

_____ September 2006

THE SECRETARY OF STATE FOR TRANSPORT

and

STAGECOACH SOUTH WESTERN TRAINS LIMITED

**SOUTH WESTERN
FRANCHISE AGREEMENT**

**incorporating by reference the
National Rail Franchise Terms**

(Second Edition)



FRESHFIELDS BRUCKHAUS DERINGER

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THIS AGREEMENT is dated ____ September 2006

BETWEEN

- (1) **THE SECRETARY OF STATE FOR TRANSPORT**, whose principal address is at 76 Marsham Street, London SW1P 4DR (the *Secretary of State*); and
- (2) **STAGECOACH SOUTH WESTERN TRAINS LIMITED**, whose registered office is at *Friars Bridge Court, 41-45 Blackfriars Road, London, SE1 8NZ*¹ (the *Franchisee*).

WHEREAS

(A) The Secretary of State wishes to appoint a franchisee to provide railway passenger services within the Franchise and expects his franchisee, on the terms of this Agreement, actively to seek, in all reasonable business ways, greatly improved performance over the Franchise Term from its employees, its Train Fleet and other assets, and from Network Rail and its other suppliers, so as to deliver to the passenger the best railway passenger service that can be obtained from the resources that are available to it.

(B) The Franchisee wishes to be appointed as the Secretary of State's franchisee for the Franchise and intends, on the terms of this Agreement, actively to seek, in all reasonable business ways, greatly improved performance over the Franchise Term from its employees, its Train Fleet and other assets, and from Network Rail and its other suppliers, so as to deliver to the passenger the best railway passenger service that can be obtained from the resources that are available to it.

(C) This Agreement has been entered into pursuant to and incorporates by reference the Terms. This Agreement specifies the matters which the Terms require to be addressed in a franchise agreement and which are to be agreed between the parties or prescribed by the Secretary of State, together with any other provisions that the parties have agreed should amend or supplement the Terms.

(D) The following provisions of this Agreement are intended to reflect and give effect to the matters referred to in Recitals (A) to (C) inclusive.

1. INTERPRETATION AND DEFINITIONS

1.1 In this Agreement:

Conditions Precedent Agreement means the agreement between the Secretary of State and the Franchisee of even date herewith specifying certain conditions to be satisfied prior to the issue of a Franchise Commencement Certificate;

Terms means the National Rail Franchise Terms (Second Edition), attached to this Agreement.

1.2 The Terms are hereby incorporated by reference in this Agreement.

1.3 This Agreement, the Conditions Precedent Agreement and the Terms together constitute a single agreement, which is a "franchise agreement" for the purposes of the Act.

¹ Insert change text wef 25/04/07

1.4 This Agreement shall be interpreted in accordance with the Terms, for which purpose terms defined therein shall have the same meanings where used in this Agreement, unless this Agreement expressly provides to the contrary.

1.5 If there is any conflict between the terms of this Agreement and the Terms, the terms of this Agreement shall prevail.

2. COMMENCEMENT

2.1 The provisions of the Terms listed in clauses 2.1(a) to 2.1(n) (inclusive) together with such provisions of this Agreement as may be required to give effect to the same, shall take effect and be binding upon each of the Secretary of State and the Franchisee immediately upon signature of this Agreement:

- (a) paragraph 5.3 of Schedule 1.4 (*Passenger Facing Obligations*);
- (b) paragraph 2 of Schedule 2.2 (*Security of Access Agreements, Rolling Stock Leases, Station and Depot Leases*);
- (c) paragraph 2 of Schedule 2.3 (*Third Party Delivery of Passenger Services and Other Franchisees*);
- (d) Schedule 5.1 (*Purpose, Structure and Construction*);
- (e) Schedule 5.3 (*Allocation of Fares to Fares Baskets*);
- (f) Schedule 5.7 (*Changes to Fares and Fares Regulation*);
- (g) Schedule 9 (*Changes*);
- (h) Schedule 10 (*Remedies, Termination and Expiry*);
- (i) paragraphs 1 to 3 (inclusive) of Schedule 11 (*Agreement Management Provisions*);
- (j) paragraph 4 of Schedule 12 (*Financial Obligations and Covenants*);
- (k) paragraphs 1, 2, 5, 6, 7 and 8 of Schedule 13 (*Information and Industry Initiatives*);
- (l) Schedule 14.3 (*Key Contracts*);
- (m) Schedule 17 (*Confidentiality*); and
- (n) Schedule 19 (*Other Provisions*).

2.2 The other provisions of this Agreement and of the Terms shall take effect and become binding upon the parties on the Start Date, as stated in the Certificate of Commencement issued pursuant to the Conditions Precedent Agreement.

3. TERM

This Agreement shall terminate on the Expiry Date or on the date of any earlier termination pursuant to clause 2.2(a) of the Conditions Precedent Agreement or pursuant to Schedule 10 (*Remedies, Termination and Expiry*) of the Terms.

4. GENERAL OBLIGATIONS

4.1 The Franchisee shall perform its obligations under this Agreement in accordance with their terms and with that degree of skill, diligence, prudence and foresight which would be exercised by a skilled and experienced Train Operator of the Franchise.

4.2 Any obligation on the part of the Franchisee to use all reasonable endeavours shall extend to consequent obligations adequately to plan and resource its activities, and to implement those plans and resources, with all due efficiency and economy.

4.3 The Franchisee shall co-operate with the Secretary of State and act reasonably and in good faith in and about the performance of its obligations and the exercise of its rights pursuant to this Agreement.

4.4 The Secretary of State shall act reasonably and in good faith in and about the performance of his obligations and the exercise of his rights pursuant to this Agreement.

5. SPECIFIC OBLIGATIONS

The following provisions shall apply for the purpose of implementing the Terms.

Clause 3 (*Definitions*)

5.1 The following words and expressions contained in clause 3.1 of the Terms shall be interpreted in accordance with the following:

- (a) the prescribed month for the purpose of the definition of **Bond Year** is February;
- (b) the prescribed stations for the purpose of the definition of **Commuter Fare** are:
 - (i) London Stations; and
 - (ii) Suburban Stations;
- (c) the **Commuter Fares Document** in the agreed terms is attached to this Agreement marked **CFD**;
- (d) the schemes for the purpose of the definition of **Discount Fare Scheme** are:
 - (i) ATOC Disabled Persons Railcard Scheme dated 23 July 1995 between the participants named therein;
 - (ii) ATOC Young Persons Railcard Scheme dated 23 July 1995 between the participants named therein; and
 - (iii) ATOC Senior Railcard Scheme dated 23 July 1995 between the participants named therein;
- (e) the prescribed period for the purpose of the definition of **Evening Peak** is the period between 1600 and 1859 during a Weekday or such other continuous evening three hour period as the Secretary of State may specify from time to time;
- (f) the prescribed date for the purpose of paragraph (b) of the definition of **Expiry Date** is 4 February 2017;
- (g) for the purposes of the definition of **Franchise**:

- (i) the prescribed date is 31 March 2006; and
 - (ii) the prescribed places are London, Guildford, Reading, Basingstoke, Woking, Southampton, Bournemouth, Portsmouth, Bristol, Weymouth, Salisbury and Exeter, amongst others;
- (h) the date for the purposes of the definition of *Franchise Letting Process Agreement* is 11 January 2006;
- (i) each *Franchisee Year* shall, subject to the terms of that definition, begin on 1 April and end on 31 March;
- (j) the *Initial Business Plan* in the agreed terms is attached to this Agreement marked **IBP**;
- (k) the date for the purpose of the definition of *Initial Expiry Date* is 1 February 2014;
- (l) the schemes for the purpose of the definition of *Inter-Operator Scheme* are:
- (i) ATOC Staff Travel Scheme dated 23 July 1995 between the participants named therein;
 - (ii) Ticketing and Settlement Agreement;
 - (iii) ATOC LRT Scheme dated 23 July 1995 between the participants named therein;
 - (iv) Travelcard Agreement dated 15 October 1995 between London Regional Transport and the parties named therein;
 - (v) Through Ticketing (Non-Travelcard) Agreement dated 15 October 1995 between London Regional Transport and the parties named therein; and
 - (vi) National Rail Enquiry Scheme dated 11 June 1996 between the participants named therein;
- (m) the prescribed station for the purpose of the definition of *Managed Station* is London Waterloo station;
- (n) the prescribed amount for the purpose of the definition of *Minor Works' Budget* is £250,000 for each Franchisee Year;
- (o) the prescribed period for the purpose of the definition of *Morning Peak* is the period between 0700 and 0959 during a Weekday or such other continuous morning three hour period as the Secretary of State may specify from time to time;
- (p) the *Operational Model* in the agreed terms is attached to this Agreement marked **OM**;
- (q)² *Parent means Stagecoach Group plc*;
- (r) the *Passenger's Charter* in the agreed terms is attached to this Agreement marked **PC**;

² Date of change 18/02/2014

- (s) the *Power of Attorney* in the agreed terms is attached to this Agreement marked *POA*;
- (t) the *Protected Fares Document* in the agreed terms is attached to this Agreement marked *PFD*;
- (u) for the purpose of the definition of *Qualifying Change*, the prevailing discount rate is 3.5 per cent. per annum (in real terms) at the date of this Agreement;
- (v) the *Record of Assumptions* in the agreed terms is attached to this Agreement marked *ROA*;
- (w) the *Reporting Accountants* are Ernst & Young LLP;
- (x) the date for the purpose of paragraph (a) of the definition of *Review Date* is 4 January 2007;
- (y) the agreed assumptions for the purpose of the definition of *Secretary of State Risk Assumptions* are set out in Appendix 1 (*Secretary of State Risk Assumptions*);
- (z) the *Service Level Commitments* in the agreed terms are attached to this Agreement marked *SLC1* and *SLC2*;
- (aa) *Service Quality Audit Programme* in the agreed terms is attached to this Agreement marked *SQAP*;
- (ab) the *Service Quality Management System* in the agreed terms is attached to this Agreement marked *SQMS*;
- (ac) the *Service Quality Standards* in the agreed terms are attached to this Agreement marked *SQS*;
- (ad) the time and date for the purpose of paragraph (a) of the definition of *Start Date* is 0200 on 4 February 2007;
- (ae) the agreed amounts of “TR” for the purpose of the definition of *Target Revenue* are set out in Appendix 2 (*Target Revenue (expressed in real terms)*);
- (af) for the purposes of the formula set out in the definition of *Threshold Amount*:
 - (i) the prescribed threshold amount for any Franchise Year, referred to by the acronym “FAT” is 0.1 per cent. of annual Turnover assumed by the Franchisee as at the date of this Agreement;
 - (ii) the prescribed month for the purpose of the definition of “CRPI” is January; and
 - (iii) the prescribed base month and year for the purpose of the definition of “ORPI” are January 2006;
- (ag) the *Train Plan* in the agreed terms is attached to this Agreement marked *TP*.

Changes to the Terms

5.2 The Terms shall be amended by:

- (a) the insertion in clause 3.1 thereof of the following definitions:

³*"Aborted RV Assets" shall have the meaning given to it in paragraph 13.4 to Schedule 14.4 of the Terms;*

⁴*"Acceptance" and "Accept" shall have the meaning given to those terms in the MSA;*

⁵*"Activity Only Discontinuation Notice" has the meaning given to it in the New Alliance Operating Agreement;*

⁶*"Additional CP5 RS Capacity" means the additional number of vehicles in passenger service (over and above the CP5 RS Base Capacity) as described in paragraph 3.1 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

⁷*"Additional Marketing Expenditure" means:*

(a) *in relation to the Franchisee Year commencing on 1 April 2015 the amount of⁸*

(b) *in relation to the Franchisee Year commencing on 1 April 2016 the amount of⁹*

save that where a Franchisee Year is less than 13 Reporting Periods such amount shall be reduced pro-rata;

¹⁰*Additional Phase 1 Capacity means the additional number of vehicles over and above the Windsor & Eton Base Capacity and the Waterloo Mainline Base Capacity as described in paragraph 4.2 of Part 4 of Appendix 11(Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹¹*Additional Phase 2 Capacity means the additional number of vehicles over and above the Main Suburban Base Capacity and Waterloo Mainline Base Capacity and*

³ Date of insertion 24/03/2015

⁴ Date of insertion 12/09/2014

⁵ Date of insertion 28/08/2015

⁶ Date of insertion 12/09/2014

⁷ Date of insertion 24/03/2015

⁸ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁹ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁰ Date of insertion 23/12/2011

¹¹ Date of Insertion 02/05/2012

the Windsor & Eton Base Capacity as described in paragraph 18.2 of Part 4 of Appendix 11(Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

¹²"Alliance Activity" shall have the meaning given to that term in the Alliance Agreement;

¹³Alstom means Alstom Transport Limited (Registered Number 293588), a company incorporated in England and Wales whose registered office is at Newbold Road, Rugby, Warwickshire, CV 21 2NH;

Airtrack Project means the proposed project for the improvement of rail access to Heathrow Airport from the south, which as currently envisaged would comprise three sets of passenger rail services operating to Terminal 5 at Heathrow Airport from London Waterloo, Guildford and Reading;

¹⁴"Angel Trains" means Angel Trains Limited (Registered Number 02912655) a company incorporated in England whose registered office is at Portland House, Bressenden Place, London SW1E 5BH;

¹⁵"Associated Equipment" shall have the meaning given to it in the MSA;

¹⁶¹⁷Base Capacity means each and/or all of the Main Suburban Base Capacity, the Waterloo Mainline Base Capacity and the Windsor & Eton Base Capacity, as the context requires;

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¹² Date of insertion 12/09/2014

¹³ Date of insertion 23/12/2011

¹⁴ Date of insertion 12/09/2014

¹⁵ Date of insertion 12/09/2014

¹⁶ Date of insertion 23/12/2011

¹⁷ Date of change 02/05/2012

¹⁸ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁹ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

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²²"CA" has the meaning given to it in paragraph 18.2(a) to Part 1 of Appendix 11;

²³"Car Park 1" means additional car parking spaces at Andover Station, or such other Station(s) in place of Andover Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

²⁴"Car Park 2" means additional car parking spaces at Haslemere Station, or such other Station(s) in place of Haslemere Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

²⁵"Car Park 3" means additional car parking spaces at Brookwood Station, or such other Station(s) in place of Brookwood Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

²⁶"Car Park 4" means additional car parking spaces at Basingstoke Station, or such other Station(s) in place of Basingstoke Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

²⁷"Car Park 5" means additional car parking spaces at Petersfield Station, or such other Station(s) in place of Petersfield Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

²⁸"Car Park 6" means additional car parking spaces at Farnham Station, or such other Station(s) in place of Farnham Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

²⁰ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²¹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²² Date of insertion 24/03/2015

²³ Date of insertion 24/03/2015

²⁴ Date of insertion 24/03/2015

²⁵ Date of insertion 24/03/2015

²⁶ Date of insertion 24/03/2015

²⁷ Date of insertion 24/03/2015

²⁸ Date of insertion 24/03/2015

²⁹*"Car Park 7" means additional car parking spaces at Havant Station, or such other Station(s) in place of Havant Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

³⁰*"Car Park 8" means additional car parking spaces at Winchester Station, or such other Station(s) in place of Winchester Station as may be approved by the Secretary of State pursuant to paragraph 21.1(c) of Part 1 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

³¹*"Cash Flow Funding Payment" or "CFFP" means a payment made by the Secretary of State to the Franchisee in respect of the capital expenditure incurred (or assumed to be incurred) by the Franchisee in the construction or procurement (as appropriate) and installation of the RV Assets;*

³²*"Cash Flow Funding Repayment" or "CFFR" means a repayment by the Franchisee to the Secretary of State of some or all of the Cash Flow Funding Payments received by the Franchisee;*

³³*"CBE" shall have the meaning set out in paragraph 18.3(a) of Part 1 of Appendix 11;*

³⁴*Class 450 Maintenance Contract has the meaning described in paragraph 13 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

³⁵

³⁶*"Commercially Valuable Legacy CRM Data" means Legacy CRM Data which the Franchisee, acting reasonably, considers to be of commercial value to the Franchisee;*

²⁹ Date of insertion 24/03/2015

³⁰ Date of insertion 24/03/2015

³¹ Date of insertion 24/03/2015

³² Date of insertion 24/03/2015

³³ Date of insertion 24/03/2015

³⁴ Date of insertion 23/12/2011

³⁵ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁶ Date of insertion 24/03/2015

³⁷**"Community Rail Liaison Manager"** means a Franchise Employee with the responsibility to develop and maintain collaborative working relationships and associated arrangements with Community Rail Partnerships;

³⁸**"Competent Authority"** means any local, national or supra-national agency, authority, tribunal, department, ministry or body;

³⁹**"Corresponding Services"** means, in relation to a WoE Strengthened Service, the Passenger Services which have the same origin and destination as the WoE Strengthened Service and which are scheduled in the Timetable to operate immediately before and immediately after the WoE Strengthened Service;

Costs Side Letter means the letter dated the date of this Agreement from the Franchisee to the Secretary of State headed "Changes to Costs Associated with Secretary of State Risk Assumptions";

⁴⁰**"CP5 Additional Services"** shall have the meaning given to it in paragraph 5.7 of Part 6 to Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴¹**"CP5 Gauging Works"** shall have the meaning given to it in paragraph 2.6(a) of Part 6 to Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴²**"CP5 Network Rail Delay"** shall have the meaning set out in paragraph 5.3 of Part 6 to Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴³**"CP5 Re-diagrammed Trains"** shall have the meaning set out in paragraph 5.1 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴⁴**"CP5 Rolling Stock"** means the rolling stock vehicles described in paragraph 1.2 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴⁵**"CP5 Rolling Stock Lease"** means the lease dated 12 September 2014 entered into

