**STATUTORY NOTICE**

**COUNTER-NOTICE REGARDING NON-EMERGENCY UNDERTAKER’S WORKS WHICH INTERFERE WITH AN ELECTRONIC COMMUNICATIONS NETWORK**

**Paragraph 68(2) of Part 10 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 68(2) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).[[1]](#footnote-1)
2. On [*Insert date*], you, [*Insert name of undertaker*], gave us, [*Insert name of Code operator*], a notice under paragraph 67(1) of the Code. That notice informed us of your intention to carry out non-emergency works at [*Insert address*] which would interfere with our electronic communications apparatus (the “**Proposed Works**”).
3. The purpose of this notice is to inform you that we require you to make any alteration of our electronic communications apparatus that is necessary or expedient because of the Proposed Works both under our supervision and to our satisfaction.

*[OR - delete appropriate version of paragraph 3]*

3. The purpose of this notice is to inform you that we intend to make any alteration of our electronic communications apparatus that is necessary or expedient because of the Proposed Works.

CONSEQUENCES OF THIS NOTICE

1. As a result of this notice, you must, in carrying out the Proposed Works, act in accordance with this counter-notice when altering our electronic communications apparatus and therefore carry out those alterations both under our supervision and to our satisfaction.[[2]](#footnote-2)

You must also pay us:

* 1. the amount of any loss or damage sustained by us in consequence of any alteration being made to our electronic communications apparatus (in carrying out the Proposed Works); and
  2. any expenses incurred by us in, or in connection with, supervising you when altering our electronic communications apparatus (in carrying out the Proposed Works).

*[OR - delete appropriate version of paragraph 4]***[[3]](#footnote-3)**

4. As a result of this notice, you must not alter our electronic communications apparatus (in carrying out the Proposed Works).[[4]](#footnote-4) You must also pay us:

1. any expenses incurred by us in, or in connection with, making the alteration; and
2. the amount of any loss or damage sustained by us in consequence of the alteration being made.

[*Insert date of Notice*]

1. A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk). [↑](#footnote-ref-1)
2. This is subject to paragraph 68(4) of the Code which provides that, where a Code operator unreasonably fails to provide the required supervision, the undertaker must act in accordance with the counter-notice only insofar as it requires alterations to be made to the satisfaction of the Code operator. [↑](#footnote-ref-2)
3. The appropriate version of paragraph 4 will depend on which version of paragraph 3 you have chosen. In particular, if you choose the first version of paragraph 3, you must choose the first version of paragraph 4 (and vice versa). [↑](#footnote-ref-3)
4. This is subject to paragraph 68(6) of the Code which provides that the undertaker should not be prevented from making any alteration of electronic communications apparatus which the Code operator fails to make within a reasonable time. [↑](#footnote-ref-4)