

HEATHROW STATION ACCESS CONDITIONS

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PART A ORGANISATION OF THE ACCESS CONDITIONS AND DEFINITIONS

Condition A1 General

1.1 General Interpretation

In these Station Access Conditions, the Annexes and any Relevant Agreement unless the context otherwise requires,

1.1.1 These Station Access Conditions: References to these Station Access Conditions mean these Station Access Conditions and references to Annexes means to annexes to these Station Access Conditions each as modified from time to time.

1.1.2 Parts, Conditions and paragraphs: References to Parts, Conditions and paragraphs are to Parts, Conditions and paragraphs of these Station Access Conditions.

1.1.3 References to statutory provisions: References to any enactment include any subordinate legislation made from time to time under it and are to be construed as references to that enactment as from time to time amended or modified or any enactment for the time being replacing or amending it.

1.1.4 Interpretation Act: Words and expressions defined in the Interpretation Act 1978 shall have the same meanings. The words "include" and "including" shall be construed without limitation.

1.1.5 Definitions in the Act: Terms and expressions defined in sections 1, 81 to 83 (inclusive) and 151 of the Act shall, unless the contrary intention appears, have the same meanings.

1.1.6 Construction of agreements: Reference to an agreement or any other document includes that agreement or other document as from time to time modified, supplemented, varied, amended or novated (any such being a "change") provided that where the agreement is a Relevant Agreement such change shall be included only if one of the following conditions shall have been satisfied:-

(a) if the change is to any part of a Relevant Agreement other than these Station Access Conditions or the Annexes the change will not result or be likely to result in a Relevant Restriction; or

(b) the change is one in respect of which the ORR shall have given its consent in writing; or

(c) the change is one which falls wholly within the terms of a general consent given by the ORR in writing.

A general consent of the kind referred to in paragraph (c) above may be revoked by the ORR by notice in writing to the parties concerned unless the terms of the consent shall be that it shall not be revocable. The revocation of a general consent shall not affect the continuing

validity of any change made in accordance with, and before the revocation of, that general consent.

1.1.7 Notices etc.: Wherever provision is made for the giving or issuing of any notice, consent or approval by any person, that notice, consent or approval shall, unless otherwise specified, be in accordance with the notice requirements set out in the Relevant Agreement and the words “notify”, “consent” or “approve” (and cognate expressions) shall be construed accordingly.

1.1.8 References to person: Any reference to a person shall be construed as including, where appropriate, a reference to a firm, company, corporation, government, state or agency of a state, any association or partnership (whether or not having separate legal personality) and the legal personal representatives, successors, successors in title and permitted assignees of any of the foregoing.

1.1.9 Conflict: In the event of any conflict (whether as to interpretation or otherwise) between the provisions of these Station Access Conditions and the provisions of a Relevant Agreement, the following order of precedence shall apply:

(a) these Station Access Conditions; and

(b) the provisions of that Relevant Agreement.

1.1.10 Time Limits: Where in any Relevant Agreement any obligation of a person is required to be performed within a specified time limit, that obligation shall continue after that time limit if that person fails to comply with that obligation within the time limit.

1.1.11 Headings: The headings and references to headings shall be disregarded.

1.1.12 Companies Act definitions: The words “subsidiary”, “holding company” and “company” shall have the same meanings as in the Companies Act 2006.

1.1.13 Use of present tense: Use of the present tense means the relevant time or, as the case may be, from time to time during the relevant period.

1.1.14 Sub-contractors: Where a party has sub-contracted its obligations under any Relevant Agreement references to that party in any Relevant Agreement shall include references to any sub-contractor so appointed.

1.1.15 Permission to use: References to the grant to a User of permission to use the Station shall be construed to mean:

(a) the grant of permission for the User and its Associates to use the Common Station Amenities and to obtain the benefit of the Station Services or Light Maintenance Services for or in connection with the provision of services for the carriage of passengers by railway or services for the carriage of goods by railway, whether or not the Station Facility Owner is to provide those services itself or to secure their provision by another; and

(b) to the extent reasonably necessary to give full effect to the permission in Condition A1.1.15(a), and subject to Condition A1.1.16, permission for the User and its Associates to:

- (i) enter upon the Common Station Amenities, with or without vehicles;
- (ii) bring things onto the Common Station Amenities and keep them there;
- (iii) use and maintain any things kept, or buildings or other works constructed, on the Common Station Amenities (whether by the User or another);
- (iv) carry out such works as shall have been approved in accordance with these Station Access Conditions;
- (v) NOT USED; and
- (vi) carry out Light Maintenance Services,

provided that the permissions in Conditions A.1.1.15(a) and A1.1.15(b) shall be in common with, but not in priority to, any other User in respect of the Common Station Amenities or Common Station Services and shall be subject, in each case and in all respects, to:

- (c) these Station Access Conditions;
- (d) any Relevant Restriction arising under any Existing Agreement; and
- (e) whilst exercising any permissions conferred by Condition 1.1.15(b) any other restriction on such permissions which may from time to time be reasonably imposed by the Station Facility Owner in accordance with the Station Access Agreement.

1.1.16 Permission to use under Condition A1.1.15(b): In relation to the permissions specified in Condition A1.1.15(b):

- (a) the User shall and shall procure that its Associates (other than passengers) shall, wherever reasonably practicable, first obtain the consent of the Station Facility Owner (which consent shall not be unreasonably withheld or delayed);
- (b) the User shall promptly remove any vehicle or other thing so brought onto the Common Station Amenities when reasonably directed to do so by the Station Facility Owner; and
- (c) whilst exercising any permissions conferred by Condition A1.1.15(b) the User shall, and shall procure that its Associates shall, comply with such reasonable restrictions or instructions as the Station Facility Owner shall specify.

1.1.17 Good Faith: all Relevant Operators shall, in exercising their respective rights and complying with their respective obligations under these Station Access Conditions, the Annexes and any Relevant Agreement (including when conducting any discussions or

negotiations arising out of the application of these Station Access Conditions, the Annexes and any Relevant Agreement or exercising any discretion under them) at all times act in good faith.

1.1.18 “an after tax basis”: References to an after tax basis shall be construed to mean payments of the monies which are the subject of the indemnity after:

(a) first, if the cost, loss or other matter in respect of which the monies are to be paid gives rise to any relief from taxation for the beneficiary of the indemnity, by reducing the amount of such payment by the amount of tax saved (or deemed to be saved on the basis of the assumption set out below) by the beneficiary by virtue of the relief;

(b) secondly, if the indemnity is subject to taxation in the hands of the beneficiary, by increasing the amount of the payment after any reduction under Condition A1.1.18(a) such that the net amount retained by the beneficiary after the deduction of the tax suffered (or deemed to be suffered on the basis of the assumptions set out below) by the beneficiary in respect of such indemnity payment equals the amount of the payment after any reduction under Condition A1.1.18(a);

and, in applying the above, it shall be assumed that:

(c) for the purposes of Condition A1.1.18(a), the amount of tax saved shall be the difference between:

(i) the amount of tax which would have been payable by the beneficiary in respect of the accounting period of the beneficiary in which the relief arises, on the assumption that the beneficiary is subject to tax on its Taxable Profits in such accounting period; and

(ii) the amount of tax which would have been payable by the beneficiary in respect of such accounting period, on the assumption that the beneficiary is subject to tax on an amount equal to its Taxable Profits in such accounting period minus the amount of such relief;

and, if the beneficiary’s Taxable Profits in the relevant accounting period are less than such relief, it shall be assumed for the purposes of both calculations that the Taxable Profits in such accounting period are equal to such relief;

(d) for the purposes of Condition A1.1.18(b), the amount of the deduction in respect of any tax suffered shall be the difference between:

(i) the amount of tax which would have been payable by the beneficiary in respect of the accounting period of the beneficiary in which the indemnity payment is taxable, on the assumption that the beneficiary is subject to tax on its Taxable Profits in such accounting period; and

(ii) the amount of tax which would have been payable by the beneficiary in respect of such accounting period, on the assumption that the beneficiary is

subject to tax on an amount equal to its Taxable Profits in such accounting period minus the amount of such indemnity payment as increased under Condition A1.1.18(b) (the “grossed up amount”);

and, if the beneficiary’s Taxable Profits in the relevant accounting period are less than the grossed up amount, it shall be assumed for the purposes of both calculations that the Taxable Profits in such accounting period are equal to the grossed up amount; and

(e) for the purposes of applying the above clauses on each occasion that an indemnity payment falls to be made, the beneficiary’s “Taxable Profits” in the relevant accounting period shall be deemed to be the beneficiary’s profits in such accounting period (as defined in Section 6 of the Income and Corporation Taxes Act 1988 (“ICTA”)), as reduced by all reliefs other than the relief referred to in Condition A.1.1.18(a), arising in respect of such occasion and trading losses carried back under sub-section 393A(1)(b) of ICTA, but including, for the avoidance of doubt, charges on income, group relief and trading losses carried forward (to the extent not attributable to the relief referred to in Condition A1.1.18(a) arising in respect of such occasion).

In any case where an indemnity payment falls to be made on an “after tax basis”, the adjustments referred to above shall be calculated by the auditors of the beneficiary (acting as experts and not as arbitrators) whose calculations shall be binding on the parties in the absence of manifest error and whose costs shall be borne in equal shares by the beneficiary and the indemnifying party and, if such adjustments cannot be conclusively determined at the time when the indemnity payment is required to be made, the auditors shall provide an estimate of the adjustments which are likely to be required and the indemnity payment shall be made on the basis of such estimate and, as and when such adjustments can be conclusively determined, such payment will be made either by or to the beneficiary as may be required to give effect to the above paragraphs.

1.1.19 where a reference to the ORR is made as a third party to resolve disputes or as a third party to procure approval or consent, if the ORR declines to act in this manner in any of these circumstances then the matter shall be decided by the agreed third party body to be nominated by HAL and agreed by the User.

1.2 Definitions

In these Station Access Conditions, the Annexes and any Relevant Agreement, unless the context otherwise requires:

“Accepted” means a notification made in response to a Material Change Proposal in which a Material Change Consultee states, or is deemed to have stated, that, so long as the scope and detail of the Proposal remain materially unaltered it does not, and will not object to the implementation of the Proposal and will sign the relevant Co-operation Agreement or be deemed to have accepted that Co-operation Agreement. The words “accept”, “acceptance” and “accepting” shall be construed accordingly;

“Access Charge” has the meaning attributed to it in the Station Access Agreement;

“Access Dispute Resolution Rules” means the rules regulating the resolution of disputes between parties to access agreements entitled “The Access Dispute Resolution Rules”, the current form of which is annexed to the Network Code;

“Accounting Year” means the First Year, the Last Year and any complete Financial Year during the term of a Station Access Agreement;

“Act” means the Railways Act 1993;

“Adjacent Property” means all or any part of the land, buildings, structures or other works (including the Network) not forming part of the Station but adjoining, above, below or near the Station belonging to the Station Facility Owner for the time being;

“Affiliate” in relation to a company means:

(a) a company which is either a holding company or a subsidiary of such a company; or

(b) a company which is a subsidiary of a holding company of which such company is also a subsidiary;

“Asset Protection Agreement” means an agreement concerned with matters such as the safe management of the works, the discharge of obligations in relation to the safety of persons on or near the Network, the protection of the operational integrity of train operations and other work being undertaken on the Network, achieving good working practices in order to protect the condition and integrity of the assets and systems that make up the Network, providing a clear definition of roles and responsibilities, and containing authorisations required to undertake the work and (if appropriate) containing a requirement to take any relevant Station and Network assets back into use once the work is complete;

“Associate” has the meaning attributed to “associate” in section 17(7) of the Act;

“Business Day” means any weekday (other than a Saturday) on which banks are open for domestic business in the City of London;

“Change” means any of the following:

(a) Works or activities at the Station which (whether during or after their completion) would be likely:

(i) materially to affect:

(1) the operation of trains to or from the Station; or

(2) the ability of a Relevant Operator’s Associates to pass to or from trains operated by or on behalf of that operator which stop at the Station; or

(3) the operation of the Station; or

(ii) to change materially the condition (or working order), standard or quantum of the Common Station Amenities or the Common Station Services at the Station, other than in accordance with the provisions of Parts D or M; or

(iii) to make any amenity or service which is not a Common Station Amenity or Common Station Service, a Common Station Amenity or a Common Station Service (as the case may be) at the Station or vice versa; or

(iv) to alter the periods during which the whole or any part of the Station is open to the public or to any User or its Associates, other than in accordance with the provisions of Part D; or

(v) to result in the relocation of any Core Facility as referred to in paragraph 26 of Annex 9 or any Station Facility as referred to in paragraph 10 of Annex 1;

(b) (except where such may arise pursuant to an Existing Agreement) the entering into of any agreement or other arrangement or the variation of an existing agreement or arrangement the purpose or effect of which involves or is likely to involve any of the matters described in paragraph (a) of this definition (excluding any agreement or arrangement entered into pursuant to the agreements referred to in paragraph 2 of Annex 9) provided that this paragraph (b) shall not prevent the entry by the Station Facility Owner into an access contract;

(c) any change to these Station Access Conditions or the Annexes (other than a Conditions Change carried out in accordance with Part B) including but not limited to any change to the Plan; and/or

(d) the grant of wayleaves, dedications or easements affecting the Station where such grant imposes a Relevant Restriction or prevents the use of the Station for the provision of Station Services

but not works or activities carried out in the performance of any obligation under these Station Access Conditions (including without limitation under Parts D or M) which is not expressed in these Station Access Conditions to require compliance with Part C whether or not such performance would otherwise fall within this definition;

“Change in Control” means a change in control of any Relevant Operator (“control” for this purpose having the meaning ascribed to it in Part II of the passenger licence held by the Relevant Operator);

“Change of Law” means the application to any person of any Legal Requirement which did not previously so apply or the change of any Legal Requirement applying to that person (including any such Legal Requirement ceasing to apply, being withdrawn or not being renewed) other than in relation to:

(a) corporation tax (or any other tax of a similar nature replacing corporation tax on profits or gains); or

(b) Value Added Tax;

“Claims Allocation and Handling Agreement” means the agreement of that name approved by ORR;

“Commencement Date” has the meaning attributed to it in the Station Access Agreement;

“Common Charge” is £1 per annum;

“Common Station Amenities” means:

(a) in respect of a Passenger Operator, the amenities at the Station specified in paragraphs 1 and 2 of Annex 1; and

(b) in respect of any operator of trains with permission to use the Station which is not a Passenger Operator, the amenities at the Station specified in paragraph 1 of Annex 1,

in each case where possible identified as such on the Plan, to the extent they are available as at the Commencement Date unless otherwise specified in Annex 1, as modified by such changes as shall be implemented from time to time in accordance with Part C;

“Common Station Services” means:

(a) in respect of a Passenger Operator the services supplied at the Station specified in paragraphs 3 and 4 of Annex 1; and

(b) in respect of any operator of trains with permission to use the Station which is not a Passenger Operator, the services supplied at the Station specified in paragraph 3 of Annex 1,

in each case to the extent they are available as at the Commencement Date unless otherwise specified in Annex 1 and in accordance with the specifications (if any) set out in Appendix 1 to Annex 1 or determined pursuant to Annex 11, as modified by such changes as shall be implemented from time to time in accordance with Part C;

“Competent Authority” means any local, national or supra-national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether autonomous or not and including the Secretary of State) whether of the United Kingdom or of the European Union, which has, in respect of any Relevant Agreement, jurisdiction over either or both of the parties to, or the subject matter of, that Agreement, provided that “Competent Authority” shall not include:

(a) Her Majesty’s Government (or any department, minister, official or nominee thereof) where acting as shareholder of the party in question or other than pursuant to the Crown prerogative or a statutory function or power;

(b) the ORR, except to the extent that it shall specify by notice to the parties at any time and from time to time, and subject to such conditions (if any) as it shall so specify;

(c) subject to paragraph (b) above, any court, tribunal or arbitral body exercising its powers in any reference made to it pursuant to or arising out of any access contract or any act or omission or fact, matter or thing associated with any such contract or the relationship created or evidenced by it;

"Conditions Change Proposal" means any proposal (other than a notice issued by the ORR under Condition B6) to change these Station Access Conditions or the Annexes and any material modification to that proposal as referred to in Condition B1.4);

"Conditions Change Consultation Period" means such period as is reasonable in all the circumstances, being a period of not less than 20 Business Days from the date of the Conditions Change Proposal;

"Conditions Change Consultees" means all Relevant Operators of the specific Station or set of Stations (excluding the Conditions Change Proposer);

"Conditions Change Decision Period" means a period of 15 Business Days following the end of the Conditions Change Consultation Period;

"Conditions Change Notice of Objection" means a notice given by a Relevant Operator during the Conditions Change Decision Period which contains a statement that the Relevant Operator objects to the Conditions Change Proposal in question;

"Conditions Change Proposer" means a proposer of a Conditions Change Proposal;

"Conditions Efficacy Date" means the date upon which the first Relevant Agreement comes or came into effect in respect of the Station;

"Conduits" means pipes, sewers, drains, ducts, conduits, downpipes, gutters, wires, cables, channels, watercourses, flues, interceptors, high pressure air systems, trunking and other conducting media and ancillary apparatus and includes any part of them;

"Consultation Period" means a period of 25 Business Days commencing on the date of submission of the Material Change Proposal or such longer period as the Proposer of the Material Change Proposal may specify in it;

"Consultees" means the Notifiable Change Consultees or the Material Change Consultees as the context may require;

"Co-operation Agreement" means an agreement relating to compensation arrangements in the form of the relevant template Co-operation Agreement being:

(a) where the Proposer and the Material Change Consultee are railway industry parties, the template Co-operation Agreement contained in Annex 13; and

(b) where the Proposer is a Station Investor and the Material Change Consultee is a railway industry party the template Co-operation Agreement contained in Annex 14,

in each case customisation for the specific Proposal, to be limited to the insertion of information in areas marked by square brackets or in areas left blank for the purpose of completion; or the selection of one of various alternative words or phrases;

"Core Facilities" means the amenities which are specified in paragraph 8 of Annex 1;

“Default Interest Rate” means the interest rate set out in paragraph 7 of Annex 1;

“Direction” means, in respect of a Relevant Agreement, any direction, requirement, instruction or rule binding on either or both of the parties, and includes any modification, extension or replacement of any such direction, requirement, instruction or rule for the time being in force;

“Discretionary Third Party Works” means any work, activity or the exercise of any right of any nature which a third party may carry out or exercise (as the case may be) pursuant to any Existing Agreement, having first obtained the consent of the Station Facility Owner pursuant to its provisions;

“Dispute Resolution Procedure” means the procedure set out in Condition H5;

“Elements Inventory” means the inventory contained in Appendix 5 to Annex 1;

“Elements of the Station” means those constituent parts of the Station listed in the Elements Inventory or which form part of the Station from time to time;

“Emergency” means:

(a) in relation to the Station, any situation or circumstance which the Station Facility Owner reasonably considers constitutes an emergency affecting the Station or railway passenger services or services for the carriage of goods by railway operating to or from the Station; and

(b) in relation to the operation of the railway passenger services or services for the carriage of goods by railway any situation or circumstance which the User reasonably considers constitutes an emergency affecting such services,

provided that in the event of a dispute between the Station Facility Owner and any User as to what constitutes an emergency in relation to either or both the Station and the operation of such services the Station Facility Owner’s determination made in good faith shall be final;

“Environmental Condition” means:

(a) any Environmental Damage; or

(b) any event, circumstance, condition, operation or activity which it is reasonably foreseeable is likely to result in Environmental Damage,

which (in either case) in the Station Facility Owner’s reasonable opinion could result in the Station Facility Owner incurring any material liability or being subject to the Direction of any Competent Authority or could otherwise materially affect the Station Facility Owner’s interest in the Station as an actual or potential railway asset for railway related uses which shall include (but not be limited to) any uses of the Station which are or may be permitted by Condition O5;

“Environmental Damage” means any material injury or damage to persons, living organisms or property (including offence to man’s senses) or any pollution or impairment of the environment resulting from the discharge, emission, escape or migration of any substance, energy, noise or vibration;

“Environmental Law” means any applicable legislation, treaty, act, regulation or common law relating to pollution or impairment of the environment or protection of the health of humans, animals or plants, but excluding, for the avoidance of doubt, those laws relating specifically to the health and safety of workers in the work place which do not relate to exposure to dangerous or hazardous substances;

“Environmental Liability” means any costs incurred in complying with any claim, judgment, order, notice, direction or injunction of any court or Competent Authority under Environmental Law in relation to Environmental Damage and includes those costs reasonably incurred in taking any action or carrying out any works to prevent, mitigate or remedy Environmental Damage where it is foreseeable that it is likely to result in the Station Facility Owner being subject to a successful claim, judgment, order, notice, direction or injunction of any court or Competent Authority under Environmental Law;

“Environmental Liability Commencement Date” means the Relevant Date;

“Equipment” means the items of equipment, plant, machinery and apparatus at the Station owned by the Station Facility Owner (whether or not listed in the Equipment Inventory) from time to time;

“Equipment Inventory” means the inventory contained in Appendix 4 to Annex 1;

