definition of Electricity Infrastructure Construction Rights. However, NGET's position is that this is not necessary or appropriate, and if the Inspector disagrees with NGET's primary submission (that the Order is already appropriate in this regard) then the undertaking proposed in Section 13 would be the more appropriate option.

12.7 On a without prejudice basis, the following wording could be added to the description of HVDC Rights:

“AND ADDITIONALLY PROVIDED FURTHER THAT the underground cables will be laid to a contour of not less than 0.9 metres below the original surface level of the relevant section of the Order land measured to the top of the protective tile above the underground cables (save where the cables are brought to or above the surface for a cable bridge or are laid below a highway and save for Plots 1-07, 1-21 to 1-25, 2-10, 2-11, 2-18, 2-19, 3-04, 3-08, 5-05, 7-01 and 7-02).”

12.8 The reason the description of the HVDC Rights is the proposed location for the Cable Depth Modification is because:

12.8.1 it is the HVDC cables which cross land in agricultural use (not the HVAC cables); and

12.8.2 it is the HVDC Rights (as opposed to the Electricity Infrastructure Construction Rights) which provide for the retention of the HVDC cables in the land in the long term.

12.9 The reason that specific plots are carved out of the Cable Depth Modification is that these plots are situated in roads or accesses and not agricultural land.

Make Good Modification

12.10 In respect of the Make Good Modification, additional wording could be added to the Order. However, similar to the Cable Depth Modification, NGET's position is that this is not necessary or appropriate, and if the Inspector disagrees with NGET's primary submission (that the Order is already appropriate in this regard) then the undertaking proposed in Section 13 would be the more appropriate option.

On a without prejudice basis, a new row could be added to table of rights at section 9 of the Order:

“All the new rights shall be exercised in accordance with good electricity transmission industry practice (including in relation to land drainage and soil removal and storage, where applicable).”

- 12.11 In respect of the Make Good Modification, it is important that all parties have clarity as to what the relevant measures that NGET will take are. The reasonably practicable measures and practices to avoid material adverse effects resulting from their exercise (other than temporary impacts during their exercise) on the soil or surface condition of, or any drainage systems in, the Order land are:
- 12.11.1 NGET shall prior to the commencement of any works carry out a Pre-entry Schedule of Condition, and the relevant landowner or occupier shall be entitled to make representations regarding the adequacy of the Pre-Entry Schedule of Condition. NGET shall give due and proper regard to any such representations and take reasonable steps to remedy any justifiable inadequacy identified. Following completion of the Pre-Entry Schedule of Condition NGET shall provide a copy of it to the relevant landowner or occupier before commencement of construction and for avoidance of doubt no more than 30 days before entry to the Order land.
  - 12.11.2 NGET will reinstate sub soil and topsoil to the same condition as evidenced by the Pre-Entry Schedule of Condition and Soil Survey.
  - 12.11.3 Prior to commencement of work, NGET will prepare a soil management plan with the objective of returning the Order land to a condition recorded in the Pre-Construction Soil Survey and Pre-Construction Schedule of Condition.
  - 12.11.4 Any pre-construction detailed soil survey work will be undertaken by a competent person (e.g. a soil expert) in order to produce specific soil resource topsoil and subsoil unit plans and restoration specifications for areas of agricultural land within individual land holdings. These surveys will form the basis of the Pre-Construction Soil Survey of the land prior to soil stripping operations and will be used to monitor the progress of soil handling and restoration operations. The Pre-Construction Soil Survey will include the identification of the physical characteristics of profiles at a standard density of 100 m intervals (with additional profiles examined where the 100 m grid sampling does not enable a suitable density of sampling in an agricultural enclosure that will otherwise be missed.). Soil pits will also be examined at appropriate locations to provide additional detail on soil structure and stoniness.
  - 12.11.5 NGET shall procure a suitably qualified Drainage Contractor to carry out a pre and post construction drainage assessment and will provide a copy of such assessments to the landowner or occupier and any drainage consultant employed by the landowner or occupier and will take into account any representations made in relation to NGET’s drainage consultant’s assessment and will implement the requisite recommendations as soon as practicably possible, to ensure where reasonable and appropriate the agricultural land drainage systems on the Order land and the landowner’s wider holding are left in no worse condition than before the date of the pre-construction drainage assessment. NGET shall appoint a suitably qualified drainage consultant to act independently of the Drainage Contractor (“Drainage Expert”) to assure the design and methodology of the proposed drainage works undertaken by the Drainage Contractor. Subject to compliance with CDM Regulations, and NGET’s health and safety requirements NGET will provide the landowner, any occupier and the Drainage Expert the opportunity to inspect the land drainage works whilst in progress. Records of existing and remedial drainage will be

made available by NGET to the landowner and any occupier after completion of the drainage works. The reasonable and proper costs of the appointment and fees of the Drainage Expert will be paid by NGET.

- 12.12 A mark-up of the front-end of the Order identifying the without prejudice modifications set out in this section is included at Appendix 1 (with the modifications shown in red text).