³⁷ Date of insertion 24/03/2015

³⁸ Date of insertion 24/03/2015

³⁹ Date of insertion 24/03/2015

⁴⁰ Date of insertion 12/09/2014

⁴¹ Date of insertion 12/09/2014

⁴² Date of insertion 12/09/2014

⁴³ Date of insertion 12/09/2014

⁴⁴ Date of insertion 12/09/2014

⁴⁵ Date of insertion 12/09/2014

between Angel Trains and the Franchisee in relation to the CP5 Rolling Stock;

⁴⁶"CP5 RS Base Capacity" means the capacity (measured by number of vehicles in passenger service) which the parties have agreed for the purpose of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) the Franchisee or a Successor Operator is to be regarded as being capable of planning to operate on and from the Passenger Change Date in May 2018 in the provision of the Waterloo Mainline Services, the Windsor & Eton Services and the Main Suburban Services using the Train Fleet (without the CP5 Rolling Stock or the implementation of paragraphs 5.1, 5.5 and 5.6 of Part 6 to Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) to this Agreement) being:

- (a) subject to (b) below, the capacity set out in Section B of Annex 1 to Part 6 in the column headed "CP5 RS Base Capacity Number of Vehicles"; or*
- (b) such amended capacity as notified by the Franchisee in accordance with paragraph 4 (CP5 RS Base Capacity) of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

⁴⁷"CP5 RS Committed Obligations" means any of the Franchisee's obligations listed in Part 6 (CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴⁸"CP5 RS Committed Obligation Payment Adjustment" and "CP5 RS COPA" has the meaning attributed to it in paragraph 1.1 of Part 7 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁴⁹"CP5 RS Deed of Amendment" means the deed of amendment to this Agreement dated 12 September 2014 entitled "Deed of Amendment (CP5 Rolling Stock) relating to the South Western Franchise Agreement dated 21 September 2006;

⁵⁰"CP5 RS Franchise Payment Adjustment" and "CP5 RS FPA" means each of the amounts payable pursuant to paragraphs 1.8, 2.4, 2.60, 6.2, 6.4 and 9.2 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁵¹"CP5 RS Minimum Platform Length" means a platform length such that a train consisting of ten vehicles (each of which is 20 metres in length) can call at the

⁴⁶ Date of insertion 12/09/2014

⁴⁷ Date of insertion 12/09/2014

⁴⁸ Date of insertion 12/09/2014

⁴⁹ Date of insertion 12/09/2014

⁵⁰ Date of insertion 12/09/2014

⁵¹ Date of insertion 12/09/2014

relevant station with the full length of the train accommodated by the platform;

⁵²"CP5 RS Network Rail Route Clearance Contract" means the agreement to be entered into by the Franchisee and Network Rail under which Network Rail will undertake certain CP5 Gauging Works to make the infrastructure compatible in order to allow the introduction of the CP5 Rolling Stock;

⁵³"CP5 RS Project Management Agreement" means the agreement dated 12 September 2014 between the Franchisee and Angel Trains setting out, amongst other things, the basis on which Angel Trains and the Franchisee will exercise their rights under the MSA;

⁵⁴"CP5 RS Project Manager" has the meaning given to the term "Project Manager" in the MSA;

⁵⁵"CP5 RS Secondment Agreement" means the secondment agreement dated 12 September 2014 entered into between Siemens and the Franchisee in relation to the CP5 Rolling Stock;

⁵⁶"CP5 Windsor & Eton Services" means the group of Passenger Services serving Windsor and Eton more particularly described in Service Groups HY05 (Windsor Inners) and HY06 (Windsor Outers) as set out in Schedule 5 to the Track Access Agreement as at the date of the CP5 RS Deed of Amendment;

⁵⁷"CRM Data" means Personal Data (including any or all of: name, address, e-mail address and ticket purchasing history) collected by or on behalf of the Franchisee relating to persons travelling on or purchasing tickets for travel on the Passenger Services or other services for the carriage of passengers by railway;

⁵⁸"CRM Data Processor" means any Data Processor who, from time to time, is processing or has processed New CRM Data on behalf of the Franchisee;

⁵⁹"CRM Obligations" has the meaning given to it in paragraph 19.1 of Part 1 of Appendix 11;

⁶⁰"CRM System" means any system (whether a Computer System or otherwise) for the collection of CRM Data and/or onto which CRM Data is input, processed and/or held as such system may be amended, altered or replaced from time to time;

⁵² Date of insertion 12/09/2014

⁵³ Date of insertion 12/09/2014

⁵⁴ Date of insertion 12/09/2014

⁵⁵ Date of insertion 12/09/2014

⁵⁶ Date of insertion 12/09/2014

⁵⁷ Date of insertion 24/03/2015

⁵⁸ Date of insertion 24/03/2015

⁵⁹ Date of insertion 24/03/2015

⁶⁰ Date of insertion 24/03/2015

Crossrail Scheme means the scheme known as ‘Crossrail’ which is the subject of the Crossrail Bill before Parliament as of the date of this Agreement;

⁶¹**"CSES Data"** means data collected by or on behalf of the Franchisee pursuant to paragraph 20.5 of Part 1 of Appendix 11 (which may include New CRM Data);

⁶²**"CTOT Fares and Services"** means, in relation to a Fare Year, those Fares and associated Passenger Services which have been allocated a unique "CTOT" or discount code descriptor by RSP Ltd for identification in LENNON in connection with specific marketing activities undertaken by the Franchisee in respect of those Fares and Passenger Services;

⁶³**"CTOT Marketing Revenue"** means the Revenue received by the Franchisee in respect of the applicable CTOT Fares and Services as determined by LENNON;

⁶⁴**Customer Information System** means a system of information screens showing passenger train arrival and departure and other relevant information;

⁶⁵**"Customer and Stakeholder Engagement Strategy" or "CSES"** means the Franchisee's customer and stakeholder engagement strategy agreed in accordance with paragraph 20.1 of Part 1 of Appendix 11, and any revision to that strategy prepared in accordance with paragraph 20.4 of Part 1 of Appendix 11;

⁶⁶**"Customer Report"** means a report in the format and providing the information specified in the Customer and Stakeholder Engagement Strategy prepared in accordance with paragraph 20.1 of Part 1 of Appendix 11;

⁶⁷**"Customer Satisfaction KPI"** means a key performance indicator which measures customer satisfaction such as NRPS;

⁶⁸**"DA RV Assets"** has the meaning given to it in paragraph 13.8(a)(ii) of Schedule 14.4 of the Terms;

⁶¹ Date of insertion 24/03/2015

⁶² Date of insertion 26/02/2014

⁶³ Date of insertion 26/02/2014

⁶⁴ Date of insertion 23/12/2011

⁶⁵ Date of insertion 24/03/2015

⁶⁶ Date of insertion 24/03/2015

⁶⁷ Date of insertion 24/03/2015

⁶⁸ Date of insertion 24/03/2015

⁶⁹*"DA Start Date" means 00:01 hours on 5 February 2017 or such later time as may be agreed or determined in accordance with the terms of the Direct Award;*

⁷⁰*"Data Controller" has the same meaning as in the Data Protection Act;*

⁷¹*"Data Processor" has the same meaning as in the Data Protection Act;*

⁷²*"Data Protection Act" means the Data Protection Act 1998 and any guidance issued from time to time by the Information Commissioner's Office;*

⁷³*"Data Subject" has the same meaning as in the Data Protection Act;*

⁷⁴*Decision Period has the meaning attributed to it in paragraph 5 of Part 4 of Appendix 11 (Committed Obligations and HLOS Committed Obligations);*

⁷⁵*Decision/Repair Period means a period in relation to a unit of Phase 2 Rolling Stock which has been damaged where any of the following circumstances are subsisting:(a) because of the severity of the damage the Franchisee, Porterbrook and the relevant insurer are discussing in good faith whether the unit should be repaired or written off;(b) following discussions of the type referred to in sub paragraph (a) above the relevant unit is being properly and expeditiously repaired;*

Demand Management Principles has the meaning given to it in paragraph 10.2 of Appendix 13 (*South Western Specific Provisions*) to the Franchise Agreement;

Demand Management Principles Document means the principles document in the agreed terms marked *DMPD*;

Demand Management Regulation has the meaning given to it in paragraph 10.1 of Appendix 13 (*South Western Specific Provisions*) to the Franchise Agreement;

⁷⁶*"Direct Award" means a Replacement Franchise Agreement entered into between the Secretary of State and the Franchisee through a single tender procurement pursuant to which the Franchisee will provide services similar to the Franchise Services from the end of the Franchise Period until 01:59 hours on 1 April 2019 or such other date to which that agreement is extended in accordance with its terms;*

⁶⁹ Date of insertion 24/03/2015

⁷⁰ Date of insertion 24/03/2015

⁷¹ Date of insertion 24/03/2015

⁷² Date of insertion 24/03/2015

⁷³ Date of insertion 24/03/2015

⁷⁴ Date of insertion 23/12/2011

⁷⁵ Date of Insertion 02/05/2012

⁷⁶ Date of insertion 12/09/2014

⁷⁷*"Discretionary Marketing Expenditure" has the meaning ascribed to it in paragraph 12.1(b) to Appendix 13;*

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⁷⁹*"England 2015" means the tournament organiser for the 2015 Rugby World Cup, hosted in England.*

⁸⁰*"Facilitation Fee Milestone" has the meaning given to it in paragraph 1.1 of Part 8 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

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⁸³*"Franchisee Owned RV Asset" means each RV Asset which can be designated as a Primary Franchise Asset in accordance with paragraph 13.2 of Schedule 14.4 of the Terms such that they can transfer to a Successor Operator;*

⁸⁴*"Friends of South West Trains" means the volunteer group who undertake various activities in support of the station environment operated by the Franchisee;*

⁸⁵*First Hole in the Wall means the doorway intended for future passenger access to and from platform 20 located in the wall between platform 19 of Waterloo station and Waterloo International station which is closest to the buffer stops of platform 19 as at the date of the HLOS Deed of Amendment (being located approximately 90 metres from such buffer stops);*

GSM-R means the radio communication system known as the Global Standard for Mobile Communications – Railway;

⁷⁷ Date of insertion 26/02/2014

⁷⁸ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁷⁹ Date of insertion 22/06/2015

⁸⁰ Date of insertion 24/03/2015

⁸¹ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁸² **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁸³ Date of insertion 24/03/2015

⁸⁴ Date of insertion 24/03/2015

⁸⁵ Date of insertion 23/12/2011

⁸⁶High Peak means the period between and including 08.00 and 08.59 inclusive on a weekday which is not a public holiday in England;

⁸⁷HLOS Committed Obligations means any of the Franchisee's obligations listed in Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁸⁸HLOS Committed Obligation Payment Adjustment has the meaning attributed to it in paragraph 1.1 of Part 5 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁸⁹HLOS Deed of Amendment means the Deed of Amendment dated 23rd December 2011 entitled 'Deed Of Amendment relating to the South Western Franchise Agreement – HLOS' made between the Secretary of State and the Franchisee;

⁹⁰⁹¹HLOS Franchise Payment Adjustment means, the amounts payable pursuant to paragraphs 1.7, 2.2, 3.4, 7.2, 7.3, 7.5, 9.2, 12.3, 13 and 16.1(c)and (d, 16.4, 19.4 and 20 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) ;

⁹²HLOS Milestone has the meaning attributed to it in paragraph 1.1 of Part 5 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

⁹³HLOS Phase 2 Deed of Amendment means the Deed of Amendment dated 2nd May 2012 entitled 'Deed Of Amendment relating to the South Western Franchise Agreement – HLOS Phase 2' made between the Secretary of State and the Franchisee;

⁹⁴

⁹⁵"Hounslow Turn Back Facility" shall have the meaning given to it in paragraph 5.6 of Part 6 to Appendix 11;

⁸⁶ Date of insertion 23/12/2011

⁸⁷ Date of insertion 23/12/2011

⁸⁸ Date of insertion 23/12/2011

⁸⁹ Date of insertion 23/12/2011

⁹⁰ Date of insertion 23/12/2011

⁹¹ Date of Change 02/05/2012

⁹² Date of insertion 23/12/2011

⁹³ Date of insertion 02/05/2012

⁹⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁹⁵ Date of insertion 12/09/2014

⁹⁶*"2015 Incremental Financial Model" means the financial model prepared for the purpose of the Passenger Investment Deed of Amendment in the agreed terms marked 2015 FM;*

⁹⁷*"Incremental Financial Model" means the financial model prepared for the purpose of the CP5 RS Deed of Amendment in the agreed form marked CP5 RS FM;*

⁹⁸*"2015 Incremental Record of Assumptions" means the record of assumptions prepared for the purpose of the Passenger Investment Deed of Amendment in the agreed terms marked '2015 ROA';*

⁹⁹*"Incremental Record of Assumptions" means the record of assumptions prepared for the purpose of the CP5 RS Deed of Amendment in the agreed form marked CP5 RS ROA;*

¹⁰⁰*"Intelligence Platform DMS" has the meaning given to it in paragraph 20.7 of Part 1 of Appendix 11;*

Invitation to Tender means the South Western Franchise Invitation to Tender dated March 2006;

¹⁰¹*"ISAMs" means ITSO Secure Application Modules being secure electronic data processing modules which amongst other things, authenticate and validate ITSO certified smartcards;*

¹⁰²*"Island Line" means the Passenger Service which runs on the Isle of Wight and serves the towns of Ryde, Brading, Sandown, Lake and Shanklin;*

ITSO means the Integrated Transport Smartcard Organisation;

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⁹⁶ Date of insertion 24/03/2015

⁹⁷ Date of insertion 12/09/2014

⁹⁸ Date of insertion 24/03/2015

⁹⁹ Date of insertion 12/09/2014

¹⁰⁰ Date of insertion 24/03/2015

¹⁰¹ Date of insertion 24/03/2015

¹⁰² Date of insertion 24/03/2015

¹⁰³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

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¹⁰⁹"Legacy CRM Data" means CRM Data collected, input, processed and/or held on any CRM System other than the New CRM System;

¹¹⁰"Lennon" means the central system known as "Lennon" used by the rail industry to allocate revenue from ticket sales between train operating companies, and any upgrade, replacement or modification to it;

¹¹¹"London & Continental Railways" means London & Continental Railways Limited, a company incorporated in England and Wales with registered number 02966054, whose registered office is at 4th Floor, One Kemble Street, London WC2B 4AN;

¹¹²Main Suburban Base Capacity means the capacity (measured by number of vehicles) which the parties have agreed for the purpose of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) the Franchisee is to be regarded as being capable of planning to operate in the provision of the Main Suburban Services:-

¹⁰⁴Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁰⁵Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁰⁶Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁰⁷Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁰⁸Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁰⁹ Date of insertion 24/03/2015

¹¹⁰ Date of insertion 24/03/2015

¹¹¹ Date of insertion 12/09/2014

¹¹² Date of insertion 02/05/2012

(i) to arrive at Waterloo or Waterloo International in the Morning Peak (and in the High Peak) and

(ii) to depart from Waterloo or Waterloo International in the Evening Peaks

using the Train Fleet without the Phase 1 Rolling Stock and the Phase 2 Rolling Stock being:-

(a) subject to b) below, the capacity set out in the Tables in Annex 6 to Part 4 in the column headed "Main Suburban Base Capacity Formation" (based on the Train Fleet deployed in the Peak and High Peak in the Train Plan for the December 2008 Passenger Change Date); or

such amended capacity as notified by the Franchisee in accordance with paragraph 6 of Part 4;"

¹¹³ *Main Suburban Services means the group of Passenger Services more particularly described in Service Group HY01 (Main Suburban) together with those Passenger Services operating over the Waterloo to Strawberry Hill via Kingston route within Service Group HY05 (Windsor Inners) (but only in relation to the portion of their journeys between Waterloo and Strawberry Hill via Kingston, in both directions), as set out in schedule 5 to the Track Access Agreement as at the date of the HLOS Phase 2 Deed of Amendment;*

¹¹⁴ *"Maintenance Agreement" means the agreement dated 12 September 2014 entered into between Siemens and the Franchisee in relation to the maintenance of the CP5 Rolling Stock;*

¹¹⁵ *"Marketing Shortfall" has the meaning ascribed to it in paragraph 12.3 to Appendix 13;*

¹¹⁶ *"Minimum Amount" has the meaning ascribed to it in paragraph 5.6 to Schedule 8.1;*

¹¹⁷ *"Minimum Marketing Expenditure" means, in relation to a Franchisee Year the amount of ¹¹⁸ save that where a Franchisee Year is less than 13 Reporting Periods such amount shall be reduced pro rata;*

¹¹³ Date of insertion 02/05/2012

¹¹⁴ Date of insertion 12/09/2014

¹¹⁵ Date of insertion 26/02/2014

¹¹⁶ Date of insertion 26/02/2014

¹¹⁷ Date of insertion 26/02/2014

¹¹⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹¹⁹*Milestone Deadline has the meaning attributed to it in paragraph 1.1 of Part 5 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹²⁰*Modification Agreement means the agreement entered into between the Franchisee, Porterbrook and Alstom on or about the date of the HLOS Deed of Amendment under which the Phase 1 Rolling Stock is to be created by adding an additional vehicle formerly included in a Class 460 unit to existing four vehicle Class 458 units and creating new five vehicle Class 458/5 units entirely from former Class 460 vehicles;*

¹²¹*"MSA" means the Manufacture and Supply Agreement dated 12 September 2014 entered into between Siemens, Angel Trains and the Franchisee in relation to the manufacture and supply of the CP5 Rolling Stock;*

¹²²*"National Rail Passenger Survey" or "NRPS" means a passenger satisfaction survey in respect of the Franchise Services to be carried out by the Rail Passengers' Council;*

¹²³*"Network Rail CP5 Depots, Stabling and Ancillary Fund" means the fund authorised by the ORR for Control Period 5 and administered by Network Rail from 1 April 2014 which will fund third party delivery of various rolling stock enhancement projects;*

¹²⁴*"Network Rail Fixture Asset" means each RV Asset which is not a Franchisee Owned RV Asset;*