“Excepted Equipment” means any electronic communications apparatus within the extended definition of section 151 of the Telecommunications Act 2003, owned by BR Telecommunications Limited or any other telecommunications operator licensed under that Act;

“Excluded Equipment” means:

(a) the items of Equipment (if any) referred to in Appendix 6 to Annex 1;

(b) electronic communications apparatus within the extended definition in section 151 of the Telecommunications Act 2003 other than Excepted Equipment and Retail Telecom Systems as defined in Equipment Inventory paragraph (10); and

(c) any item of equipment not included in paragraphs (a) or (b) of this definition or otherwise specified in the Equipment Inventory:

(i) which is (from time to time) used exclusively (whether by the Station Facility Owner or at its direction) for the purposes of the Station Facility Owner’s railway undertaking or function; and/or

(ii) which from time to time forms part of the infrastructure (as defined in the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (S.I.No. 599 2006)) for which the Station Facility Owner is responsible as part of the infrastructure safety case as referred to in the above regulations;

“Exclusive Period” means in relation to any of the Exclusive Station Services, the period during which the service in question is so provided;

“Exclusive Station Services” has the meaning attributed to it in the Station Access Agreement;

“Exempt Activity” means any work or activity at the Station (or series of works or activities relating to the same project taken as a whole) which:

(a) is not a Change including but not limited to:

(i) replacement in modern equivalent form of any existing Element or Equipment at the Station by the party responsible for Repair of such Element or Equipment under these Station Access Conditions; or

(ii) the performance of any obligation under these Station Access Conditions (including without limitation under Parts D and M) which is not expressed in these Station Access Conditions to require compliance with Part C; or

(b) a party is obliged or entitled to carry out under a Relevant Agreement, the carrying out of which could not be expected (at the time when it is proposed to begin carrying it out) to:

(i) last for more than 28 consecutive days; or

(ii) materially diminish the number of passengers or trains that are able to use the Station on any day during the implementation period; or

(c) any person is obliged or entitled to carry out (whether under a Relevant Agreement or otherwise) in order to prevent, remedy, mitigate the effects of:

(i) an Emergency or a Station Facility Owner Emergency; or

(ii) an Environmental Condition (if, and to the extent that, failure to carry out such work would have a material adverse effect on any person’s business or its performance of any functions which it has in relation to railway services);

whether or not the Financial Impact Test is satisfied;

“Existing Agreements” means:

(a) those agreements and instruments listed or described in Annex 5;

(b) all wayleaves, easements or licences (or agreements for any of them) relating to the passage of services or Conduits affecting the Station (whether or not so listed in Annex 5) entered into or granted by the Station Facility Owner or its predecessors in title at any time before the Conditions Efficacy Date, to:

(i) any public or local authority or public utility company or other person carrying out the function of the provision of Services; and

(ii) any other person;

(c) NOT USED;

(d) NOT USED;

(e) any rights of third parties over and in respect of the Adjacent Property which result or are likely to result in a Relevant Restriction;

(f) NOT USED; and

(g) NOT USED;

(h) NOT USED;

(i) all rights of third parties arising acquired or granted at any time before the Conditions Efficacy Date over or in respect of the occupation of (or the entitlement to occupy) any part of the Station; and

(j) all rights of third parties arising under Statute or by operation of law;

(k) any Superior Estate Grant; and

(l) all other agreements entered into after the Conditions Efficacy Date the entering into of which is approved in accordance with Part C or to which Part C does not apply by reason of the operation of Condition G8

“Existing Works” means the works listed in paragraph 1 of Annex 4 and, insofar as such works have been approved from time to time in accordance with Part C, any other works;

“Expiry Date” has the meaning attributed to it in the Station Access Agreement;

“Financial Impact Test” means a test of whether the Consultee’s costs in relation to any work or activity or series of works or activities relating to the same project taken as a whole either:

(a) at the Station; or

(b) where similar works or activities are carried out at more than one station including the Station, at all of the stations

exceed or are likely to exceed the sum of £5,000, whether during the implementation of the relevant works or activities, or in any one of the first five years following the relevant works or activities, or both, such sum to be indexed annually in line with movements in the RPI;

“Financial Year” means each period of 12 months ending on 31 March;

“First Year” means the period beginning on the Commencement Date and ending on the last day of the Financial Year in which the Commencement Date falls;

“Full Replacement Cost” means the cost of replacing the Station to the standard set out in Condition E2.2.2 and shall include any Value Added Tax and other taxes payable, reasonable provision for costs escalation between the commencement or renewal date of insurance cover and the date of replacement, professional and statutory fees, demolition, site clearance and shoring up;

“Implementation Notice” means a notice served by the Proposer following Registration notifying the relevant Consultees of the Proposer’s intention to implement the relevant Proposal in accordance with Condition C10;

“Insured Risks” means:

(a) (to the extent that these are normally insurable in respect of the Station on normal commercial terms with a member of the Association of British Insurers) fire, lightning, explosion, aircraft but not hostile aircraft, subterranean fire, earthquake, riot and civil commotion, malicious damage, impact (including impact by rolling stock of any type), flood, storm, tempest, subsidence and terrorism; and

(b) such other insurable risks the Relevant Operators may agree in accordance with the terms of these Station Access Conditions;

“Last Year” means the period beginning on the day immediately following the last day of the last complete Financial Year prior to the Expiry Date, and ending on the earlier of the Expiry Date or the date of termination of the Station Access Agreement;

“Legal Requirement” means, in relation to any person, any of the following:

(a) any enactment to the extent that it applies to that person;

(b) any regulation made by the Council or the Commission of the European Union to the extent that it applies to that person or a decision taken by the said Commission which is binding on that person to the extent that it is so binding;

(c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within paragraph (a) or (b) above to have effect in a way which is different to that in which it previously had effect;

“Light Maintenance Services” means the services described in paragraph 28 of Annex 9;

“Maintenance” means the carrying out of the following in each case in accordance with the specifications (if any) set out in Annex 12 or determined pursuant to Annex 11:

(a) in relation to every part of the Station:

(i) any treatment, operation or work of a routine and foreseeable nature whether necessary at regular or irregular intervals which is required (whether by any current statutory or other code of practice or otherwise) from time to time to facilitate the efficient and safe operation and/or use in compliance with the requirements of any Statute of the relevant part for any purpose permitted by the Relevant Agreement;

(ii) the replacement of such parts of the Station as require, or are designed for, regular replacement; and

(iii) any inspection or certification required by a Statute or for the purpose of any treatment, operation or works described in this paragraph (a); and

(b) in relation to the Equipment, all treatment, operations and works which are recommended in a current manufacturer’s operating or maintenance manual (as updated from time to time) at the intervals and in the manner so recommended;

“Material Change” means a Change which is or would be the subject of a Material Change Proposal;

“Material Change Consultees” means:

- (a) in respect of a Material Change Proposal made by the Station Facility Owner or a User,
 - (i) each of the Station Facility Owner, and/or any User, who is not the Material Change Proposer, and who satisfies the Financial Impact Test;
 - (ii) the Secretary of State if they may be affected by the implementation of the Material Change Proposal;
 - (iii) the ORR;
 - (iv) Transport for London if it may be affected by the implementation of the Material Change Proposal; and
 - (v) any Station Investor who
 - (1) has issued its own Material Change Proposal in relation to the Station before the Proposer makes the Material Change Proposal; or
 - (2) is within the five-year period from when the Station asset(s) identified in its Material Change Proposal became operational

and who satisfies the Financial Impact Test; or

(b) in respect of a Material Change Proposal made by a Station Investor, all of the parties in paragraphs (a)(i) to (a)(v) above regardless of whether they satisfy the Financial Impact Test, but a Station Investor shall cease to be a Material Change Consultee:

- (i) upon notifying the Station Facility Owner that it no longer wishes to be a Material Change Consultee in relation to the Station;
- (ii) after its own intended Material Change Proposal in relation to the Station has been abandoned or lapsed; or
- (iii) five years after the Station asset(s) identified in its own Material Change Proposal became operational;

“Material Change Consultee’s Costs” means the reasonable and direct costs, losses and expenses including but not limited to all costs reasonably incurred by the Material Change Consultee in evaluating and responding to the Material Change Proposal (whether or not the Material Change Proposal is implemented) and any loss of profit or loss of revenue (but not consequential costs, losses or expenses save for loss of profit or loss of revenue), to the extent that the same are directly attributable to the implementation of the Material Change Proposal but taking into account and netting off against such costs, losses and expenses:

- (a) the benefit (if any) to be obtained or likely to be obtained by the Material Change Consultee as a consequence of the implementation of the Material Change Proposal; and

(b) the ability or likely future ability of the Material Change Consultee to recoup any costs, losses and expenses from third parties including passengers and customers.

“Material Change Proposal” means either:

(a) a Change which if implemented would satisfy the Financial Impact Test in respect of one or more Material Change Consultee(s), but excluding any change to Excluded Equipment by Station Facility Owner regardless of whether the Financial Impact Test is satisfied; or

(b) a Change proposed by a Station Investor;

“Materiality Notice” means a notice served under Condition C2.2 or C2.3, or under Condition C3.2 or C3.3;

“Network” means the network of which the Station Facility Owner is the facility owner and which is situated in England;

“Network Code” means The HAL Network Code as modified from time to time;

“Non-Discretionary Change” means a Change required as a result of any Change of Law, Direction of a Competent Authority, or to comply with any Safety Obligation regardless of whether the Financial Impact Test is satisfied;

“Non-Discretionary Change Proposal” means a proposal made in accordance with Condition C6;

“Non-Discretionary Third Party Works” means any work, activity or the exercise of any right of any nature which a third party may carry out or exercise (as the case may be) pursuant to any Existing Agreement without the Station Facility Owner giving or exercising any consent, approval, waiver or discretion;

“Non-Qualifying Material Change Consultee” means each of the Station Facility Owner, any User and/or any Station Investor who is the subject of a Material Change Proposal made by the Station Facility Owner or a User, but who does not satisfy the Financial Impact Test. Such Consultee is entitled to make representations in respect of the Material Change Proposal and object to the Material Change Proposal solely on the ground set out in Condition C4.5.2, but shall not be entitled to recover any Material Change Consultee Costs incurred by that Consultee in relation to such Material Change Proposal. Such Consultee shall not have any other rights granted to a Material Change Consultee under Part C, unless expressly stated;

“Non-Materiality Notice” means a notice served under Condition C2.2 outlining the proposed work or activity and the reason why the responsible party considers it to be an Exempt Activity;

“Notice of Dispute” has the meaning given to it in the Access Dispute Resolution Rules (ADRR);

“Notifiable Change” means any Change which is or would be the subject of a Notifiable Change Proposal;

“Notifiable Change Consultees” means any of the following parties (who is not the Proposer of the Notifiable Change Proposal):

(a) the Station Facility Owner, and/or any User; and/or

(b) any Station Investor who has issued its Proposal in relation to the Station before the Proposer makes the Notifiable Change Proposal, or who is within the five-year period from when the Station asset(s) identified in the Station Investor's Material Change Proposal become operational;

"Notifiable Change Notice" means a notice served under Condition C3.2 outlining the proposed Change and the reason why the Proposer considers it to be a Notifiable Change;

"Notifiable Change Proposal" means a Change which if implemented

(a) by any Proposer would not satisfy the Financial Impact Test; or

(b) by the Station Facility Owner would result in any change to Excluded Equipment regardless of whether the Financial Impact Test is satisfied;

"ORR Asset Protection Policies and Guidelines" means the policies and guidelines issued by the ORR in relation to the development of template forms of Asset Protection Agreement within the rail industry (and approved by the ORR as noted in the Investment Framework Consolidated Policy and Guidelines published by the ORR in October 2010 as amended from time to time) but in relation to asset protection requirements where the proposal relates to the commercial exploitation of land on or adjacent to the Network and/or the Station as opposed to primarily passenger enhancements to the Station, then such policies or guidelines are deemed to be amended so that the Station Facility Owner is fully indemnified or otherwise held harmless (at the option of the Station Facility Owner) by the Proposer in respect of those risks, costs and liabilities that would otherwise be subject to the Industry Rail Fund or the Network Rail Fee Fund (as those expressions are defined in the template forms of Asset Protection Agreement referred to in this definition);

"Passenger Information Systems" means any equipment, noticeboards, visual display units or other media used at the Station to communicate train service information or customer service information to persons at the Station;

"Passenger Operator" means a passenger service operator with permission to use the Station pursuant to a Station Access Agreement;

"Property Agreement" means an agreement between the Station Investor and the Station Facility Owner for the creation or transfer of an estate or interest in land or for the grant or reservation of an easement, right or privilege in or over land which is required by the Proposer in connection with a Material Change Proposal (such agreement to include, where appropriate, provision for a value payment to be made where any increase or potential increase in the market value of the land of the Proposer or any other financial benefit accruing to the Proposer is attributable wholly or in part to the grant or transfer of such estate or interest, or the grant of easement, right or privilege, over or in respect of the Station);

"Proposal" means a Notifiable Change Proposal, a Material Change Proposal or a Non-Discretionary Change Proposal as the case may be;

“Proposer” means a proposer of either a Notifiable Change Proposal, a Material Change Proposal or a Non-Discretionary Change Proposal as the context may require;

“Railway Group Standards” means the national technical rules and national safety rules applicable to the mainline railway system which are produced under the procedures set out in the Railway Group Standards Code (or equivalent predecessor documents, including previous versions of that Code) that defines mandatory requirements in respect of the mainline railway system;

“Railway Substructure” means any bridge, viaduct, railway arch, raft, tunnel, passageway or substructure which is identified pursuant to Appendix 7 of Annex 1;

“Railway Superstructure” means such part of any bridge which belongs to the Station Facility Owner, viaduct, railway arch, raft or overlying structure which is identified pursuant to Appendix 7 of Annex 1;

“Registration” means Registration of a Notifiable Change Proposal, a Material Change Proposal or a Non-Discretionary Change Proposal as the case may be or any consequential amendment to these Station Access Conditions on the ORR’s official register;

“Relevant Agreement” means any agreement or other instrument incorporating these Station Access Conditions;

“Relevant Date” means the date upon which the first Station Access Agreement in respect of the Station is or was entered into;

“Relevant Operator” means each of the Station Facility Owner and any User;

“Relevant Restriction” means:

(a) in relation to the Station Facility Owner, any material restriction, limitation or other impairment of the Station Facility Owner’s right to quiet use and enjoyment of the Station under a Relevant Agreement; and

(b) in relation to any User, any material restriction, limitation or other impairment of the User’s permission to use the Station;

“Relevant Undertaking” means:

(a) the offer of an indemnity; or

(b) an undertaking to procure and provide evidence of insurance, by the Proposer in favour of each Material Change Consultee who may be affected by the implementation of the Material Change Proposal (up to such maximum total amount in respect of all such Material Change Consultees as is specified in the Proposal), to compensate that Material Change Consultee for

(i) any damages, losses, liabilities, costs and expenses incurred or suffered by it as a result of the Material Change Proposal not being implemented in accordance with its terms; and

(ii) any other material adverse effect which the failure to implement the Material Change Proposal in accordance with its terms has on its existing and future business;

“Repair” means in relation to every part of the Station the carrying out, in accordance with the specifications (if any) set out in Annex 12 or determined pursuant to Annex 11, of:

(a) any work required to keep the Station in no worse a state than evidenced by the Statement of Condition; and

(b) any work required so that the Station is safe for operation and/or use in compliance with the requirements of any Statute for any purpose permitted by the Relevant Agreement;

but does not include the carrying out of:

(c) any Maintenance;

(d) any work to the Station which is the responsibility of any third party now or in the future entitled to occupy any part of the Station under any of the Existing Agreements; or

(e) renewal of any item for so long as repair may still reasonably be undertaken and the costs of Maintenance are not in consequence increased above a reasonable level;

“Representation Period” means a period of 25 Business Days commencing on the date of submission of the Notifiable Change Proposal, or such longer period as the Proposer of the Notifiable Change Proposal may specify in it;

“Requisite Consents” means all approvals, permissions and consents (whether statutory or otherwise) required from time to time from parties other than the Consultees in respect of the works or activities covered by a Proposal;

“Requisite Majority” means, as at any particular time, passenger service operators whose Vehicle departures from the Station, expressed as a percentage of Total Departures, as at the relevant date, together are at least equal to the percentage specified in paragraph 4 of Annex 9 or such other percentage as the ORR may specify by notice to the Station Facility Owner and to each Passenger Operator as the new percentage which is to apply for these purposes following the entry into, variation, amendment or termination of an access contract permitting a passenger service operator to use the Station, a Change in Control of the Station Facility Owner or any Passenger Operator or any event which results in a material change to the proportion of the Total Departures made by trains operated by or on behalf of the Station Facility Owner or any Passenger Operator);

“Response Period” means a period of 20 Business Days following the end of the Consultation Period;

“RPI” means the general index of retail prices published by the National Statistics each month;

“Safety Obligations” means all applicable obligations and laws concerning health and safety (including any duty of care arising at common law, arising under Statute, statutory instrument, and codes of practice compliance with the provisions of which is mandatory) in Great Britain;

“Sample Period” means a period of twenty-eight days following the Conditions Efficacy Date (and each subsequent anniversary of the Conditions Efficacy Date);

“Secretary of State” means the Secretary of State referred to in section 4 of the Act;

“Services” means the supply and, as necessary, disposal of water, surface water, sewage, drainage, soil, gas, electricity, telecommunications and other services or supplies;

“Statement of Condition” means the report of the condition of the Station structure and parts of it contained in Appendix 3 to Annex 1;

“Station” means the Station described in paragraph 6 of Annex 1 and includes:

(a) the buildings, structures, fixtures, fittings, the Station Facility Owner’s Conduits, and other works for the time being at the Station, any alteration or additions to the Station and anything which is part of the Station pursuant to paragraphs 1 and 2 of Appendix 7 to Annex 1;

(b) any canopies of the Station which project beyond the blue edging on the Plan; and

(c) the Equipment;

but excluding:

(d) the Excluded Equipment;

(e) the Excepted Equipment; and

(f) the mines and minerals in and under the Station and (where mines and minerals are not owned by the Station Facility Owner) any right of support from such mines and minerals other than any such transmissible rights which are enjoyed by the Station Facility Owner;

“Station Access Agreement” means any particular access contract, whether or not entered into pursuant to the directions of the ORR under the Act, incorporating these Station Access Conditions;

“Station Facilities” means the amenities which are specified in paragraph 10 of Annex 1;

“Station Facility Owner’s Conduits” means those Conduits at or outside the Station used exclusively for the purposes of the Station (to the extent that they are not or do not become adopted or public conduits);

“Station Facility Owner Emergency” means any situation or circumstance which the Station Facility Owner reasonably considers requires immediate or urgent action in order:

(a) to safeguard the safety or security of persons or property on or adjacent to the Network or any part of it; or

(b) where such situation or circumstance was unforeseen and could not reasonably have been foreseen, to maintain or restore the effective operation of the Network or any part of it;

“Station Facility Owner Environmental Indemnity” means the indemnity given by Station Facility Owner pursuant to Condition M5.2;

“Station Facility Owner’s Surveyor” means the person from time to time appointed by the Station Facility Owner to act as its surveyor who may be a person employed by or otherwise connected with the Station Facility Owner;

“Station Investor” means any person, other than any Relevant Operator, who makes a Proposal, a grant, loan or other payment for the enhancement or alteration of the Station in connection with related schemes of development, regeneration or corporate adoption which would involve a capital expenditure which is at least the equivalent to the Station Investor’s Qualification;

“Station Investor’s Qualification” means the sum of £50,000 (exclusive of Value Added Tax) such sum to be indexed annually in line with movements in the RPI;

“Station Register” means a register maintained in accordance with Part I;

“Station Services” means the Common Station Services or Exclusive Station Services;

“Statute” includes (with the exception of the Act) every existing or future Act of Parliament or regulation made by the Council or the Commission of the European Union, or a binding decision of the Commission of the European Union and every existing or future instrument, scheme, rule, regulation, bye-law, order, notice, direction, licence, consent or permission made or given under any of them and reference to a Statute includes any amendment, extension or re-enactment of it for the time being in force;

“Substantial Damage” means damage or destruction of a building on or at the Station or of any of the Equipment which is so extensive that repair or reinstatement of that building or that Equipment to its original form would not be economically viable;

“Superior Estate Grant” means the agreement or instrument granting any estate right or interest of any nature:

- (a) under which the Station Facility Owner for the time being holds the Station; or
- (b) for the time being expectant (whether or not immediately) on the expiry or sooner determination of an estate right or interest referred to in paragraph (a); or
- (c) out of which (whether or not immediately) an estate right or interest referred to in paragraph (a) was derived;

“Superior Estate Owner” means any person for the time being entitled to an estate right or interest referred to in paragraph (b) or paragraph (c) in the definition of Superior Estate Grant;

“Third Party Works” means Discretionary Third Party Works and Non-Discretionary Third Party Works;

“Total Departures” means, as at any particular time, the number of Vehicles operated by or on behalf of all passenger service operators which have departed from the Station during the Sample Period;

“Track Litter” means matter of whatever nature on:-

(a) track of which the Station Facility Owner is the facility owner and which is within one hundred metres of the Station;

(b) land adjoining such track (other than the Station and any land not comprising the permanent way of the railway) of which the Station Facility Owner is the facility owner; or

(c) land under platforms at the Station adjoining such track

where the presence of that matter is contrary to the provisions of the Environmental Protection Act 1990 (or would be so contrary if such track or land were relevant land of a principal litter authority as defined by the said Act);

“User” means a person (whether or not an operator of trains) who is a beneficiary in respect of a Station Access Agreement;

“Value Added Tax” means value added tax within the meaning of the Value Added Tax Act 1994, and “VAT” shall be construed accordingly;

“Vehicles” means railway vehicles (including non-passenger carrying vehicles) comprised in trains used for the purpose of providing services for the carriage of passengers by railway, excluding locomotives which are not capable of the carriage of passengers; and

1.3 Several Liability

Each Relevant Operator shall be severally responsible for its own acts, omissions, costs and liabilities and for the acts, omissions, costs and liabilities of its employees, agents and subcontractors and shall not be responsible for the acts, omissions, costs and liabilities of any other person.