### **13. WITHOUT PREJUDICE PROPOSED ALTERNATIVE**

- 13.1 In respect of the Cable Depth Modification and the Make Good Modification, NGET considers that there is a proposed alternative which may be more satisfactory to the landowners. Of the two without prejudice options set out in sections 12 and 13, the option set out in this section 13 is NGET's preferred option because it is considered to be more precise.
- 13.2 NGET has offered Heads of Terms to landowners to secure matters in respect of cable depth, soils and drainage. Whilst landowners have not signed up to the Heads of Terms, NGET would be willing to enter into an undertaking (the **Voluntary Undertaking**) to secure the key matters identified in the Heads of Terms and which were subject to discussion at the Inquiry. The form of undertaking is enclosed as Appendix 2.
- 13.3 The benefit of this option is that it is not constrained by the strict procedural requirements of the Order, and so can be broader in its effect and more precisely replicate the Heads of Terms. This also has the benefit of allowing reference to the ENA Guidance in the clause relating to the Cable Depth Modification, such that an extraneous industry guide can be referenced.
- 13.4 In respect of the Cable Depth Modification, the minimum cable depth set out in the schedule to the Voluntary Undertaking only applies to the HVDC Cable and does not apply to those plots which it is not appropriate to set out a minimum depth of 0.9m. The justification for this approach is set out in section 12.8 and 12.9 above.
- 13.5 The Voluntary Undertaking would be entered into unilaterally pursuant to section 106 of the Town and Country Planning Act 1990. This would give Durham County Council an ability to enforce against any breach of the Voluntary Undertaking.
- 13.6 This does not secure all of the matters identified in the Heads of Terms, but addresses the three substantive points of objection raised by the NFU (on behalf of all land agents) and George F. White at the Inquiry. It is important to note that this can never secure all of the detail and matters in the Heads of Terms, but that NGET cannot compel the landowners to sign Heads of Terms which is why NGET has had to make the Order.
- 13.7 Therefore, without prejudice to NGET's position that the Voluntary Undertaking is unnecessary in order for the Secretary of State to confirm the Order, NGET is prepared to sign the Voluntary Undertaking to secure the matters in respect of cable depth, soils and drainage which it has offered in its Heads of Terms.
- 13.8 At this stage, NGET has provided a draft of the Voluntary Undertaking for the Inspector to consider on the basis that the intention is for the proposed measures to be consulted upon. If the consultation results in the Inspector and the affected landowners considering that the Voluntary Undertaking should be entered into then NGET will execute, complete and deliver the Voluntary Undertaking and submit this completed Voluntary Undertaking to the Inquiry.
- 13.9 To reflect NGET's position that the Voluntary Undertaking is unnecessary, the Voluntary Undertaking contains a clause which confirms that the Voluntary Undertaking ceases to have effect if the Secretary of State finds that it is unnecessary and attaches no weight to it in confirming

the Order (see Clause 4.2 of the Voluntary Undertaking). There is precedent for such clauses in similar agreements which the Secretary of State has addressed when confirming previous CPOs; please see section 19 of the Secretary of State’s letter dated 12 April 2021 in respect of the Greenlink CPO<sup>10</sup>.

13.10 A similar approach was taken by NGET on the London Power Tunnels project (referred to in section 11 above) where a section 106 agreement was entered into in support of the CPO process. In that case, permitted development rights were relied upon but a section 106 agreement was entered into in order to secure various mitigation measures as part of the screening process.

13.11 NGET invites the Secretary of State to reach the conclusion that the Voluntary Undertaking is unnecessary.

## **14. CONCLUSION**

14.1 The Project will reinforce the electricity network and increase transmission capacity between southern Scotland and northern England, before 2030, to facilitate the transmission of renewable energy produced in Scotland to the English national electricity system. Securing the necessary land rights are on the critical path for the delivery of the Project.

14.2 Section 10 and Schedule 3 of the 1989 Act empower NGET “to purchase compulsorily any land (including rights in land) required for any purpose connected with the carrying on of the activities which (NGET) is authorised by (its) licence to carry on.” The rights to be acquired pursuant to the Order are also required for the purposes connected with the carrying on of the activities which NGET is authorised to carry out by the Transmission Licence.

14.3 The public benefits of the Project substantially outweigh the private rights affected. The construction and operation of the Project is in the public interest and is fully supported by UK energy and planning policy and is critical achieving the UK’s Net Zero obligations.

14.4 NGET has sought to create new rights to be acquired compulsorily as opposed to permanently acquiring land wherever possible. NGET’s approach to the creation of rights follows a proportionate approach in the use of NGET’s powers of compulsory acquisition.

14.5 NGET’s approach is to only acquire the interests that it requires over the various plots within the Order. Not all plots require the same rights, and so NGET has sought to compulsorily acquire different classes of rights over different plots. NGET has followed a precisely tailored and proportionate approach to the use of NGET’s powers of compulsory acquisition.

14.6 There is a compelling case in the public interest for the exercise of the powers of compulsory acquisition included within the Order, and this would remain the case even if freehold rather than rights were sought.

14.7 There is no evidence in front of the Inquiry to demonstrate that the construction of the English Onshore Scheme will prejudice landowners in terms of soil, drainage and reinstatement.

14.8 There is an appropriate regime to deal with any loss which an Affected Landowner may suffer as a consequence of the acquisition of land rights pursuant to the Order, being compensation pursuant to the Compensation Code

14.9 Each Affected Landowner is entitled to compensation for the full scope of the rights acquired pursuant to the Order. This compensation is assessed as at the valuation date. If an Affected

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[https://assets.publishing.service.gov.uk/media/60bde6858fa8f57cf12e6080/Greenlink\\_CPO\\_Secretary\\_of\\_State\\_Decision\\_letter\\_12\\_April\\_2021.pdf](https://assets.publishing.service.gov.uk/media/60bde6858fa8f57cf12e6080/Greenlink_CPO_Secretary_of_State_Decision_letter_12_April_2021.pdf)

Landowner had concerns around the implications of the exercise of the rights pursuant to the Order on their plots, then this would be capable of being included as part of a compensation claim.

- 14.10 Neither the Order nor the Inquiry is not required to deal with matters of compensation, which are separate and for agreement with affected landowners or determination by the Tribunal following the confirmation of the Order and the exercise of powers of acquisition pursuant to the Order.
- 14.11 The Secretary of State should confirm the Order with the modifications shown in green at Appendix 1.
- 14.12 The modifications shown in red at Appendix 1 are not necessary, appropriate or supported by evidence. The Secretary of State should confirm the Order without the modifications shown in red at Appendix 1.