¹²⁵*"Network Rail Traffic Management System" means a system which, amongst other things, provides real-time information to train drivers regarding expected journey times which is to be installed by Network Rail on routes, amongst others, required for the Waterloo Mainline Services and between Hounslow and London Waterloo station;*

¹²⁶*"New Alliance" has the meaning given to the expression "Alliance" in the New*

¹¹⁹ Date of insertion 23/12/2011

¹²⁰ Date of insertion 23/12/2011

¹²¹ Date of insertion 12/09/2014

¹²² Date of insertion 24/03/2015

¹²³ Date of insertion 12/09/2014

¹²⁴ Date of insertion 24/03/2015

¹²⁵ Date of insertion 12/09/2014

¹²⁶ Date of insertion 28/08/2015

Alliance Operating Agreement;

¹²⁷“New Alliance Operating Agreement” means the New Alliance Operating Agreement between the Franchisee and Network Rail dated on or around 28 August 2015 (as amended from time to time with the approval of the Secretary of State);

¹²⁸“New Alliance Organisational Chart” has the meaning given to the expression “Alliance Organisational Chart” in the New Alliance Operating Agreement;

¹²⁹“New Change in Circumstances Notice” has the meaning given to the expression “Change in Circumstances Notice” in the Alliance Operating Agreement;

¹³⁰“New CRM Data” means CRM Data that is collected, input, processed and/or held on the New CRM System;

¹³¹“New CRM System” shall have the meaning given to it in paragraph 19.1(a) of Part 1 of Appendix 11;

¹³²“New Free Standing Organisational Chart” has the meaning given to the expression “Free Standing Organisational Chart” in the New Alliance Operating Agreement;

¹³³“New Schedule 4 and 8 Regime” has the meaning given to the expression “Schedule 4 and 8 Regime” in the New Alliance Operating Agreement;

¹³⁴“New Shared Resources” has the meaning given to the expression “Shared Resources” in the New Alliance Operating Agreement;

¹³⁵“New Successor Operator Plan” has the meaning given to the expression “Successor Operator plan” in the New Alliance Operating Agreement;

¹³⁶“New Unwind Plan” has the meaning given to the expression “Unwind Plan” in the New Alliance Operating Agreement;

¹³⁷“New TVMs” has the meaning given to it in paragraph 18.1(a) of Part 1 of Appendix 11;

¹²⁷ Date of insertion 28/08/2015

¹²⁸ Date of insertion 28/08/2015

¹²⁹ Date of insertion 28/08/2015

¹³⁰ Date of insertion 24/03/2015

¹³¹ Date of insertion 24/03/2015

¹³² Date of insertion 28/08/2015

¹³³ Date of insertion 28/08/2015

¹³⁴ Date of insertion 28/08/2015

¹³⁵ Date of insertion 28/08/2015

¹³⁶ Date of insertion 28/08/2015

¹³⁷ Date of insertion 24/03/2015

Off-peak Return Fare means a Fare which is a Permanent Fare and which entitles the purchaser to make a journey in each direction in Standard Class Accommodation between the stations and/or zones for which the Fare is valid, at any time on Saturdays and Sundays and at such times as the Franchisee may designate on Mondays to Fridays, and which expires no earlier than 0200 on the day after the day of the outward journey, or if later, the time the relevant journey may be completed if commenced before 0200;

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Oyster fare means the fare charged to a passenger using an Oystercard for a journey;

Oyster Pay As You Go means the scheme operated by TfL for prepaid travel using a monetary value added onto an Oystercard before the start of a journey;

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¹⁴¹**Passenger Information System** means a public address system on a relevant platform able to provide announcements of reasonable volume and clarity along the reasonable operational length of such platform;

¹⁴²**"Passenger Investment Deed of Amendment"** means the deed of amendment to this Agreement dated 24 March 2015 entitled "Deed of Amendment (Passenger Investment) relating to the South Western Franchise Agreement dated 21 September 2006";

Permanent Fare has the meaning given to it in the Ticketing and Settlement Agreement;

¹⁴³**"Personal Data"** has the same meaning as in the Data Protection Act and includes Sensitive Personal Data as defined therein;

¹⁴⁴**"Personal Data Legislation"** has the meaning given to it in paragraph 19.3 of Part 1 of Appendix 11;

¹³⁸ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹³⁹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁴⁰ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁴¹ Date of insertion 23/12/2011

¹⁴² Date of insertion 24/03/2015

¹⁴³ Date of insertion 24/03/2015

¹⁴⁴ Date of insertion 24/03/2015

¹⁴⁵ *Phase 1 Rolling Stock means the rolling stock vehicles described in paragraph 1.2 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹⁴⁶ *Phase 1 Rolling Stock Lease means the lease between the Franchisee and Porterbrook dated on or about the date of the HLOS Deed of Amendment in relation to Phase 1 Rolling Stock;*

¹⁴⁷ *Phase 2 Access Rights has the meaning attributed to it in paragraph 16.4(a) of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹⁴⁸ *Phase 2 Rolling Stock means the Class 456 rolling stock vehicles formed in two car units described in paragraph 16.1 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹⁴⁹ *Phase 2 Rolling Stock Lease means the lease between the Franchisee and Porterbrook dated 17th April 2012 in relation to Phase 2 Rolling Stock;*

¹⁵⁰

¹⁵¹ *Phase 2 Strengthened Services has the meaning attributed to it in paragraph 18.1 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹⁵² *Phase 2 Unit Write Off means a unit of Phase 2 Rolling Stock ceasing to be subject to the Phase 2 Rolling Stock Lease in circumstances where it has been damaged (¹⁵³) and following discussions between the Franchisee, Porterbrook and a relevant insurer it is agreed that the such damage is so severe that it is not economical to repair it and accordingly it should not be repaired and such unit should cease to be subject to the Phase 2 Rolling Stock Lease;*

¹⁴⁵ Date of insertion 23/12/2011

¹⁴⁶ Date of insertion 23/12/2011

¹⁴⁷ Date of insertion 02/05/2012

¹⁴⁸ Date of insertion 02/05/2012

¹⁴⁹ Date of insertion 02/05/2012

¹⁵⁰ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁵¹ Date of insertion 02/05/2012

¹⁵² Date of insertion 02/05/2012

¹⁵³ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁵⁴ ***"Planned Delivery Date" shall have the meaning set out in paragraph 13.3(a)(ii) of Schedule 14.4 of the Terms;***

Point-to-Point Ticket has the meaning given to it in the Through Ticketing (Non-Travelcard) Agreement;

¹⁵⁵ ***Porterbrook means Porterbrook Leasing Company Limited (Registered Number 2912662), a company incorporated in England and Wales whose registered office is at Ivatt House, 7 the Point, Pinnacle Way, Pride Park, Derby DE24 8ZS;***

Previous Passenger Service means any railway passenger service operated under the Previous Franchise Agreement that is the same or substantially the same as any Passenger Service in terms of departure and arrival times and stopping patterns;

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¹⁵⁸ ***"Process" has the same meaning as in the Data Protection Act 1998;***

¹⁵⁹ ***"Replacement Franchise Agreement" means any agreement entered into between the Secretary of State and a Successor Operator (including the Franchisee or its Affiliate) for the provision of services similar to the Franchise Services with effect from the end of the Franchise Period;***

¹⁶⁰ ***"Rugby World Cup" means the 2015 Rugby World Cup to be hosted by England 2015 from 15th August to 31st October 2015;***

¹⁶¹ ***"Rugby World Cup Additional Costs" means the costs the Franchisee forecasts it will properly incur in its operation of the Rugby World Cup Additional Services on Rugby World Cup Match Days, in order to serve the 2015 Rugby World Cup;***

¹⁶² ***"Rugby World Cup Additional Revenue" means the additional Revenue of the Franchisee, generated during the period commencing on 15th August 2015 and***

¹⁵⁴ Date of insertion 24/03/2015

¹⁵⁵ Date of insertion 23/12/2011

¹⁵⁶ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁵⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁵⁸ Date of insertion 24/03/2015

¹⁵⁹ Date of insertion 12/09/2014

¹⁶⁰ Date of insertion 22/06/2015

¹⁶¹ Date of insertion 22/06/2015

¹⁶² Date of insertion 22/06/2015

ending on 31st October 2015 as a result of providing the Rugby World Cup Additional Services, on Rugby World Cup Match Days at Twickenham Stadium, as calculated using the agreed methodology set out in Annex B of Schedule 1 of this Deed.

¹⁶³*“Rugby World Cup Additional Services” means the additional passenger services to be operated by the Franchisee during the duration of the 2015 Rugby World Cup as set out in paragraph 13.2 of Appendix 13 to this Franchise Agreement.*

¹⁶⁴

¹⁶⁵*“Rugby World Cup Match Days” means the dates when England 2015 have designated fixtures for the 2015 Rugby World Cup to be played at Twickenham Stadium including warm-up friendlies and test events that have been arranged between the period of 22 November 2014 and 31 October 2015 (both dates inclusive)*

¹⁶⁶

¹⁶⁷*“RV Assets” means the assets listed in column 1 of the table set out in the Appendix to Schedule 14.4 (List of the RV Assets) of the Terms;*

¹⁶⁸

¹⁶⁹*“RV Asset Transfer Value” means the residual value of an RV Asset which shall be the amount payable in respect of each RV Asset on expiry or earlier termination of the Franchise Agreement or, where applicable, the Direct Award, which shall be calculated:*

- (a) *in the event that the Franchisee does not enter into a Direct Award at the end of the Franchise Period, in accordance with paragraph 13.16 of Schedule 14.4 of the Terms; and*

¹⁶³ Date of insertion 22/06/2015

¹⁶⁴ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁶⁵ Date of insertion 22/06/2015

¹⁶⁶ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁶⁷ Date of insertion 24/03/2015

¹⁶⁸ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁶⁹ Date of insertion 24/03/2015

(b) *in the event that the Franchisee enters into a Direct Award on or before the end of the Franchise Period:*

(i) *in accordance with paragraph 13.10 of Schedule 14.4 of the Terms on the DA Start Date; and*

(ii) *in accordance with paragraph 13.14(a) of Schedule 14.4 of the Terms on the expiry or termination of the Direct Award;*

¹⁷⁰*"RV Longstop Date" means that date which is 13 Reporting Periods after the DA Start Date;*

¹⁷¹*"Security Breach" has the meaning given to it in paragraph 19.3(c)(iii) of Part 1 of Appendix 11;*

¹⁷²*"Service Enhancement Right" has the meaning given to it in paragraph 22.1(a) of Part 1 of Appendix 11;*

"Short Formation" means the operation of a railway passenger service with fewer rolling stock vehicles than the number of rolling stock vehicles scheduled to be operated by the Train Operator under the Previous Franchise Agreement or by the Franchisee, as applicable;

¹⁷³

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¹⁷⁵*"Siemens" means Siemens PLC (Registered Number 727817), a company incorporated in England whose registered office is at Faraday House, Sir William Siemens Square, Frimley, Camberley GU12 8QD;*

SLC1 means Service Level Commitment 1 in the agreed terms;

SLC2 means Service Level Commitment 2 in the agreed terms;

¹⁷⁶*"Smartphone" means a mobile phone which has a touchscreen interface, internet access and an operating system capable of downloading and running mobile*

¹⁷⁰ Date of insertion 24/03/2015

¹⁷¹ Date of insertion 24/03/2015

¹⁷² Date of insertion 24/03/2015

¹⁷³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁷⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁷⁵ Date of new text 12/09/2014

¹⁷⁶ Date of insertion 24/03/2015

applications which will enable customer-facing Franchisee Employees to provide appropriate, accurate and real-time train running information and other passenger-focussed communications to passengers;

¹⁷⁷*"South Western Community Rail Partnership" means a Community Rail Partnership which operates within the area of the Franchise;*

¹⁷⁸*"SSWT Electrified Network" means the SSWT Core Network and the SSWT Outer Network;*

¹⁷⁹*"SSWT Core Network" means the routes set out in paragraphs 2.6(a)(i)(A) and 2.6(a)(i)(B) of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹⁸⁰*"SSWT Outer Network" means the routes set out in paragraph 2.6(a)(i)(C) of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations); and*

¹⁸¹*"Supplemental Passenger Services" has the meaning given to it in paragraph 22.1(c) of Part 1 of Appendix 11;*

¹⁸²*"Staff Costs" means, where a Franchise Employee spends time engaged in the development and/or implementation of any marketing activities described in paragraph 12.1(b) to Appendix 13, the proportionate amount of (a) salary, wages and other remuneration payable by the Franchisee to that Franchise Employee; and (b) national insurance, pension contributions and any other employee benefits and allowances payable or provided by the Franchisee to that Franchisee Employee which relate to such time.*

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¹⁷⁷ Date of insertion 24/03/2015

¹⁷⁸ Date of insertion 12/09/2014

¹⁷⁹ Date of insertion 12/09/2014

¹⁸⁰ Date of insertion 12/09/2014

¹⁸¹ Date of insertion 24/03/2015

¹⁸² Date of insertion 26/02/2014

¹⁸³ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁸⁴ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

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¹⁸⁷"Tablet" means an electronic tablet mobile device which has a touchscreen interface, internet access and an operating system capable of downloading and running mobile applications which will enable CAs to provide appropriate, accurate and real-time train running information and other passenger-focussed communications to passengers;

TfL means Transport for London;

TfL railway passenger services, tramway and bus services means the railway passenger services, tramway services and bus services provided by or on behalf of TfL, its Affiliates or contractors;

TfL stations means the stations at which TfL or any of its Affiliates or contractors provides railway passenger services;

¹⁸⁸"Third Party Funders" means one or more persons who provide funding to the Franchisee including the Parent, an Affiliate of the Franchisee, or any Affiliate of Stagecoach Group plc, but excluding the Secretary of State and Network Rail;

¹⁸⁹"Third Party Funding Agreement" means an agreement between the Franchisee and one or more Third Party Funders pursuant to which the Third Party Funder(s) provide the Franchisee with funding (whether structured as a loan, lease or otherwise) in relation to one or more RV Assets following their installation or construction and delivery into service;

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¹⁹¹"ToDler" means a Parkeon ToDler+ Small Ticket Machine which is a ticket on departure collect ticket vending machine approved by Rail Settlement Plan, which includes the following functionality:

(a) the capacity to handle up to 800 ticket on departure transactions per day;

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¹⁸⁶ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁸⁷ Date of insertion 24/03/2015

¹⁸⁸ Date of insertion 24/03/2015

¹⁸⁹ Date of insertion 24/03/2015

¹⁹⁰ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

¹⁹¹ Date of insertion 24/03/2015

- (b) *offering actual and potential passengers the option to purchase:*
- (i) *10 types of daily walk up tickets at each location at which the ToDler is installed;*
 - (ii) *Travelcards; and*
 - (iii) *car park tickets;*

¹⁹²*Total Loss of a Unit has the meaning attributed to it in paragraph 5 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);*

¹⁹³

Travelcard has the meaning given to it in the Travelcard Agreement;

Thameslink Programme means the scheme promoted by Network Rail formerly known as ‘Thameslink 2000’, as described in its 2005 Transport and Works Act 1992, to enhance the network and relevant stations to allow the operation of 12-car trains and up to 24 trains per hour between Midland Mainline/Great Northern and London Bridge/Elephant & Castle, or such other capacity scheme derived from that specification as is agreed by the Secretary of State, Network Rail and all relevant stakeholders;

TranSys means Transaction Systems Limited;

¹⁹⁴*"Unit Cost Efficiency KPI" means a key performance indicator which measures cost savings achieved by the Franchisee in delivering the Franchise Services;*

¹⁹⁵*Unwind Plan has the meaning given to it in the Alliance Agreement;*

Vehicle Change has the meaning given to it in the Network Code;

¹⁹⁶*"Virtual Ticket Office" or "VTO" means a compact fully weather proof high security ticket vending machine which: (a) includes a high speed ticket printer and encoder; (b) gives actual and potential passengers the option of using video link technology to see and speak to a Franchise Employee 24 hours a day to obtain information and services of broadly the same range and quality as they would receive from visiting a suitably resourced physical ticket office; (c) uses the methods of payment available at the existing ticket vending machines on the date of the Passenger Investment Deed of Amendment; and (d) includes the following functionality:*

¹⁹² Date of insertion 23/12/2011

¹⁹³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁹⁴ Date of insertion 24/03/2015

¹⁹⁵ Date of insertion 27/04/2012

¹⁹⁶ Date of insertion 24/03/2015

- (i) *offering actual and potential passengers the option to:*
 - (A) *purchase walk up tickets including: Travelcards; Plus Bus; Group Save; promotions; and car park tickets; and/or*
 - (B) *ask for information;*
- (ii) *offering ticket on departure collection; and*
- (iii) *providing live train running information to keep actual and potential passengers better informed;*

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¹⁹⁸¹⁹⁹*Waterloo Mainline Base Capacity means the capacity (measured by number of vehicles) which the parties have agreed for the purpose of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) the Franchisee is to be regarded as being capable of planning to operate in the provision of the Waterloo Mainline Services:-*

(i) *to arrive at Waterloo or Waterloo International in the Morning Peak (and in the High Peak) and*

(ii) *to depart from Waterloo or Waterloo International in the Evening Peaks*

using the Train Fleet without the Phase 1 Rolling Stock and the Phase 2 Rolling Stock being:-

(a) *subject to b) below, the capacity set out in the Tables in Annex 6 to Part 4 in the column headed “Waterloo mainline Base Capacity Formation” (based on the Train Fleet deployed in the Peak and High peak in the Train Plan for December 2008 passenger Change Date”;* or

(b) *such amended capacity as notified by the Franchisee in accordance with paragraph 6 of Part 4;*

¹⁹⁷**Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

¹⁹⁸ Date of insertion 23/12/2011

¹⁹⁹ Date of Change 02/05/2012

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²⁰¹Waterloo Mainline Services means the group of Passenger Services more particularly described in Service Groups HY03 (Waterloo – West of England); HY04 (Waterloo – Farnham / Alton); HY07 (Waterloo – Portsmouth) and HY08 (Waterloo – Weymouth) as set out in schedule 5 to the Track Access Agreement as at the date of the HLOS Deed of Amendment;”