1.4 Relevant special conditions

These Station Access Conditions incorporate the provisions (if any) set out in paragraph 22 of Annex 9.

PART B MODIFICATIONS TO THE STATION ACCESS CONDITIONS

Condition B1 Notification of a Conditions Change Proposal

1.1 Any Relevant Operator shall be entitled to make a Conditions Change Proposal. The Conditions Change Proposer shall submit any such proposal to each of the Conditions Change Consultees and the Secretary of State (and Transport for London if they may be affected by such proposal) and shall:

1.1.1 be in writing;

1.1.2 contain reasonable particulars of the change proposed;

1.1.3 contain the proposed text of those Conditions affected by the change as if the change were approved pursuant to this Part B;

1.1.4 be supported by an explanation in reasonable detail of the purpose of the proposed change; and

1.1.5 specify the date on which the Conditions Change Consultation Period ends.

1.2 The Conditions Change Consultees and the Secretary of State may make representations on the Conditions Change Proposal to the Conditions Change Proposer during the Conditions Change Consultation Period.

1.3 The Conditions Change Proposer shall within 5 Business Days following the end of the Conditions Change Consultation Period notify the Conditions Change Consultees and the Secretary of State of the date on which the Conditions Change Decision Period ends and at the same time supply to each of them:

1.3.1 copies of all representations received pursuant to Condition B1.2; and

1.3.2 if the Conditions Change Proposer consents, any modification to that proposal,

provided that no such documents shall be supplied, if the Conditions Change Proposer materially modifies it.

1.4 If at any time a Conditions Change Proposal is materially modified, the Conditions Change Proposer shall treat the modified proposal as a new Conditions Change Proposal.

1.5 The Conditions Change Proposer shall promptly comply with all reasonable written requests for reasonable further clarification of the proposal.

Condition B2 Approval or rejection of a Conditions Change Proposal

2.1 Without prejudice to Condition B6, a Conditions Change Proposal shall have been approved only if

2.1.1 NOT USED

2.1.2 NOT USED

the Requisite Majority shall have consented in writing to the Conditions Change Proposal (provided that the failure of a Relevant Operator to provide a written response shall be deemed to be a consent to that proposal);

And

2.1.3 where the implementation of the Conditions Change Proposal is likely to have a material and adverse effect on the Station Facility Owner's interest in relation to the Network or any Station or Stations, the Station Facility Owner shall not have notified the Conditions Change Proposer of its objection to that proposal within the Conditions Change Decision Period.

2.2 The Conditions Change Proposer shall, as soon as reasonably practicable following a reasonable request by any Relevant Operator or the Secretary of State (or Transport for London as the case may be) to carry out further consultation in respect of any Conditions Change Proposal, carry out further reasonable consultation.

Condition B3 The ORR's Approval or rejection of a Conditions Change Proposal

3.1 Decision to Approve

3.1.1 The Conditions Change Proposer shall, as soon as reasonably practicable following the approval of a Conditions Change Proposal, submit the proposal to the ORR, together with a written memorandum:

- (a) explaining the reasons for the proposed change;
- (b) containing details of the results of the consultation process (including copies of any representations made pursuant to Condition B1.2 which shall have been neither accepted nor withdrawn); and
- (c) stating the reasons for any objections to the proposed change by any Relevant Operator.

3.1.2 Relevant Operators shall use their respective reasonable endeavours to provide any further information required in relation to the consideration of a Conditions Change Proposal by the ORR.

3.1.3 No Conditions Change Proposal shall have effect unless the ORR gives notice to the Conditions Change Proposer in writing that it approves the proposal pursuant to section 22 of the Act.

3.1.4 If the ORR gives its approval of the Conditions Change Proposal, the Conditions Change Proposer shall notify all Conditions Change Consultees within the period of 14 days following receipt by the Conditions Change Proposer of the ORR's notice of approval.

3.2 Decision to reject

The Conditions Change Proposer shall, following the rejection of a Conditions Change Proposal by the ORR, notify all other Relevant Operators of that decision within 14 days of the decision.

Condition B4 Notification of Conditions Change Proposal

4.1 The Conditions Change Proposer shall notify any change made in accordance with this Part B other than Condition B6 to all Relevant Operators as well as to the ORR and the Secretary of State. Save as otherwise provided in Condition B6, the change in question shall have effect on the expiry of 21 days from the date of that notification.

4.2 The Conditions Change Proposer shall, following approval of a Conditions Change Proposal by the ORR and in any event prior to that Conditions Change Proposal having effect, supply to all Relevant Operators the ORR and the Secretary of State a revised version of these Station Access Conditions incorporating the change.

Condition B5 Appeal procedure

5.1 If the Station Facility Owner shall have exercised its veto, any User shall be entitled to give a notice of appeal against it.

5.2 A notice of appeal shall:

5.2.1 be given to the ORR, the Conditions Change Proposer and each other Relevant Operator not later than 35 days after the exercise of the Station Facility Owner veto;

5.2.2 contain the reasons why the User in question considers that the Station Facility Owner veto should not have effect; and

5.2.3 request the ORR to determine the matter.

5.3 No notice of appeal may be given unless:

5.3.1 the Relevant Operator shall be satisfied that the Station Facility Owner is entitled to exercise the Station Facility Owner veto; or

5.3.2 the entitlement of the Station Facility Owner to exercise its veto shall have been established pursuant to the Access Dispute Resolution Rules,

and evidence satisfactory to the ORR shall have been provided to it to that effect.

5.4 Without prejudice to Condition B5.5, the Relevant Operators shall use their respective reasonable endeavours to procure that the ORR is furnished with sufficient information to dispose of the appeal as soon as reasonably practicable after the date of the notice of appeal.

5.5 In relation to any such appeal, the ORR shall, in determining it, have the power:

5.5.1 to give directions as to the procedure to be followed in the appeal, including in relation to the making of any written and oral submissions and the extent to which any evidence or other submissions made by one party to the appeal shall be disclosed to any other;

5.5.2 to make any interim order as to the conduct or the positions of the parties pending final determination of the appeal;

5.5.3 to determine whether the Station Facility Owner veto shall have effect; and

5.5.4 to make such orders as it shall think fit in relation to the proportions of the costs of the appeal which shall be borne by any of the parties.

5.6 Where any party shall have given a notice of appeal, the ORR shall:

5.6.1 be entitled to decline to determine the appeal if, having consulted the parties concerned, it shall determine that the appeal should not proceed, including on the grounds that:

(a) the matter in question is not of sufficient importance to the industry;

(b) the reference to it is frivolous or vexatious; or

(c) the conduct of the party making the reference ought properly to preclude its being proceeded with; and

5.6.2 not be liable in damages or otherwise for any act or omission to act on its part (including negligence) in relation to the appeal.

5.7 The determination of the ORR shall be final and binding on the Conditions Change Proposer and every Relevant Operator.

5.8 In this Condition B5:

“the exercise of the Station Facility Owner veto” means the reasonable giving by the Station Facility Owner of a notice of objection as provided for in Condition B2.1.3, and cognate terms and expressions shall be construed accordingly; and

“notice of appeal” means a notice given pursuant to Condition B5.2.

Condition B6 Changes to the Station Access Conditions initiated by the ORR

6.1 These Station Access Conditions shall have effect with the modifications (being the equivalent of either a Conditions Change or a change to the Station Access Conditions or Annexes which relate only to the Station or to a specific set of Stations) specified in any notice given by the ORR for the purposes of this Condition B6, provided that the ORR shall be satisfied as to the need for the modification as provided in Condition B6.2, the procedural requirements of Condition B6.3 shall have been satisfied, and the modification shall not have effect until the date provided for in Condition B6.4.

6.2 A notice given by the ORR under Condition B6.1 shall have effect:

6.2.1 in the case of a notice given on or before the date six months after the Relevant Date, if it is satisfied on reasonable grounds that it is necessary or expedient that the modifications specified in the notice in question be made; and

6.2.2 in the case of a notice given after the date six months after the Relevant Date, if it is satisfied on reasonable grounds that either or both of the following conditions has been satisfied:

(a) the modification in question is or is likely to be reasonably required in order to promote or achieve the objectives specified in section 4 of the Act; and

(b) the interests of any relevant person or persons would be unfairly prejudiced if the modification in question were not made, and the need to avoid or remedy such unfair prejudice outweighs or is likely to outweigh any prejudice which will or is likely to be sustained by any other relevant person or persons if the modification is made, having due regard to the need to enable relevant persons to plan the future of their businesses with a reasonable degree of assurance.

6.2.3 For the purposes of Condition B6.2.2(b):

(a) “relevant person” means a Relevant Operator, an Access Option Holder and any other person who, in the opinion of the ORR, shall be likely to become a User; and

(b) “Access Option Holder” means any person who has an access option in respect of the Station (as defined in section 17(6) of the Act).

6.3 The procedural requirements which shall require to have been followed for the purposes of Condition B6.1 are:

6.3.1 in its consideration of the matters referred to in Condition B6.2, the ORR shall have consulted all Relevant Operators, the Secretary of State (and Transport for London if they may be affected by the modification), together with any other persons whom the ORR shall consider ought properly to be consulted, in relation to the modification which it proposes to make;

6.3.2 in the consultations referred to in Condition B6.3.1, the ORR shall have made available to each person so consulted such drafts of the proposed modification as it shall consider are necessary so as properly to inform such persons of the detail of the proposed modification;

6.3.3 the ORR shall have given each person so consulted the opportunity to make representations in relation to the proposed modification and shall have taken into account all such representations (other than those which are frivolous or trivial) in making its decision on the modification to be made;

6.3.4 the ORR shall have notified each person consulted pursuant to Condition B6.3.1 as to its conclusions in relation to the modification in question (including by providing to each such person a copy of the text of the proposed modification) and its reasons for those conclusions; and

6.3.5 in effecting the notifications required by Condition B6.3.4, the ORR shall have treated as confidential any representation (including any submission of written material) which (and to the

extent that) the person making the representation shall, by notice in writing to the ORR or by endorsement on the representation of words indicating the confidential nature of such representation, have specified as confidential information.

6.4 A notice under Condition B6.1 shall come into effect upon such date, or the happening of such event, as shall be specified in the notice, provided that it shall in no circumstances come into effect:

6.4.1 in the case of a notice given on or before the date six months after the Relevant Date;

- (a) earlier than 30 days after the date upon which it shall have been given; or
- (b) later than the date seven months after the Relevant Date; and

6.4.2 in the case of a notice given after the date six months after the Relevant Date, earlier than 180 days after the date upon which it shall have been given.

6.5 A notice under Condition B6.1 shall not have effect in relation to any proposed modification of Conditions B6.1 to B6.4 (inclusive) or this Condition B6.5.

Condition B6A Mandatory Conditions Change Proposal¹

6A.1 The Station Facility Owner and all Users acknowledge and agree that:

- (a) these Station Access Conditions have been prepared:
 - (1) using the Independent Station Access Conditions 2013 (England and Wales) (incorporating amendments with effect from 1 April 2014) or certain associated documents as the starting point; but
 - (2) amending such documents on the basis that the HAL Exemption is in existence and will continue to subsist;
- (b) the HAL Exemption is for a limited period and is expected to expire in 2028, or may otherwise be withdrawn or cease to apply in certain circumstances;
- (c) if the HAL Exemption expires or is otherwise withdrawn or ceases to apply, the Station Facility Owner will no longer benefit from certain exemptions from the Act;
- (d) as a consequence of (c), these Station Access Conditions will require modification to take into account provisions of the Act which the Station Facility Owner is or will become subject to; and

¹ The HAL Exemption is expected to expire in 2028 in accordance with the terms of the exemption (being 30 years from the date upon which services commenced on the Heathrow Rail Infrastructure). The station access documentation has been drafted on the basis that HAL benefits from certain exemptions from the Act; for example, the requirement to hold a station licence and the requirement for the ORR to pre-approve station access agreements. Therefore, on expiry of the licence, certain drafting found in the Independent Station Access Conditions 2013 (England and Wales) (incorporating amendments with effect from 1 April 2014) will be needed in these Station Access Conditions. TfL therefore requires a mandatory process to facilitate changes to these Station Access Conditions on expiry of the HAL Exemption.

- (e) in the circumstances set out in (e), these Station Access Conditions should be modified, so far as reasonably appropriate and practicable, to be substantially similar to the Independent Station Access Conditions 2013 (England and Wales) (incorporating amendments with effect from 1 April 2014) or the equivalent at the relevant time.
- 6A.2 On or before the earlier of the date:²
- (a) which falls 2 years prior to the anticipated expiry of the HAL Exemption; or
 - (b) upon which the HAL Exemption is withdrawn or otherwise ceases to apply,
- the Station Facility Owner shall make one or more Conditions Change Proposals in accordance with Condition 2 to modify these Station Access Conditions to implement the matters set out in Condition 6A.1(e).
- 6A.3 Subject to the requirements of Conditions 2 to 6, a Conditions Change Proposal made in accordance with Condition 6A.2 shall only be required to have effect:
- (a) (where such Conditions Change Proposal is made in accordance with Condition 6A.2(a)) upon the expiry of the HAL Exemption; or
 - (b) (where such Conditions Change Proposal is made in accordance with Condition 6A.2(b)) promptly following the withdrawal of the HAL Exemption or the HAL Exemption otherwise ceasing to apply.
- 6A.4 If the Station Facility Owner does not make one or more Conditions Change Proposals to implement the matters set out in Condition 6A.1(e) on or before the date specified in Condition 6A.2, it shall constitute a material breach of the Station Facility Owner's obligations under the Station Access Agreements that are in force on the date specified in Condition 6A.2.³

² This has been prepared on the basis that it is not expected that the HAL Exemption will be renewed.

³ Condition 7A.4 has been included in case HAL fails to do what it is required to do under these Station Access Conditions. Specifying it to be a material breach of the Station Facility Owner's obligations under the Station Access Agreement ensures that this would constitute a Station Facility Owner Event of Default under the Station Access Agreement, triggering the remedies under the Station Access Agreement. This is essential given HAL, these Station Access Conditions and associated documentation would become subject to the Act but the documentation would not reflect this; therefore causing regulatory issues.

PART C CHANGES TO THE STATION

Condition C1 Change

1.1 No Relevant Operator or the Station Facility Owner shall take any action falling within the definition of Change save in accordance with this Part C.

1.2 Any Relevant Operator or the Station Facility Owner shall be entitled to make a Proposal and any Station Investor shall be entitled to make a Material Change Proposal.

1.3 Any party who is a Consultee under this Part C shall act reasonably in its dealings with the Proposer of any Change.

1.4 Any party who is the Proposer of any Change under this Part C shall act reasonably in its dealings with all Consultees to that Change.

1.5 Under this Part C, each Station Investor or named Relevant Operator at a Station shall have the right (whether by virtue of any enactment that is part of the applicable law of the Station Access Agreement or otherwise) to enforce directly such rights as have been granted (or expressed to be granted) to it as a third party or relevant Consultee under the Station Access Agreement.

Condition C2 Exempt Activities

2.1 The Station Facility Owner and/or any User shall be entitled to undertake an Exempt Activity for which that party is responsible without complying with the requirements for Change in this Part C.

2.2 If the responsible party is unsure of whether the relevant work or activity is an Exempt Activity it shall before undertaking such work or activity serve on each of the other Notifiable Change Consultees a Non-Materiality Notice and if any of the Notifiable Change Consultees believes the relevant work or activity is not an Exempt Activity it shall serve a Materiality Notice on the responsible party within 5 Business Days of receipt of the Non-Materiality Notice.

2.3 If any of the Notifiable Change Consultees believes that any work or activity undertaken without a Non-Materiality Notice having been served is not an Exempt Activity it shall serve on each of the others a Materiality Notice within 20 Business Days of the work or activity being undertaken.

2.4 If a Materiality Notice is served under Condition C2.2 or C2.3 the responsible party may elect either to

2.4.1 treat the relevant work or activity as a Notifiable Change and proceed accordingly; or

2.4.2 treat the relevant work or activity as a Material Change and proceed accordingly; or

2.4.3 commence the Dispute Resolution Procedure.

2.5 If no Materiality Notice is served under Condition C2.2 or C2.3 within the relevant time limit then the relevant work or activity shall be an Exempt Activity.

Condition C3 Notifiable Change

3.1 The Proposer of a Notifiable Change Proposal shall submit that Proposal, together with any associated documentation, to each of the Notifiable Change Consultees. The Proposal must set out details of the proposed change, any proposed changes to the Station Access Conditions and Annexes and the reason why it is intended to deal with it as a Notifiable Change. The Proposal must also specify the date on which the Representation Period ends.

3.2 If the responsible party is unsure of whether the proposed Change is a Notifiable Change it shall before submitting the Proposal serve on each of the Notifiable Change Consultees a Notifiable Change Notice and if any of the Notifiable Change Consultees believes the proposed Change is not a Notifiable Change it shall serve a Materiality Notice on the responsible party within 5 Business Days of receipt of the Notifiable Change Notice.

3.3 If, when a Notifiable Change Proposal is submitted, any of the Notifiable Change Consultees believes that any work or activity to which that Proposal relates is not a Notifiable Change it shall serve on each of the others a Materiality Notice at any time within the Representation Period.

3.4 If a Materiality Notice is served under Condition C3.2 or C3.3 the responsible party may elect either to

3.4.1 treat the relevant work or activity as a Material Change and proceed accordingly; or

3.4.2 commence the Dispute Resolution Procedure,

and if it fails to do either within 10 Business Days following the later of the end of the Representation Period and the further period referred to in Condition C3.8 (if any) then it shall be open to the relevant Notifiable Change Consultee to commence the Dispute Resolution Procedure.

3.5 If no Materiality Notice is served under Condition C3.2 or C3.3 within the relevant time limit then the relevant work or activity shall be a Notifiable Change.

3.6 If a Notifiable Change Proposal is made, and no Materiality Notice is served under Condition C3.3, the Notifiable Change Consultees may make representations on the Notifiable Change Proposal to the Proposer during the Representation Period.

3.7 The Proposer must consider any representations made and in doing so have due regard to the relevant Consultee's interests in the Station and its use and enjoyment of the Station.

3.8 The Proposer must advise the Notifiable Change Consultees within a further 10 Business Days following the end of the Representation Period of any revisions to the Notifiable Change Proposal as a result of any representations made and provide the Notifiable Change Consultees with written reasons for rejection where they are not incorporated into the final Notifiable Change as implemented.

3.9 If no representations are received during the Representation Period then the Notifiable Change Consultees are deemed to have accepted the Notifiable Change at the end of the Representation Period.

3.10 All the Notifiable Change Consultees may agree by notice to the Proposer at any time that the Representation Period shall be a shorter period than that specified in the Notifiable Change Proposal.

3.11 In accordance with the requirements set out in Conditions C8 and C10, the Proposer will forward all documentation (including any representations made during the Representation Period and the Proposer's response) to the ORR to enable Registration of the Notifiable Change and of any consequential amendment of the Station Access Conditions.

3.12 Registration of a Notifiable Change shall be in accordance with the requirements set out in Condition C10, but such Registration does not remove the requirement to obtain other associated approvals either under any Relevant Agreement or under any standard industry procedures such as detailed technical approvals, method statements, lease amendments, etc. which, wherever possible, should be progressed as part of the Notifiable Change consultation process.