**APPENDIX 1 –Mark-up of the front-end of the Order**

**(identifying the modifications which NGET consider can be made to the Order in green and the without prejudice modifications shown in red)**



# THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

## THE ELECTRICITY ACT 1989

## THE ACQUISITION OF LAND ACT 1981

National Grid Electricity Transmission Plc (in this order called the “acquiring authority”) makes the following order -

1. Subject to the provisions of this order, the acquiring authority is under section 10 of and paragraph 1 of Schedule 3 to the Electricity Act 1989 hereby authorised to purchase compulsorily the land and the new rights in, on, under or over land described in paragraph 2 and 3 (“Order Land”) for the purpose of the construction, use and maintenance of an electricity link comprising underground cables, converter station, substation and associated development to facilitate the transfer of electrical power between Torness in East Lothian and Hawthorn Pit in County Durham (in this order called the “Project”).
2. The land authorised to be purchased compulsorily under this order is described in Table 1 of Schedule 1 in accordance with the definitions at paragraph 9 below and the land is shown coloured pink and edged red on a map prepared in duplicate, executed on behalf of the acquiring authority and marked “Map referred to in The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023”.
3. The new rights authorised to be purchased compulsorily in, on, under or over land under this order are described in Table 1 of Schedule 1 in accordance with the definitions at paragraph 9 below and the land is shown coloured blue and edged red on the said maps prepared in duplicate, executed on behalf of the acquiring authority and marked “Map referred to The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023”.
4. The land authorised to be purchased compulsorily under this order for the purpose of giving exchange for part of the land referred to in paragraph 2 is described in Schedule 2 and the land is shown coloured pink and edged red on a map prepared in duplicate, executed on behalf of the acquiring authority and marked “Map referred to in The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023”.
5. Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 are hereby incorporated with this order subject to the modifications that references in Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 to “the undertaking” shall be construed as including the works to be constructed and used by the acquiring authority in, on, over and under the land subject to this order.
6.
  - 1) In this paragraph “the open space land” means the land numbered 6-25 and described in Schedule 1 and the “exchange land” means the land described in Schedule 2.

Note from the Acquiring Authority: text in green represents agreed modifications; text in red represents modifications on a without prejudice basis

## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

2) As from the latest of the dates mentioned in sub-paragraph 3) of this paragraph, the exchange land shall vest in the persons in whom the open space land was vested immediately before it was vested in the acquiring authority, subject to the like rights, trusts and incidents as attached to the open space land; and the open space land shall thereupon be discharged from all rights, trusts and incidents to which it was previously subject.

3) The dates referred to in sub-paragraph 2) of this paragraph are:

- i. the date on which this order becomes operative;
- ii. the date on which the open space land is vested in the acquiring authority;
- iii. the date on which the exchange land is vested in the acquiring authority.

7. Where pursuant to this order a new right is acquired by the acquiring authority it shall be exercisable at all times by the acquiring authority, its successors in title, lessees, licensees, assigns and those deriving title from them and all persons authorised by any of these.

8. In the Schedules to this order, where a party’s interest has already been identified and described in a plot then if they are identified in a later plot their address has not been repeated.

9. In Table 1 of Schedule 1 to this order, the following terms shall have the following meaning:

“**electricity infrastructure**” means the underground cables (including wires, earth wires, fibre optic cables and other communication cables, pipes, coatings and ducts), connections, cable draw pits, cable joints, cable marker posts, cable terminals, earth bonding and tape, drains, culverts, fibre optic pits, inspection boxes, trenches, marking bands, protective boards or tiles, jointing pits, link boxes, manholes, monitoring equipment, apparatus, conductors, supports, plant, equipment, pillars, warning tape, sheaths and other underground or overground equipment and apparatus associated with or ancillary to such underground cables

“**electric lines**” means the electric lines and conductors (including wires, earth wires, fibre optic cables and other communication cables, pipes, coatings and ducts and connections) for transmitting and/or distributing electricity at such voltage as NGET or other licenced operators may from time to time require for the purposes of its or their operations together with the tower(s) (if any) for supporting the same and any ancillary equipment and apparatus associated with or ancillary to such electric lines and conductors

| Rights               | Description of Rights  |
|----------------------|--|
| <b>Access Rights</b> | All rights necessary to access the Order Land and adjoining land including to: <ul style="list-style-type: none"> <li>a) access the Order Land and adjoining land for the purposes of constructing, installing, commissioning, inspecting, surveying, maintaining, repairing, altering, renewing, replacing and removing or decommissioning the electricity infrastructure, and carrying out de-watering and drainage works and installing, altering or reinstating land drainage systems, with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel;</li> </ul> |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

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|  | <ul style="list-style-type: none"> <li>b) to carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities;</li> <li>c) to access the Order Land and adjoining land to use horizontal directional drilling, where appropriate, for the installation of the cables;</li> <li>d) to fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Access Rights;</li> <li>e) to prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of the Access Rights;</li> <li>f) to make good any damage caused in connection with the exercise of these Access Rights; and</li> <li>g) to carry out any activities ancillary or incidental thereto.</li> </ul>   |
| <p><b>Electricity Infrastructure Construction Rights</b></p> | <p>All rights necessary <b>during the Construction Period</b> for the purposes of or incidental to the construction and commissioning of the electricity infrastructure, including to:</p> <ul style="list-style-type: none"> <li>a) construct and install the electricity infrastructure in, on, under or over the land, including using trenchless techniques such as horizontal directional drilling;</li> <li>b) test and commission the electricity infrastructure installed in, on, under or over the land and to remedy initial faults and defects in it at any time prior to the date on which it is energised and ready for commercial operation;</li> <li>c) energise and commercially operate the electricity infrastructure for a period of no more than four months following initial commercial operation;</li> <li>d) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned aircraft over the land and to enter and retrieve and recover any such unmanned aircraft from the land);</li> <li>e) carry out archaeological works and environmental and/or ecological mitigation;</li> <li>f) carry out works required or permitted by a planning permission and/or consent or licences;</li> <li>g) erect and remove fencing;</li> <li>h) store and stockpile and where necessary use, manage and process plant, machinery, apparatus, and materials (including excavated material) and/or equipment;</li> <li>i) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>j) construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities;</li> <li>k) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems;</li> <li>l) discharge water into existing drains and watercourses;</li> <li>m) protect and prevent damage to or interference with the electricity infrastructure and the construction of the same;</li> <li>n) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Electricity Infrastructure Construction Rights;</li> </ul> |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