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²⁰³²⁰⁴Windsor & Eton Base Capacity means the capacity (measured by number of vehicles) which the parties have agreed for the purpose of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) the Franchisee is to be regarded as being capable of planning to operate in the provision of the Windsor & Eton Services:-

(i) to arrive at Waterloo or Waterloo International in the Morning Peak (and in the High Peak) and

(ii) to depart from Waterloo or Waterloo International in the Evening Peaks

using the Train Fleet without the Phase 1 Rolling Stock and the Phase 2 Rolling Stock being:-

(a) subject to b) below, the capacity set out in the Tables in Annex 6 to Part 4 in the column headed “Windsor and Eton Base Capacity formation (based on the Train Fleet deployed in the Peak and High Peak in the Train Plan for the December 2008 Passenger Change Date); or

(b) such amended capacity as notified by the Franchisee in accordance with paragraph 6 of Part 4;”

Windsor and Eton Routes means those parts of the national rail network which are used by the Franchisee to provide the Windsor and Eton Services;

²⁰⁰ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁰¹ Date of insertion 23/12/2011

²⁰² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁰³ Date of insertion 23/12/2011

²⁰⁴ Date of Change 02/05/2012

²⁰⁵²⁰⁶ *Windsor & Eton Services means the group of Passenger Services serving Windsor and Eton more particularly described in Service Groups HY05(Windsor Inners) excluding those operating over the waterloo to Strawberry Hill via Kingston, in both directions) and HY06(Windsor Outers,) as set out in Schedule 5 to the Track Access Agreement as at the date of the HLOS Deed of Amendment;*

²⁰⁷ *"Windsor Outers" means the group of Passenger Services serving amongst other places Reading and Guildford (via Ascot) more particularly described in Service Group HY06 (Windsor Outers) as set out in Schedule 5 to the Track Access Agreement as at the date of the CP5 RS Deed of Amendment.*

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²¹⁰ *"WoE Strengthened Service" has the meaning ascribed to it in paragraph 22.6 of Part 1 to Appendix 11.*

²¹¹ *A new clause 5.2(c)(v) shall be added as follows:*

Paragraph 1 (Franchise Payments) of Schedule 8.1 (Franchise Payments) of the Terms shall be amended as follows:

- (i) *the components" + HLOSFPA + HLOSMP – HLOSCOPA" shall be added to the formula after the component "- NRR10/11";*
- (ii) *the following words shall be added after the factor explaining "NRR10/11";*
 - (A) *"HLOSFPA means the aggregate of all HLOS Franchise Payment Adjustments to be made on that Reporting Period's Payment Date. It is acknowledged that the HLOS Franchise Payment Adjustments potentially include both amounts payable to the Secretary of State by the Franchisee and amounts payable to the Franchisee by the Secretary of State. Accordingly there shall be a calculation to determine the net aggregate payment which may be a payment to the Secretary of State (and shall be input*

²⁰⁵ Date of insertion 23/12/2011

²⁰⁶ Date of Change 02/05/2012

²⁰⁷ Date of insertion 12/09/2014

²⁰⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁰⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²¹⁰ Date of insertion 24/03/2015

²¹¹ Date of amendment 23/12/2011

into the formula as a negative number) or to the Franchisee (and shall be input into the formula as a positive number.)

- (B) “HLOSMP means the aggregate of all HLOS Milestone Payment[s] to be made on that Reporting Period’s Payment Date;” and*
- (C) “HLOSCOPA means the HLOS Committed Obligation Payment Adjustment to be made on that Reporting Period’s Payment date;”*
- (iii) the punctuation of the list shall be corrected such that each paragraph ends with a semi-colon and the word “and” appears at the end of the penultimate paragraph after its semi-colon;*
- (iv) paragraph 1.3(a) shall be amended by deleting the words “and SCA” and replacing them with “HLOSFPA and SCA”.*

²¹²*A new clause 5.2(c)(vi) to the Franchise Agreement shall be added as follows:*

“Paragraph 13 of Schedule 19 of the Terms shall be amended to read as follows:

“The Franchise Agreement, and all non-contractual obligations arising from it or connected with it, shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement, except as expressly set out in the Franchise Agreement.”.”

²¹³*A new clause 5.2(c)(vii) to the Franchise Agreement shall be added as follows:*

(vii) Paragraph 1 (Franchise Payments) of Schedule 8.1 (Franchise Payments) of the Terms shall be amended as follows:

- (a) the component “+ FPA” shall be added to the formula after the component“- HLOSCOPA”;*
- (b) the following words shall be added after the factor explaining “HLOSCOPA”:*

FPA means the aggregate of all Franchise Payment Adjustments to be made on that Reporting Period’s Payment Date. It is acknowledged that the Franchise Payment Adjustment potentially includes both amounts payable to the Secretary of State by the Franchisee and amounts payable to the Franchisee by the Secretary of State. Accordingly, there shall be a calculation to determine the net aggregate payment which may be a payment to the Secretary of State (and shall be input into the formula as a negative number) or to the Franchisee (and shall be input into the formula as a positive number).

²¹² Date of amendment 23/12/2011

²¹³ Date of amendment 11/04/2013

- (c) *The punctuation of the list shall be corrected such that each paragraph ends with a semi-colon and the word “and” appears at the end of the penultimate paragraph after its semi-colon; and*
- (d) *Paragraph 1.3(a) shall be amended by deleting the words “and SCA” and replacing them with “FPA and SCA”.*

Clause 5.2(c) of the Franchise Agreement shall be amended by inserting, immediately following Clause 5.2(c)(vii), a new Clause 5.2(c)(viii) as follows:

²¹⁴*(viii) Schedule 8.1 (Franchise Payments) of the Terms shall be amended by:*

- (a) *deleting paragraph 5.3 and replacing it with the following:*

"5.3 Any Revenue Support Adjustment under this paragraph 5 in respect of a Reporting Period shall be paid in accordance with paragraph 6.1 and determined by reference to:

(a) the cumulative year-to-date Revenue (as modified in accordance with paragraph 5.5) up to the end of that Reporting Period, reported in the Management Accounts for that Reporting Period and prior Reporting Periods;

(b) the Target Revenue for the year-to-date; and

(c) the formula specified in paragraph 4.10(c), but with the following modifications:

(i) references to Target Revenue shall be substituted for references to Seasonally Adjusted Target Revenue; and

(ii) references to Revenue shall mean Revenue as modified pursuant to paragraph 5.5."

²¹⁵*A new Clause 5.2(c)(ix) of the Existing Franchise Agreement shall be added as follows*

Paragraph 1 (Franchise Payments) of Schedule 8.1 (Franchise Payments) of the Terms shall be amended as follows:

(a) *the components "+ CP5MP + CP5FPA - CP5COPA" shall be added to the formula after the component + FPA";*

(b) *the following words shall be added after the factor explaining "FPA":*

(i) *"CP5FPA means the aggregate of all CP5 RS Franchise Payment Adjustments to be made on that Reporting Period's Payment Date. It is acknowledged that the CP5 RS Franchise Payment Adjustments potentially include both amounts payable to the Secretary of State by the Franchisee and amounts payable to the Franchisee by the Secretary of State. Accordingly there shall be a calculation*

²¹⁴ Date of insertion 26/02/2014

²¹⁵ Date of insertion 12/09/2014

to determine the net aggregate payment which may be a payment to the Secretary of State (and shall be input into the formula as a negative number) or to the Franchisee (and shall be input into the formula as a positive number.);

- (ii) "CP5MP means the aggregate of all CP5 RS Milestone Payment(s) to be made on that Reporting Period's Payment Date;" and*
 - (iii) "CP5COPA means the CP5 RS Committed Obligation Payment Adjustment to be made on that Reporting Period's Payment Date;"*
- (c) the punctuation of the list shall be corrected such that each paragraph ends with a semi-colon and the word "and" appears at the end of the penultimate paragraph after its semi-colon; and*
- (d) paragraph 1.3(a) shall be amended by deleting the words "and SCA" and replacing them with "CP5FPA and SCA".*

²¹⁶ *A new Clause 5.2(c)(x) of the Existing Franchise Agreement shall be added as follows:*

Paragraph 1 (Franchise Payments) of Schedule 8.1 (Franchise Payments) of the Terms shall be amended as follows:

- (a) The components "+ FFMP – PFPA - TVMFPA + LPFPA + LTMFPA + RVASCFPA" shall be added to the formula after the component "- CP5COPA";*
- (b) The following words shall be added after the factor explaining "CP5COPA":*
 - (i) "'FFMP" means the aggregate of all Facilitation Fee Milestone Payment(s) to be made on that Reporting Period's Payment Date;*
 - (ii) "PFPA" means, in respect of the Reporting Period which includes ²¹⁷ the aggregate of all Parking Franchise Payment Adjustments to be made on that Reporting Period's Payment Date;*
 - (iii) "TMFPA" means, in respect of the Reporting Period which includes ²¹⁸ the New TVM Franchise Payment Adjustment to be made on that Reporting Period's Payment Date;*

²¹⁶ Date of insertion 24/03/2015

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²¹⁸ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

(iv) 219

(v) 220

(vi) 221

(c) *The punctuation of the list shall be corrected such that each paragraph ends with a semi-colon and the word "and" appears at the end of the penultimate paragraph after its semi-colon; and*

(d) *Paragraph 1.3(a) shall be amended by deleting the words "CP5FPA and SCA" and replacing them with "CP5FPA, FFMP, PFPA, TVMFPA, LPFPA, LTMFPA, RVASCFPA and SCA".*

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Schedule 1.1 (Service Development)

5.3 For the purpose of paragraph 3.1 of Schedule 1.1 (*Service Development*) of the Terms, Tables 1 and 2 are set out Appendix 3 (*The Train Fleet*).

Schedule 1.5 (Information about Passengers)

5.4 The technology to be used for the purpose of paragraph 1.2 of Schedule 1.5 (*Information about Passengers*) of the Terms on the 455, 458, 158 and 159 fleets²²³

²¹⁹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²⁰ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²¹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²² Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²³ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

Level of Expenditure

The cost of installation on the non-Desiro fleet is estimated to be £²²⁴, which is broken down as shown in the table below. Should the cost be less than this estimate, the Franchisee reserves the right to spend less than this amount.

| Rolling Stock | Units to be fitted | Vehicles to be fitted | Estimated Overall Price per vehicle ²²⁵ | Estimated Total Cost ²²⁶ |
|---------------|--------------------|-----------------------|--|-------------------------------------|
| 455 (4-car) | 23 | 92 | | |
| 159 (3-car) | 6 | 18 | | |
| 158 (3-car) | 1 | 3 | | |
| 158 (2-car) | 2 | 4 | | |
| 458 (4-car) | 8 | 32 | | |
| TOTAL | 40 | 149 | | |

Extent of Fitment and Timeframe for Completion

| Rolling Stock | Total Units | PLD System | Units to be fitted (or already fitted) | Percentage of Fleet | Timescale ²²⁷ |
|---------------|-------------|------------|--|---------------------|--------------------------|
| 455 (4-car) | 91 | Infrared | 23 | 25% | |
| 159 (3-car) | 22 | Infrared | 6 | 27% | |
| 158 (3-car) | 5 | Infrared | 1 | 20% | |
| 158 (2-car) | 9 | Infrared | 2 | 22% | |
| 458 (4-car) | 30 | Infrared | 8 | 27% | |
| 450 (4-car) | 127* | Infrared | 39 | 31% | |
| 444 (5-car) | 45 | Infrared | 12 | 27% | |

*Includes 17 new Class 450s

Interim Measures to Determine Passenger Load

²²⁴ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²⁵ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²⁶ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²²⁷ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

During the transition to automated counts, the Franchisee shall continue with the existing annual physical passenger counts in the Waterloo Station to Clapham Junction sections.

The Franchisee will carry out manual counts throughout the Franchise Term on the Isle of Wight and the Lymington branch line because the Franchisee does not consider it economic to fit infrared equipment to the ex-LUL/heritage fleet. Instead, ad hoc manual counts will be undertaken by operations staff on designated days across the year. Specific focus will be given to the summer months as both lines experience a high level of seasonality

Schedule 1.6 (*Franchise Services*)

5.5 The prescribed percentages for the purposes of paragraphs 5(d)(i) and (ii) of Schedule 1.6 (*Franchise Services*) of the Terms are, respectively:

- (a) 1.25 per cent.; and
- (b) 1 per cent.

5.6 The relevant Depots for the purpose of paragraph 5(e) of Schedule 1.6 of the Terms are as follows:

- (a) Basingstoke Barton Mill Depot;
- (b) Bournemouth Depot;
- (c) Clapham Depot
- (d) Farnham Depot;
- (e) Fratton Depot;
- (f) Salisbury Depot;
- (g) Strawberry Hill Depot;
- (h) Wimbledon Depot; and
- (i) prospectively, Poole Depot.

5.7 The relevant property for the purpose of paragraph 5(n) of Schedule 1.6 of the Terms is as follows:

- (a) accommodation at Friars Bridge Court, Blackfriars Road, London, SE1;
- (b) accommodation at Overline House, Southampton;
- (c) accommodation at White Rose Court, Oriental Road, Woking;
- (d) accommodation at Springpark House, Basingstoke; and
- (e) accommodation at Viewpoint, Basingstoke.

5.8 The prescribed 'Original Amounts' for the purposes of paragraph 5(q) of Schedule 1.6 of the Terms are:

- (a) £25,000 per annum per item; and
- (b) £250,000 per annum in aggregate.

Schedule 2.1 (*Asset Vesting and Transfer*)

5.9 The provisions of Part 1 of Schedule 2.1 (*Asset Vesting and Transfer*) of the Terms shall apply, for which purpose any new Property Leases shall be in the agreed terms attached to this Agreement marked **SL** and **DL** (as appropriate).

Schedule 2.3 (*Third Party Delivery of Passenger Services and Other Franchisees*)

5.10 The prescribed percentage for the purpose of paragraph 1.2(d) of Schedule 2.3 (*Third Party Delivery of Passenger Services and Other Franchisees*) of the Terms is five per cent.

Schedule 2.5 (*Transport, Travel and Other Schemes*)

5.11 The prescribed Integrated Transport Schemes for the purpose of paragraph 1.1 of Schedule 2.5 (*Transport, Travel and Other Schemes*) of the Terms are as follows:

None.

5.12 *The prescribed concessionary travel schemes for the purpose of paragraph 2.1(a) of Schedule 2.5 of the Terms are as follows:*

(a) *London Concessionary Fare Schemes*

(b) *Educational Season Ticket Schemes*

Surrey Educational Season Ticket Scheme
Hampshire Educational Season Ticket Scheme

(c) *Island Line Concessionary Fares Schemes*

Student Rider
*Islander Card*²²⁸

5.13 The prescribed multi-modal schemes for the purpose of paragraph 3.1(a) of Schedule 2.5 of the Terms are as follows:

None.

Schedule 3 (*Priced Options*)

5.14 The Priced Options and the terms upon which the Secretary of State may exercise each Priced Option for the purpose of Schedule 3 (*Priced Options*) of the Terms, are set out in Appendix 4 (*List of Priced Options*).

Schedule 5.7 (*Changes to Fares and Fares Regulation*)

5.14A Schedule 5.7 (*Changes to Fares and Fares Regulation*) of the Terms shall be amended by the insertion of the following heading and paragraph immediately after paragraph 8:

²²⁸ Insert change text wed 25/04/07

“9. **Fares between London Stations**

9.1 The Franchisee shall negotiate during each Fares Setting Round with each other Train Operator that is a Lead Operator in respect of services that call at or operate between any London Stations and agree the prices to be charged for Single Fares, Return Fares, Season Ticket Fares and Off-peak Return Fares for travel between each London Station and each other London Station.

9.2 With effect from 1 January 2007, unless otherwise agreed with the Secretary of State, Single Fares, Return Fares and Off-peak Return Fares shall be set so that the same price shall apply for any journey which involves travel within or across the same Zone or Zones. The Franchisee shall:

- (a) use all reasonable endeavours to agree with such other Lead Operators, any terms and conditions necessary for those Fares or for those journeys, including the time period to be designated “Off-peak”, so that the same terms, conditions and (in the case of Off-peak Return Fares) time restrictions shall apply to journeys between any two London Stations; and
- (b) for those purposes, exchange such information as may be reasonably necessary for or associated with reaching and reviewing such agreement.

9.3 With effect from 1 January 2010, unless otherwise agreed with the Secretary of State, Season Ticket Fares set in accordance with paragraph 9.1 shall be set so that the same price shall apply for any journey which involves travel within or across the same Zone or Zones. The Franchisee shall use all reasonable endeavours to agree with the other Lead Operators any terms and conditions necessary for those Fares or for those journeys so that the same terms and conditions shall apply to Season Ticket Fares between any two London Stations.

9.4 The Single Fares, Return Fares and Season Ticket Fares (but not Off-peak Return Fares) set in line with paragraphs 9.1 to 9.3 (inclusive) shall remain subject to the Fares regulation set out in this Schedule 5 (*Fares*). The Secretary of State shall, where reasonably necessary to enable the Franchisee to comply with its obligations under this paragraph 9, grant such waivers of the terms of Schedule 5.5 (*Regulation of Individual Fares*) as are reasonably necessary in respect of the Fare Year in which Season Ticket Fares are first set on a zonal basis in order to comply with the provisions of paragraph 9.3.

Schedule 7.1 (*Performance Benchmarks*)

5.15 The Cancellations Benchmarks for the purpose of paragraph 1.1 of Schedule 7.1 (*Performance Benchmarks*) of the Terms are set out in Appendix 5 (*Cancellations Benchmark Table*).

5.16 The Capacity Benchmarks for the purpose of paragraph 1.2 of Schedule 7.1 of the Terms are set out in Appendix 6 (*Capacity Benchmark Table*).