Condition C4 Material Change

4.1 The Proposer of a Material Change Proposal shall submit that Proposal, together with any associated documentation, to each of the Material Change Consultees. The Proposal must specify the date on which the Consultation Period ends and must include (in as much detail as is available at the time of the Proposal, recognising that it will not always be possible to give more than outline or generic information at the time of the Proposal):

4.1.1 an explanation of why the change is being made;

4.1.2 broad details of those parts of the Station which will be affected both during and after the implementation of the Proposal;

4.1.3 the nature and outline specification of the proposed work including (where appropriate and where details are available):

(a) Alternative Station Facilities;

(b) Alternative accommodation if required;

(c) Changes to any Common Station Amenities and Common Station Services; and

(d) Estimated timetable for commencement and completion of the work;

4.1.4 information on any consents needed;

4.1.5 an irrevocable offer to become, where it is not already, a Resolution Service Party in accordance with Chapter J of the Access Dispute Resolution Rules;

4.1.6 an irrevocable offer (conditional on the relevant Material Change Consultee having Accepted the Proposal) to enter into a Co-operation Agreement with each of the relevant Material Change Consultees in the relevant form applicable to the Proposer and to that Material Change Consultee;

4.1.7 proposed changes to plans and any other proposed changes to the Station Access Conditions and Annexes and to any Relevant Agreement as a result of the Material Change Proposal;

4.1.8 a proposal in respect of a Relevant Undertaking;

4.1.9 if the Proposer is a Station Investor, it shall execute a deed in the form of Annex 15 (Template Station Investor Participation Deed) and send a copy of that deed to each Material Change Consultee;

4.1.10 pursuant to Condition C4.8, who (other than the Material Change Proposer) it is proposed should pay the costs of implementation and any increase in running costs; and, if it is proposed that a party should pay a proportion of such costs, what proportion it is proposed that such party should pay; and

4.1.11 information on any wayleaves or easements requests (where necessary).

4.2 The Proposer of a Material Change Proposal shall submit, together with any associated documentation, the same Proposal as required under Condition C4.1 to each Non-Qualifying Material Change Consultee, except it shall not include any documentation as required under Conditions C4.1.6 and C4.1.8.

4.3 Although the information contained in the Material Change Proposal may be of an outline or generic nature it must nevertheless contain such detail as is reasonably necessary and appropriate to enable the Material Change Consultees and Non-Qualifying Material Change Consultees to determine whether such Proposal if implemented would put that Consultee in breach of a Legal Requirement or of its Franchise Agreement, Station Operator's Licence or Network Licence (as the case may be).

4.4 During the Consultation Period, the Material Change Consultees may do one of the following:

4.4.1 give a response Accepting the Material Change Proposal unconditionally and agreeing to enter into the Co-operation Agreement; or

4.4.2 give a response objecting to the Material Change Proposal; or

4.4.3 give no response; and

4.4.4 in addition, if the Material Change Consultee is the Station Facility Owner, the Station Facility Owner may give a response Accepting the Material Change Proposal conditionally pursuant to Condition C5;

4.5 During the Consultation Period, the Non-Qualifying Material Change Consultees may do one of the following:

4.5.1 make representations in respect of the Material Change Proposal;

4.5.2 give a response objecting to the Material Change Proposal on the ground that the Material Change Proposal if implemented would put the Non-Qualifying Material Change Consultee in breach of a Legal Requirement or of its Franchise Agreement, Station Operator's Licence or Network Licence (as the case may be); or

4.5.3 give no response.

4.6 If no response is made by a Material Change Consultee during the Consultation Period then the relevant Material Change Consultee is deemed to have Accepted the Material Change and to have agreed to enter into the Co-operation Agreement at the end of the Consultation Period.

4.7 All the Material Change Consultees and the Non-Qualifying Material Change Consultees may agree by notice to the Proposer at any time that the Consultation Period shall be a shorter period than that specified in the Material Change Proposal.

4.8 The cost of implementing an Accepted Material Change Proposal, and any increase in the running costs of the Station resulting directly from such implementation, may be apportioned between the Proposer and the Material Change Consultees in accordance with the terms set out in the Proposal.

4.9 If a Material Change Consultee wishes to object to a Material Change Proposal it may only do so on one of the grounds set out in this Condition by giving notice to the Proposer during the Consultation Period and stating the grounds for its objection with supporting evidence of those grounds in such detail as is reasonably necessary and appropriate to enable the Proposer to evaluate it properly having regard to the grounds of the objection. The only grounds on which a Material Change Consultee may object to a Material Change Proposal are that:

4.9.1 the information to consider the Material Change Proposal is incomplete or inaccurate having regard to:

(a) the nature of the Material Change Proposal; and

(b) the information required to accompany a Material Change Proposal (as set out in Condition C4.1 which to avoid doubt need only comprise outline or generic details of the Proposal having regard to the information available at the time the Proposal is made); and/or

4.9.2 the Material Change Proposal if implemented would put the Material Change Consultee in breach of a Legal Requirement or of its Franchise Agreement, Station Operator's Licence or Network Licence (as the case may be); and/or

4.9.3 the Material Change Proposal is not consistent with the ORR's Investment Framework Policy and Guidelines as published from time to time; and/or

4.9.4 a Material Change Consultee considers that the completed Material Change Proposal would be contrary to the safe and efficient operation of the Station; and/or

4.9.5 implementation of the Material Change Proposal will result, or will be more likely than not to result, in a material adverse effect, whether permanent or temporary on

- (a) the operation of the Station or the Network; or
- (b) the use of the Station by any Material Change Consultee's passengers; or
- (c) the Material Change Consultee's ability to perform any obligations or exercise any discretions which it has in relation to railway services; and/or

4.9.6 in a manner specified by the Material Change Consultee, the implementation of the Material Change Proposal will, or will be more likely than not to, materially disrupt, interfere with, or otherwise be incompatible with the implementation of other specified works on or at the Station; and/or

4.9.7 the amount or other terms of the Relevant Undertaking offered by the Proposer are in some other respect insufficient or inappropriate for reasons specified by the Material Change Consultee; and/or

4.9.8 the Material Change Consultee who is required to pay a proportion of the costs of a Material Change Proposal believes that the additional revenue which that Material Change Consultee expects to gain as a result of implementation of the Proposal will be, or is more likely than not to be less than it is proposed will cost the Material Change Consultee to pay for, or contribute to, such implementation; and/or

4.9.9 in addition, if the Proposer of the Material Change is a Station Investor:

- (a) the Material Change Proposal does not provide a significant improvement to Common Station Service or Common Station Amenities; and/or
- (b) if the Material Change Proposal is an offer to fund or contribute to the cost of carrying out works or to pay a sum of money for investment in the railway industry, the Material Change Proposal does not provide a cash contribution which is at least equivalent to the Station Investor's Qualification (which the Relevant Operator agree to invest in the railway industry by acceptance of the Material Change Proposal) to a Relevant Operator; and/or
- (c) the Material Change Proposal is not accompanied by an undertaking in the terms referred to in Condition C4.1.8.

4.10 If a Material Change Consultee purports to object to a Material Change Proposal on any other ground, including but not limited to an objection solely on the grounds of entitlement to compensation, such objection shall be void and (unless it has also objected on one of the grounds set out in this Condition) the Material Change Consultee shall be deemed to have Accepted the Material Change at the end of the Consultation Period.

4.11 When objecting on any grounds as set out in Conditions C4.9.5, C4.9.6, C4.9.7, C4.9.8 or C4.9.9, the Material Change Consultee shall demonstrate, with supporting evidence, in its objection that the compensation payable under the Co-operation Agreement is in some respect insufficient or

inappropriate. If the Proposer disagrees with the Material Change Consultee on such compensation, the Proposer may refer the matter to the Dispute Resolution Procedure.

4.12 At the end of the Consultation Period, if any objections have been received, the Proposer must give them due consideration and respond to the relevant Material Change Consultee(s) within the Response Period. If the Proposer considers that an objection made on one of the grounds set out in Conditions C4.5.2 or C4.9 (as the case may be) is not valid it may within the Response Period refer the question of the validity of the objection for resolution under the Dispute Resolution Procedure.

4.13 If any objection (whether accepted or determined pursuant to the Dispute Resolution Procedure as having been validly made) requires any amendment to the Material Change Proposal the Proposer shall issue an amended Material Change Proposal incorporating such amendment or amendments and identifying the changes to the original Proposal, and the provisions of Conditions C4.1 to C4.12 inclusive shall apply as if set out again in full and the Consultation Period in respect of the amended Material Change Proposal (the "Second Consultation Period") shall be 20 Business Days (or longer if the Proposer so elects).

4.14 If during the Second Consultation Period a Material Change Consultee or Non-Qualifying Material Change Consultee objects to the amended Material Change Proposal then the Proposer may refer the question of the validity of the objection for resolution under the Dispute Resolution Procedure as soon as practicable after receiving that objection.

4.15 Any procedure for the agreement or determination of compensation pursuant to the provisions of a Co-operation Agreement shall not prevent or delay the Registration or implementation of the Material Change.

4.16 If the Material Change Consultee does not raise a valid objection, or it is determined that it did not raise a valid objection, to the Material Change Proposal under Condition C4.9 at the end of the Consultation Period or (if applicable) the end of the Second Consultation Period, the Material Change Consultee shall have Accepted and shall sign the Co-operation Agreement as proposed in the Material Change Proposal, and if it fails to do so it shall be deemed to have Accepted the Co-operation Agreement as proposed in the Material Change Proposal.

4.17 Registration of a Material Change does not remove the requirement to obtain other associated approvals either under any Relevant Agreement or under any standard industry procedures such as detailed technical approvals, method statements, lease amendments, etc. which, wherever possible, should be progressed as part of the Material Change consultation process.

4.18 The Proposer shall pay to each Material Change Consultee all costs reasonably incurred by that Consultee in evaluating and responding to the Material Change Proposal during the Consultation Period after which time such costs shall be dealt with in accordance with the Co-operation Agreement (if any). Where such costs are not dealt with under the Co-operation Agreement, these shall be agreed between the parties or in the event of dispute shall be determined on the application of either party under the Dispute Resolution Procedure and shall be paid within 20 Business Days of the agreement or determination of such amounts.

4.19 If at any time after the end of the Consultation Period or (if applicable) any Second Consultation Period a Material Change Proposal is materially modified for any reason (including without limitation

because it is only partially implemented or is withdrawn following commencement of implementation) then the Proposer shall treat the modification as a Change or (as the case may be) an Exempt Activity to which the provisions of this Part C shall apply.

Condition C5 Conditional Acceptance of a Material Change Proposal by the Station Facility Owner

5.1 Where the Station Facility Owner is a Material Change Consultee it shall be entitled to require as a condition of its acceptance of a Material Change Proposal that the implementation of the Proposal (or any part or parts of it) is subject to:

5.1.1 the Proposer having entered into an Asset Protection Agreement; and

5.1.2 (where the Proposal is made by a Station Investor) the Proposer having entered into a Property Agreement,

but it shall not be entitled to require any other condition of its consent in its role as landlord under any lease of the Station.

5.2 The Station Facility Owner and the Proposer shall each act reasonably in relation to the settlement of the terms and conditions of any Asset Protection Agreement required under Condition C5.1.1 but the Station Facility Owner shall be entitled to require adherence to the current ORR Asset Protection Policies and Guidelines in relation to settling the form of the Asset Protection Agreement.

5.3 The Station Facility Owner and the Proposer shall each act reasonably in relation to the settlement of the terms and conditions of any Property Agreement required under Condition C5.1.2.

5.4 In the event of failure to agree on any of the terms and conditions of any Asset Protection Agreement or Property Agreement required under Condition C5.1.1 or C5.1.2 either party may refer the matter to the Dispute Resolution Procedure.

Condition C6 Non-Discretionary Change

6.1 A party who is required to undertake an action which constitutes a Non-Discretionary Change shall submit a Proposal, together with any associated documentation, to each of the Notifiable Change Consultees as if that Proposal had been a Notifiable Change Proposal. The Proposal must set out the proposed change and the reason why it is a Non-Discretionary Change.

6.2 The Proposer of a Non-Discretionary Change shall be entitled to implement the relevant Non-Discretionary Change at any time whether or not the Representation Period has ended and regardless of whether it has received any representations if failure to do so would or would be reasonably likely to result in any breach of any relevant Legal Requirement, Direction or Safety Obligation, or would result in a breach of any provision of the Station Access Conditions. Under this Condition C6.2, the Proposer shall be entitled to implement the Non-Discretionary Change without regard to Conditions C7 (other than C7.1.1), C8, C9 or C10.

6.3 Other than as set out in Condition C6.2 the Non-Discretionary Change shall be treated as though it had been a Notifiable Change.

6.4 The provisions of Condition P3 shall have effect in relation to any costs of complying with or in consequence of any Non-Discretionary Change referred to in Condition C6.1.

Condition C7 Approval by the ORR

7.1 No Proposal to change these Station Access Conditions or Annexes whose implementation would:

7.1.1 require consequential amendments to a Station Access Agreement; or

7.1.2 materially diminish for a period in excess of 28 consecutive days the number of passengers or trains that are able to use the Station,

shall take effect or be implemented unless and until the ORR shall have notified its approval of any such Proposal and any such consequential amendments (unless they fall wholly within a general approval given by the ORR pursuant to sections 22(2) or 22(3) of the Act).

7.2 ORR may choose to give an approval in principle only of a Proposal where it thinks it appropriate.

Condition C8 Submission of a Proposal to the ORR

8.1 On acceptance of a Notifiable Change, Material Change or Non-Discretionary Change in accordance with the procedures referred to in this Part the Proposer shall (subject to Condition C8.2) submit any Proposal requiring approval under Condition C7.1 to the ORR for its approval, together with a written memorandum explaining the reasons for the proposed change and setting out details of the conduct and outcome of the representation or consultation process (as the case may be) provided that no such approval shall be sought if and to the extent that (or, if applicable, for so long as):

8.1.1 the change in question shall fall wholly within a relevant general approval given by the ORR pursuant to sections 22(2) or 22(3) of the Act;

8.1.2 the Proposal requires the implementation and completion of any procedure pursuant to Part F or Part G of the Network Code, and the result of that procedure is pending; or

8.1.3. any other consents or approvals are required by any Statute to or from any third party to enable the implementation of the Proposal, and have not yet been obtained.

8.2 The Proposer shall submit details of a Proposal accepted in accordance with this Part but withheld in accordance with Condition C8.1 to the ORR for approval on satisfaction of the relevant conditions in Conditions C8.1.2 and C8.1.3.

8.3 The Proposal requiring approval shall be submitted within 20 Business Days (which period may be extended with the consent of the Proposer and all relevant Consultees) following acceptance of a

Proposal submitted under Condition C8.1, or satisfaction of the relevant conditions relating to the Proposal submitted under Condition C8.2 otherwise it shall lapse and no longer be effective.

Condition C9 Notification of the ORR's decision

9.1 The Proposer shall, as soon as reasonably practicable after it receives notice of the ORR's decision on an application for approval of an amendment pursuant to Condition C8, notify each Consultee of such decision.

Condition C10 Registration, Requisite Consents and Implementation

10.1 Any Notifiable Change, Material Change or Non-Discretionary Change which has been accepted (including a conditional acceptance under Condition C5) under the procedures referred to in this Part (including without limitation approval by the ORR under Condition C8) shall be registered with the ORR by Registration by:

10.1.1 the Proposer; or

10.1.2 any Relevant Operator if the relevant Proposer fails to do so following acceptance of such Proposal under the procedures referred to in this Part,

but in the event that no party takes the necessary steps to achieve Registration within two months (which period may be extended with the consent of the Proposer and the relevant Consultee(s)) following acceptance of the relevant Proposal, then such Proposal shall lapse and no longer be effective.

10.2 Any documentation required as a consequence of any Notifiable Change, Material Change or Non-Discretionary Change which has been accepted under the procedures referred to in this Part shall be settled between the relevant parties each acting reasonably in relation to the settlement of the terms and conditions of any such document and in the event of failure to agree on any of the terms and conditions of any such document either party may refer the matter to the Dispute Resolution Procedure. This Condition C10.2 shall not impede or delay the registration requirement referred to in Condition C10.1.

10.3 The Proposer shall use its reasonable endeavours to obtain all Requisite Consents as soon as practicable having regard to the nature of that consent and the matter to which it relates and in any event prior to implementation of the Notifiable Change, Material Change or Non-Discretionary Change (as the case may be) or (if the relevant Requisite Consent relates to a phase of the Notifiable Change, Material Change or Non-Discretionary Change or can only be obtained after the commencement of the Notifiable Change, Material Change or Non-Discretionary Change) the relevant part of the Notifiable Change, Material Change or Non-Discretionary Change and the requirement to obtain Requisite Consents (if any) shall not impede or delay the procedures referred to in this Part nor be used as a ground for objection to any Proposal.

10.4 Following Registration and before implementing the Notifiable Change, Material Change or the Non-Discretionary Change (as the case may be), the Proposer will issue an Implementation Notice to all the relevant Consultees and the ORR.

10.5 If no Implementation Notice is issued within three years of Registration (which period may be extended by the Proposer with the consent of all relevant Consultees) the relevant Notifiable Change, Material Change or the Non-Discretionary Change shall lapse and no longer be effective.

10.6 If an Implementation Notice is issued the Proposer must implement the relevant Proposal and then proceed diligently with it and if the Proposer does not commence implementation of the Relevant Proposal within 20 Business Days (which period may be extended by the Proposer with the consent of all relevant Consultees) following the issue of the Implementation Notice the relevant Notifiable Change, Material Change or the Non-Discretionary Change shall lapse and no longer be effective.

10.7 If before the Notifiable Change, Material Change or (where applicable) the Non-Discretionary Change is implemented the Proposer wishes to withdraw it, it may do so by notice to the relevant Consultees and to the ORR.

Condition C11 NOT USED

Condition C12 Notices

12.1 Any notice to be served or information to be shared under this Part shall be in writing and served by e-mail to such dedicated e-mail address as each of the relevant parties shall have notified in writing to the party serving the notice or in accordance with the notice provisions of the Relevant Agreement.

PART D WORKS, REPAIRS AND MAINTENANCE

Condition D1 Existing Works, Third Party Works and Emergencies

1.1 Subject to Condition D3, the Station Facility Owner shall be entitled to restrict, suspend or alter any permission to use the Station if and to the extent that it is reasonably necessary to:

1.1.1 permit the carrying out of Existing Works or Non-Discretionary Third Party Works, provided that in the case of Existing Works the Station Facility Owner shall consult with each User and carry out the Existing Works in each case in accordance with the requirements specified in Annex 4; or

1.1.2 safeguard the safety or security of persons or property in an Emergency or Station Facility Owner Emergency at or affecting the Station.

1.2 NOT USED

Condition D2 Repairs and Maintenance and other works

2.1 Subject to Conditions D2.3 and D3.1, the Station Facility Owner shall be entitled to restrict, suspend or alter any permission to use the Station if and to the extent that it is reasonably necessary to:

2.1.1 permit Repair, Maintenance, Discretionary Third Party Works or Exempt Activities to be made or carried out at or in relation to the Station without complying with the requirements for Change in Part C (save, in relation to Exempt Activities, the requirements of Condition C2);

2.1.2 NOT USED;

2.1.3 permit any action to prevent, mitigate or remedy any Environmental Condition to be made or carried out in accordance with the provisions of Part M subject to compliance with the provisions of Part C insofar as such action is not an Exempt Activity and falls within the definition of Change (save where otherwise provided for in Part M);

2.1.4 permit any works conducted in accordance with an obligation under Part E, to be made or carried out, subject to compliance with the provisions of Part C where such works are undertaken to remedy Substantial Damage;

2.1.5 permit any works which fall within the definition of Non-Discretionary Change, subject to compliance with the provisions of Condition C6; and

2.1.6 permit any works carried out in accordance with the provisions of Condition L2.3 without complying with the requirements for Change in Part C.

2.2 The Station Facility Owner shall restrict, suspend or alter any permission to use the Station in accordance with Condition D2.1 when reasonably requested to do so by:

2.2.1 NOT USED

2.2.2 any User in order to enable such User to comply with its obligations under Part M.

2.3 The Station Facility Owner shall, if it intends to restrict, suspend or alter permission to use the Station in accordance with Condition D2.1 (otherwise than in a trivial respect) and a User shall, if it requests the Station Facility Owner to impose such a restriction, suspension or alteration (otherwise than in a trivial respect) pursuant to Condition D2.2:

2.3.1 provide at least 10 Business Days notice in writing to each User (and the Station Facility Owner where a User so requests) of:

(a) the date and time proposed for the restriction, suspension or alteration; and

(b) a reasonable programme of works for the carrying out of the works in question;
and

2.3.2 use all reasonable endeavours timeously to consult with each Relevant Operator in relation to such restriction, suspension or alteration and, as far as reasonably practicable, shall minimise the extent and period of any such restriction, suspension or alteration, having regard to the likely effect of the relevant works on the business of each User (or as the case may be the Station Facility Owner) who may be affected.

2.4 The Station Facility Owner shall, as far as is reasonably practicable, minimise the extent and period of any restriction, suspension or alteration pursuant to Conditions D1 and D2.

2.5 Where any works are proposed to be carried out under the terms of any Existing Works:

2.5.1 where the Station Facility Owner has an absolute discretion in relation to the carrying out of such works, it shall comply with the relevant Conditions in Parts C and D as if the exercise of the discretion in question were a Proposal for Change; and

2.5.2 where it has no such absolute discretion in relation to the carrying out of such works, so far as reasonably practicable, it shall comply with Condition D3.

Condition D3 Alternative arrangements

3.1 Where the Station Facility Owner restricts, suspends or alters permission to use the Station in accordance with Condition D1 or D2, it shall, to the extent reasonably practicable, make timeous and adequate provision, to a standard which is as near as is reasonably practicable to the standard at the Station provided for in the Relevant Agreement, for:

3.1.1 suitable alternative arrangements in respect of access to and egress from the highway;

3.1.2 each Relevant Operator's Associates to pass to and from trains operated by or on behalf of that Relevant Operator which stop at the Station and for any Passenger Operator's passengers to buy tickets for railway passenger services; and

3.1.3 the provision of up-to-date train running information and toilet amenities,

and the Station Facility Owner shall use all reasonable endeavours to make timeous and adequate provision for suitable alternative arrangements in respect of all other Common Station Amenities and Station Services so as to enable each Relevant Operator and its Associates to use the Station with minimum disruption, difficulty or inconvenience.