|                                     |   |
|-------------------------------------|---|
|                                     | <ul style="list-style-type: none"> <li>o) prevent and remove any works on or use of the land that may interfere with or obstruct the exercise of the Electricity Infrastructure Construction Rights;</li> <li>p) erect, create, use and remove welfare facilities including portable toilets, portable cabins and offices and electricity generators;</li> <li>q) install, use and remove artificial lighting;</li> <li>r) install, use, alter, divert and remove services and utilities;</li> <li>s) make good any damage caused in connection with the exercise of these Electricity Infrastructure Construction Rights; and</li> <li>t) carry out any activities ancillary or incidental thereto.</li> </ul>   |
| <b>Construction Compound Rights</b> | <p>All rights necessary <b>during the Construction Period</b> for the purposes of or incidental to the establishment, use and removal of works compounds associated with the construction and commissioning of the electricity infrastructure and/or the construction, commissioning and decommissioning of the electric lines, including to:</p> <ul style="list-style-type: none"> <li>a) erect, create, use and remove a works compound which may include portable cabins and offices, and welfare facilities including portable toilets and electricity generators;</li> <li>b) store, stockpile and where necessary use, manage and process plant, machinery, apparatus, materials (including excavated material) and/or equipment;</li> <li>c) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>d) fence, erect hoardings or signage or otherwise secure the compound;</li> <li>e) carry out de-watering and drainage works and install, alter or reinstate land, drainage systems;</li> <li>f) discharge water into existing drains and watercourses;</li> <li>g) install, use and remove artificial lighting;</li> <li>h) park cars;</li> <li>i) protect and prevent damage to or interference with the operation and maintenance of any works constructed pursuant to these Construction Compound Rights;</li> <li>j) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Construction Compound Rights</li> <li>k) prevent and remove any works or use of the land which may interfere with or obstruct the exercise of these Construction Compound Rights;</li> <li>l) install, use, alter, divert and remove services and utilities;</li> <li>m) make good any damage caused in connection with the exercise of these Construction Compound Rights; and</li> <li>n) carry out any activities ancillary or incidental thereto.</li> </ul> |
| <b>Drainage Rights</b>              | <p>All rights necessary for the purposes of or incidental to the carrying out of de-watering and drainage works and to install, alter, use, maintain, reinstate or remove drainage systems, including to:</p> <ul style="list-style-type: none"> <li>a) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes;</li> </ul>   |

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**THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023**

|                    |   |
|--------------------|---|
|                    | <ul style="list-style-type: none"> <li>b) protect and prevent damage to or interference with the operation and maintenance of any de-watering and/or drainage works;</li> <li>c) prevent and remove any works or use of the land which may interfere with or obstruct the exercise of these Drainage Rights;</li> <li>d) make good any damage caused in connection with the exercise of these Drainage Rights; and</li> <li>e) carry out any activities ancillary or incidental thereto.</li> </ul>   |
| <b>HVAC Rights</b> | <p>All rights necessary for the purposes of or incidental to the retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the electricity infrastructure, including to:</p> <ul style="list-style-type: none"> <li>a) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>b) use horizontal directional drilling, where appropriate, for the installation of the electricity infrastructure;</li> <li>c) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems;</li> <li>d) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned aircraft over the land and to enter and retrieve and recover any such unmanned aircraft from the land);</li> <li>e) protect and prevent damage to or interference with the operation and maintenance of the electricity infrastructure;</li> <li>f) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the electricity infrastructure;</li> <li>g) prevent and remove any works on or use of the land that would prevent access to or the operation and maintenance of the electricity infrastructure;</li> <li>h) prevent changes to the use, or level of the surface, of, the land <b>which would interfere with the exercise of these HVAC Rights;</b></li> <li>i) make good any damage caused in connection with the exercise of these HVAC Rights; and</li> <li>j) carry out any activities ancillary or incidental thereto.</li> </ul> <p>The HVAC Rights may be acquired over such part of the Order Land plots described in Table 1 of Schedule 1 to the Order as may be necessary PROVIDED THAT the 'rights corridor' within which the HVAC Rights shall be acquired shall not exceed:</p> <ul style="list-style-type: none"> <li>k) 50 metres in width where trenchless installation techniques, such as horizontal directional drilling, are used;</li> <li>l) 25 metres in width in all other cases;</li> </ul> <p>AND PROVIDED FURTHER THAT the width restrictions above shall not apply to the acquisition of the access rights described at paragraph a) above, which rights may be acquired over such part of the Order Land plots described in Table 1 of Schedule 1 to the Order as may be necessary.</p> |
| <b>HVDC Rights</b> | <p>All rights necessary for the purposes of or incidental to the retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the electricity infrastructure, including to:</p> <ul style="list-style-type: none"> <li>a) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>b) use horizontal directional drilling, where appropriate, for the installation of the electricity infrastructure;</li> <li>c) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems;</li> </ul>  |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