5.17 The Service Delivery Benchmarks for the purpose of paragraph 1.4 of Schedule 7.1 of the Terms are set out in Appendix 7 (*Service Delivery Benchmark Table*).

Schedule 8.1 (*Franchise Payments*)

5.18 The prescribed percentage for the purpose of paragraph 3.1 of Schedule 8.1 (*Franchise Payments*) of the Terms shall, in relation to a Franchisee Year, be the percentage specified for that Franchisee Year in column 2 of the table below:

| Column 1 | Column 2 |
|--|--------------------------------------|
| Franchisee Year | Prescribed percentage ²²⁹ |
| Year 1 | |
| Year 2 | |
| Year 3 | |
| Year 4 | |
| Year 5 | |
| Year 6 | |
| Year 7 | |
| Year 8 (if the Franchise is not extended in accordance with Schedule 18) | |
| Year 8 (if the Franchise is extended in accordance with Schedule 18) | |
| Up to 7 Reporting Period extension | |
| Year 9 | |
| Year 10 | |
| Year 11 | |
| Up to 7 Reporting Period extension | |

5.19 The prescribed percentages to be applied to the formula set out in paragraph 3.2(c) of Schedule 8.1 of the Terms are in relation to a Franchise Year:

- (a) for paragraph (a) of factor “A”, the percentage specified for that Franchise Year in column 2 of the table below;
- (b) for paragraph (b) of factor “A”, the percentage specified for that Franchise Year in column 3 of the table below;
- (c) for factor “X”, the percentage specified for that Franchise Year in column 4 of the table below;
- (d) for factor “B”, the percentage specified for that Franchise Year in column 5 of the table below; and

²²⁹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (e) for factor “Y”, the percentage specified for that Franchise Year in column 6 of the table below,²³⁰

Schedule 8.2 (Annual Franchise Payments)

5.20 The agreed figures for the purposes of the definitions of “FXD”, “VCRPI”, “VCAEI”, “PRPI” and “TRRPI” in the formula set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms are shown in the table set out in Appendix 8 (*Figures for Calculation of Annual Franchise Payments*).

5.21 The prescribed month and the prescribed date for the purposes of the definitions of “RPI” and “AEI” in the formula set out in Schedule 8.2 of the Terms are, respectively, January and January 2006.

Schedule 9.3 (Runs of the Financial Model)

5.22 The percentage agreed profit margin for the purpose of paragraphs 7.1(a) and (b)(i) of Schedule 9.3 (*Runs of the Financial Model*) of the Terms shall, in relation to a Franchisee Year, be the percentage specified for that Franchisee Year in column 2 of the table below:

| Column 1 | Column 2 |
|--|--|
| Franchisee Year | Percentage Agreed Profit Margin²³¹ |
| Year 1 | |
| Year 2 | |
| Year 3 | |
| Year 4 | |
| Year 5 | |
| Year 6 | |
| Year 7 | |
| Year 8 (if the Franchise is not extended in accordance with Schedule 18) | |
| Year 8 (if the Franchise is extended in accordance with Schedule 18) | |
| Up to 7 Reporting Period extension | |
| Year 9 | |
| Year 10 | |
| Year 11 | |

²³⁰ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³¹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

| Column 1 | Column 2 |
|------------------------------------|--|
| Franchisee Year | Percentage Agreed Profit Margin²³¹ |
| Up to 7 Reporting Period extension | |

Schedule 12 (*Financial Obligations and Covenants*)

5.23 The agreed amounts of any Performance Bond for the purposes of paragraphs 4.4(a), (b) and (c) of Schedule 12 (*Financial Obligations and Covenant*) of the Terms are, respectively:

- (a) £²³², being ²³³ per cent. of the aggregate forecast operating costs of the Franchisee for the period from the date of this Agreement to the first anniversary of the Start Date referred to in sub-paragraph (a), as forecast in the Initial Business Plan;
- (b) £²³⁴, being²³⁵ per cent. of the annual aggregate forecast operating costs of the Franchisee for the second year referred to in sub-paragraph (b), as forecast in the Initial Business Plan; and
- (c) as follows for the third and subsequent years referred to in sub-paragraph (c):
 - (i) £²³⁶, being²³⁷ per cent. of the annual aggregate forecast operating costs of the Franchisee for the third year referred to in sub-paragraph (c), as forecast in the Initial Business Plan;

²³² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³³ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³⁴ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³⁵ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³⁶ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³⁷ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (ii) £²³⁸, being ²³⁹ per cent. of the annual aggregate forecast operating costs of the Franchisee for the fourth year following the Start Date, as forecast in the latest practicably available Business Plan;
- (iii) £²⁴⁰, being ²⁴¹ per cent. of annual aggregate forecast operating costs of the Franchisee for the fifth year following the Start Date and ²⁴² per cent. of annual aggregate forecast operating costs of the Franchisee for each subsequent year referred to in sub-paragraph (c), as forecast in the latest practicably available Business Plan.

Schedule 14.3 (*Key Contracts*)

5.24 Key Contracts as at the date of this Agreement for the purpose of paragraph 1.2 of Schedule 14.3 (*Key Contracts*) of the Terms are set out in Appendix 9 (*List of Key Contracts*).

Schedule 14.4 (*Designation of Franchise Assets*)

5.25 The Primary Franchise Assets as at the date of this Agreement for the purpose of paragraph 2(a) of Schedule 14.4 (*Designation of Franchise Assets*) of the Terms are listed in Appendix 10 (*List of Primary Franchise Assets*).

Schedule 16 (*Pensions*)

5.26 The relevant sections of the Railways Pension Scheme for the purpose of paragraph 1 of Schedule 16 (*Pensions*) of the Terms are:

- (a) the Island Line Limited Shared Cost Section; and
- (b) the South West Trains Shared Cost Section.

Schedule 18 (*Franchise Continuation Criteria*)

5.27 The relevant date for the purpose of paragraph 1.2 of Schedule 18 (*Franchise Continuation Criteria*) of the Terms is the date prescribed in paragraph (b) of the definition of Expiry Date.

²³⁸ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²³⁹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁴⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁴¹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁴² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

Schedule 19 (*Other Provisions*)

5.28 *The details of the parties for the purpose of paragraph 5.1(a) of Schedule 19 (Other Provisions) of the Terms are as follows.*

Name: The Department for Transport

Address: 33 Horseferry Road, London SW1P 4DR²⁴³

Facsimile: 020 7944 2446

E-mail: franchise.notices@dft.gsi.gov.uk

Attention: Director, Rail Commercial Contracts²⁴⁴

Name: Stagecoach South Western Trains Limited

Address: Friars Bridge Court, 41-45 Blackfriars Road, London SE1 8NZ

Facsimile: 020 7620 5177

E-mail: tshoveller@swtrains.co.uk²⁴⁵

Attention: Managing Director

6.^{246 247} COMMITTED OBLIGATIONS

The Franchisee shall deliver the Committed Obligations, the HLOS Committed Obligations and the CP5 RS Committed Obligations that are set out in Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) in accordance with the terms thereof.

7. SUPPLEMENTAL TERMS

7.1 The provisions of Appendix 12 (*2012 Olympic Games and Paralympic Games*) shall apply.

²⁴³ Date of change 04/01/2012

²⁴⁴ Date of Change 30/08/2010

²⁴⁵ Date of Change 04/01/2012

²⁴⁶ Date of Change 23/12/2011

²⁴⁷ Date of change 12/09/2014

7.2²⁴⁸ *The provisions of Appendix 13 (South Western Specific Provisions) shall apply. References in this paragraph 7.2 to Revenue shall mean Revenue as modified pursuant to paragraph 5.5.*

7.3²⁴⁹ *The parties agree and acknowledge that the secondment of personnel by the Franchisee to the maintainer of the CP5 Rolling Stock in connection with the maintenance of the CP5 Rolling Stock forms part of the Franchise Services. The Franchisee shall ensure that at all times during the Franchise Period the number of persons engaged or employed in those secondment activities for the purposes of any or all CP5 Rolling Stock and/or other rolling stock vehicles shall not exceed the limits set out in paragraph 5 of Schedule 1.6 (Franchise Services).*

8. RECALIBRATION OF THE BENCHMARKS

The Benchmarks shall be recalibrated in accordance with the provisions of Appendix 14 (*Recalibration of the Benchmarks*).

9. DOCUMENTS IN THE AGREED TERMS

The parties hereby acknowledge that the list of documents in the agreed terms is set out in Appendix 15 (*List of Documents in the Agreed Terms*).

10. ENTIRE AGREEMENT

10.1 This Agreement, the Conditions Precedent Agreement, the Terms and the Side Letters contain the entire agreement between the parties in relation to the subject matter of this Agreement and supersede all prior agreements and arrangements between the parties other than any confidentiality agreements or undertakings which the Franchisee may have entered into with the Secretary of State in connection with his proposal to secure the provision of the Passenger Services under this Agreement. The rights and obligations owed by the Franchisee to the Secretary of State and by the Secretary of State to the Franchisee are as set out in this Agreement, the Conditions Precedent Agreement, the Terms and the Side Letters.

10.2 The Franchisee hereby acknowledges that it is not entering into this Agreement, the Conditions Precedent Agreement, the Terms and the Side Letters in reliance on any warranties, representations or undertakings however or to whomever made except in so far as such warranties, representations or undertakings are:

- (a) contained in this Agreement the Conditions Precedent Agreement, the Terms and the Side Letters; or
- (b) embodied in any warranties, representations or undertakings contained in the long form reports provided by the Reporting Accountants in respect of South West Trains Limited and Island Lines Limited, dated 15 March 2006.

10.3 The Franchisee hereby acknowledges and agrees with the Secretary of State (for himself and as trustee for each of the other persons referred to therein) to the disclaimer of liability which is contained in the section entitled "Important Notice" contained in any document supplied by or on behalf of the Secretary of State in connection with this Agreement,

²⁴⁸ Date of change 26/02/2014

²⁴⁹ Date of insertion 12/09/2014

the process leading to the entering into of this Agreement, or the Franchise Services (including any “Invitation to Tender” issued in connection therewith).

10.4 The Franchisee irrevocably and unconditionally waives any right which it may otherwise have to claim damages in respect of and/or to rescind this Agreement, the Conditions Precedent Agreement and the Terms on the basis of any warranty, representation (whether negligent or otherwise, and whether made prior to and/or in this Agreement, the Conditions Precedent Agreement and the Terms) or undertaking howsoever or to whomsoever made unless and to the extent that such warranty, representation or undertaking was made fraudulently.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first before written.

THE CORPORATE SEAL
OF THE **SECRETARY OF
STATE FOR TRANSPORT**
IS HEREUNTO AFFIXED:



.....
Authenticated by authority of the
Secretary of State for Transport

SIGNED FOR AND ON
BEHALF OF **STAGECOACH
SOUTH WESTERN TRAINS
LIMITED**

DIRECTOR:



.....

DIRECTOR/SECRETARY:

.....

APPENDIX 1

Secretary of State Risk Assumptions (*Clause 5.1(y)*)²⁵⁰

²⁵⁰ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

APPENDIX 2²⁵¹

Target Revenue (expressed in real terms) (*Clause 5.1(ae)*)

²⁵¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

APPENDIX 3

The Train Fleet (*Clause 5.3*)

1. THE COMPOSITION OF THE TRAIN FLEET

The Train Fleet consists of:

- (a) the rolling stock vehicles specified in Table 1, with the capacity characteristics referred to there, until the lease expiry dates referred to there;
- (b) following any such lease expiry, substitute rolling stock vehicles having:
 - (i) at least the capacity specified in respect of the original rolling stock vehicles being substituted; and
 - (ii) reliability, capability and quality that is at least equal to the reliability, capability and quality of the original rolling stock vehicles being substituted; and
- (c) from the dates specified in Table 2, the additional rolling stock vehicles referred to against those dates, having:
 - (i) in the case of any additional rolling stock vehicles of the same class as any original rolling stock vehicles:
 - (A) at least the capacity specified in respect of such original rolling stock vehicles; and
 - (B) reliability, capability and quality that is at least equal to the reliability, capability and quality of such original rolling stock vehicles; and
 - (ii) in the case of any other additional rolling stock vehicles:
 - (A) at least the capacity specified in respect of any original rolling stock vehicles that are, in the reasonable opinion of the Secretary of State, most similar to such additional rolling stock vehicles; and
 - (B) reliability, capability and quality that is, in the reasonable opinion of the Secretary of State, at least equal to the reliability, capability and quality of any original rolling stock vehicles that are, in the reasonable opinion of the Secretary of State, most similar to such additional rolling stock vehicles.

Table 1²⁵² (existing vehicles)

| Column 1 | Column 2 | Column 3 | | | | Column 4 | Column 5 |
|-------------------|---|-------------------|----------|-------|-----------------|-----------------|---|
| Class of vehicle | Number of vehicles and unit configuration | Capacity of units | | | | Owner / Lessor | Lease expiry date(s) |
| | | Seats | Standing | Total | Standard Class | | |
| 159 | 66 (3 car) | 194 | 90 | 284 | 170 + 2 tip-up | Porterbrook | 31 December 2008 (to Table 2) |
| 444 | 225 (5 car) | 334 | 186 | 520 | 299 | Angel | Expiry Date |
| 450 | 508 (4 car) | 270 | 196* | 466 | 233 + 13 tip-up | Angel | Expiry Date (396 vehicles) 30 September 2008 (112 vehicles, to Table 2) |
| 455 Unrefurbished | 120 (4 car) | 316 | 240* | 556 | 316 | Porterbrook | 30 September 2008 (to Table 2) |
| 455 Refurbished | 244 (4 car)** | 236 | 380* | 616 | 236 | Porterbrook | 28 February 2016 (to Table 2)*** |
| 458 | 120 (4 car) | 284 | 231* | 515 | 250 + 11 tip-up | Porterbrook | From 2 April 2013 ²⁵³ |
| 483 | 12 (2 car) | 84 | n/a | 84 | 84 | Franchise Asset | Expiry Date |
| 73 | 1 (locomotive) | n/a | n/a | n/a | n/a | Franchise Asset | Expiry Date |

*254

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²⁵² Date of Change 23/12/2011

²⁵³ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

²⁵⁴ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁵⁵ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.²⁵⁶

Table 2²⁵⁷²⁵⁸ (additional vehicles)

| Column 1 | Column 2 | Column 3 | Column 4 | | | | Column 5 | Column 6 |
|---|---|---|-------------------|----------|-------|-----------------|----------------|--|
| Lease start date(s) | Class of vehicle | Number of vehicles and unit configuration | Capacity of units | | | | Owner / Lessor | Lease expiry date(s) |
| | | | Seats | Standing | Total | Standard Class | | |
| Start Date | 158 | 18 (2 car) | 127 | 104 | 231 | 114 | Porterbrook | Expiry Date |
| Start Date | 158 | 15 (3 car) | 194 | 90 | 284 | 170 + 2 tip-up | Porterbrook | 31 December 2008 (see below) |
| 31 December 2008 | 159 High Capacity Converted from Class 159 units set out in Table 1 | 66 (3 car) | 204 | 80 | 284 | 180 | Porterbrook | Expiry Date |
| 31 December 2008(15 vehicles) December 2010 (6 vehicles) | 158 High Capacity Converted from Class 158 units set out above | 21 (3 car) | 204 | 80 | 284 | 180 | Porterbrook | Expiry Date |
| 30 September 2008 | 450 High Capacity Converted from Class 450 units set out in Table 1 | 112 (4 car) | 253 | 258 | 511 | 253 | Angel | Expiry Date (72 vehicles) March 2014-July 2014, see below)** |
| March 2014-July 2014 following acceptance of all Class 458/5s | 450/5 with First Class reinstated from Class 450 HC set out above | 112 (4 car) | 251 | 217* | 468 | 214 + 13 tip-up | Angel | Expiry Date |
| From 2 April 2013 to 21 May 2014 following | 458/5 | 180 (5 car) | 270 | 237** | 507 | 270 | Porterbrook | Expiry Date |

²⁵⁷ Date of Change 23/12/2011

²⁵⁸ Date of Change 02/05/2012

| Column 1 | Column 2 | Column 3 | Column 4 | | | | Column 5 | Column 6 |
|-------------------------------|---|---|-------------------|----------|-------|----------------|------------------|--------------------------------|
| Lease start date(s) | Class of vehicle | Number of vehicles and unit configuration | Capacity of units | | | | Owner / Lessor | Lease expiry date(s) |
| | | | Seats | Standing | Total | Standard Class | | |
| acceptance as a 458/5 | | | | | | | | |
| 30 September 2008 | 455 Refurbished Converted from Class 455 unrefurbished set out Table 1 | 120 (4 car) | 236 | 380* | 616 | 236 | Porterbrook | 28 February 2016*** |
| 28 February 2016*** | 455 High Capacity Converted from Class 455 Refurbished units set out in Table 1 and above | 364 (4 car) | 214 | 426* | 640 | 214 | Porterbrook | Expiry Date |
| 1st Jan 2014 | 456 unrefurbished | 48 (2 car) # | 150 | 60 | 210** | 150 | Porterbrook | Until date of modification # # |
| From date of modification # # | 456 refurbished | 48 (2 car) # | 118 | 92 | 210** | 118 | Porterbrook | Expiry date |
| [****] | 707 | 150 (5car) | 275 | 533***** | 804 | 275 | Angel Trains Ltd | Expiry Date of the Lease |

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²⁵⁹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁶⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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**** The leases come into effect upon Acceptance of the new units.