3.2 Any User shall promptly reimburse the Station Facility Owner for any costs incurred by it in accordance with Condition D3.1 as a result of a request of any User pursuant to Condition D2.2.2.

Condition D4 Asset Stewardship

4.1 The Station Facility Owner shall:

4.1.1 perform its obligations in Condition D2 (Repair and Maintenance and other works); and

4.1.2 improve, enhance and develop the Station,

in each case in accordance with best practice, acting in the long term interest of the assets, and in a timely, efficient and economical manner, so as to satisfy the reasonable requirements of actual (and prospective) Users and customers.

4.2 The Station Facility Owner shall maintain appropriate information about the Station assets (including any Element of the Station and any item of Equipment specified in Annex 9), including in particular their condition, capability and capacity.

4.3 The Station Facility Owner shall prepare and publish within 12 months of the Conditions Efficacy Date:

4.3.1 a station asset management policy, which describes the Station Facility Owner's general principles and procedures in relation to Maintenance, Repair, improvement, enhancement and development at the Station; and

4.3.2 a station asset management plan, which sets out what the Station Facility Owner proposes to do to comply with its obligations set out in Conditions D5.1 and D4.1 and including an indicative renewal timetable.

4.4 In relation to each of the documents referred to in Condition D4.3, no less than once every two years the Station Facility Owner shall:

4.4.1 review such documents;

4.4.2 consider whether any amendments to such documents are reasonably necessary to allow the Station Facility Owner to continue to demonstrate how it will comply with its obligations set out in Conditions D5.1 and D4.1;

4.4.3 consult with Users on any proposed amendments to any such document; and

4.4.4 take into account the representations of Users when publishing any final document.

4.5 The performance regime set out in Part L of these Station Access Conditions shall apply.

Condition D5 The Station Facility Owner's obligations

5.1 The Station Facility Owner shall ensure that:

5.1.1 Maintenance and/or Repair (as the case may be) is carried out to all Equipment and all parts of the Station and that renewal shall be undertaken where it is reasonably necessary and the most economic method of repair; and

5.1.2 any Element of the Station or item of Equipment specified in Annex 10 shall insofar and to the extent that it is as at the Conditions Efficacy Date in a state of actual disrepair (or as the case may be, not in working order) be brought into a proper state of repair (or as the case may be, working order) as soon as reasonably practicable and otherwise in accordance with the terms of Annex 10.

5.1.3 NOT USED;

5.1.4 NOT USED;

5.1.5 NOT USED;

5.2 The Station Facility Owner's obligations in Condition D5.1.2 shall extend to adequately painting and decorating (which shall include the application of preservative treatments where appropriate) the interior and exterior of any buildings forming part of the Station.

5.3 The Station Facility Owner shall not be in breach of its obligations under Conditions D5.1 if the Station or the relevant part of it is subject to any Existing Agreement and, having taken all reasonable steps to fulfil its obligations under Conditions D5.1, the Station Facility Owner has been unable to fulfil those obligations by virtue of the provisions of such Existing Agreement or any failure to obtain any consent (either unconditionally or on reasonable terms) from a relevant third party necessary before the relevant obligations may be discharged.

Condition D6 Equipment

The Station Facility Owner shall use all reasonable endeavours to procure that the Equipment (other than the Excluded Equipment) is used and operated competently and properly.

Condition D7 General upkeep

The Station Facility Owner shall, so far as practicable:

7.1 keep the Station (and any adjoining road frontage where litter emanates from the Station) free from refuse, and in a clean and tidy condition; and

7.2 clean all windows and glass comprised in the Station.

Condition D8 Conduits free from obstruction

The Station Facility Owner shall keep all Conduits protected from frost (where necessary and where practicable at reasonable cost) and free from obstruction.

Condition D9 NOT USED

Condition D10 NOT USED

Condition D11 NOT USED

Condition D12 Users' obligations

12.1 If a User's staff intentionally or recklessly cause damage to Station Elements or Station Equipment (beyond damage that would constitute reasonable wear and tear) that User shall reimburse the Station Facility Owner the full costs of complying with its obligations under Condition D5.1, within 60 days of the Station Facility Owner completing the relevant Maintenance or Repair.

PART E INSURANCE

Condition E1 Responsibility of Relevant Operators for effecting insurance

1.1 The Station Facility Owner shall insure and keep insured the Station against property owner's liability, third party liability and such other risks in respect of which a reasonable and prudent station operator would effect and maintain insurance (other than the Insured Risks), provided that the terms of such insurance shall not unreasonably restrict any User's use of the Station.

1.2 NOT USED.

1.3 For the purposes of Condition E1.1, the Station Facility Owner shall procure the third party liability insurance which it is required to take out and maintain complies with the following requirements:

- (1) it has a total cover of not less than £155 million per incident in respect of all liabilities to third parties;
- (2) where an aggregate limit of indemnity applies, this limit will be reinstated at least once if the limit is exhausted;
- (3) cover is on an 'occurrence' basis;
- (4) cover is on a costs exclusive basis;
- (5) any other party is included as an insured to the extent that that party is required to be insured or indemnified in any underlying contract or agreement with the Station Facility Owner;
- (6) cover for any difference between its contractors' or sub-contractors' cover and that required by this Condition E1.3 is provided;
- (7) such insurance is taken out only with insurers falling within Condition E1.5.

1.4 Notwithstanding any other Conditions in this Part E, the Station Facility Owner shall be liable for any excess or deductible that applies to such insurance policy.

1.5 Each User shall, if it is not a public service operator, effect and maintain appropriate insurance with a member of the Association of British Insurers or with Lloyds of London underwriters against third party liability and such other risks in respect of which a reasonable and prudent train operator would effect and maintain insurance.

1.6 Each User shall, in respect of any insurance policy to which Condition E1.5 applies, provide the Station Facility Owner with suitable evidence, promptly upon receipt of a request from that person for such evidence, that such insurance policy is in full force and effect, that all premiums have been paid up to date and that no circumstances exist which might lead to that policy being avoided.

Condition E2 Responsibility of the Station Facility Owner for effecting insurance

2.1 the Station Facility Owner shall:

2.1.1 insure and keep insured the Station (but not tenants' or trade fixtures and fittings) with a member of the Association of British Insurers or with Lloyds of London underwriters upon reasonable commercial terms against the Insured Risks; and

2.1.2 subject to Condition E2.2, effect such insurance for the Full Replacement Cost and such insurance shall be on terms that if any occurrence of an Insured Risk shall affect more than one station at which the Station Facility Owner is the facility owner (being referred to in this Part E collectively as "Affected Facilities" and separately as "Affected Facilities") any excess shall apply only once in respect of that occurrence to the Affected Facilities as a whole.

2.2 The Station Facility Owner shall, in respect of any insurance effected pursuant to Condition E2.1, use all reasonable endeavours to procure that:

2.2.1 the cost of such insurance is the best effective price reasonably obtainable; and

2.2.2 such insurance is effected so that in the event of Substantial Damage to the Station, it shall be replaced with a modern equivalent building of a size and specification to meet modern requirements (unless exact replacement of the Station is required by any public body pursuant to listed building or other legislation or by a Superior Estate Owner).

2.3 NOT USED.

Condition E3 Destruction or damage to the Station

3.1 If the Station is destroyed or damaged by an Insured Risk then:

3.1.1 NOT USED;

3.1.2 any excess payable; and

3.1.3 all monies payable under insurance policies effected by the Station Facility Owner pursuant to Condition E1 and E2,

shall be applied by the Station Facility Owner as soon as reasonably practicable in the repair, reinstatement and making good of the Station, subject to:

3.1.4 Condition E3.2; and

3.1.5 the Station Facility Owner obtaining all necessary permissions and approvals which the Station Facility Owner shall use all reasonable endeavours to obtain as soon as reasonably practicable

provided that if any occurrence of an Insured Risk shall affect the Station and one or more Affected Facilities then any monies paid pursuant to Condition E3.1.2 shall be required to be applied to the

Station only in the same proportion as the amount of insured damage suffered at the Station from the occurrence of the Insured Risk bears to the total amount of insured damage so suffered at all Affected Facilities

3.2 As soon as practicable following the destruction of or damage referred to in Condition E3.1, the Station Facility Owner shall consult with the Users and shall use all reasonable endeavours to agree:

3.2.1 the necessary reinstatement works, which in the case of Substantial Damage (and save where required by reason of the listed building or similar status of the Station or by a Superior Estate Owner) shall be the construction of a modern equivalent of the building(s) or Equipment damaged or destroyed provided that if the cost of such modern equivalent is more than the cost of rebuilding or reinstating the damaged or destroyed building(s) or Equipment the Station Facility Owner shall have the option of requiring a modern equivalent building or reinstatement of the building which was damaged or destroyed; and

3.2.2 the programme for the carrying out of such reinstatement works,

and, subject to this, the Station Facility Owner shall proceed as soon as reasonably practicable to effect such reinstatement works.

3.3 The Station Facility Owner shall not be responsible for Repair and/or Maintenance of any part of the Station or Equipment which has been subject to destruction or damage pending its repair, reinstatement or making good.

3.4 If the monies recovered under any insurance policy maintained by the Station Facility Owner are not sufficient to meet the cost to the Station Facility Owner of fulfilling its obligations under Condition E3.2, the Station Facility Owner shall bear the shortfall.

Condition E4 Provision of documents

4.1 The Station Facility Owner, so far as it effects any insurance in respect of the Station, shall within 30 days of receipt of a request from any User provide such person with:

4.1.1 a copy of each insurance policy under, or in respect of which, the User has an interest and which relates to the Station or any risk of, or in any way associated with, the operation of the Station;

4.1.2 reasonable details of any amount payable by any User in respect of any such insurance policy; and

4.1.3 reasonable details of any claim which shall be made under any such insurance policy if the making of that claim affects or could reasonably be expected to affect any User.

Condition E5 Maintenance of insurance

5.1 In respect of each insurance policy to which Condition E4 applies, the Station Facility Owner shall procure that:

5.1.1 if and to the extent that any Relevant Operator has an insurable interest capable of being covered by such policy and to the extent that any Relevant Operator reasonably so requests, any Relevant Operator is named as a co-insured under such policy on such terms as shall be reasonable;

5.1.2 the policy is maintained and all claims are duly filed, and all proper steps to collect proceeds are duly taken in respect of such policy; and

5.1.3 if such insurance policy is not required under a station licence held by that person or that person does not hold a station licence, it shall bear an endorsement to the effect that 30 days' notice shall be given to any Relevant Operator by the insurer or insurance broker of any lapse, or cancellation of, or material change to, the policy and that no such lapse, cancellation or change shall have effect unless such notice shall have been given.

Condition E6 Increase of premium or invalidation of policy

6.1 Any Relevant Operator shall not, and shall procure that its Associates (other than passengers) do not, bring onto or do or omit to do at the Station anything which it is aware, or it ought reasonably to be aware, would:

6.1.1 invalidate any insurance of the Station or any Adjacent Property; or

6.1.2 increase the premium payable for that insurance; or

6.1.3 render wholly or partly irrecoverable the monies which otherwise would have been payable under that insurance,

subject to the Relevant Operator receiving notice of any material provision of the insurance of the Adjacent Property which does not apply to insurance of the Station and the Station Facility Owner shall procure that any undertenant or any person deriving title under or authorised by the Station Facility Owner to enter the Station shall comply with this Condition E6.1.

6.2 The person responsible for any act or omission contemplated by Condition E6.1 shall pay to the person effecting such insurance on demand the amount of:

6.2.1 any increase in premium referred to in Condition E6.1.2; and

6.2.2 any irrecoverable insurance monies referred to in Condition E6.1.3,

which in any such case results from the act or omission of that person, its Associates (other than passengers), or any undertenant or any person deriving title under or authorised to enter the Station by the Station Facility Owner

Condition E7 Rights of subrogation

The Station Facility Owner shall use all reasonable endeavours to procure that any insurance policy to which Condition E4 applies shall include a waiver of the relevant insurer's right of subrogation against each Relevant Operator.

Condition E8 NOT USED

Condition E9 NOT USED

PART F ACCESS CHARGING

Condition F1 NOT USED

Condition F2 Payment of charges

2.1 NOT USED

2.2 NOT USED

2.3 Except as otherwise provided in the Station Access Agreement or in these Station Access Conditions, each User shall pay the Access Charge.

Condition F3 NOT USED

Condition F4 NOT USED

Condition F5 NOT USED

Condition F6 NOT USED

Condition F7 NOT USED

Condition F8 NOT USED

Condition F9 NOT USED

Condition F10 NOT USED

Condition F11 NOT USED

Condition F12 Review of Access Charge generally

12.1 The Station Facility Owner and all Users shall:

12.1.1 within 30 days of the giving of a notice by any one of them to the others for the purposes of this Condition F12.1 formally review (with each other, and in consultation with the Secretary of State):

- (a) the amounts payable by any person to another under a Station Access Agreement and these Station Access Conditions;
- (b) the manner in which, and the dates by which, such amounts shall be payable;
and
- (c) their allocation; and

12.1.2 negotiate with each other (and in so doing have regard to any comments which shall have been made by the Secretary of State in the course of such review) with a view to reaching agreement, subject to approval of the ORR, on any amendments to these Station Access Conditions and the relevant Station Access Agreement which the Station Facility Owner or any User may consider necessary or desirable in respect of any such matters.

12.2 If the Station Facility Owner and the Users reach agreement with each other on any such amendments, the Station Facility Owner shall promptly submit to the ORR for its approval:

12.2.1 the proposed amendments; and

12.2.2 copies of any objections to them which shall have been made by the Secretary of State in writing.

12.3 If the Station Facility Owner and the Users fail to reach agreement with each other on such amendments within 90 days of the giving of the notice referred to in Condition F12.1.1, the matters in dispute may be resolved in accordance with the Access Dispute Resolution Rules. In the event that the dispute is referred under the Access Dispute Resolution Rules, the parties to the dispute shall agree in a Procedure Agreement within the meaning of the Access Dispute Resolution Rules that such determination shall:

12.3.1 be made having regard to the matters as respects which duties are imposed on the ORR under section 4 of the Act; and

12.3.2 establish the proposed amendments to these Station Access Conditions and the relevant Station Access Agreement, which shall be submitted by the arbitrator to the ORR for approval under section 22 of the Act on behalf of the Station Facility Owner and each User.

12.4 If any proposed amendments to these Station Access Conditions or any Station Access Agreement which have been submitted to the ORR pursuant to Condition F12.2 or Condition F12.3 are approved by the ORR, such proposed amendments shall be made and become effective in accordance with the terms of its approval. If not so approved, such amendments shall not be made or have effect.

PART G EXISTING AGREEMENTS AND THIRD PARTY RIGHTS

Condition G1 General

1.1 NOT USED.

1.2 No User shall do or permit to be done anything which might reasonably be expected to cause a breach of any Existing Agreement in so far as it is aware of any such obligations or such obligations are disclosed in the Station Register and such obligations relate to the Station.

1.3 NOT USED.

Condition G2 Costs of compliance

2.1 NOT USED

2.2 The Station Facility Owner shall (on an after tax basis) indemnify each User, and keep it indemnified, against all costs and expenses reasonably and properly incurred by it in and as a consequence of its complying with its obligations under Condition G1.2 in relation to any Existing Agreement.

Condition G3 Representations, warranties and undertakings

3.1 NOT USED.

3.2 NOT USED

3.3 The Station Facility Owner shall comply with the obligations binding on the Station Facility Owner and contained in the Existing Agreements insofar only as each User is not required to comply with such obligations under Condition G1.2 and non-compliance by the Station Facility Owner would or could have a material adverse effect on any User or its business.

3.4 The Station Facility Owner represents, warrants and undertakes to each User that:

3.4.1 it will not enter into any agreement or other arrangement which results or is likely to result in a Relevant Restriction, except such as may arise pursuant to:

(a) any Existing Agreement; or

(b) these Station Access Conditions; and

3.4.2 all Existing Agreements the terms of which result or are likely to result in a Relevant Restriction are disclosed in the Station Register in accordance with the provisions of Part I.

Condition G4 NOT USED

Condition G5 Exercise of discretion/Grant of consent

5.1 Where any Existing Agreement contains rights and/or obligations:

5.1.1 whose exercise or effect depends on the exercise of any discretion, or the granting of any consent, approval or waiver by the Station Facility Owner; and

5.1.2 the rights in respect of which may be exercised so as to protect the permission to use of any User's interest or otherwise benefit the Station, its use, occupation or repair or the interest of any User in the Station

the Station Facility Owner shall, subject to the terms of that Existing Agreement consult with and have due regard to any representations which may be made by any User, and shall at all times ensure, so far as reasonably practicable, that any disruption to the operation and/or use of the Station is minimised in all respects.

5.2 Where any works are proposed to be carried out under the terms of any Existing Agreement:

5.2.1 where the Station Facility Owner has an absolute discretion in relation to the carrying out of such works, it shall comply with the relevant Conditions in Parts C and D as if the exercise of the discretion in question were a Proposal for Change; and

5.2.2 where it has no such absolute discretion in relation to the carrying out of such works, so far as reasonably practicable, it shall comply with Condition D3.1.

5.3 At the request of any User, the Station Facility Owner shall take all reasonable steps to exercise such rights, which shall include (without limitation) enforcing the collection of any contribution or compensation payable by a third party in respect of any works carried out in relation to the Station under any Existing Agreement.

Condition G6 Wayleave grants

6.1 The Station Facility Owner may grant wayleaves or easements at the Station to any public or local authority or public utility company or other persons, including (without limitation) rights of way, which do not impose a Relevant Restriction or prevent the use of the Station for the provision of Station Services.

6.2 The Station Facility Owner may retain the benefit of grants pursuant to Condition G6.1 including rents or other payments arising under them except for any compensation for damage suffered by each User which shall be paid to the User in question promptly upon receipt.

6.3 No grant shall be made pursuant to Condition G6.1 until each User has been consulted and the Station Facility Owner shall have had due regard to that operator's interests in the Station including the operational integrity of the Station and that operator's existing and future plans for its use and enjoyment of the Station.

6.4 Any grant of rights of way made pursuant to Condition G6.1 shall require the grantee to comply with the Station Facility Owner's reasonable requirements in relation to safety or security and to give due consideration to any User's representations regarding the effect of the exercise of the rights in question on the User's operations. Any grant of a right of entry to carry out works made pursuant to Condition G6.1 shall, so far as reasonably practicable, incorporate provisions controlling entry upon the Station no less beneficial to the Station Facility Owner than the provisions of Conditions D2.3.2 and N4.

6.5 Where the Station Facility Owner wishes to grant wayleaves or easements at the Station which impose a Relevant Restriction or prevent the use of the Station for the provision of Station Services the provisions of Part C shall apply.

Condition G7 NOT USED

Condition G8 NOT USED

PART H LITIGATION AND DISPUTES

Condition H1 Notification by the Station Facility Owner

The Station Facility Owner shall promptly notify each User of any dispute relating to:

1.1 the Station; or

1.2 any rights granted to the User under any Relevant Agreement,

which the Station Facility Owner (acting reasonably) believes may have a materially adverse effect on the User's business at the Station.

Condition H2 Notification by User of damage

Users shall promptly notify the Station Facility Owner and each User of:

2.1 any incidents, accidents or circumstances causing damage to Common Station Amenities, the cost of which is likely to exceed the amount specified in paragraph 11 of Annex 9; and

2.2 NOT USED.

Condition H3 Notification by User of dispute

3.1 Each User shall promptly notify the Station Facility Owner of any claim, litigation, lien, demand or judgment brought by it or against it which is likely to affect the provision of the Station Services or the Common Station Amenities.

3.2 Notwithstanding Condition H4, a User shall have the right to participate in any prosecution, defence or settlement conducted in accordance with such Conditions at its sole cost and expense, provided that such participation shall neither prejudice its conduct by the Station Facility Owner nor reduce the User's share of the cost of such action.

Condition H4 Authority of Station Facility Owner

The Station Facility Owner:

4.1 shall have the authority; and

4.2 shall, so far as is reasonably practicable and prudent in respect of any third party act of a kind referred to in Condition L2.5, use its reasonable endeavours,

to commence, prosecute, defend, pursue or settle any claim, litigation, lien, demand or judgment relating to the Common Station Amenities or the Station Services (other than between the Station Facility Owner and a User) on behalf of both itself and, if appropriate, any Users, provided that the

Station Facility Owner shall have no such authority or obligation without the prior consent of the Requisite Majority where:

4.3 the dispute is likely materially to affect the Station Facility Owner's ability to operate the Station;
or

4.4 NOT USED.

Condition H5 Resolution of disputes and claims

5.1 Save as otherwise provided in these Station Access Conditions, any dispute or claim arising out of or in connection with these Station Access Conditions or a Relevant Agreement shall be resolved in accordance with the following escalation process.