|                        |  |
|------------------------|--|
|                        | <ul style="list-style-type: none"> <li>d) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned aircraft over the land and to enter and retrieve and recover any such unmanned aircraft from the land);</li> <li>e) protect and prevent damage to or interference with the operation and maintenance of the electricity infrastructure;</li> <li>f) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the electricity infrastructure;</li> <li>g) prevent and remove any works on or use of the land that would prevent access to or the operation and maintenance of the electricity infrastructure;</li> <li>h) prevent changes to the use, or level of the surface, of, the land <b>which would interfere with the exercise of these HVDC Rights;</b></li> <li>i) make good any damage caused in connection with the exercise of these HVDC Rights; and</li> <li>j) carry out any activities ancillary or incidental thereto.</li> </ul> <p>The HVDC Rights may be acquired over such part of the Order Land plots described in Table 1 of Schedule 1 to the Order as may be necessary PROVIDED THAT the width of the 'rights corridor' within which the HVDC Rights may be acquired shall not exceed:</p> <ul style="list-style-type: none"> <li>k) 30 metres in width where trenchless installation techniques, such as horizontal directional drilling, are used;</li> <li>l) 20 metres in width in all other cases;</li> </ul> <p>AND PROVIDED FURTHER THAT the width restriction above shall not apply to the acquisition of the access rights described at paragraph a) above, which rights may be acquired over such part of the Order Land plots described in Table 1 of Schedule 1 to the Order as may be necessary;</p> <p><b>AND ADDITIONALLY PROVIDED FURTHER THAT the underground cables will be laid to a contour of not less than 0.9 metres below the original surface level of the relevant section of the Order land measured to the top of the protective tile above the underground cables (save where the cables are brought to or above the surface for a cable bridge or are laid below a highway and save for Plots 1-07,1-21 to 1-25, 2-10, 2-11, 2-18, 2-19, 3-04, 3-08, 5-05, 7-01 and 7-02).</b></p> |
| <b>Landfall Rights</b> | <p>All rights necessary for the purposes of or incidental to the retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the electricity infrastructure, including to:</p> <ul style="list-style-type: none"> <li>a) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>b) use horizontal directional drilling, where appropriate, for the installation of the electricity infrastructure;</li> <li>c) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems;</li> <li>d) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned aircraft over the land and to enter and retrieve and recover any such unmanned aircraft from the land);</li> <li>e) protect and prevent damage to or interference with the operation and maintenance of the electricity infrastructure;</li> <li>f) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the electricity infrastructure;</li> </ul>  |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

|                             |  |
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|                             | <ul style="list-style-type: none"> <li>g) prevent and remove any works on or use of the land that would prevent access to or the operation and maintenance of the electricity infrastructure;</li> <li>h) prevent changes to the use, or level of the surface, of, the land <span style="color: green;">which would interfere with the exercise of these Landfall Rights;</span></li> <li>i) to make good any damage caused in connection with the exercise of these Landfall Rights; and</li> <li>j) to carry out any activities ancillary or incidental thereto.</li> </ul>  |
| <b>Landscaping Rights</b>   | <p>All rights necessary for the purposes of or incidental to the installation, inspection, retention, operation, protection, maintenance, repair, renewal, replanting and replacement of landscaping, ecological and/or environmental measures, including to:</p> <ul style="list-style-type: none"> <li>a) use as a construction and maintenance compound, working area, lay down and parking areas for all plant, equipment, materials and vehicles required in connection with the exercise of these Landscaping Rights;</li> <li>b) access the land and adjoining land with or without vehicles, personnel, plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>c) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with these Landscaping Rights;</li> <li>d) prevent and remove any works or use of the land which may interfere with or obstruct or interfere with the exercise of these Landscaping Rights;</li> <li>e) make good any damage caused in connection with the exercise of these Landscaping Rights; and</li> <li>f) carry out any activities ancillary or incidental thereto.</li> </ul>  |
| <b>Overhead Line Rights</b> | <p>All rights necessary for the purposes of or incidental to the construction, retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the electric lines, including to:</p> <ul style="list-style-type: none"> <li>a) take all necessary rights of support for the electric lines;</li> <li>b) install and remove protection measures for third party structures/assets, including scaffolding;</li> <li>c) test and commission the electric lines and to remedy initial faults and defects in them at any time prior to the date on which it is energised and ready for operation;</li> <li>d) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned aircraft over the land and to enter and retrieve and recover any such unmanned aircraft from the land);</li> <li>e) carry out archaeological works, environmental and/or ecological mitigation;</li> <li>f) carry out works required or permitted by a planning permission and/or consent or licences;</li> <li>g) erect and remove fencing;</li> <li>h) store and stockpile and where necessary use, manage and process plant, machinery, apparatus, and materials (including excavated material) and/or equipment;</li> <li>i) access the land and adjoining land with or without vehicles, personnel, plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>j) construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains;</li> <li>k) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems;</li> </ul> |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

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|  | <ul style="list-style-type: none"> <li>l) discharge water into existing drains and watercourses;</li> <li>m) protect and prevent damage to or interference with the operation and maintenance of the electric lines and construction of the same;</li> <li>n) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with these Overhead Line Rights;</li> <li>o) prevent and remove any works on or use of the land that would prevent access to or the operation and maintenance of the electric lines;</li> <li>p) erect, create, use and remove welfare facilities including portable toilets, portable cabins and offices and electricity generators;</li> <li>q) install, use and remove artificial lighting;</li> <li>r) install, use, alter, divert and remove services and utilities;</li> <li>s) prevent changes to the use, or level of the surface, of, the land <span style="color: green;">which would interfere with the exercise of these Overhead Line Rights;</span></li> <li>t) make good any damage caused in connection with the exercise of these Overhead Line Rights; and</li> <li>u) carry out any activities ancillary or incidental thereto.</li> </ul>   |
| <p><b>Overhead Line Access Rights</b></p>  | <p>All rights necessary to access the land and adjoining land for the purposes of the construction, retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the electric lines, and carrying out de-watering and drainage works and installing, altering or reinstating land drainage systems, with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel, including to:</p> <ul style="list-style-type: none"> <li>a) carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities;</li> <li>b) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with these Overhead Line Access Rights;</li> <li>c) prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of these Overhead Line Access Rights;</li> <li>d) make good any damage caused in connection with the exercise of these Overhead Line Access Rights; and</li> <li>e) carry out any activities ancillary or incidental thereto.</li> </ul> |
| <p><b>Overhead Line Removal Rights</b></p> | <p>All rights necessary for the purposes of or incidental to the removal and decommissioning of the electric lines, including to:</p> <ul style="list-style-type: none"> <li>a) install and remove protection measures for third party structures/assets, including scaffolding;</li> <li>b) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned aircraft over the land and to enter and retrieve and recover any such unmanned aircraft from the land);</li> <li>c) carry out archaeological works, environmental and/or ecological mitigation;</li> <li>d) carry out works required or permitted by a planning permission and/or consent or licences;</li> <li>e) erect and remove fencing;</li> </ul>  |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