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²⁶¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁶² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

APPENDIX 4

List of Priced Options (*Clause 5.14*)

Part 1

1. WATERLOO INTERNATIONAL

Description, objective and specification

1.1 This Priced Option relates to:

- (a) the use of the platforms at Waterloo International after the transfer of Eurostar operations to St Pancras in 2007. It is assumed that small-scale infrastructure solutions would be put in place as soon as practical at no cost to the Franchisee; and
- (b) provided that the Franchisee has been granted such access or equivalent rights as are reasonably required in order to enable the Franchisee to efficiently operate the Passenger Services described below without a material adverse effect on the Franchisee's operational performance, the inclusion in the Service Level Commitment of the use of Waterloo International platforms 20-24 (inclusive) by up to four 8-car trains per hour comprising the services specified in SLC2 to be provided at half-hourly intervals between London Waterloo station and Reading (Route 4) and at half-hourly intervals between London Waterloo station and Weybridge (Route 5) or other suitable services as may be agreed by the Secretary of State and the Franchisee.

Price for exercising this Priced Option (in £ base date)

1.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to:

- (a) adjustment in accordance with Schedule 9 (*Changes*) to the Terms to reflect any Change that occurs prior to its exercise; and
- (b) paragraph 1.3,

shall be the price set out in Tables 1A and 1B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

1.3 The price of this Priced Option shall be indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms.

Timescale for implementing this Priced Option from the date it is called

1.4 This Priced Option can be implemented 15 months after it is called. The earliest date at which the Priced Option can be implemented is the December 2009 timetable change date.

APPENDIX 4

List of Priced Options (*Clause 5.14*)

Part 1

1. WATERLOO INTERNATIONAL

Description, objective and specification

1.1 This Priced Option relates to:

- (a) the use of the platforms at Waterloo International after the transfer of Eurostar operations to St Pancras in 2007. It is assumed that small-scale infrastructure solutions would be put in place as soon as practical at no cost to the Franchisee; and
- (b) provided that the Franchisee has been granted such access or equivalent rights as are reasonably required in order to enable the Franchisee to efficiently operate the Passenger Services described below without a material adverse effect on the Franchisee's operational performance, the inclusion in the Service Level Commitment of the use of Waterloo International platforms 20-24 (inclusive) by up to four 8-car trains per hour comprising the services specified in SLC2 to be provided at half-hourly intervals between London Waterloo station and Reading (Route 4) and at half-hourly intervals between London Waterloo station and Weybridge (Route 5) or other suitable services as may be agreed by the Secretary of State and the Franchisee.

Price for exercising this Priced Option (in £ base date)

1.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to:

- (a) adjustment in accordance with Schedule 9 (*Changes*) to the Terms to reflect any Change that occurs prior to its exercise; and
- (b) paragraph 1.3,

shall be the price set out in Tables 1A and 1B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

1.3 The price of this Priced Option shall be indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms.

Timescale for implementing this Priced Option from the date it is called

1.4 This Priced Option can be implemented 15 months after it is called. The earliest date at which the Priced Option can be implemented is the December 2009 timetable change date.

Other effects on the Franchise Agreement

1.5 The only effects on the Franchise Agreement will be:

- (a) provided that the Franchisee has been granted such access or equivalent rights as are reasonably required in order to enable the Franchisee to efficiently operate the Passenger Services described below without a material adverse effect on the Franchisee's operational performance, the addition of a requirement in the Service Level Commitment for Waterloo International platforms 20-24 (inclusive) to be used

by up to four 8-car trains per hour comprising the services specified in SLC2 to be provided at half-hourly intervals between London Waterloo station and Reading (Route 4) and at half-hourly intervals between London Waterloo station and Weybridge (Route 5) or other suitable services as may be agreed by the Secretary of State and the Franchisee;

- (b) the need to make such other consequential amendments to the rights and obligations of the parties, including to the Service Level Commitment and Train Plan, as are reasonably necessary to give effect to the implementation of this Priced Option;
- (c) the addition of the following Secretary of State Risk Assumptions to Appendix 1 (*Secretary of State Risk Assumptions*).²⁶³

Latest date for calling this Priced Option to maintain the price in paragraph 1.2

1.6 The latest date on which the Secretary of State may call this Priced Option in order to maintain the price quoted at paragraph 1.2 is 1 September 2008.

2. WEST OF ENGLAND SERVICES

Description, objective and specification

2.1 This Priced Option:

- (a) relates to the inclusion within the Service Level Commitment of:
 - (i) on Mondays to Saturdays from the December 2009 Passenger Change Date, an enhanced service between London Waterloo station and Exeter such that there is an hourly service between (and including) the 0710 and 2020 departures from London Waterloo station and between (and including) the 0823 and 1930 departures from Exeter St Davids, for which the proposed timetable is shown in Appendix A of the Record of Assumptions;
 - (ii) on Sundays from the December 2009 Passenger Change Date, an enhanced service between London Waterloo station and Exeter such that there is an hourly service between (and including) the 0815 and 2115 departures from London Waterloo station and between (and including) the 0920 and 1930 departures from Exeter St Davids, for which the proposed timetable is shown in Appendix A of the Record of Assumptions;
 - (iii) consequential changes with effect from the December 2009 Passenger Change Date such that the additional services between either Honiton or Axminster and Exeter St Davids referred to in paragraphs 2.5, 2.22, 3.4 and 3.18 of Route C of SLC2 (which are replaced by the enhanced services) are no longer specified;
 - (iv) consequential changes with effect from the December 2009 Passenger Change Date such that the additional services from Exeter St Davids to Axminster

²⁶³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

referred to in paragraphs 2.23 and 3.19 of Route C of SLC2 are no longer specified between Honiton and Axminster;

- (v) on Mondays to Saturdays from the December 2007 Passenger Change Date, two return direct services per day between London Waterloo station and Bristol Temple Meads via Salisbury, and one return service per day between Salisbury and Bristol Temple Meads;
 - (vi) on Sundays from the December 2007 Passenger Change Date, two services per day from London Waterloo station to Bristol Temple Meads, one service per day from Bristol Temple Meads to London Waterloo station and one service per day from Bristol Temple Meads to Salisbury;
 - (vii) on Mondays to Fridays from the December 2007 Passenger Change Date until the December 2009 Passenger Change Date, four return services per day between Exeter St Davids and either Paignton or Plymouth; and
 - (viii) on Saturdays and Sundays from the December 2007 Passenger Change Date until the December 2009 Passenger Change Date, six return services per day between Exeter St Davids and either Paignton or Plymouth; and
- (b) assumes that the additional infrastructure associated with the enhanced services between London Waterloo station and Exeter will be funded by a third party.

Price for exercising this Priced Option (in £ base date)

2.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to:

- (a) adjustment in accordance with Schedule 9 (*Changes*) to the Terms to reflect any Change that occurs prior to its exercise; and
- (b) paragraph 2.3,

shall be the price set out in Tables 2A and 2B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

2.3 The price of this Priced Option shall be indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms.

Timescale for implementing this Priced Option from the date it is called

2.4 This option can be implemented at the Passenger Change Date which occurs on or after the first anniversary after the option is called. The earliest date at which the option can be implemented is:

- (i) the December 2007 Passenger Change Date in respect of the Bristol, Paignton and Plymouth services; and
- (ii) the December 2009 Passenger Change Date in respect of the enhanced hourly London Waterloo-Exeter services.

Other effects on the Franchise Agreement

2.5 The only effects on the Franchise Agreement will be:

- (a) the need to make such consequential amendments to the rights and obligations of the parties, including to the Service Level Commitment, Train Plan and Committed Obligations, as are reasonably necessary to give effect to the implementation of this Priced Option;
- (b) the addition of the following Secretary of State Risk Assumptions to Appendix 1 (*Secretary of State Risk Assumptions*):²⁶⁴
- (c) the inclusion of the following in Appendix 11 (List of Committed Obligations and Related Provisions) .²⁶⁵

2.6 ²⁶⁶

Latest date for calling this Priced Option to maintain the price in paragraph 2.2

2.7 The latest date on which the Secretary of State may call this Priced Option in order to maintain the Price quoted at paragraph 2.2 is 1 December 2006. If, subject to the other terms of this Agreement, the Secretary of State calls this Priced Option on a later date, the date specified in paragraph 2.5(c)(i) shall be extended pro rata.

Exeter-Axminster local services

2.8 If at the time the Secretary of State calls this Priced Option in accordance with its terms or at such later date (being no later than 1 December 2008), the Secretary of State notifies the Franchisee that he requires this Priced Option to be modified to include the provision of an hourly service between Exeter and Axminster from the December 2009 Passenger Change Date (or any subsequent Passenger Change Date), the Franchisee shall modify this Priced Option accordingly provided that:

- (a) the provisions of paragraphs 2.5(a) and 2.5(b) shall apply to such services between Exeter and Axminster; and
- (b) the Franchisee and the Secretary of State agree, within 20 Weekdays of the date of notification by the Secretary of State referred to in paragraph 2.8, the revisions required to the price quoted at paragraph 2.2, in order to include such services between Exeter and Axminster and the date by which such services shall be implemented by the Franchisee (in which event the terms of this Priced Option shall be deemed to be modified accordingly).

²⁶⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁶⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁶⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

3. NOT USED

4. ISLAND LINE

Description, objective and specification

4.1 This Priced Option relates to the separation of the Island Line (being the services on the Isle of Wight) from the South Western Franchise. It is assumed that the Island Line (being the services on the Isle of Wight) would then be subject to separate negotiations and would be operated by a third party.

Price for exercising this Priced Option (in £ base date)

4.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to:

- (a) adjustment in accordance with Schedule 9 (*Changes*) to the Terms to reflect any Change that occurs prior to its exercise; and
- (b) paragraph 4.3,

shall be the price set out in Tables 4A and 4B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

4.3 The price of this Priced Option shall be indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms.

Timescale for implementing this Priced Option from the date it is called

4.4 This Priced Option can be implemented 1 year after it is called. Subject to the Priced Option being called by 1 April 2008, the earliest date at which the option can be implemented is 1 April 2009.

Other effects on the Franchise Agreement

4.5 The only effects on the Franchise Agreement will be:

- (a) the need to make such consequential amendments to the rights and obligations of the parties, including to the Service Level Commitment, Train Plan and Committed Obligations which relate to the Island Line, as are reasonably necessary to give effect to the implementation of this Priced Option; and
- (b) ²⁶⁷

Latest date for calling this Priced Option to maintain the price in paragraph 4.2

4.6 Subject to paragraph 4.7, the latest date on which the Secretary of State may call this Priced Option in order to maintain the Price quoted at paragraph 4.2 is 1 April 2008.

²⁶⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

4.7 If this Priced Option has not been called by 1 April 2008, the Secretary of State may call this Priced Option by 1 April 2009 in which event:

- (a) the option shall be implemented on 1 April 2010;
- (b) the price for this Priced Option shall be as specified in paragraph 4.2 above except that there shall be no increment to Target Revenue or the Annual Franchise Payments in either Year 3 or Year 4 of Tables 4A and 4B in Part 2 to this Appendix 4 as a result of the exercise of this Priced Option; and
- (c) the Secretary of State shall pay to the Franchisee an additional Franchise Payment of £²⁶⁸ (indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms) in Year 4.

5. GSM-Rⁱ

Description, objective and specification

5.1 This option relates to the procurement and installation of GSM-R radio units to the South Western rolling stock fleet and the training of drivers employed by the Franchisee in the use of that equipment where the introduction of GSM-R is a Network Change under the Network Code. The Franchisee has priced this option based on an installation start date of 1 July 2008, being the Franchisee's estimate of the earliest date at which installation could commence. Installation would be completed by²⁶⁹.

Price for exercising this Priced Option (in £ base date)

5.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to:

- (a) adjustment in accordance with Schedule 9 (*Changes*) to the Terms to reflect any Change that occurs prior to its exercise; and
- (b) paragraph 5.3,

shall be the price set out in Tables 5A and 5B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

5.3 The price of this Priced Option shall be indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms.

Timescale for implementing this Priced Option from the date it is called

5.4 This option can be activated 3 months after it is called with delivery of the installation of GSM-R to the South Western rolling stock fleet being 33 months after this. The earliest date at which the option can be implemented is 31 December 2010.

²⁶⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁶⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

Other effects on the Franchise Agreement

5.5 The only effects on the Franchise Agreement will be:

- (a) the need to make such consequential amendments to the rights and obligations of the parties as are reasonably necessary to give effect to the implementation of this Priced Option;
- (b) the inclusion of the following in Appendix 11 (*List of Committed Obligations and Related Provisions*):
 - (i) a new Committed Obligation in Part 1 to Appendix 11 which reads “Without prejudice to its rights and obligations in relation to a Network Change under the Network Code, the Franchisee shall procure and install GSM-R radio equipment to the driving cabs of the Train Fleet and provide training to its train drivers in the use of that equipment, to the extent that such procurement, installation and training is reasonably practicable and consistent with the Franchisee's other obligations under this Franchise Agreement and/or any condition under its Licence;
 - (ii) the addition of a new entry in the Table in Part 3 to Appendix 11 which reads:

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------------------------|---------------------|----------|--|----------------------------------|
| Reference in Part 1 (paragraph) | Summary Description | Deadline | Committed Obligation Payment Adjustment (£ per Reporting Period) | Does paragraph 2.3 or 2.4 apply? |
| [] | GSM-R introduction | 270 | 271 | No |

- (c) the addition of the Secretary of State Risk Assumption to Appendix 1 (*Secretary of State Risk Assumptions*):²⁷²

Latest date for calling this Priced Option to maintain the price in paragraph 5.2

5.6 The latest date on which the Secretary of State may call this Priced Option in order to maintain the Price quoted at paragraph 5.2 is 1 April 2008.

²⁷⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁷¹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁷² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

6. SECURE STATION ACCREDITATION

Description, objective and specification

6.1 This option relates to the achievement of secure station accreditation ('SSA') in respect of 95% of station footfall within the Franchise area by 31 March 2013, and to ensuring that the sites meet those identified by BTP as high risk locations. The SSA benchmarks on which this Priced Option is based are those in place as at 1 June 2006.

Price for exercising this Priced Option (in £ base date)

6.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to:

- (a) adjustment in accordance with Schedule 9 (*Changes*) to the Terms to reflect any Change that occurs prior to its exercise; and
- (b) paragraph 6.3,

shall be the price set out in Tables 6A and 6B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

6.3 The price of this Priced Option shall be indexed in accordance with the principles set out in Schedule 8.2 (*Annual Franchise Payments*) of the Terms.

Timescale for implementing this Priced Option from the date it is called

6.4 This option can be activated on the day after it is called. The timescale for implementation will depend on a number of factors, but the Franchisee estimates that full implementation could be achieved by²⁷³.

Other effects on the Franchise Agreement

6.5 The only effects on the Franchise Agreement will be:

- (a) the need to make such consequential amendments to the rights and obligations of the parties as are reasonably necessary to give effect to the implementation of this Priced Option; and
- (b) the inclusion of the following in Appendix 11 (List of Committed Obligations and Related Provisions):
 - (i) a new Committed Obligation in Part 1 to Appendix 11 which reads "The Franchisee shall achieve 'Secure Station Status' for those Stations with 95% of the Franchise footfall by²⁷⁴";

²⁷³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁷⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

(ii) the addition of a new entry in the Table in Part 3 to Appendix 11 which reads:

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|--|--------------------------------|-----------------|---|---|
| Reference in Part 1 (paragraph) | Summary Description | Deadline | Committed Obligation Payment Adjustment (£ per Reporting Period) | Does paragraph 2.3 or 2.4 apply? |
| [] | ‘Secure Station Scheme’ Status | 275 | 276 | 2.3 |

Latest date for calling this Priced Option to maintain the price in paragraph 6.2

6.6 The latest date on which the Secretary of State may call this Priced Option in order to maintain the Price quoted at paragraph 6.2 is 4 February 2007.

7. FINANCIAL MODEL

7.1 For the avoidance of doubt, following the exercise of any of the above Priced Options by the Secretary of State, the corresponding option shall be switched on in the Financial Model so that the outputs of the Financial Model incorporate the agreed cost and revenue amounts for that Priced Option.

²⁷⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁷⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

Part 2

1. WATERLOO INTERNATIONAL

Table 1A: Target Revenue (expressed in real terms) (Clause 5.1(ae))

This table sets out the increment to the Target Revenue set out in Appendix 2 (*Target Revenue (expressed in real terms)*) to this Agreement where this Priced Option is to be implemented by the December 2009 Passenger Change Date:

| Column 1 | Column 2 |
|---|--|
| Franchisee Year | Target Revenue (£k)²⁷⁷ |
| <i>Year 1²⁷⁸</i> | |
| <i>Year 2</i> | |
| <i>Year 3</i> | |
| <i>Year 4</i> | |
| <i>Year 5</i> | |
| <i>Year 6</i> | |
| <i>Year 7</i> | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | |
| <i>Up to 7 Reporting Period extension</i> | |
| <i>Year 9</i> | |
| <i>Year 10</i> | |
| <i>Year 11²⁷⁹</i> | |

²⁷⁷ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁷⁸ Year 1 will run from 4 February 2007 to 31 March 2007.

²⁷⁹ Year 11 will run from 1 April 2016 to 4 February 2017.

| | |
|---|--|
| <i>Up to 7 Reporting Period extension</i> | |
|---|--|

Table 1B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)²⁸⁰

This table sets out the increment to the figures for calculation of the Annual Franchise Payments set out in Appendix 8 (*Figures for Calculation of Annual Franchise Payments*) to this Agreement where this Priced Option is to be implemented by the December 2009 Passenger Change Date:

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|----------|------------|------------|-----------|------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Year 1²⁸¹</i> | | | | | |
| <i>Year 2</i> | | | | | |
| <i>Year 3</i> | | | | | |
| <i>Year 4</i> | | | | | |
| <i>Year 5</i> | | | | | |
| <i>Year 6</i> | | | | | |
| <i>Year 7</i> | | | | | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | | | | | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |
| <i>Year 9</i> | | | | | |
| <i>Year 10</i> | | | | | |
| <i>Year 11²⁸²</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |

²⁸⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁸¹ Year 1 will run from 4 February 2007 to 31 March 2007.

²⁸² Year 11 will run from 1 April 2016 to 4 February 2017.