5.1.1 within 5 Business Days of notification by either party to the other that it believes there is a dispute and that such dispute should be escalated in accordance with this Condition, the appropriate managers of the parties shall discuss the dispute with a view to resolution;

5.1.2 if the parties are unable to resolve the dispute in accordance with Condition H5.1.1, the dispute shall be escalated within a further 5 Business Days to the parties' appropriate senior managers for resolution;

5.1.3 if the parties are unable to resolve the dispute in accordance with Condition H5.1.2, the dispute shall be escalated within a further 5 Business Days to the parties' appropriate directors for resolution;

5.1.4 if the dispute is not resolved pursuant to Conditions H5.1.1 to H5.1.3 then the dispute shall be resolved in accordance with the Access Dispute Resolution Rules in force at the relevant time.

5.2 Nothing in Condition H5.1 shall prevent either party at any time from referring a dispute arising out of or in connection with this procedure directly (whether or not the dispute has been escalated in accordance with Condition H5.1) for determination in accordance with the Access Dispute Resolution Rules in force at the relevant time.

Condition H6 Claims allocation and handling

6.1 The Station Facility Owner:

6.1.1 shall at all times remain a party to and comply with such agreements or arrangements (as amended from time to time) relating to:

- (a) the handling of claims against operators of railway assets; and
- (b) the allocation of liabilities among operators of railway assets,

and the agreement known as the Claims Allocation and Handling Agreement shall, as at the Conditions Efficacy Date, satisfy the requirements of this Condition H6.1;

6.1.2 shall procure that each User also becomes party to the same arrangement described in Condition H6.1;

6.1.3 shall not, in relation to any of the agreements or arrangements described in Condition H6.1 (the “relevant claims handling arrangements”), enter into any agreement or arrangement with any other party to the relevant claims handling arrangements:

(a) under which the Station Facility Owner agrees not to exercise any rights which it may have under any of the relevant claims handling arrangements; or

(b) varying the relevant claims handling arrangements other than as provided for under the terms of the relevant claims handling arrangements.

PART I STATION REGISTER

Condition I1 Maintenance of the Register

1.1 The Station Facility Owner shall, in such form as it may reasonably determine maintain at the premises referred to in paragraph 9 of Annex 1 a register for the purposes of this Part I and shall, upon ceasing to be the facility owner of the Station, deliver to the person succeeding it as facility owner:

1.1.1 such register; and

1.1.2 NOT USED.

1.2 NOT USED.

Condition I2 Content of the Register

2.1 Subject to Condition I3 and any notice given under Condition I4, the Station Facility Owner shall cause to be entered in the Station Register:

2.1.1 so far and as soon as reasonably practicable in relation to Existing Agreements of which it is aware the following insofar as they are likely to result in or effect a Relevant Restriction:

(a) a copy or a true and fair description of the material terms of every Existing Agreement;

(b) a copy or a true and fair description of the material terms of every amendment (however described) of any such Existing Agreement; and

(c) a copy or a true and fair description of the material terms of every consent, approval, waiver or other discretion which shall have been given, made or exercised under or in respect of any such Existing Agreement;

2.1.2 in relation to Existing Works, all material information in relation to the following insofar as they are likely to result in or effect a Relevant Restriction:

(a) all Existing Works;

(b) every amendment (however described) to any such Existing Works; and

(c) every consent, approval, waiver or other discretion which shall have been given, made or exercised in respect of any such Existing Works;

2.1.3 in relation to any Proposal described in Part C, the provisions of:

(a) such proposal;

(b) any representations and/or objections made in respect of such proposal;

(c) any consent to such proposal; and

(d) the result of any decisions made by the ORR in respect of such proposal;

2.1.4 the Statement of Condition;

2.1.5 every Direction of any Competent Authority (other than a Statute) which relates to the Station or to the operation of the Station and which either:

(a) is likely to result in or affect a Relevant Restriction; or

(b) NOT USED,

provided that such Direction is not applicable to stations generally;

2.1.6 NOT USED;

2.1.7 NOT USED;

2.1.8 a copy of these Station Access Conditions;

2.1.9 NOT USED; and

2.1.10 NOT USED.

2.2 NOT USED.

Condition I3 Exclusions from the Register

In entering any document or information in the Station Register, the Station Facility Owner shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of any person, where publication of that matter would or might, in the reasonable opinion of the Station Facility Owner, seriously and prejudicially affect the interests of that person.

Condition I4 Public interest

The Station Facility Owner shall not enter any document or information in the Station Register, and shall remove any document or information so entered, if the ORR shall, following an application made to it by any person, have given notice to the Station Facility Owner that, in its opinion, it would be against the public interest or the commercial interests of any person if the document or information in question were entered into, or (as the case may be) not removed from, the Station Register.

Condition I5 Inspection and copies

5.1 The contents of the Station Register shall be available at the place where it is required to be maintained for inspection by any User, the ORR, the Secretary of State and any person whom the

ORR shall nominate as a prospective User during normal business hours, without payment of any fee.

5.2 Any User and any person nominated by the ORR for the purposes of Condition I5.1 may, on the payment of such reasonable fee as the Station Facility Owner may from time to time specify with the approval of the ORR, require the Station Facility Owner to supply it with a copy of, or extract from, any part of the Station Register, being a copy or extract which is certified by the Station Facility Owner to be a true copy or extract.

5.3 If requested to do so by the ORR or the Secretary of State, the Station Facility Owner, without payment of any fee, shall supply it with a copy of, or extract from, any part of the Station Register, being a copy or extract which is certified by the Station Facility Owner to be a true copy or extract.

PART J NOT USED

PART K STATION FACILITY OWNER'S PROPERTY RIGHTS

Condition K1: Property interests

Save for the permission to use the Station and any other rights expressly granted under a Station Access Agreement, nothing in a Station Access Agreement shall confer upon or grant to a User any right or interest in or over the Station or any Adjacent Property.

Condition K2: Exercise of Rights Granted

Where an Existing Agreement contains a legally binding obligation on the part of the Station Facility Owner to regrant existing rights or privileges over the Station, the Station Facility Owner may regrant such rights or privileges to the person for the time being entitled to enforce such obligation

PART L PERFORMANCE MONITORING REGIME

The provisions of this Part L shall apply in respect of any Relevant Agreement save to the extent varied or disapplied in such Relevant Agreement.

Condition L1 Performance Monitoring Regime

L1 Performance Monitoring

L1.1 In Sections A to D of this Part L, unless the context otherwise requires:

"Accounting Period"	means a calendar month, recorded from January to December in each operating year.
"Access Charge"	has the meaning given in the Station Access Agreement.
"Availability Benchmark"	availability figures set out in Condition L2.
"CCTV"	means a closed circuit television system or an equivalent security system functionally replacing such system.
"CCTV Availability"	means the total number of hours (and fractions of hours) within the Station Operating Hours that a CCTV camera is operational and connected to a CCTV Image Monitoring System, summed across all CCTV cameras. If a CCTV Image Monitoring System is not operational, all connected CCTV cameras will be deemed not operational. Note that if identification of people in CCTV images from a CCTV camera is identified through the maintenance regime, no performance measure will apply, however if identification of people in CCTV images from a CCTV camera is not possible due to improper maintenance or cleaning, the CCTV camera will be deemed to be not operational for the Operating Month.
"CCTV Operating Time"	means the total Station Operating Hours for the relevant Accounting Period, multiplied by the total number of CCTV cameras.
"Central Terminal Area" or "CTA"	has the meaning given in the HAL Network Statement.
"Station Long Term Charge"	has the meaning given in the HAL Network Statement.
"Default Responsibility"	has the meaning given in Condition L5.
"Escalator Availability"	means the total hours (and fraction of hours) within the Station Operating Hours that an escalator route is fully available, summed across all escalators.
"Escalator Operating Time"	means the total Station Operating Hours during the Accounting Period, multiplied by the total number of escalators.
"Financial Year"	means each period of 12 months ending on 31 March.
"Help Point Availability"	means the total number of hours (and fractions of hours) within Station Operating Hours that a Help Point is operational, summed across all Help Points.

“Help Point Operating Time”	means the total Station Operating Hours for the relevant Accounting Period, multiplied by the total number of Help Points.
“Lift Availability”	means the total hours (and fraction of hours) within Station Operating Hours that a lift route is fully available, summed across all lifts.
“Lift Operating Time”	means the total Station Operating Hours during the Accounting Period, multiplied by the total number of lifts.
“Lighting Availability”	means the total hours (and fraction of hours) within Station Operating Hours that a lighting circuit within a passenger area is fully available, summed across all lighting circuits in passenger areas.
“Lighting Operating Time”	means the total Station Operating Hours during the Accounting Period, multiplied by the total number of lighting circuits in passenger areas.
"Measured Services"	means those Common Station Services and Common Station Amenities set out in Condition L2.2.
"Measured Stations"	means CTA Station, Terminal 4 Station and Terminal 5 Station.
“Max Operating Hours”	means for each Measured Service the total hours in an Accounting Period, multiplied by the quantity of Measured Services;
“Passenger Information Displays (PIDs) Availability”	means the total number of hours (and fractions of hours) within Station Operating Hours that a PID is operational, summed across all PIDs.
“Passenger Information Displays (PIDs) Operating Time”	means the total Station Operating Hours for the relevant Accounting Period, multiplied by the total number of PIDs.
“Passenger Service Operator”	has the meaning given in the Act
“Performance Event”	means any record of hours (and fractions of hours) within Station Operating Hours during which a Measured Service is unavailable.
“Performance Measurements”	means a review of each of the Measured Services in accordance with Condition L1.5.
“Planned Maintenance”	means planned maintenance, repair (such repair to be completed, where reasonably possible, outside of Station Operating Hours) and renewal of the Measured Service which, in the case of such maintenance, repair and renewal that is to take place during Station Operating Hours, has been notified by the Station Facility Owner to each relevant Passenger Service Operator: (i) in the case of maintenance and renewal of the Measured Service, in advance of the commencement of each Accounting Year; and (ii) in the case of repair of the Measured Service, as soon as is reasonably practicable following the Station Facility Owner becoming aware of the need for such repair.
“Public Announcement Unit”	means the Public Address (PA) Systems on each of the Measured Stations. There are three Public Announcement Units on the HAL infrastructure.
“Public Announcement Unit Availability”	means the total number of hours (and fractions of hours) within the Station Operating Hours that a Public Announcement Unit is operational, summed across all Public Announcement Units.
“Public Announcement Unit Operating Time”	means the total Station Operating Hours for the relevant Accounting Period, multiplied by the total number of Public Announcement Units.

“Relevant Agreement”	means any agreement or other instrument incorporating the Station Access Conditions.
“Relevant Date”	means the date upon which the first Station Access Agreement in respect of the Station is or was entered into.
“Station”	has the meaning given in the Station Access Agreement.
“Station Access Agreement”	means any particular access contract, whether or not entered into pursuant to the directions of the ORR under the Act, incorporating the Station Access Conditions.
“Station Access Conditions”	means the document entitled the “Heathrow Station Access Conditions”.
“Station Facility Owner”	means HAL.
“Station Operating Hours”	means 0430 until 0030 of the immediately following day, on each day that the Station is open to the public.
“User”	means a person (whether or not an operator of trains) who is a beneficiary in respect of a Station Access Agreement.

L1.2 The provisions of this Section A of Part L of this code shall apply to the Measured Services at the Measured Stations during the Station Operating Hours.

L1.3 HAL shall procure that with effect from Relevant Date, Performance Measurements are carried out in accordance with Condition L1.5.

L1.4 Without prejudice to Condition L1.7:

(A) in respect of each and every Performance Event arising in relation to a Measured Service, a Passenger Service Operator shall claim under this Section A of Part L prior to seeking any other remedy under the Station Access Agreement to which it may otherwise be entitled; and

L1.5 Performance Measurements shall be carried out by the Station Facility Owner following the end of each Accounting Period as follows:

(A) the Station Facility Owner shall calculate the availability of each Measured Service at each station for the immediately preceding Accounting Period in accordance with Part B of this Section L. Such figures shall be adjusted on a pro-rata basis by the Station Facility Owner where the Station was not open to the public on each day of such Accounting Period;

(B) the Station Facility Owner shall calculate the total number of hours (or parts thereof) during that Accounting Period where each Measured Service was affected by a Performance Event; and

(C) the Station Facility Owner shall calculate the total number of hours (or parts thereof) in that Accounting Period where each Measured Service was affected by a Performance Event arising from Planned Maintenance, a Force Majeure Event or through Passenger Service Operator action.

- L1.6 The Station Facility Owner shall within 12 Business Days of the end of an Accounting Period serve a notice on each Passenger Service Operator, such notice to contain details of:
- (A) the Max Operating Hours for each Measured Service for that Accounting Period;
 - (B) the total number of hours (or parts thereof) in that Accounting Period where each Measured Service was affected by a Performance Event;
 - (C) the Performance Event or Performance Events which affected the provision of each of the Measured Services during that Accounting Period;
 - (D) any Performance Event or Performance Events arising from Planned Maintenance and/or Force Majeure Events during that Accounting Period; and
- L1.7 If a Passenger Service Operator disputes any of the matters or details outlined in the notice issued by the Station Facility Owner pursuant to Condition L1.6, within 10 Business Days of receipt of such notice the Passenger Service Operator shall give a notice to the Station Facility Owner stating that matters or details are in dispute and setting out its reasons for the dispute and:
- (A) within 10 Business Days of receipt by the Station Facility Owner of the notice from the Passenger Service Operator, the parties shall meet to discuss the disputed aspects with a view to resolving all disputes in good faith;
 - (B) if, for any reason, within 5 Business Days of the meeting referred to in paragraph L1.7(A), the parties are still unable to agree any disputed aspects, each party shall within a further 5 Business Days prepare a written summary of the disputed aspects and the reasons for each such dispute and submit such summaries to the other party;
 - (C) within 20 Business Days of the first meeting of the parties, the senior officers of the parties shall meet with a view to resolving all disputes; and
 - (D) if resolution of any dispute is not achieved before the expiry of 10 Business Days following the meeting held in accordance with Condition L1.7(C), either party may require that the matter be resolved in accordance with the ADRR.
- L1.8 Each Passenger Service Operator waives its right to refer such dispute to the disputes process set out in Conditions L1.7 (A) to (D) if it does not give a notice to the Station Facility Owner stating that matters or details are in dispute and setting out its reasons for the dispute in accordance with Condition L1.7 within 10 Business Days of receipt of the notice from the Station Facility Owner pursuant to Condition L1.6.

Condition L2 Agreement of Availability Benchmarks

- L2.1 The Station Facility Owner and each Passenger Service Operator shall procure the Availability Benchmarks in respect of each Measured Service at the Measured Stations in accordance with the remaining provisions of this Condition L2.
- L2.2 The Availability Benchmarks, set out in the Appendix to this Part L, shall reflect the standard of the provision of the Measured Services procured by HAL in each Accounting Period.
- L2.3 If a Passenger Service Operator has indicated that it intends to withhold its approval of the proposed Availability Benchmarks, a dispute shall be deemed to arise and the Station Facility Owner shall be entitled to refer such dispute to the ADRR and the table within in the Appendix to this Part L shall be updated to reflect the final determination of such dispute.

Condition L3 Changes to the Common Station Amenities and Common Station Services

- L3.1 If the Station Facility Owner and each relevant Passenger Service Operator agree that:
- (A) any amenity or service shall cease to be or shall become a Measured Service; or
 - (B) there is a change to the terms upon which any Measured Service is provided to the Passenger Service Operators; or
 - (C) any Measured Service which was previously affected by any works permitted pursuant to Part C or Part D ceases to be adversely affected in such way, the Station Facility Owner and the Passenger Service Operators shall at the request of any of them negotiate with each other with a view to agreeing within 28 days of such request, any modification to the Availability Benchmarks as may be necessary to reflect those matters, and if that agreement is not reached within such 28 days, the matters in dispute shall be referred by the Station Facility Owner for determination pursuant to the ADRR. Such determination shall be final and binding on the Station Facility Owner and the Passenger Service Operators and shall establish the relevant modifications.

Condition L4 Self Help Remedies

- L4.1 Subject to Conditions L4.6 and L8, if the Station Facility Owner fails to carry out any work at a particular station in accordance with Condition D5 of the Station Access Conditions and such failure would have a material adverse effect on the lawful business of a User carried on at the Station then that User, having consulted with each other User, may give the Station Facility Owner written notice of its intention to carry out such work unless, within a reasonable period after receipt of such notice, the Station Facility Owner remedies such breach.
- L4.2 If, after expiry of such reasonable period as is referred to in Condition L4.1, the Station Facility Owner has failed to carry out such work, the User giving the notice pursuant to

Condition L4.1 or where more than one User referred to in Condition L4.3 may carry out the work in accordance with the relevant provisions of this code and the Station Facility Owner shall on demand pay to the User the costs and expenses properly and reasonably incurred in carrying out such work.

- L4.3 Where more than one User has given notice under Condition L4.1 then unless otherwise agreed between each of such Users, the User bearing the greatest proportion of the Station Long Term Charge shall be the User referred to in Condition L4.2, provided always that where the User is carrying out any works in accordance with Condition L4.2, the Station Facility Owner shall not take any steps to remedy the relevant breach.
- L4.4 Subject to Conditions L4.6 and L8, if the Station Facility Owner fails to secure the provision of any of the Common Station Amenities or Common Station Services in accordance with its obligations under this code any User shall, subject to Condition L4.5, be entitled to procure that such services are carried out in accordance with the relevant provisions of this code during the period of any such failure. That User shall be entitled to deduct the reasonable cost of carrying out such services from the User's Access Charge payable by it to the Station Facility Owner for the relevant Accounting Period. If, and to the extent that the User's Access Charge for that Accounting Period has already been paid, or abated, or falls short of the cost so incurred by the User in question, such cost shall be paid to the User by the Station Facility Owner within 10 Business Days of the Station Facility Owner being notified of the amount of the relevant cost.
- L4.5 A User shall be entitled to the remedies referred to in Condition L4.4 only if:
- (A) each other User has agreed that the User may exercise those remedies or the User of the affected Station or Stations bears the greatest proportion of the Station Long Term Charge;
 - (B) the Station Facility Owner has been notified in writing of the breach and has been given a reasonable period in which to remedy or procure the remedy of that breach; and
 - (C) the breach remains unremedied by the Station Facility Owner at the end of that period.
- L4.6 A User shall not be entitled to exercise any rights under this Condition L4 if such User is responsible for the Station Facility Owner failing to:
- (A) carry out any work in accordance with Condition D5 of the Station Access Conditions; and/or
 - (B) secure the provision of any of the Common Station Services in accordance with its obligations under this code,

unless and until such time as such User has removed any circumstance contemplated by this Condition for which it is responsible and the Station Facility Owner has been given a reasonable period to fulfil the obligations which are the subject matter of this Condition.

Condition L5 Default Responsibility

L5.1 The Station Facility Owner shall, so far as it is aware of any of the following matters, determine and record the persons who and events which, to the best of its judgement, have caused:

- (A) a Performance Event;
- (B) the Station not to open for the periods specified outside the Station Operating Hours and in paragraph 5 of Annex 1 (as applicable) of the Station Access Conditions; and

and where more than one person or event is the cause, so far as practicable, the extent to which each person or event is the cause.

L5.2 The Station Facility Owner shall, when determining the persons or events causing the matters listed in Condition L5.1, have due regard to all information available to it which is relevant in the circumstances.

L5.3 Subject to Condition L1.6, as soon as reasonably practicable following the occurrence of a matter listed in Condition L5.1 and in any event not later than 12 Business Days following the occurrence of such matter, the Station Facility Owner shall notify each User of the degree of causation, if any, of that occurrence attributed by the Station Facility Owner to itself or to the User which shall, unless disputed by the User within 10 Business Days of receipt of that notice, be deemed to have been agreed by the User.

Condition L6 Indemnities

L6.1 Subject to Condition L6, the Station Facility Owner shall (on an after tax basis) indemnify each User, and keep each of them respectively indemnified, against all damage, losses, claims, proceedings, demands, liabilities, costs, damages, orders and out of pocket expenses (including costs reasonably incurred in investigating or defending any claim, proceedings, demand or order and any expenses reasonably incurred in preventing, avoiding or mitigating loss, liability or damage) incurred or suffered by each of them as a result of any breach by the Station Facility Owner of any of its obligations under a Relevant Agreement to which the User in question is party with the Station Facility Owner.

L6.2 Subject to Condition L6, each User shall (on an after tax basis) indemnify the Station Facility Owner, and keep them indemnified, against all damage, losses, claims, proceedings, demands, liabilities, costs, damages, orders and out of pocket expenses (including costs reasonably incurred in investigating or defending any claim, proceedings, demand or order and any expenses reasonably incurred in preventing, avoiding or mitigating loss, liability or damage) incurred or suffered by them as a result of any breach by the User of any of its

obligations under a Relevant Agreement to which the Station Facility Owner is party with the User.