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|  | <ul style="list-style-type: none"> <li>f) store and stockpile and where necessary use, manage and process plant, machinery, apparatus, and materials (including excavated material) and/or equipment;</li> <li>g) access the land and adjoining land with or without vehicles, personnel, plant, machinery, apparatus, equipment and materials for such purposes;</li> <li>h) construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains;</li> <li>i) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems;</li> <li>j) discharge water into existing drains and watercourses;</li> <li>k) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with these Overhead Line Removal Rights;</li> <li>l) prevent and remove any works on or use of the land that would prevent access to or the removal or decommissioning of the electric lines;</li> <li>m) erect, create, use and remove welfare facilities including portable toilets, portable cabins and offices and electricity generators;</li> <li>n) install, use and remove artificial lighting;</li> <li>o) install, use, alter, divert and remove services and utilities;</li> <li>p) prevent changes to the use, or level of the surface, of, the land <span style="color: green;">which would interfere with the exercise of these Overhead Line Removal Rights;</span></li> <li>q) reinstate the land;</li> <li>r) make good any damage caused in connection with the exercise of these Overhead Line Removal Rights; and</li> <li>s) carry out any activities ancillary or incidental thereto.</li> </ul> |
| <b>Overhead Line Removal Access Rights</b> | <p>All rights necessary to access the land and adjoining land for the purposes of removing and decommissioning the electric lines, and carrying out de-watering and drainage works and installing, altering or reinstating land drainage systems, with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel, including to:</p> <ul style="list-style-type: none"> <li>a) carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities;</li> <li>b) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with these Overhead Line Removal Access Rights;</li> <li>c) prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of these Overhead Line Removal Access Rights;</li> <li>d) make good any damage caused in connection with the exercise of these Overhead Line Removal Access Rights; and</li> <li>e) carry out any activities ancillary or incidental thereto.</li> </ul>  |
| <b>Temporary Access Rights</b>             | <p>All rights necessary <span style="color: red;">during the Construction Period</span> to access the land and adjoining land for the purposes of constructing and commissioning the electricity infrastructure and/or the construction, commissioning and decommissioning of the electric lines and/or the establishment, use and removal of works compounds, and carrying out de-watering and drainage works and installing, altering or</p>  |

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## THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023

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|  | <p>reinstating land drainage systems, with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel, including to:</p> <ul style="list-style-type: none"> <li>a) access the land and adjoining land to use horizontal directional drilling, where appropriate, for the installation of the cables;</li> <li>b) carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities;</li> <li>c) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Temporary Access Rights;</li> <li>d) prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of the Temporary Access Rights;</li> <li>e) make good any damage caused in connection with the exercise of these Temporary Access Rights; and</li> <li>f) carry out any activities ancillary or incidental thereto.</li> </ul> |
|  | <p>All the new rights described herein shall be exercised in accordance with good electricity transmission industry practice (including in relation to land drainage and soil removal and storage, where applicable).</p>  |

### Rider of Definitions

“adjoining land” means land over which the acquiring authority has a lawful right to take access and which adjoins the land which is the subject of the Rights to be acquired;

“Construction Period” means the period from and including the date of commencement of construction to the date twelve (12) months from and including the date of first Operation of the Project; and

“Operation” means operated as part of the high-voltage electricity transmission network serving Great Britain.

## **APPENDIX 2 – Without Prejudice Voluntary Undertaking**

**NATIONAL GRID ELECTRICITY TRANSMISSION PLC**

**to**

**THE COUNTY COUNCIL OF DURHAM**

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**PLANNING OBLIGATION BY UNILATERAL UNDERTAKING  
PURSUANT TO SECTION 106 OF THE TOWN AND  
COUNTRY PLANNING ACT 1990 AND ASSOCIATED  
POWERS RELATING TO THE DEVELOPMENT OF LAND  
NEAR HAWTHORN GRID SITE, MURTON, DH6 2RX**

**RELATING TO THE NATIONAL GRID ELECTRICITY  
TRANSMISSION PLC (SCOTLAND TO ENGLAND  
GREEN LINK 1) COMPULSORY PURCHASE ORDER  
2023**

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**This Planning Obligation by Unilateral Undertaking** is made the                      day of  
2023

**And is GIVEN BY**

1.        **NATIONAL GRID ELECTRICITY TRANSMISSION PLC** (CRN: 02366977) whose registered office is at 1 - 3 Strand, London, WC2N 5EH ("**the Developer**")

To

1.        **THE COUNTY COUNCIL OF DURHAM** of County Hall, Durham, DH1 5UL ("**the Council**")

**Whereas**

- A.        The Developer is the freehold owner of the Developer's Land which forms part of the Site and which is unregistered and was acquired pursuant to a conveyance dated 5 December 1966.
- B.        The Developer is promoting the Project.
- C.        The Developer has made the Order to acquire the land and rights identified in the Order and shown on the Order Maps.
- D.        The Developer will acquire an interest in the Order Land once the Order has been confirmed by the Secretary of State and powers of compulsory acquisition are exercised by the Developer pursuant to the Order.
- E.        The Council has issued the Planning Permission.
- F.        The underground electricity cables forming part of the Project are to be constructed pursuant to the Town and Country Planning (General Permitted Development) Order 2015.
- G.        The Developer is entering into this Undertaking in order to secure the planning obligations contained in it and the Developer considers that the obligations in this Undertaking are necessary to make the Cable Installation Works acceptable in planning terms having regard to the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
- H.        The Council is the local planning authority for the purposes of Section 106 of the Act for the area within which the Developer's Land and the Order Land is situated.
- I.        The Developer has agreed to enter into this Undertaking with the intention that the obligations contained in this Undertaking may be enforced by the Council against the Developer and their successors in title.