2. WEST OF ENGLAND ADDITIONAL SERVICES PACKAGE

Table 2A: Target Revenue (expressed in real terms) (Clause 5.1(ae))

This table sets out the increment to the Target Revenue set out in Appendix 2 (*Target Revenue (expressed in real terms)*) to this Agreement where this Priced Option is to be implemented by the December 2007 Passenger Change Date (in respect of the Bristol, Paignton and Plymouth services) and December 2009 Passenger Change Date (in respect of the enhanced hourly London Waterloo-Exeter services):

| Column 1 | Column 2 |
|---|--|
| Franchisee Year | Target Revenue (£k)²⁸³ |
| <i>Year 1²⁸⁴</i> | |
| <i>Year 2</i> | |
| <i>Year 3</i> | |
| <i>Year 4</i> | |
| <i>Year 5</i> | |
| <i>Year 6</i> | |
| <i>Year 7</i> | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | |
| <i>Up to 7 Reporting Period extension</i> | |
| <i>Year 9</i> | |
| <i>Year 10</i> | |
| <i>Year 11²⁸⁵</i> | |
| <i>Up to 7 Reporting Period extension</i> | |

²⁸³ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁸⁴ Year 1 will run from 4 February 2007 to 31 March 2007.

²⁸⁵ Year 11 will run from 1 April 2016 to 4 February 2017.

Table 2B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)²⁸⁶

This table sets out the increment to the figures for calculation of the Annual Franchise Payments set out in Appendix 8 (*Figures for Calculation of Annual Franchise Payments*) to this Agreement where this Priced Option is to be implemented by the December 2007 Passenger Change Date (in respect of the Bristol, Paignton and Plymouth services) and December 2009 Passenger Change Date (in respect of the enhanced hourly London Waterloo-Exeter services):

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|-----------------|-------------------|-------------------|------------------|-------------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Year 1²⁸⁷</i> | | | | | |
| <i>Year 2</i> | | | | | |
| <i>Year 3</i> | | | | | |
| <i>Year 4</i> | | | | | |
| <i>Year 5</i> | | | | | |
| <i>Year 6</i> | | | | | |
| <i>Year 7</i> | | | | | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | | | | | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |
| <i>Year 9</i> | | | | | |
| <i>Year 10</i> | | | | | |
| <i>Year 11²⁸⁸</i> | | | | | |

²⁸⁶ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁸⁷ Year 1 will run from 4 February 2007 to 31 March 2007.

²⁸⁸ Year 11 will run from 1 April 2016 to 4 February 2017.

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|-----------------|-------------------|-------------------|------------------|-------------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Up to 7 Reporting Period extension</i> | | | | | |

3. NOT USED

4. ISLAND LINE

5. GSM-R

Table 5A: Target Revenue (expressed in real terms) (Clause 5.1(ae))

This table sets out the increment to the Target Revenue set out in Appendix 2 (*Target Revenue (expressed in real terms)*) to this Agreement where this Priced Option is to be implemented by 31 December 2010:

| Column 1 | Column 2 |
|---|--|
| Franchisee Year | Target Revenue (£k)²⁹¹ |
| <i>Year 1²⁹²</i> | |
| <i>Year 2</i> | |
| <i>Year 3</i> | |
| <i>Year 4</i> | |
| <i>Year 5</i> | |
| <i>Year 6</i> | |
| <i>Year 7</i> | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | |
| <i>Up to 7 Reporting Period extension</i> | |
| <i>Year 9</i> | |
| <i>Year 10</i> | |
| <i>Year 11²⁹³</i> | |

²⁹¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

²⁹² Year 1 will run from 4 February 2007 to 31 March 2007.

²⁹³ Year 11 will run from 1 April 2016 to 4 February 2017.

| | |
|---|--|
| <i>Up to 7 Reporting Period extension</i> | |
|---|--|

Table 5B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)²⁹⁴

This table sets out the increment to the figures for calculation of the Annual Franchise Payments set out in Appendix 8 (*Figures for Calculation of Annual Franchise Payments*) to this Agreement where this Priced Option is to be implemented by the 31 December 2010:

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|----------|------------|------------|-----------|------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Year 1²⁹⁵</i> | | | | | |
| <i>Year 2</i> | | | | | |
| <i>Year 3</i> | | | | | |
| <i>Year 4</i> | | | | | |
| <i>Year 5</i> | | | | | |
| <i>Year 6</i> | | | | | |
| <i>Year 7</i> | | | | | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | | | | | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |
| <i>Year 9</i> | | | | | |
| <i>Year 10</i> | | | | | |
| <i>Year 11²⁹⁶</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |

²⁹⁴ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁹⁵ Year 1 will run from 4 February 2007 to 31 March 2007.

²⁹⁶ Year 11 will run from 1 April 2016 to 4 February 2017.

6. SECURE STATION ACCREDITATION

Table 6A: Target Revenue (expressed in real terms) (Clause 5.1(ae))

This table sets out the increment to the Target Revenue set out in Appendix 2 (*Target Revenue (expressed in real terms)*) to this Agreement where this Priced Option is to be implemented by 31 March 2013:

| Column 1 | Column 2 |
|---|--|
| Franchisee Year | Target Revenue (£k)²⁹⁷ |
| <i>Year 1²⁹⁸</i> | |
| <i>Year 2</i> | |
| <i>Year 3</i> | |
| <i>Year 4</i> | |
| <i>Year 5</i> | |
| <i>Year 6</i> | |
| <i>Year 7</i> | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | |
| <i>Up to 7 Reporting Period extension</i> | |
| <i>Year 9</i> | |
| <i>Year 10</i> | |
| <i>Year 11²⁹⁹</i> | |

²⁹⁷ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

²⁹⁸ Year 1 will run from 4 February 2007 to 31 March 2007.

²⁹⁹ Year 11 will run from 1 April 2016 to 4 February 2017.

| | |
|---|--|
| <i>Up to 7 Reporting Period extension</i> | |
|---|--|

Table 6B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)³⁰⁰

This table sets out the increment to the figures for calculation of the Annual Franchise Payments set out in Appendix 8 (*Figures for Calculation of Annual Franchise Payments*) to this Agreement where this Priced Option is to be implemented by 31 March 2013:

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|----------|------------|------------|-----------|------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Year 1³⁰¹</i> | | | | | |
| <i>Year 2</i> | | | | | |
| <i>Year 3</i> | | | | | |
| <i>Year 4</i> | | | | | |
| <i>Year 5</i> | | | | | |
| <i>Year 6</i> | | | | | |
| <i>Year 7</i> | | | | | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | | | | | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |
| <i>Year 9</i> | | | | | |
| <i>Year 10</i> | | | | | |
| <i>Year 11³⁰²</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |

³⁰⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁰¹ Year 1 will run from 4 February 2007 to 31 March 2007.

³⁰² Year 11 will run from 1 April 2016 to 4 February 2017.

APPENDIX 5

Cancellations Benchmark Table (Clause 5.15)³⁰³

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|---|-------------------------------|-------------------------------------|---|-------------------------------------|--------------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| [Year 1] | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 2] | Period 1³⁰⁴ | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 3] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 4] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |

³⁰³ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁰⁴ The timing of when the Benchmarks change is a question of customisation.

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|------------------------------------|-----------|------------------------------|--|------------------------------|-------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 5] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 6] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 7] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 8] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------------------------------|-----------|------------------------------|--|------------------------------|-------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| [Year 8] | Period 10 | | | | |
| | Period 11 | | | | |
| [Up to 7 Reporting period extension] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| [Year 8] (if extended by Schedule 18) | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 9] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 10] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 11] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|---|------------------|-------------------------------------|---|-------------------------------------|--------------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| <i>[Year 11]</i> | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| <i>[Up to 7 Reporting period extension]</i> | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |

1. START OF THE FRANCHISE

The Reporting Period in the cells entitled “Year 1 Period 12” shall be the first Reporting Period of the Franchise Term.

APPENDIX 6

Capacity Benchmark Table (Clause 5.16)³⁰⁵

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|------------------------------------|-------------------------|------------------------------|--|------------------------------|-------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| [Year 1] | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 2] | Period 1 ³⁰⁶ | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 3] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 4] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |

³⁰⁵ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁰⁶ The timing of when the Benchmarks change is a question of customisation.

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|------------------------------------|-----------|------------------------------|--|------------------------------|-------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| [Year 4] | Period 13 | | | | |
| [Year 5] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 6] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 7] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 8] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------------------------------|-----------|------------------------------|--|------------------------------|-------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| [Year 8] | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| [Up to 7 Reporting period extension] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| [Year 8] (if extended by Schedule 18) | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 9] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 10] | Period 1 | | | | |
| | Period 2 | | | | |
| | Period 3 | | | | |
| | Period 4 | | | | |
| | Period 5 | | | | |
| | Period 6 | | | | |
| | Period 7 | | | | |
| | Period 8 | | | | |
| | Period 9 | | | | |
| | Period 10 | | | | |
| | Period 11 | | | | |
| | Period 12 | | | | |
| | Period 13 | | | | |
| [Year 11] | Period 1 | | | | |

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---|-------------------------------------|---|-------------------------------------|--------------------------------------|
| Franchisee Year / Reporting Period | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | Period 2 | | | |
| | Period 3 | | | |
| | Period 4 | | | |
| <i>[Year 11]</i> | Period 5 | | | |
| | Period 6 | | | |
| | Period 7 | | | |
| | Period 8 | | | |
| | Period 9 | | | |
| | Period 10 | | | |
| | Period 11 | | | |
| <i>[Up to 7 Reporting period extension]</i> | Period 1 | | | |
| | Period 2 | | | |
| | Period 3 | | | |
| | Period 4 | | | |
| | Period 5 | | | |
| | Period 6 | | | |
| | Period 7 | | | |

1. START OF THE FRANCHISE

The Reporting Period in the cells entitled “Year 1 Period 12” shall be the first Reporting Period of the Franchise Term.

Service Delivery Benchmark Table (Clause 5.17)

| Column 1 | | Column 2 | Column 3 | Column 4 | Column 5 |
|------------------------------------|-----------|------------------------------|--|------------------------------|-------------------------------|
| Franchisee Year / Reporting Period | | Target Performance Level (%) | Improvement Plan Performance Level (%) | Breach Performance Level (%) | Default Performance Level (%) |
| | | | | | |
| [Year 1] | Period 12 | 23,040 | 24,770 | 26,490 | 27,650 |
| | Period 13 | 23,030 | 24,750 | 26,480 | 27,630 |
| [Year 2] | Period 1 | 23,020 | 24,740 | 26,470 | 27,620 |
| | Period 2 | 23,010 | 24,730 | 26,460 | 27,610 |
| | Period 3 | 23,000 | 24,720 | 26,450 | 27,600 |
| | Period 4 | 22,990 | 24,710 | 26,440 | 27,590 |
| | Period 5 | 22,990 | 24,710 | 26,440 | 27,590 |
| | Period 6 | 22,980 | 24,700 | 26,420 | 27,570 |
| | Period 7 | 22,970 | 24,690 | 26,410 | 27,560 |
| | Period 8 | 22,960 | 24,680 | 26,400 | 27,550 |
| | Period 9 | 22,950 | 24,670 | 26,390 | 27,540 |
| | Period 10 | 22,940 | 24,660 | 26,380 | 27,530 |
| | Period 11 | 23,060 | 24,790 | 26,520 | 27,680 |
| | Period 12 | 23,050 | 24,780 | 26,510 | 27,660 |
| | Period 13 | 23,040 | 24,770 | 26,500 | 27,650 |
| [Year 3] | Period 1 | 23,040 | 24,770 | 26,500 | 27,650 |
| | Period 2 | 23,030 | 24,760 | 26,490 | 27,640 |
| | Period 3 | 22,960 | 24,680 | 26,400 | 27,550 |
| | Period 4 | 22,950 | 24,670 | 26,390 | 27,540 |
| | Period 5 | 22,940 | 24,660 | 26,380 | 27,530 |
| | Period 6 | 22,930 | 24,650 | 26,370 | 27,520 |
| | Period 7 | 22,920 | 24,640 | 26,360 | 27,500 |
| | Period 8 | 22,910 | 24,630 | 26,350 | 27,490 |
| | Period 9 | 22,900 | 24,620 | 26,340 | 27,480 |
| | Period 10 | 22,900 | 24,620 | 26,340 | 27,480 |
| | Period 11 | 22,740 | 24,450 | 26,160 | 27,290 |
| | Period 12 | 22,730 | 24,440 | 26,140 | 27,280 |
| | Period 13 | 22,720 | 24,430 | 26,130 | 27,270 |
| [Year 4] | Period 1 | 22,710 | 24,420 | 26,120 | 27,260 |
| | Period 2 | 22,700 | 24,410 | 26,110 | 27,250 |
| | Period 3 | 22,690 | 24,400 | 26,100 | 27,230 |
| | Period 4 | 22,680 | 24,390 | 26,090 | 27,220 |
| | Period 5 | 22,670 | 24,370 | 26,080 | 27,210 |

³⁰⁷ Date of change 19/03/2010³⁰⁸ Date of change 18/08/2010³⁰⁹ Date of change 01/09/2011³¹⁰ Date of change 25/10/2012³¹¹ Date of change 27/01/2015³¹² Date of change 19/08/2015

| | | | | | |
|----------|-----------|--------|--------|--------|--------|
| | Period 6 | 22,670 | 24,370 | 26,080 | 27,210 |
| | Period 7 | 22,660 | 24,360 | 26,060 | 27,200 |
| | Period 8 | 22,650 | 24,350 | 26,050 | 27,190 |
| | Period 9 | 22,640 | 24,340 | 26,040 | 27,170 |
| | Period 10 | 22,110 | 23,770 | 25,430 | 26,530 |
| | Period 11 | 22,100 | 23,760 | 25,420 | 26,520 |
| | Period 12 | 22,090 | 23,750 | 25,410 | 26,510 |
| | Period 13 | 22,080 | 23,740 | 25,400 | 26,500 |
| [Year 5] | Period 1 | 22,070 | 23,730 | 25,380 | 26,490 |
| | Period 2 | 22,070 | 23,730 | 25,380 | 26,490 |
| | Period 3 | 21,950 | 23,600 | 25,240 | 26,340 |
| | Period 4 | 21,950 | 23,600 | 25,240 | 26,340 |
| | Period 5 | 21,940 | 23,590 | 25,230 | 26,330 |
| | Period 6 | 21,930 | 23,580 | 25,220 | 26,320 |
| | Period 7 | 21,920 | 23,570 | 25,210 | 26,310 |
| | Period 8 | 21,910 | 23,560 | 25,200 | 26,290 |
| | Period 9 | 21,900 | 23,540 | 25,190 | 26,280 |
| | Period 10 | 21,910 | 23,550 | 25,200 | 26,290 |
| | Period 11 | 21,910 | 23,550 | 25,200 | 26,290 |
| | Period 12 | 21,900 | 23,540 | 25,180 | 26,280 |
| | Period 13 | 21,890 | 23,530 | 25,170 | 26,270 |
| [Year 6] | Period 1 | 21,880 | 23,520 | 25,160 | 26,260 |
| | Period 2 | 21,870 | 23,510 | 25,150 | 26,240 |
| | Period 3 | 21,860 | 23,500 | 25,140 | 26,230 |
| | Period 4 | 21,850 | 23,490 | 25,120 | 26,220 |
| | Period 5 | 21,840 | 23,480 | 25,110 | 26,200 |
| | Period 6 | 21,830 | 23,460 | 25,100 | 26,190 |
| | Period 7 | 21,830 | 23,460 | 25,100 | 26,190 |
| | Period 8 | 21,820 | 23,450 | 25,090 | 26,180 |
| | Period 9 | 21,810 | 23,440 | 25,080 | 26,170 |
| | Period 10 | 21,820 | 23,460 | 25,100 | 26,190 |
| | Period 11 | 21,810 | 23,450 | 25,080 | 26,180 |
| | Period 12 | 21,800 | 23,440 | 25,070 | 26,160 |
| | Period 13 | 21,790 | 23,430 | 25,060 | 26,150 |
| [Year 7] | Period 1 | 21,780 | 23,420 | 25,050 | 26,140 |
| | Period 2 | 21,770 | 23,410 | 25,040 | 26,130 |
| | Period 3 | 21,770 | 23,410 | 25,040 | 26,130 |
| | Period 4 | 21,760 | 23,400 | 25,030 | 26,120 |
| | Period 5 | 21,750 | 23,390 | 25,020 | 26,110 |
| | Period 6 | 21,740 | 23,380 | 25,010 | 26,090 |
| | Period 7 | 21,730 | 23,360 | 25,000 | 26,080 |
| | Period 8 | 21,730 | 23,350 | 24,980 | 26,070 |
| | Period 9 | 21,720 | 23,340 | 24,970 | 26,060 |
| | Period 10 | 21,700 | 23,330 | 24,960 | 26,050 |
| | Period 11 | 21,690 | 23,320 | 24,950 | 26,030 |
| | Period 12 | 21,690 | 23,320 | 24,950 | 26,030 |
| | Period 13 | 21,690 | 23,310 | 24,940 | 26,020 |
| [Year 8] | Period 1 | 21,680 | 23,300 | 24,930 | 26,010 |
| | Period 2 | 21,670 | 23,290 | 24,920 | 26,000 |
| | Period 3 | 21,710 | 23,340 | 24,970 | 26,060 |
| | Period 4 | 21,700 | 23,330 | 24,960 | 26,050 |
| | Period 5 | 21,690 | 23,320 | 24,950 | 26,030 |

| | | | | | |
|---------------------------------------|-----------|--------|--------|--------|--------|
| | Period 6 | 21,680 | 23,300 | 24,930 | 26,010 |
| | Period 7 | 21,670 | 23,290 | 24,920 | 26,000 |
| | Period 8 | 21,670 | 23,290 | 24,920 | 26,000 |
| | Period 9 | 21,660 | 23,280 | 24,900 | 25,990 |
| | Period 10 | 21,660 | 23,280 | 24,910 | 25,990 |
| | Period 11 | 21,650 | 23,270 | 24,890 | 25,980 |
| | | | | | |
| [Up to 7 Reporting period extension] | Period 1 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 2 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 3 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 4 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 5 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 6 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 7 | 21,650 | 23,270 | 24,890 | 25,980 |
| [Year 8] (if extended by Schedule 18) | Period 12 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 13 | | | | |
| | | 21,650 | 23,270 | 24,890 | 25,980 |
| [Year 9] | Period 1 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 2 | 21,650 | 23,270 | 24,890 | 25,980 |
| | Period 3 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 4 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 5 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 6 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 7 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 8 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 9 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 10 | 22,530 | 24,220 | 25,910 | 27,040 |
| | Period 11 | 22,790 | 24,500 | 26,210 | 27,350 |
| | Period 12 | 22,790 | 24,500 | 26,210 | 27,350 |
| | Period 13 | 22,790 | 24,500 | 26,210 | 27,350 |
| [Year 10] | Period 1 | 22,790 | 24,500 | 26,210 | 27,350 |
| | Period 2 | 22,790 | 24,500 | 26,210 | 27,350 |
| | Period 3 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 4 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 5 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 6 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 7 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 8 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 9 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 10 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 11 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 12 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 13 | 22,920 | 24,630 | 26,350 | 27,500 |
| [Year 11] | Period 1 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 2 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 3 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 4 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 5 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 6 | 22,920 | 24,630 | 26,350 | 27,500 |

| | | | | | |
|--------------------------------------|-----------|--------|--------|--------|--------|
| | Period 7 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 8 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 9 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 10 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 11 | 22,920 | 24,630 | 26,350 | 27,500 |
| [Up to 7 Reporting Period extension] | Period 1 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 2 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 3 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 4 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 5 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 6 | 22,920 | 24,630 | 26,350 | 27,500 |
| | Period 7 | 22,920 | 24,630 | 26,350 | 27,500 |

1. START OF THE FRANCHISE

The Reporting Period in the cells entitled “Year 1 Period 12” shall be the first Reporting Period of the Franchise Term.