Condition L7 Limitation on claims

L7.1 Save as otherwise expressly provided in any Relevant Agreement (including this code), no party to a Relevant Agreement shall be liable in respect of any breach of a Relevant Agreement:

- (A) unless notice of it is given by or on behalf of the claimant to the respondent setting out detailed particulars of the grounds on which the relevant claim is based within 6 months after the facts giving rise to such claim first became known by the claimant or could, with reasonable diligence, have become so known;
- (B) arising from any single occurrence or circumstance (or connected series of occurrences or circumstances) if the amount of the relevant claim does not exceed:
 - i. in the case of a claim against the Station Facility Owner, the amount specified in paragraph 14 of Annex 9 (as applicable) of the Station Access Conditions;
 - ii. in the case of a claim against a Passenger Service Operator, the amount specified in paragraph 15 of Annex 9 (as applicable) of the Station Access Conditions; and
 - iii. in the case of a claim against a User other than a Passenger Service Operator, the amount specified in paragraph 16 of Annex 9 (as applicable) of the Station Access Conditions;
- (C) unless the aggregate amount of all claims for which the respondent would otherwise be liable to the claimant exceeds:
 - i. in the case of a claim against the Station Facility Owner, the amount specified in paragraph 17 of Annex 9 (as applicable) of the Station Access Conditions;
 - ii. in the case of a claim against a Passenger Service Operator, the amount specified in paragraph 18 of Annex 9 (as applicable) of the Station Access Conditions; and
 - iii. in the case of a claim against a User other than a Passenger Service Operator, the amount specified in paragraph 19 of Annex 9 (as applicable) of the Station Access Conditions,

in any Accounting Year, in which case the liability of the respondent to the claimant shall be limited to the amount of the excess over those amounts respectively, provided that Conditions L7.1 (B) and L7.1 (C) shall not apply in respect of any obligation to pay any liquidated sum.

L7.2 Save as otherwise expressly provided in any Relevant Agreement (including this code), no party to a Relevant Agreement may recover or seek to recover from any other party to that agreement any amount in respect of any loss of revenue (including fare revenue, subsidy, access charges to third parties and incentive payments) in connection with the subject matter of such Relevant Agreement, which is or is alleged to be caused to it by the other party.

- L7.3 Save as expressly provided in any Relevant Agreement (including this code) no person shall be entitled to recover damages or otherwise obtain reimbursement or restitution in respect of any claim under a Relevant Agreement if and to the extent that the loss in respect of which it is seeking to recover such damages, abatement, reimbursement or restitution has been recovered under any other agreement or by operation of law.
- L7.4 The Station Facility Owner's liability under any Relevant Agreement (including the indemnity under Condition L6.2) shall be limited to £155 million.

Condition L8 Force Majeure

- L8.1 "Force Majeure" (or "Force Majeure Event") shall be deemed to occur if and to the extent that there occurs any event or circumstance or any combination of events or circumstances beyond the reasonable control of any party to a Relevant Agreement which is either unforeseeable or, if foreseeable, could not have been avoided by any reasonable means. Without prejudice to that generality, "Force Majeure" under this Condition L8.1 shall include subject to Condition L8.1 (B) the following events and circumstances:
- (A) war damage, enemy action, terrorism, the act of any government or government instrumentality (provided that such an act shall not be "Force Majeure" if and to the extent that such act is performed by Her Majesty's Government (or any department, minister, official or nominee of it) where acting as shareholder of the party in question or other than pursuant to the Crown prerogative or a statutory function or power), riot, civil commotion, rebellion, storm, tempest, fire, flood, act of God, strike or any industrial action by employees of any person other than the party claiming the benefit of this Condition L8 or of its Affiliates, or the provision by the Station Facility Owner of such assistance as may be reasonable to co-operate in alleviating the effects of an incident adversely affecting the safety or security of persons or property;
- and shall exclude the following events and circumstances:
- (B) any act of the ORR, any lack of funds, any strike or other industrial action involving the employees of the party claiming the benefit of this Condition L8 or of its Affiliates, or any accumulation (other than one of exceptional severity or of an exceptional nature) of ice, rain, water, snow or leaves on or affecting railway assets or any breach of a contractual obligation owed to the party claiming the benefit of this Condition L8.
- L8.2 No party to a Relevant Agreement shall be responsible for any failure to fulfil its obligations under such agreement if, and to the extent that, such failure shall be caused by, or directly or indirectly by reason of, Force Majeure, which makes it impossible or impracticable for that party to comply with such obligations.

L8.3 A party affected by Force Majeure shall use all reasonable endeavours to minimise the effects of that Force Majeure upon the performance of its obligations under the Relevant Agreement.

L8.4 As soon as reasonably practicable after commencement of the Force Majeure, the party affected by the Force Majeure shall notify the other party of the occurrence of the Force Majeure, the date of commencement of the Force Majeure and the effects of the Force Majeure on its ability to perform its obligations under the Relevant Agreement.

L8.5 As soon as reasonably practicable after the cessation of the Force Majeure, the party affected by the Force Majeure shall notify the other party of the cessation of the Force Majeure and resume performance of all its obligations under the Relevant Agreement.

Condition L9 Mitigation

L9.1 Nothing in any Relevant Agreement shall in any way restrict or limit the general principles at law relating to the mitigation of loss or damage resulting from breach of contract.

APPENDIX TO PART L
AVAILABILITY BENCHMARKS

Measured Service	Unit Quantity	Availability Benchmark	Unit Definition
Lifts	13	97.0%	Four each at CTA and T4, five at T5.
Escalators	14	97.0%	Six at CTA, four at T4 and five at T5.
CCTV	266	97.0%	Passenger areas at Heathrow that are not London Underground Limited related.
Train Information Displays (TIDs)	52	97.0%	Passenger areas at Heathrow that are not London Underground Limited related. Excludes next train indicators and general information displays.
Public Announcement Unit	3	97.0%	Broken down to 3 areas, i.e. CTA/T4/T5
Station Lighting	492	97.0%	The number of lighting circuits within CTA, T4 and T5, across all passenger areas.
Help Points	39	97.0%	Passenger areas at Heathrow that are not London Underground Limited related.
TOTAL	407	-	

PART M ENVIRONMENTAL PROTECTION

Condition M1 General environmental obligations

1.1 Each User shall promptly notify the Station Facility Owner (and in such case where such notification is given orally shall promptly confirm such notification in writing) of any Environmental Damage or any circumstance of which that person is aware and which it is reasonably foreseeable is likely to give rise to, or which has given rise to, an Environmental Condition. Each User shall at all times exercise due diligence to inform itself of any circumstances which would require such notification.

1.2 No User shall take action which it knows, or ought reasonably to know, could materially:

1.2.1 increase the risk of the Station Facility Owner being liable under the Station Facility Owner Environmental Indemnity or increase the extent of such liability;

1.2.2 prejudice the defence of any claim brought against the Station Facility Owner by a Competent Authority or any other person; or

1.2.3 increase the cost of remedying any Environmental Condition,

provided that an operator may in any event take such action either if required to do so by any Competent Authority or in order to comply with Environmental Law.

1.3 No User shall be liable for any Environmental Damage to the extent that it existed as at the Environmental Liability Commencement Date.

1.4 The rights and obligations of each User in respect of the Station under this Part M shall apply equally to any part of the Adjacent Property which is subject to an Environmental Condition resulting from the activities of the User at the Station.

Condition M2 Remedial action required as a result of Users' activities

2.1 Where:

2.1.1 the Station Facility Owner becomes aware that, as a result of any activities of a User, or its Associates, an Environmental Condition exists or has occurred at the Station or the Adjacent Property and the Station Facility Owner reasonably considers that action is required to prevent, mitigate or remedy that Environmental Condition; or

2.1.2 the Station Facility Owner is given a Direction by a Competent Authority that any action is required to prevent, mitigate or remedy an Environmental Condition resulting from activities of a User or its Associates at the Station or the Adjacent Property,

the Station Facility Owner shall inform that User of the need to take such action.

2.2 Any User responsible for the Environmental Condition shall promptly take such action as is reasonably necessary to prevent, mitigate or remedy the Environmental Condition and shall provide the Station Facility Owner with the opportunity to supervise such action (the reasonable costs of such supervision to be borne by the Relevant Operator). The User shall complete such action within a reasonable time and to the reasonable satisfaction of the Station Facility Owner.

2.3 Any action taken by the User pursuant to Conditions M2.1 and M2.2 shall be at its own cost.

2.4 Where the User fails to take or complete any action required by Condition M2.1 and M2.2 within a reasonable time and to the reasonable satisfaction of the Station Facility Owner, the Station Facility Owner shall be entitled to take or complete such action.

Condition M3 Remedial action required due to pre-existing Environmental Condition

3.1 NOT USED

3.2 NOT USED

3.3 NOT USED

3.4 NOT USED

3.5 Within 21 days of receiving notification of any act or potential claim, judgment, order, notice, direction or injunction which could give rise to the Station Facility Owner liability under the Station Facility Owner Environmental Indemnity, the User shall provide the Station Facility Owner with written details thereof. Such details shall include copies of all relevant data, reports, advice, opinions, statements, correspondence and any other relevant document.

3.6 Where the Station Facility Owner receives notification from a User pursuant to Condition M3.5, the Station Facility Owner shall have a right to:

3.6.1 defend, contest, comply with or settle any claim, judgment, order, notice, direction or injunction; and/or

3.6.2 take any action or carry out any works to prevent, mitigate or remedy the condition of the Station pursuant to Condition M4 which could give rise to an obligation of the Station Facility Owner to indemnify the User under the Station Facility Owner Environmental Indemnity.

Condition M4 Station Facility Owner remedial action

4.1 If:

4.1.1 in the Station Facility Owner's reasonable opinion, urgent action is necessary in order to prevent, mitigate or remedy an Environmental Condition or to comply with a Direction of a Competent Authority;

4.1.2 NOT USED,

the Station Facility Owner may take (without the need to comply with Part C) reasonable steps to prevent, mitigate or remedy that Environmental Condition or to comply with that Direction.

4.2 Subject to Condition M4.1, the Station Facility Owner may, if action is in its reasonable opinion necessary in order to prevent, mitigate or remedy an Environmental Condition at the Station for which a User is not responsible, take such action.

4.3 Where any action is taken pursuant to Conditions M4.1 or M4.2 to prevent, remedy or mitigate an Environmental Condition which is not the result of the activities of any Relevant Operator or its Associates or to the condition of the Station prior to the Environmental Liability Commencement Date, the cost of such action shall be borne between the Relevant Operators on a fair and equitable basis.

Condition M5 Environmental indemnities

5.1 Each User shall indemnify the Station Facility Owner and keep it indemnified from and against all reasonable and proper expenses, costs and liabilities reasonably and properly incurred by the Station Facility Owner as a result of any Environmental Condition at the Station or the Adjacent Property which exists as a result of activities by that person or its employees, agents, contractors, subtenants or licensees since the Environmental Liability Commencement Date, or the proper undertaking by the Station Facility Owner in accordance with this Part M of any steps to prevent, mitigate or remedy such an Environmental Condition.

5.2 The Station Facility Owner shall indemnify each User from and against all Environmental Liability incurred by each User to the extent that such liability is due to the condition of the Station prior to the Environmental Liability Commencement Date, provided that the Station Facility Owner shall not be liable under this Condition M5.2 for any Environmental Liability which results from the User's failure to comply with the obligations contained in this Part M.

5.3 If any payment is made by:

5.3.1 the Station Facility Owner to a User under Conditions M4.3 or M5.2; or

5.3.2 a User to the Station Facility Owner under Condition M5.1,

and the payee subsequently recovers or procures the recovery from a third party of any amount by way of damages or compensation in respect of any liabilities of the kind referred to in that Condition, the payee shall repay to the payer an amount equal to the lesser of:

5.3.3 the amount recovered from the third party; and

5.3.4 the amount paid by the payer pursuant to that Condition.

Condition M6 Conduct of claims

6.1 Whether or not the Station Facility Owner elects to act under Condition M3.6, the User shall on a timely basis keep the Station Facility Owner informed of the conduct and progress of all claims of the kind referred to in Condition M3.5. The User shall provide promptly to the Station Facility Owner copies of all relevant data, reports, records, pleadings, statements, correspondence, advice and opinions concerning any claim, judgment, order, notice, direction or injunction or the circumstances, events, conditions or activities which could give rise to any liability of the Station Facility Owner to indemnify the User under the Station Facility Owner Environmental Indemnity.

6.2 The User shall not settle any claim of the kind referred to in Condition M3.5 without the Station Facility Owner's written consent (such consent not to be unreasonably withheld or delayed).

6.3 Where any Environmental Damage arising at the Station since the Environmental Liability Commencement Date results in any Competent Authority or other person taking proceedings under Environmental Law against the Station Facility Owner, each User shall have the right to be joined as a party (at its own cost) to any proceedings where permissible as a matter of law.

Condition M7 Confidentiality

Where a person who is to provide information or documents under this Part M to another person is under a duty of confidentiality in relation to that information or documents, he shall use all reasonable endeavours to obtain permission to disclose such information or documents and unless and until any such permission is obtained he shall not be required to provide such information or documents under this Part M.

PART N OTHER POSITIVE OBLIGATIONS

Condition N1 Station Facility Owner's obligations

The Station Facility Owner shall (or shall procure that another person on its behalf shall):

1.1 ensure that the Station is open for use by all Users and their Associates at such times and to such extent as are specified in paragraph 5 of Annex 1, subject to any restrictions or limitations which may apply or be imposed pursuant to these Station Access Conditions;

1.2 NOT USED;

1.3 use all reasonable endeavours to ensure that the Common Station Services are provided to a standard and in a quantum which is at least as good as their standard and quantum as at the Relevant Date or, if any permitted changes shall have been made to them, their standard and quantum immediately after such changes shall have been successfully made;

1.4 save as otherwise provided for or permitted by these Station Access Conditions:

1.4.1 not change materially the Common Station Services (whether in whole or in part) from the condition (or working order), standard or quantum referred to in Condition N1.3 without such change having been approved in accordance with these Station Access Conditions;

1.4.2 not change materially the Common Station Amenities (whether in whole or in part) without such change having been approved in accordance with these Station Access Conditions;

1.5 comply with any reasonable request of any User which is necessary to enable that User to:

1.5.1 deal with an Emergency;

1.5.2 comply with its Safety Obligations;

1.5.3 comply with any directions, instructions or enforcement notices given by the Secretary of State under sections 118 to 120 inclusive of the Act; and

1.5.4 maintain security in relation to persons and property at the Station or the Adjacent Property;

1.6 cooperate with Users so far as is reasonably necessary to enable Users to meet such obligations as they may have to provide information to passengers;

1.7 not less than 60 days prior to the expiry of any Exclusive Period, notify each User that the relevant exclusive use of the Exclusive Station Service at the Station is no longer reserved for the exclusive use of the User previously entitled;

1.8 save as otherwise specifically provided in these Station Access Conditions, provide or procure the provision of the Common Station Services and the Common Station Amenities;

1.9 without prejudice to Condition Q2.3, promptly pay to the relevant authority or person all rates, taxes, charges, duties, impositions, assessments and other outgoings relating to the Station and a fair proportion of all such sums which are not separately assessed or payable, but excluding:

- 1.9.1 tax assessable on the Station Facility Owner in respect of payments under any Station Access Agreement;
- 1.9.2 tax assessable on the Station Facility Owner in respect of consideration paid to the Station Facility Owner in connection with any dealing with its interest in the Station; or
- 1.9.3 interest or penalties payable by the Station Facility Owner in consequence of its delay or default;

1.10 promptly pay to the relevant person for all Services consumed on the Station or a fair proportion of the cost to the Station Facility Owner in respect of the supply of such services to the Station, the Adjacent Property and any other premises;

1.11 observe and perform all present and future regulations and requirements of any utility supplying Services to the Station, insofar as such regulations and requirements relate to the Station or its use;

1.12 take all reasonable steps to prevent, and not to allow, any encroachment on the Station or the acquisition of any right or easement against the Station (save for the rights granted in accordance with these Station Access Conditions);

1.13 maintain at the Station a notice under section 55 British Transport Commission Act 1949;

1.14 NOT USED

1.15 NOT USED;

1.16 NOT USED;

1.17 NOT USED;

1.18 provide and keep in working order at the Station such fire extinguishers and/or other fire safety equipment and maintain such fire precaution arrangements as shall ensure satisfactory safety from the risks of fire or explosion;

1.19 be responsible for obtaining and/or maintaining any necessary fire certificate for the Station;

1.20 keep the Railway Substructure and the Railway Superstructure in a safe condition to the extent that it is not the responsibility of any third party;

1.21 collect and dispose of Track Litter to the extent required to ensure compliance with the Environmental Protection Act 1990 (or which would be so required if the track or land on which such Track Litter is present were relevant land of a principal litter authority as defined by the said Act);

1.22 NOT USED; and

1.23 not (and shall use all reasonable endeavours to procure that no person shall) save pursuant to an Existing Agreement or the operation of a Relevant Agreement:

1.23.1 place any sales barrows or exhibition stand on the Station so as to obstruct:

1.23.1.1 access or egress to or from the highway or trains operated by any User or its Associates or any ticket office at the Station; or

1.23.1.2 the visibility of any Passenger Information Systems; or

1.23.2 overload Conduits on, or obstruct a right of way over the Station, so as materially to prejudice any User's permission to use the Station.

1.24 act in a fair and non-discriminatory manner towards all Users and any prospective Users of the Station and not discriminate between persons or classes of persons.

1.25 cooperate with Passenger Operators so far as reasonably necessary to enable Passenger Operators to meet their obligations to provide information to passengers.

1.26 put in place measures designed to protect persons with reduced mobility when they use the Station, and:

1.26.1 ensure that all arrangements, procedures and services are in place; and

1.26.2 regularly review and consult upon any proposed amendments to such measures.

1.27 make available and easily accessible on its website copies of these Station Access Conditions, any Station Access Agreement and such other documents referred to in these Station Access Conditions and/or any Station Access Agreement as each User and/or Passenger Operator may reasonably require in connection with accessing the Station.

1.28 regularly update its website to ensure that the latest editions of the documents referred to in Condition 1.27 are made available.

1.29 NOT USED

1.30 comply with such Railway Group Standards as may be related to stations on the Network.

1.31 act in a fair and non-discriminatory manner towards all Users and any prospective Users of the Station and not discriminate between persons or classes of persons.

1.32 NOT USED

Condition N2 Environment

The Station Facility Owner's obligations in respect of protecting the environment from the effect of its activities on and the operation of the Network shall be covered by the Station Facility Owner's "airport environment and energy policy" pursuant to the "Responsible Heathrow" policy. The Station Facility Owner shall provide a copy of this policy to each User on a regular basis, as updated and amended from time to time.

Condition N3 Users' obligations

Each User shall (or shall procure that another person on its behalf shall):

3.1 comply with any reasonable request of the Station Facility Owner which is necessary to enable the Station Facility Owner to:

3.1.1 deal with an Emergency or Station Facility Owner Emergency;

3.1.2 comply with its Safety Obligations;

3.1.3 maintain the security in relation to persons and property at the Station or the Adjacent Property; and

3.1.4 comply with any directions, instructions or enforcement notices given by the Secretary of State under sections 118 to 120 inclusive of the Act;

3.2 take all reasonable steps to procure that its Associates comply with the directions and requirements referred to in this Condition N3 insofar as they are applicable to them;

3.3 provide to the Station Facility Owner, for display at the Station, such information relating to changes in any railway passenger services provided by any User (including changes of a temporary nature) which shall be necessary or expedient in order to inform passengers of such changes in a timely manner;

3.4 timeously provide to the Station Facility Owner any notices which:

3.4.1 are required to be displayed at the Station;

3.4.2 contain or specify obligations binding on the User; and

3.4.3 are required to be provided by the User,

by law or by or in accordance with the rules of a regulatory authority with whose rules or instructions the User is obliged to comply other than as a result of a voluntary submission to its jurisdiction;

3.5 procure that the Station Facility Owner is provided with a copy of the User's passenger licence (if any) and the safety case referred to in such licence (to the extent that it shall not already have been provided to the Station Facility Owner) and any modification of it and any notices given under or in respect of it (including any notice of revocation or termination, howsoever expressed and any provisional or final order given under section 55 of the Act) which in any case affect, or are likely to affect, the rights or obligations of the Station Facility Owner under or in respect of the Station Access Agreement;

3.6 without prejudice to the provisions of Condition A1.1.15, timeously notify the Station Facility Owner if the User or any of its Associates wishes to:

3.6.1 carry out any material maintenance of, or work to, anything kept on the Common Station Amenities;

3.6.2 bring things onto the Common Station Amenities which may affect the proper operation of the Common Station Amenities; or

3.6.3 enter upon the Common Station Amenities with vehicles;

3.7 use all reasonable endeavours to liaise and co-operate with other Users and the Station Facility Owner in relation to the exercise of their permission to use Common Station Amenities and Common Station Services in order to secure the efficient and economic use of the Station for the benefit of Users and their Associates;

3.8 perform and observe (or reimburse the Station Facility Owner for the whole or a due proportion, as the case may require, of the costs incurred by the Station Facility Owner in doing so) all present and future regulations and requirements of any utility supplying Services to the Station; and

3.9 perform and observe the covenants, obligations and conditions for the time being contained in every Superior Estate Grant in existence before 1 April 1994 so far as they affect the Station and bind the Station Facility Owner, except:

3.9.1 the covenants for payment of rent and (to the extent that the Station Facility Owner is not required to pay them under any other Relevant Agreement) any other money payable by the Station Facility Owner to the Superior Estate Owner under any Superior Estate Grant; and

3.9.2 any obligations assumed by the Station Facility Owner under these Station Access Conditions.

