**[FIRST]/ [SECOND] STATUTORY WARNING NOTICE**

**REGARDING UNRESPONSIVE OCCUPIERS UNDER THE ELECTRONIC COMMUNICATIONS CODE**

**Paragraph 27C Part 4A of Schedule 3A of the Communications Act 2003**

**IMPORTANT NOTICE**

**If you are willing to enter into a Code Agreement, you should respond within [7] days**

1. This is a statutory notice pursuant to paragraph 27C(2) of the electronic communications code, set out in Part 4A of the Schedule 3A to the Communications Act 2003 (the “**Code**”).[[1]](#footnote-2)
2. This notice is the [first / second] notice of three notices and has been issued by [*Name of Code operator*] (“**we**” or “**us**”) to you, [*Insert name*], pursuant to paragraph 27C(1)(a) of the Code, because you have not responded to our statutory request notice issued on [*Insert date*], pursuant to paragraph 20(2) of the Code (‘**Request Notice**’).
3. We are seeking your agreement to [*insert brief description of rights sought e.g. to install apparatus and carry out related works*] on land occupied by you, for the purposes of our [*electronic communications network and/or infrastructure system*]. This is in order to provide an electronic communications service to a lessee in occupation of the Target Premises. A full description of the Code Rights we are seeking your agreement to is included in the Request Notice, a copy of which is attached to this notice.
4. You have not provided a written response to the Request Notice of [*Insert date[s]*] which required you to respond in writing to agree to, refuse or acknowledge the request before the end of a period of 7 days beginning with the day on which the Request Notice was given.

*[OR – delete appropriate version of paragraph 4]*

1. You have not provided a written response to agree to, refuse or acknowledge the Request Notice of [*Insert date[s]*], and you have not acknowledged the first warning notice of [*Insert date[s]*]] both of which required a response in writing before the end of 7 days beginning with the day on which the notice was given.
2. A copy of the Request Notice is attached to this [*first* / *second*] warning notice.

INTERPRETATION

1. In this notice:
   1. “**Part 4A order**” means a court order which imposes an agreement between us pursuant to paragraph 27E(1) under Part 4A of the Code;
   2. “**Target Premises**” means the premises identified in the Request Notice;
   3. “**Request Notice**” means a notice under paragraph 20(2) of the Code;

and words used but not defined in this Notice shall have the meaning ascribed to them in the Code.

*A warning notice under Part 4A of the Schedule 3A of the Code*

1. *A warning notice under paragraph 27C(2) of the Code is a notice in writing which: (a) includes a copy of the Request Notice, (b) states that it is the first or (as the case may be) second of three notices that, unless the required grantor responds to the operator, will allow the operator to apply for a Part 4A order, and (c) explains the effect of a Part 4A order.*
2. *A Part 4A order is an order which imposes on the operator and the required grantor an agreement between them to confer the Code Rights on the operator or provide for the Code Rights to bind the required grantor*.
3. *The court also has the power to order us to pay you compensation for any loss or damage that you have sustained or will sustain as a result of the exercise of the Code Rights. Paragraph 27H of the Code contains further detail about this*.

[CONSEQUENCES OF NOT RESPONDING TO A [FIRST / SECOND] WARNING NOTICES]

1. If either:
2. you do not respond, in writing, to agree or refuse to confer or otherwise be bound by the code right specified in the Request Notice, before the end of [7] days beginning with the day on which this first notice is given; or
3. do not otherwise acknowledge, in writing, the Request Notice,

we will issue a second warning notice.

[Or*- delete appropriate version of paragraph 11*]

1. If either:
   * 1. you do not respond, in writing, to confer or otherwise be bound by the code right specified in the Request Notice, before the end of [7] days beginning with the day on which this second notice is given; or
     2. do not otherwise acknowledge, in writing, the Request Notice or the first notice,

we will issue a final notice.

1. Alternatively, if you do respond, in writing, before the end of [7] days beginning with the day on which this [*first / second*] notice is given, but **do not agree** [*to confer / to be bound by*] the Code we will be entitled to apply to the court for an order under paragraph 20(4) of the Code.
2. Failure to respond to a first and second warning notice, and a final notice within the prescribed timeframes, may result in our entitlement to apply to the court for a Part 4A order, under paragraph 27D, in relation to the Code Right as stated in the Request Notice.

YOUR OPTIONS

1. In response to this notice, you may:
   1. agree [*to confer the Code Rights on us / to be bound by the Code Rights*];
   2. give notice to us that you do not agree [*to confer / to be bound by*] the Code Rights; or
   3. do nothing.
2. In deciding how to respond to this notice, you may wish to seek independent legal advice.
3. If you agree [*to confer the Code Rights on us / to be bound by the Code Rights*], [*we will send you an agreement reflecting the terms set out in the Request Notice and ask you to sign it*] [*we ask you to sign the agreement attached at Annex 2 of the Request Notice*]. You would be entitled to seek independent legal advice in relation to the agreement.
4. If you **do not agree** [*to confer / to be bound by*] the Code we will be entitled to apply to the court for an order under paragraph 20(4) of the Code.
5. Alternatively, and as explained at paragraph [13] above, if you do not respond in writing before the end of 7 days beginning with the day on which this [*first* / *second*] notice is given, we will issue a [*second warning notice*/ *final notice*].
6. Please submit any notification pursuant to paragraph 14a or b to us in writing as soon as possible and, in any event, before the end of 7 days beginning with the day on which this notice is given.
7. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:

[*Insert address details*]

1. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[*INSERT DATE OF NOTICE*]

*SUPPLEMENTARY INFORMATION FOR THE RECIPIENT OF THIS NOTICE*

Orders under Part 4A of the Code

1. An order under Part 4A of Schedule 3A of the Code is an order which imposes on us and you an agreement concerning rights in respect of land connected to leased premises (“connected land”). The effect of such an agreement would be [*to confer the Code Rights on us / provide for the Code Rights to bind you*].
2. We may apply for an order under paragraph 27D(1) of the Code if you do not, before the end of seven days beginning with the day on which the Request Notice under paragraph 20(2) of the Code is given, respond in writing to agree to, refuse, or acknowledge the request and:
   1. we give you two warning notices and a final notice pursuant to paragraph 27C(1) of the Code; and
   2. you do not, before the end of 14 days beginning with the day on which the final notice is given, respond in writing either to:

(i) agree or refuse to confer or otherwise be bound by the Code right specified in the request notice given pursuant to paragraph 20(2) of the Code on the terms we seek; or

(ii) otherwise acknowledge a warning notice or the final notice.

1. The court may **only** make an order under paragraph 27E(1) of the Code if it is satisfied that we have met the requirements under paragraph 27D(1) of the Code for applying for an order **and** you have not objected to the making of the order.
2. Paragraphs 27E(4) and 27E(5) of the Code contain further detail about the terms of the agreement that the court may impose.
3. The court also has the power to order us to pay you compensation for any loss or damage that you have sustained or will sustain as a result of the exercise of the Code Rights. Paragraphs 27H and Part 14 of the Code contain further detail about this.

**ANNEX**

**[Paragraph 20(2) Request Notice]**

1. A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk). [↑](#footnote-ref-2)