**Now this Undertaking witnesses as follows:**

**1. DEFINITIONS**

For the purposes of this Undertaking the following expressions shall have the following meanings:

|                                       |  |
|---------------------------------------|--|
| <b>“Act”</b>                          | the Town and Country Planning Act 1990 (as amended);   |
| <b>“Cable Installation Works”</b>     | means the installation of underground electricity works forming part of the Project;   |
| <b>“Decision Letter”</b>              | means a letter issued by the Secretary of State confirming the Order;  |
| <b>“Developer’s Land”</b>             | that part of the Site shown edged blue on Plan 1;  |
| <b>“Landowner”</b>                    | means any party identified as a landowner in Table 1 of the Order and relevant Landowner shall mean the relevant Landowner in respect of individual plots of Order Land shown on the Order Maps and <b>“Landowners”</b> shall be interpreted accordingly;  |
| <b>“Order”</b>                        | The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023;  |
| <b>“Order Land”</b>                   | means the land shown on the Order Maps and which are appended to this Undertaking;   |
| <b>“Order Maps”</b>                   | means the maps marked “the map referred to in The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023”;   |
| <b>“Planning Permission”</b>          | the planning permission granted by the Council;  |
| <b>“Pre-Construction Soil Survey”</b> | a detailed soil survey to be undertaken by a competent person (e.g. a soil expert) in order to produce specific soil resource topsoil and subsoil unit plans and restoration specifications for areas of agricultural land within relevant plots, such survey to be used to monitor the progress |

of soil handling and restoration operations.

Each survey will include the identification of the physical characteristics of profiles at a standard density of 100m intervals (with additional profiles examined where the 100m grid sampling does not enable a suitable density of sampling in an agricultural enclosure that will otherwise be missed). Soil pits will also be examined at appropriate locations to provide additional detail on soil structure and stoniness. Each survey will provide information on the following soil physical characteristics:

Soil horizon depths for topsoil and subsoil horizons;

Soil textures of all horizons;

Soil colour;

Stone contents, estimated from augering, confirmed by soil pit excavation and/or sample analysis;

Presence and characteristics of mottling;

Presence of manganese concretions indicator;

Identification of gleyed horizons;

Identification of slowly permeable layers; and

Identification of impenetrable rock layers;

**“Pre-Construction Schedule of Condition”**

A schedule of condition which will include the following:

Existing crop regimes;

Position and condition of existing field boundaries;

Condition of existing access arrangements;

Location and type of existing private water supplies;

Type of agricultural use taking place;

Yield of crops;  
Quality of grazing land;  
Existing weed burden;  
Soil/ ground condition;  
Weather conditions;  
Date of survey;  
Grid reference;  
Photographs and drone/video footage  
(where practicable); and  
Section drawings/plans.

**“Project”** an electricity link comprising underground cables, converter station, substation and associated development to facilitate the transfer of electrical power between Torness in East Lothian and Hawthorn Pit in County Durham;

**“Site”** the land at Hawthorn Pit Grid Site Murton DH6 2RX subject of the Application as shown edged red on the Order Maps and as appended to this Undertaking; and

**"Working Day"** any day apart from Saturday and Sunday and statutory bank holidays in England.

## **2. CONSTRUCTION OF THIS UNDERTAKING**

- 2.1 Where in this Undertaking reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Undertaking (unless the context otherwise requires).
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neutral genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made,



issued or given under that Act or deriving validity from it.

- 2.5 References to any party to this Undertaking shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Developer and the Council the successors to their respective statutory functions.
- 2.6 The headings and contents list are for reference only and shall not affect construction.
- 2.7 Any covenant by the Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.8 Insofar as any clause or clauses of this Undertaking are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 2.9 No person shall be liable for any breach of any of the obligations or other provisions of this Undertaking after it shall have parted with its entire interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 2.10 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or any non-material amendment thereto) granted (whether or not on appeal) after the date of this Undertaking nor shall any payment be due under this Undertaking in respect of any development carried out under such other planning permission.

### **3. LEGAL BASIS**

- 3.1 The obligations contained in Clause 5 of this Undertaking are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council.
- 3.2 The obligations contained in Clause 5 of this Undertaking are entered into by the Developer with the intention that these provisions should bind their interests in the Developer's Land and the Order Land as provided by Section 106 of the Act.
- 3.3 Save where otherwise indicated and where possible pursuant to the relevant statutory provision the covenants in this Undertaking shall be binding on the Developer and its successors in title to Developer's Land or the Order Land subject always to Clause 3.4.
- 3.4 The Developer shall cease to have any obligation or liability under the terms of this Undertaking in relation to the Developer's Land or the Order Land or any part thereof once it shall have parted with all its interest in the Developer's Land or Order Land or that part thereof respectively but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

### **4. CONDITIONALITY**

- 4.1 The obligations contained within this Undertaking are conditional upon the confirmation of the Order by the Secretary of State save for the provisions of Clause 4.2, 6, 7, 8, 9 and 10 which shall come into effect immediately upon the completion of this Undertaking.

- 4.2 If the Decision Letter concludes that the obligations set out in clause 5 of this Undertaking are not necessary and accordingly gives no weight to those obligations in confirming the Order then this Undertaking shall from the date of the Decision Letter immediately cease to have effect and the Developer shall be under no obligation to comply with it.

## **5. THE DEVELOPER'S COVENANTS**

- 5.1 The Developer covenants with the Landowners to fully observe and perform the obligations in this Undertaking including those obligations set out in Schedule 1 to this Undertaking and hereby agrees that the Order Land shall be subject to the obligations, restrictions and covenants herein.