3.10 use all reasonable endeavours to minimise the costs of operation of the Station by using the Common Station Amenities and the Common Station Services efficiently and economically.

Condition N4 Standard of works

4.1 The Station Facility Owner shall procure that:

4.1.1 works referred to in Part D and any other works to any part of the Station or Adjacent Property permitted by these Station Access Conditions which are carried out by it or on its behalf are conducted in a proper and workmanlike manner in accordance with Safety Obligations and methods and practices customarily used in good and prudent building practice (including, where applicable, Railway Group Standards);

4.1.2 such works are conducted with that degree of skill, care, diligence and prudence reasonably and ordinarily exercised by experienced building contractors engaged in a similar activity under similar circumstances and conditions; and

4.1.3 any physical damage to the Station or the Adjacent Property arising as a result of such works is made good as soon as reasonably practicable.

Condition N5 NOT USED

PART O OTHER NEGATIVE OBLIGATIONS

Condition O1 Planning

1.1 No User shall make any application for planning permission or for a determination that planning permission is not required in respect of the Station or in respect of any change of use of the Station without the prior written consent of the Station Facility Owner (such consent not to be unreasonably withheld or delayed).

1.2 No User shall make any alteration or addition to or change of use of the Station (notwithstanding any other consent which may be granted by the Station Facility Owner) before all necessary planning permissions have been obtained.

Condition O2 Encroachments

2.1 No User shall stop up or obstruct any window or other opening at the Station except so far as such action shall be necessary to preserve the safety or security of persons or property at the Station and, if so necessary, the User in question shall notify the Station Facility Owner of the action taken if the window or opening opens onto land other than Adjacent Property.

2.2 No User shall give to any third party any acknowledgement that such User or any other person enjoys the access of light or air to any of the windows or openings in the Station by the consent of that third party, nor pay any money to or enter into any agreement with that third party for the purpose of inducing or binding it not to obstruct the access or light or air to any such windows or openings.

Condition O3 Signs

No User shall display at the Station any sign, light or other illumination or obstruction which will cause, or is likely in the Station Facility Owner's reasonable opinion to cause, confusion or interference with the proper operation of the Network.

Condition O4 Excavations/Excluded Equipment and Excepted Equipment

4.1 No User shall carry out any continuous unsupported excavation at the Station, or do anything at the Station which will or is likely to endanger the safety or stability of any railway or of any Adjacent Property.

4.2 No User shall interfere with or endanger the Excluded Equipment or the Excepted Equipment.

Condition O5 Use

5.1 No User shall use the Station otherwise than:

5.1.1 NOT USED

5.1.2, for any of the purposes contemplated by Condition A1.1.15.

5.2 NOT USED.

5.3 NOT USED.

5.4 No User shall do or, to the extent reasonably within its control, permit to be done on the Station anything which may be dangerous, illegal, immoral or offensive, or which would cause damage or nuisance to any other Relevant Operator or the occupiers of any neighbouring property or the public, provided that:

5.4.1 without prejudice to Condition M1.2, the proper use of the Station for any of the purposes set out in Condition O5.1, conducted in accordance with every relevant Statute, shall not constitute a breach of this Condition O5.4; and

5.4.2 nothing in Condition O5.4.1 shall operate to sanction anything which shall constitute a nuisance actionable by any third party.

5.5 No Relevant Operator shall bring or, to the extent reasonably within its control, permit to be brought onto the Station anything which is or may become noxious, dangerous, offensive, combustible, inflammable, radioactive or explosive.

5.6 Without prejudice to Condition M1.2 nothing in Conditions O5.4, O5.5 and O5.7 shall prevent the lawful bringing onto the Station of anything which may reasonably be required for or in connection with use of the Station for the purposes permitted by Condition O5.1 or the proper performance by the Station Facility Owner of its obligations under a Station Access Agreement or Existing Agreement.

5.7 No Relevant Operator shall permit smoking or naked lights within the Station where the Fire Precautions (Sub-surface Railway Stations) Regulations 1989 and the Fire Precautions (Sub-surface Railway Stations) (England) Regulations 2009 apply and no dispensation exists.

Condition O6 Overloading

No Relevant Operator shall overload structural parts of the Station, any Railway Superstructure or Railway Substructure or the works or structures by which it is supported, or do anything which will cause the designed capacity of any part of the Station or the Conduits at or used for the Station to be exceeded, to the extent that such capacity is reasonably capable of being ascertained in advance, or its adequacy reasonably capable of being called in question.

Condition O7 Improper use of Station

Except as otherwise permitted by the Relevant Agreement, no User shall take or omit to take (nor, to the extent reasonably within its reasonable control, permit to be taken or omitted) any action which would involve improper use of the Common Station Amenities, increase the risk of loss or damage to those amenities or otherwise adversely affect Common Station Services.

Condition O8 Works to Station

No User shall:

8.1 cut into or injure the brickwork, foundations or any other part of the Railway Substructure or Railway Superstructure or install (without in either case the previous written approval of the Station Facility Owner) against or within the Railway Substructure or Railway Superstructure any machinery, boiler, flue, chimney or furnace; or

8.2 carry out any paint spraying (other than water paint spraying) beneath the Railway Substructure or Railway Superstructure without any requisite licence from the local or other appropriate authority and without compliance with any requirements of such authority (including construction of any necessary booth unless formally exempted by the authority).

Condition O9 Not causing breach

9.1 No Relevant Operator shall do or omit to do, or permit any Associate (other than passengers) or agent of such person to do or omit to do, anything which may result in a breach of any obligation in these Station Access Conditions by any of the Relevant Operators to any other of them.

9.2 No User shall do anything in breach of, the covenants, obligations and conditions for the time being contained or referred to in every Superior Estate Grant in existence before 1 April 1994 so far as they affect the Station and bind the Station Facility Owner.

Condition O10 Damage caused through Railway Substructure and Railway Superstructure

No User shall make any claim whatsoever on the Station Facility Owner or its employees or agents (other than such as arises from a breach of any obligation of, or the negligence of, the Station Facility Owner or its employees or agents) in respect of any damage, loss or inconvenience which may be suffered by the User in consequence of any percolation of water or other liquids or soil, dust or dirt (however caused) through or from the Railway Substructure or Railway Superstructure.

PART P ATTRIBUTION OF COSTS

Condition P1 NOT USED

Condition P2 Compliance with obligations under Conditions

If the Station Facility Owner shall reasonably incur any costs in complying with their obligations under Conditions G5.3, the liability for the payment of those costs as between each Relevant Operator shall be determined on a fair and equitable basis, having regard to the following criteria:

2.1 if the costs arise from a Proposal that has been accepted in accordance with Part C (other than a Material Change Proposal made pursuant to Condition C4) the costs shall be attributed in accordance with the terms of such proposal (if applicable);

2.2 if the costs arise from the grant, after the Conditions Efficacy Date, of any lease or underlease for residential purposes (except a grant by way of the compulsory renewal of a residential underletting which subsisted on 1 April 1994), then the costs shall be wholly those of the Station Facility Owner; and

2.3 if the costs arise from other causes and are such as to constitute Maintenance or Repair of Elements of the Station or Equipment (other than Excluded Equipment), then such costs shall be attributed to the Station Facility Owner in accordance with their obligations under Condition D5.

Condition P3 Compliance with changes imposed by law

If any User shall reasonably incur any costs in complying with, or in consequence of, any Change of Law or any Direction of any Competent Authority (other than anybody appointed in accordance with Condition H5), or in complying with Non-Discretionary Changes under Condition C6, the liability for the payment of those costs as between any of the Relevant Operators shall be determined on a fair and equitable basis, having regard primarily to the matters as respects which duties are imposed on the ORR by section 4 of the Act and subject to those matters:

3.1 the expectations which:

3.1.1 the User in question could reasonably have had when he entered into the Station Access Agreement; and

3.1.2 the Station Facility Owner reasonably has in respect of its interests in relation to the Station;

3.2 the costs and expenses (other than the cost of implementing the change) which will be, or are likely to be, incurred or saved by each Relevant Operator upon such change being carried out;

3.3 the benefits or disadvantages which have accrued and are likely to accrue to each Relevant Operator in consequence of the change;

3.4 the scale of disruption to each Relevant Operator's business which is likely to occur in consequence of the change; and

3.5 NOT USED,

provided that there shall not for these purposes be taken into account the existence or terms of any contract entered into by the Station Facility Owner after 1 April 1994 except to the extent that the tribunal shall be satisfied that they ought properly to be taken into account.

Condition P4 Basis of accounting and payment

4.1 Without prejudice to the obligations of any person under a licence granted to it under section 8 of the Act, any costs incurred by any Relevant Operator which are required under these Station Access Conditions to be reimbursed by, or accounted to, any other of them shall be accounted for in accordance with generally accepted accounting principles applicable in the United Kingdom.

4.2 Each Relevant Operator shall promptly make such payments as are necessary to discharge their respective liabilities for the payment of the costs to which Conditions P2 and P3 relate.

Condition P5 Apportionment of costs

Any costs incurred both in relation to:

5.1 NOT USED; and

5.2 any matter or thing,

shall be attributed as between them on a fair and equitable basis, having regard primarily to the matters as respects which duties are imposed on the ORR by section 4 of the Act and taking into account generally accepted accounting principles applicable in the United Kingdom.

Condition P6 Minimisation of costs

The Station Facility Owner shall pay the best effective price reasonably obtainable in respect of any costs and expenses which they are respectively entitled under these Station Access Conditions to recoup or obtain reimbursement from any User.

PART Q GENERAL

Condition Q1 Confidentiality

1.1 Except as permitted by Condition Q1.2 or Condition Q1.3, all data and information acquired or received by any party under or pursuant to the Relevant Agreement shall be held confidential during the continuance of such agreement and for the period specified in paragraph 21 of Annex 9 thereafter, and shall not be divulged in any way to any third party without the prior written approval of the other party.

1.2 Any party to the Relevant Agreement shall be entitled in good faith to divulge any data or information to which Condition Q1.1 applies without the approval of the other party to the following third parties and, where relevant, in the following circumstances:

1.2.1 to the Secretary of State;

1.2.2 to the ORR;

1.2.3 to the Health and Safety Executive;

1.2.4 to any Affiliate of such party upon obtaining an undertaking of strict confidentiality from such Affiliate;

1.2.5 to any officer or employee of the party in question or any person engaged in the provision of goods or services to or for him if disclosure is necessary or expedient to enable the party in question to perform its obligations under the Relevant Agreement or to enforce its rights under such Agreement, upon obtaining an undertaking of strict confidentiality from such person (other than such an officer or employee of the party in question);

1.2.6 to any person who has entered into bona fide discussions with the Station Facility Owner in relation to the entry by that person into a Station Access Agreement, in respect of information:

(a) contained on the Station Register; or

(b) in any set of financial accounts (and supporting information) in respect of the Common Station Amenities and Common Station Services,

upon obtaining an undertaking of strict confidentiality from such person;

1.2.7 to any lender, security trustee, bank or other financial institution from whom such party or any person referred to in Conditions Q1.2.4 to Q1.2.6 is seeking or obtaining finance, upon obtaining an undertaking of strict confidentiality from such entity or advisers;

1.2.8 to any professional advisers or consultants of such party or any of the foregoing persons and acting in that capacity, upon obtaining an undertaking of strict confidentiality from such advisers or consultants;

1.2.9 to the extent required by the Act, any licence under section 8 of the Act held by the party in question, any other applicable law, the rules of any recognised stock exchange or regulatory body or any written request of any taxation authority;

1.2.10 to the extent that it has become available to the public other than as a result of any breach of an obligation of confidence;

1.2.11 pursuant to the order of any court or tribunal of competent jurisdiction;

1.2.12 where the Relevant Agreement is a lease, to any person;

1.2.13 to London Underground Limited to the extent that:-

(a) such information is in respect of the interaction between the operations of the Station Facility Owner and the Users and the operation of railway passenger services by London Underground Limited; and

(b) it is necessary to divulge such information for the safety and efficiency of any of such operations or services; or

1.2.14 to the relevant passenger transport executive or its successor to the extent that the party disclosing the same is legally obliged to do so.

1.3 The Station Facility Owner may disclose information to which this Condition Q1 applies if and to the extent that Part 9 of Schedule 7 of any access agreement conferring permission to use track for the purpose of operation of trains on that track for the carriage of passengers by railway so provides.

Condition Q2 Payments, default interest and VAT

2.1 Default interest: If any party to the Relevant Agreement defaults in the payment, when due, of any sum payable under such agreement (howsoever determined), the liability of such party shall be increased to include interest on such sum from the date when such payment is due until the date of actual payment (both before and after judgment) at the Default Interest Rate. All such interest shall be calculated on the actual number of days elapsed and a 365-day year.

2.2 Payments gross: All sums due under the Relevant Agreement shall be paid:

2.2.1 without deduction or withholding in respect of duties, taxes, taxation or charges otherwise of a taxation nature, unless the deduction or withholding is required by law, in which event the payer shall:

(a) ensure that the deduction or withholding does not exceed the minimum amount legally required;

(b) account to the relevant taxation or other authorities within the period for payment permitted by the applicable law for the full amount of the deduction or withholding; and

(c) furnish to the payee within the period for payment permitted by the relevant law either an official receipt of the relevant taxation authorities involved in respect of all amounts so deducted or withheld or, if such receipts are not issued by the taxation authorities concerned, a certificate of deduction or equivalent evidence of the relevant deduction or withholding; and

2.2.2 free and clear of any other deduction, withholding, set-off or counterclaim save only as may be required by law or in accordance with the Relevant Agreement.

2.3 VAT: Where:

2.3.1 any taxable supply for VAT purposes is made under or in connection with the Relevant Agreement by a party to that agreement to any other party, the payer shall, in addition to any payment required for that supply, pay upon presentation of a valid tax invoice such VAT as is chargeable in respect of that supply;

2.3.2 under the Relevant Agreement a party to that agreement has agreed to reimburse or indemnify any other party in respect of any payment made or cost incurred by the other then the first party shall also reimburse any VAT paid by the other which forms part of its payment made or cost incurred to the extent such VAT is not available for credit for the other, or for any person with which the indemnified party is treated as a member of a group for VAT purposes, under sections 25 and 26 of the Value Added Tax Act 1994; and

2.3.3 any rebate or repayment of any amount is payable by one party to a Relevant Agreement to any other party, and the first party is entitled as a matter of law or of H.M Revenue & Customs practice to issue a valid VAT credit note, such rebate or repayment shall be paid together with an amount representing the VAT paid on that part of the consideration in respect of which the rebate or repayment is made and the first party shall issue an appropriate VAT credit note to the other party.

Condition Q3 Invalidity and waiver

3.1 Invalidation: If any provision in the Relevant Agreement shall be held to be void, illegal, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be deemed not to form part of the Relevant Agreement but the legality, validity and enforceability of the remainder of such agreement shall not be affected.

3.2 Waiver: No waiver by any party of any default by any other in the performance of any of the provisions of the Relevant Agreement shall operate or be construed as a waiver of any other or further default, whether of a like or different character. The failure to exercise or delay in exercising a right or remedy under the Relevant Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. No single or partial exercise of any right or remedy under the Relevant Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

3.3 Time limits: Where in the Station Access Agreement any obligation of a party is required to be performed within a specified time limit, that obligation shall be deemed to continue after that time limit if the party fails to comply with the obligation within the time limit.

PART R CHARGING REVIEW

Condition R1 Definitions

1.1 In this Part R, unless the context otherwise requires:

"Change in Circumstances"	means, in respect of the Station: (a) the occurrence of a Charging Review Trigger; (b) any material change in the Station Asset Management Strategy or Station Operations Strategy affecting that Station which was not reasonably foreseeable by the Station Facility Owner at the time the relevant Station Asset Management Strategy or Station Operations Strategy was prepared.
"Charging Review Trigger"	means, in respect of a Station: (a) a Change of Law (as defined in the Network Code) or a Direction (as defined in the Network Code), determination or other decision of a local, national or supra national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether autonomous or not and including the ORR and the Civil Aviation Authority) whether of the United Kingdom or of the European Union; (b) an increase or decrease of not less than 5% in the aggregate number of Intermediate Station Train Departures, Terminating Station Train Departures and Terminating Station Train Arrivals (as defined in clause 6.1 of the Station Access Agreement) (relative to the number of such train movements at the point the amount of each of the Review Provisions was set); (c) any other event which the parties agree should result in a review of the Review Provisions.
"Interim Review"	means the process set out in Conditions R4.2 to R4.4, which the Station Facility Owner may initiate in the circumstances set out in Condition R4.1;
"Interim Review Notice"	has the meaning given to it in Condition R4.2;
"Price List"	means the price list published by the Station Facility Owner setting out the Station Long Term Charge and the Qualifying Expenditure Charge;
"Review Provisions"	means the values of the Station Long Term Charge, the Qualifying Expenditure Charge and the Exclusive Charge set out in Clause 6.1 of the Station Access Agreement;
"Station Asset Management Plan"	means the station asset management plan referred to in Condition D4.3.2;
"Station Asset Management Policy"	means the station asset management policy referred to in Condition D4.3.1;
"Station Asset Management Strategy"	means the costed strategy (on the basis of efficient delivery) developed by the Station Facility Owner (and as modified from time to time) for: (a) the discharge of its obligations as to the maintenance, repair and renewal of the Station under these Station Access Conditions or any other obligations owed by the Station Facility Owner for which it is not otherwise remunerated under these Station Access Conditions or any Relevant Agreement including the Station Asset Management Plan and Station Renewals Plan; (b) the discharge of any obligations binding on the Station Facility Owner as to the state, condition and safe operation of the Station which it is otherwise obliged to deliver to the extent these are different from or in addition to (a) above; and (c) achieving or working towards the Station Asset Management Policy,
"Station Operations Strategy"	in each case over the period to which it relates; means the costed strategy (on the basis of efficient delivery) developed by the Station Facility Owner (and as modified from time to time) for the discharge of its obligations as to the operation of the Station under these Station Access Conditions or any other obligations owed by the Station Facility Owner for which it is not otherwise remunerated under these Station Access Conditions or any Relevant Agreement over the period to which it relates; and
"Station Renewals Plan"	means the Station Facility Owner's plan defining the rolling renewal and replacement of and investment in the Station by the Station Facility Owner to deliver the Station Asset Management Strategy.

Condition R2 Review of the Review Provisions

2.1 Subject to Condition R2.2, and without prejudice to Part C of these Station Access Conditions, the Station Facility Owner or a User shall be entitled to review the Review Provisions (and in the case of the Station Facility Owner, taking into consideration the Station Asset Management Strategy and the Station Operations Strategy) in accordance with an Interim Review following the occurrence of a Change in Circumstances.

2.2 The Station Facility Owner or a User shall only be entitled to review (and the Station Facility Owner shall only be entitled to modify) the Review Provisions pursuant to Condition R2.1 and Condition R4.

Condition R3 Not used

Condition R4 Interim Review

4.1 The Station Facility Owner or a User shall be entitled to initiate an Interim Review at any time following the occurrence of a Change in Circumstances.

4.2 On or prior to a the Station Facility Owner or a User initiating an Interim Review following the occurrence of a Change in Circumstances, the party wishing to initiate a review of the Review Provisions (the "**Requesting Party**") shall promptly give written notice (an "**Interim Review Notice**") to each User and the Station Facility Owner (as appropriate) stating:

4.2.1 that it intends to initiate an Interim Review; and

4.2.2 full details of the relevant Change in Circumstances which have resulted in the Requesting Party initiating an Interim Review.

4.3 If:

4.3.1 (i) where the Station Facility Owner is the Requesting Party, any User does not or (ii) where the User is the Requesting Party, the Station Facility Owner and/or any other User (as applicable) does not, in each case in accordance with Condition R5 object to the modification of any of the Review Provisions within 30 days of notification in accordance with Condition R4.2; or

4.3.2 following the referral of the matter to the disputes resolution process set out in Condition R5, it is determined that any of the Review Provisions should be modified,

the Station Facility Owner shall promptly notify the User in writing of any of the modified Review Provisions.

4.4 Any modification to the Review Provisions notified to the Users pursuant to Condition R4.3 shall take effect from the first day of the Period immediately succeeding the date of the notice.

Condition R5 Review Provisions – Dispute Resolution Procedure

5.1 Without prejudice to the Station Facility Owner's and the User's respective rights under The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, if any User or the Station Facility Owner is dissatisfied with the proposed changes to the Review Provisions, then

such dissatisfied party shall promptly notify the Requesting Party and any other Users and the matter shall be referred to Arbitration in accordance with the ADRR in force at the relevant time and such determination will be binding on the Station Facility Owner and each User.

Condition R6 Protected Provisions

6.1 Except as expressly set out otherwise in these Conditions or the Station Access Agreement, the Station Facility Owner may only make changes to the Review Provisions as part of an Interim Review.