## **6. TERMINATION OF THIS DEED**

- 6.1 This Undertaking shall cease to have effect (insofar only as it has not already been complied with) if the Order shall be quashed, revoked or otherwise withdrawn (or without the consent of the Developer it is modified by any statutory procedure) or the land and rights to be acquired.

## **7. THIRD PARTY RIGHTS**

- 7.1 Save as provided in respect of successors in title to the Order Land this Undertaking shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefit, rights or claims whatsoever thereto.

## **8. JURISDICTION**

- 8.1 This Undertaking is governed by and interpreted in accordance with the law of England and Wales.

## **9. LOCAL LAND CHARGE**

- 9.1 This Undertaking is a Local Land Charge and shall be registered as such by the Council in the Local Land Charges Register provided that if the Order expires unimplemented, or is revoked, or if all obligations under this Undertaking have been discharged then the registered charge shall be treated as having ceased to have effect under rule 8 of the Local Land Charges Rules 1977 or any statutory re-enactment thereof and the registration shall be cancelled.

## **10. ARBITRATION**

- 10.1 All disputes, differences or questions arising out of this Undertaking or as to the rights or obligations of the parties under it or in connection with its construction shall be referred to arbitration by a single arbitrator to be agreed between the parties or, failing agreement, within 21 days by an arbitrator to be appointed at the request of any party by the President of The Royal Institute of Chartered Surveyors as the case may be having due regard to any representations made to him as the appropriate qualifications of such arbitrator.
- 10.2 The arbitration shall take place in London and shall be in accordance with the Arbitration Act 1996 or any re-enactment or modification of such Act for the time being in force, unless otherwise agreed in writing by the Council.

**IN WITNESS** of which this Undertaking has been duly executed as a Deed and has been delivered once dated.

## SCHEDULE 1

### The Developer's Covenants

The Developer covenants with the Council that:

1. the HVDC underground cables forming part of the Project will be installed in accordance with Energy Networks Association Guidance "Cable Laying on Agricultural Land" (Ref: G57: Issue 2: 2019) and will be installed to a contour of not less than 0.9 metres below the original surface level of the Order Land measured to the top of the protective tile above the underground cables (save where the cables are brought to or above the surface for a cable bridge or are laid below a highway and save in relation to plots 1-07, 1-21 to 1-25, 2-10, 2-11, 2-18, 2-19, 3-04, 3-08, 5-05, 7-01 and 7-02) provided that the cable depth can be increased beyond the minimum 0.9 metres where necessary due to agricultural practices, land drainage requirements or any other engineering reasons that justify a greater burial depth;
2. prior to the commencement of any Cable Installation Works it will appoint an agricultural liaison officer to be the primary contact for ongoing engagement about practical matters with Landowners, occupiers and their agents both prior to and during the process of laying the underground cables;
3. it shall in respect of each Landowner:
  - a. prior to the commencement of any Cable Installation Works on the relevant Landowner's Order Land:
    - i. carry out a Pre-Construction Schedule of Condition of the relevant Landowner's Order Land;
    - ii. permit the relevant Landowner to make representations on the adequacy of the Pre-Construction Schedule of Condition;
    - iii. give due and proper regard to any representations received from the relevant Landowner on the Pre-Construction Schedule of Condition and take reasonable steps to remedy any justifiable inadequacy identified by the relevant Landowner;
    - iv. provide a copy of the final Pre-Construction Schedule of Condition to the relevant Landowner;
    - v. carry out a Pre-Construction Soil Survey of the relevant Landowner's Order Land;
    - vi. permit the relevant Landowner to make representations on the adequacy of the Pre-Construction Soil Survey;
    - vii. give due and proper regard to any representations received from the relevant Landowner on the Pre-Construction Soil Survey and

- take reasonable steps to remedy any justifiable inadequacy identified by the relevant Landowner;
- viii. provide a copy of the final Pre-Construction Soil Survey to the relevant Landowner; and
  - ix. prepare a soil management plan with the objective of returning the relevant Landowner's Order Land post-completion of construction to the condition recorded in the Pre-Construction Soil Survey and the Pre-Construction Schedule of Condition;
- b. reinstate subsoil and topsoil on the relevant Landowner's Order Land to the same condition as evidenced by the Pre-Construction Schedule of Condition and the Pre-Construction Soil Survey;
- c. prior to commencement of any Cable Installation Works on the relevant Landowner's Order Land:
- i. procure that a suitably qualified drainage contractor ("Drainage Contractor") is appointed to carry out a pre and post construction drainage assessment of each relevant Landowner's Order Land;
  - ii. procure that the Drainage Contractor provides a copy of the pre-construction assessment to the relevant Landowner and any drainage consultant employed by the relevant Landowner;
  - iii. permit the relevant Landowner to make representations on the drainage assessment;
  - iv. take into account any reasonable representations made by the relevant Landowner in relation to the drainage assessment and provide a copy of the final drainage assessment to the relevant Landowner; and
  - v. implement any required drainage works, in line with the recommendations within the drainage assessment as soon as practicably possible to ensure the agricultural land drainage systems on the relevant Landowner's Order Land are left in no worse condition than before the date of the relevant drainage assessment;
- d. procure that the Drainage Contractor carries out a post-construction drainage assessment and provide a copy of this to the relevant Landowner;
- e. procure that a suitably qualified drainage consultant who will act independently of the Drainage Contractor ("Drainage Expert") is appointed to assure the design and methodology of the required drainage works to be undertaken by the Drainage Contractor;
- f. subject to compliance with CDM Regulations, and the Developer's health and safety requirements, provide the relevant Landowner and the Drainage Expert the opportunity to inspect the drainage works whilst in progress on the relevant Landowner's Order Land; and

- g. provide records of existing and remedial drainage to the relevant Landowner after completion of the drainage works by the Drainage Contractor.

The COMMON SEAL of  
**NATIONAL GRID ELECTRICITY  
TRANSMISSION PLC**  
was hereunto affixed  
in the presence of:

Authorised Signatory  
Member of the Board Sealing Committee