APPENDIX 8

Figures for Calculation of Annual Franchise Payments (*Clause 5.20*)³¹³

³¹³ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

APPENDIX 9

List of Key Contracts (*Clause 5.24*)

The following items have as at the date of the Franchise Agreement been agreed between the parties to be Key Contracts:

1. Any Access Agreement to which the Franchisee is a party other than in its capacity as a Facility Owner.
2. Any Property Lease including the Property Leases listed in paragraph 4 of Appendix 2 (*List of Conditions Precedent Documents*) to the Conditions Precedent Agreement.
3. Any Rolling Stock Related Contract including the Rolling Stock Leases listed in Table 1 and Table 2 of Appendix 3 (*The Train Fleet*), but excluding any Rolling Stock Related Contract relating only to rolling stock vehicles funded by Additional Rolling Stock Investment.
4. Any contract or arrangement for the lending, seconding, hiring, contracting out, supervision, training, assessment, or accommodation by another Train Operator of any train drivers, conductors or other train crew used by the Franchisee in the provision of the Passenger Services.
5. Any contract or arrangement for the subcontracting or delegation to another Train Operator of the provision of any of the Passenger Services (whether or not the consent of the Secretary of State is required to such subcontracting or delegation under paragraph 1 of Schedule 2.3 (*Third Party Delivery of Passenger Services and Other Franchisees*)).
6. Any contract or arrangement with a Train Operator (other than an Access Agreement) for the provision to the Franchisee of train dispatch, performance or supervision of platform duties, security activities, evacuation procedures, advice or assistance to customers, assistance to disabled customers, operation of customer information systems, cash management or ticket issuing systems administration.
7. Any contract or arrangement with a Train Operator for the provision of breakdown or recovery, and track call services to assist in the provision of the Passenger Services.
8. Any contract or arrangement for the supply of spare parts or Spares.
9. Any contract or arrangement for the maintenance of track and other related infrastructure.
10. Any licences of Marks to the Franchisee.

³¹⁴ ³¹⁵ **11. *The New Alliance Operating Agreement.***

³¹⁶ **12. *Maintenance Agreement Relating to 30 x Class 707 5-Car Electric Multiple Units;***

³¹⁷ **13. *Secondment Agreement Relating to 30 x Class 707 5-Car Electric Multiple Units.***

³¹⁴ Date of insertion 27/04/2012

³¹⁵ Date of change 28/08/2015

³¹⁶ Date of insertion 12/09/2014

³¹⁷ Date of insertion 12/09/2014

³¹⁸ 14. *the Grant Funding Agreement between Network Rail and the Franchisee in connection with the Depot, Stabling and Ancillary Works Fund dated on or around the date of this letter (the "Grant Funding Agreement");*

³¹⁹ 15. *any Asset Protection Agreement entered into between the Franchisee and Network Rail in relation to the infrastructure enhancements referred to in paragraphs 7.2 to 7.8 of Part 6 to Appendix 11 of the Franchise Agreement (such works the "Depot and Stabling Works");*

³²⁰ 16. *Any agreement entered into by the Franchisee for the provision of design services in relation to any of the Depot and Stabling Works; and*

³²¹ 17. *Any agreement entered into by the Franchisee for the construction or installation of any assets or equipment forming part of the Depot and Stabling Works.*

For the purposes of paragraphs 14 to 17 "Asset Protection Agreement" means an agreement which facilitates the safe management and undertaking of the relevant Depot and Stabling Works while protecting the safety of persons operating on or near the Network and protecting the condition and integrity of the assets and systems that make up the Network."

³¹⁸ Date of insertion 23/12/2015

³¹⁹ Date of insertion 23/12/2015

³²⁰ Date of insertion 23/12/2015

³²¹ Date of insertion 23/12/2015

APPENDIX 10

List of Primary Franchise Assets (*Clause 5.25*)

1. The rights and liabilities of the Franchisee under the Universal Licence Agreement between the Board and the Franchisee dated 26 October 1995.
2. The rights and liabilities of the Franchisee under the Sub-licence Deed between the Board and the Franchisee dated 26 October 1995.
3. The rights and liabilities of the Franchisee under the Master Software Licence between the Board and the Franchisee dated 26 October 1995.
4. Driver training simulator equipment owned or leased by the Franchisee immediately prior to the Franchise Commencement Date, including:

| Description | Z-Number |
|----------------------|--------------------|
| Cabin 1 | AS135-100000.000.0 |
| Cabin 2 | AS135-100000.000.0 |
| Cabin 3 | AS135-100000.000.0 |
| Cabin 4 | AS135-100000.000.0 |
| Instructor Station 1 | AS135-301000.000.0 |
| Instructor Station 2 | AS135-301000.000.0 |
| Main Power Supply | AS135-063000.000.0 |
| Technical Rack | AS135-066000.000.0 |
| Offline Station | AS135-303000.000.0 |
| Projection 1 | AS135-150000.000.0 |
| Projection 2 | AS135-150000.000.0 |
| Projection 3 | AS135-150000.000.0 |
| Projection 4 | AS135-150000.000.0 |

³²²5. ***New CRM Data and Commercially Valuable Legacy CRM Data stored on the New CRM System and, to the extent that any New CRM System is the property of the Franchisee, such New CRM System on:***

- (a) ***in relation to New CRM Data collected on or after the introduction into operational use of the New CRM System, the date on which such New CRM Data is collected;***
- (b) ***in relation to Commercially Valuable Legacy CRM Data, the date on which such Commercially Valuable Legacy CRM Data is ported to the New CRM System; or***

³²² Date of insertion 24/03/2015

- (c) *in relation to any such New CRM System, the date on which such New CRM System is delivered into operational use,*
- save, in relation to any CRM Data, in respect of which the Data Subject has not consented to such data being disclosed and Processed by any Successor Operator and/or the Secretary of State;*
- ³²³6. *any licence of any New CRM System, on the date of such licence;*
- ³²⁴7. *to the extent that any CBE is the property of the Franchisee, such CBE on the date on which such CBE is delivered into operational use;*
- ³²⁵8. *any licence of the CBE, on the date of such licence;*
- ³²⁶9. *to the extent that any Intelligence Platform DMS is the property of the Franchisee, such Intelligence Platform DMS on the date on which such Intelligence Platform DMS is delivered into operational use;*
- ³²⁷10. *any licence of any Intelligence Platform DMS, on the date of such licence;*
- ³²⁸11. *Smartphones and Tablets on delivery to the Franchisee;*
- ³²⁹12. *any contract(s) under which the Smartphones set out in paragraph 24.1 of Part 1 of Appendix 11 and/or the Tablets set out in paragraph 18.2(b)(iii) of Part 1 of Appendix 11 are provided and/or maintained; and*
- ³³⁰13. *any Franchisee Owned RV Asset, on the date on which the Secretary of State issues the Franchisee a Certificate of Completion in respect of that Franchisee Owned RV Asset."*
- ³³¹14. *All infrastructure, equipment, moveable and non-moveable property and associated rights forming part of various ATOC cycle-related projects shall be transferred at nil value to a Successor Operator.*

(a) 2012 Cycle-related project

| Description | Location |
|---|---|
| New Cycle Hubs (98 new spaces) | Richmond, Surbiton |
| Increased Cycle Parking (899 new spaces) | Alton, Ash Vale, Claygate, Cobham & SD, Egham, Fareham, Farnborough, Farncombe, Farnham, Fratton, Godalming, Guildford, Hampton Court, |

³²³ Date of insertion 24/03/2015

³²⁴ Date of insertion 24/03/2015

³²⁵ Date of insertion 24/03/2015

³²⁶ Date of insertion 24/03/2015

³²⁷ Date of insertion 24/03/2015

³²⁸ Date of insertion 24/03/2015

³²⁹ Date of insertion 24/03/2015

³³⁰ Date of insertion 24/03/2015

³³¹ Date of insertion 10/02/2016

| | |
|--|---|
| | <i>Haslemere, Hersham, Horsley, Liphook, London Road, Guildford, Milford, Oxshott, Petersfield, Southampton Central, Surbiton, West Byfleet and Weybridge</i> |
| <i>New Security Compounds (166 new spaces)</i> | <i>Fleet, Havant, Staines, Swanwick, Totton and Wokingham</i> |

(b) 2013 Cycle-related project

| Description | Location |
|---|---|
| <i>258 Cycle parking spaces within new secure cycle compounds</i> | <i>Camberley, Brockenhurst, Bournemouth, Worcester Park, Weymouth, Christchurch, Southampton Airport parkway, Bracknell, Esher, Feltham and Haslemere</i> |

(c) 2015 Cycle-related project

| Description | Location |
|--|--|
| <i>Cycle Shelters at 13 stations (154 additional spaces)</i> | <i>Addlestone, Branksome, Chandlers Ford, Chertsey, Hinton Admiral, Liss, New Milton, Pinhoe, Shawford, Swaythling, Wareham, Wool and Woolston</i> |
| <i>Double Deck Facilities at 6 stations (72 additional spaces)</i> | <i>Locations to be confirmed</i> |
| <i>Cycle Hoops at 4 stations (22 additional spaces)</i> | <i>Bitterne, Burlsedon, Hinchley Wood and Upwey</i> |
| <i>Double Deck Facility (24 additional spaces)</i> | <i>Bookham</i> |
| <i>Cycle Hub (100 additional spaces)</i> | <i>Brookwood</i> |
| <i>Double Deck Facility 24 additional spaces)</i> | <i>Claygate</i> |
| <i>Cycle Hub (70 additional spaces)</i> | <i>Ewell West</i> |
| <i>Cycle Hub (125 additional spaces)</i> | <i>Fareham</i> |
| <i>Cycle Hub (100 additional spaces)</i> | <i>Haslemere</i> |
| <i>Decked Facility (60 additional spaces)</i> | <i>Surbiton</i> |
| <i>Cycle Hub (100 additional spaces)</i> | <i>Teddington</i> |
| <i>Cycle Hub (75 additional spaces)</i> | <i>Walton on Thames</i> |
| <i>Cycle Hub (100 additional spaces)</i> | <i>Winchester</i> |
| <i>Cycle Hub extension (250 additional spaces)</i> | <i>Woking</i> |
| <i>Double Deck Facility (24 additional spaces)</i> | <i>Axminster</i> |
| <i>Double Winged Shelter (60 additional spaces)</i> | <i>Poole</i> |

³³²15. The Fleet Data Warehouse system (Nexala E2M) and all data.

³³² Date of insertion 28/09/2015

APPENDIX 11

Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations³³³

Part 1 to Appendix 11

List of Committed Obligations

The dates by which each Committed Obligation must be performed and, where relevant, the liquidated damages that apply for failure to perform each Committed Obligation (the Committed Obligation Payment Adjustment) are set out in the table in paragraph 2.6 to Part 3 of Appendix 11.

1. SECURITY AND SAFETY

1.1 Station Security

1.1.1 The Franchisee shall achieve 'Secure Station Scheme' status (in accordance with the requirements in force as at 1 June 2006) for those Stations with 80% of the Franchise footfall. These Stations will include all of those 49 Stations with that status on the Start Date and the Franchisee expects to add the following 13 Stations:

Portsmouth and Southsea;
Staines;
Weybridge
Wokingham;
New Malden;
Walton on Thames;
Worcester Park;
Barnes;
Egham;
Mortlake;
Aldershot;
Poole;
Windsor and Eton Riverside

Provided that the Franchisee may with the prior consent of the Secretary of State (such consent not to be unreasonably withheld) substitute any of the Stations listed above with any of the following Stations: Motspur Park; West Byfleet; Stoneleigh; Cosham; Hounslow; Hampton; Queenstown Road; Hampton Wick; Ewell West; Thames Ditton; Ashford Middlesex; Brookwood; Weymouth; Farncombe; Sunningdale; Martins Heron; New Milton; Chiswick; Hersham; Virginia Water; Ash Vale; Hook; Chessington South; Swanwick; Chessington North; Claygate; Liphook; Syon Lane; Barnes Bridge; Earley; Sunbury; Oxshott; Isleworth; Chertsey; Kew Bridge; Fulwell; Gillingham Dorset; Christchurch; Malden Manor; Camberley; London Road Guildford; Shepperton; North Sheen; Tolworth.

1.1.2 The Franchisee shall ensure that all 45 Stations where it is the SFO (other than those on the Isle of Wight) that do not as of the Start Date have CCTV facilities or do not have free-

³³³ Date of Change 23/12/2011

standing and locally monitored CCTV shall have CCTV installed and linked to a central monitoring facility by 31 December 2009.

1.1.3 The Franchisee shall for the duration of the Franchise Term maintain an establishment of no less than 37 Travel Safe Officers (TSO); and train each serving TSO to a standard where that officer can enforce railway bye-laws on the network through fixed penalties notices.

1.1.4 The Franchisee shall procure six British Transport Police (BTP) officers to provide policing on the South Western Franchise network from April 2008 for the duration of the Franchise Term.³³⁴

1.1.5 The Franchisee shall undertake a joint review with BTP by 1 April 2010 and by agreement shall convert these officers, referred to in paragraph 1.1.4, into uniform officers should this provide a more effective security force.

1.1.6 The Franchisee shall work with BTP to support the delivery of the Franchisee's security strategy.

1.1.7 The Franchisee shall appoint a Head of Security and Crime Prevention by 31 August 2007.

1.1.8 The Franchisee shall operate a 24-hour, 7 day a week security centre facility for Franchise Term.

2. STATIONS

2.1 Major Investment at Stations

2.1.1 In addition to the improvements specified in the other provisions in this Appendix 11, the Franchisee shall invest no less than £³³⁵ (including project management, procurement and design) on refurbishing the following stations:

Kingston
Putney
Winchester
Ascot
Bracknell
Southampton Airport Parkway
Basingstoke
Bournemouth
Clapham Junction
Guildford
Richmond
Salisbury
Southampton Central
Woking

³³⁴ Insert change text wef 07/11/07

³³⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

2.1.2 ³³⁶*The Franchisee shall carry out upgrade of facilities at Stations selected by it to the value of £³³⁷ (excluding project management, procurement and design). Such investment shall include improvements to booking offices, waiting areas, seating, signage, lighting (on all mainland stations to the lighting standard for Network Rail's new stations as in force as at 1 June 2006), toilets, security, platform and circulation areas and to interchanges and any such other reasonable improvements as the Franchisee wishes to make.*

2.1.3 *The Franchisee shall extend canopies and/or provide additional waiting shelters for the purpose of improving passenger circulation along platforms and thereby performance at the following stations:*

Clapham Junction (platforms 9/10)

Putney

Earlsfield

Richmond

Barnes

Ash Vale

Guildford

Wimbledon

By 28th February 2010

2.2 Maintenance and Decoration

2.2.1 The Franchisee shall repaint each Station at least once during the Franchise Term. This shall comprise some or all of the following areas at each station:

Waiting rooms;
Platform areas;
Station buildings;
Booking halls;
Ticket offices;
Shelters; and lighting columns and stanchions

The Franchisee shall repaint no less than 75% of all Stations by February 2014.

2.3 The Committed Obligations in paragraphs 2.1.1, 2.1.2, 2.1.3 and 2.2.1 are distinct, independent commitments, and performance of any one of them shall not be taken into account in order to achieve any other one or more of them.

³³⁶ Date of change 14/06/2012

Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.³³⁷

3. FLEET

- 3.1 The Franchisee shall complete the current refurbishment of 91 Class 455 units by ³³⁸
- 3.2 The Franchisee shall convert 91 Class 455 units into high capacity layout by³³⁹, subject to passenger demand demonstrating that this is the appropriate solution and appropriate timing.
- 3.3 The Franchisee shall convert 28 Class 450 units into high capacity layout by ³⁴⁰
- 3.4 The Franchisee shall invest the equivalent of £³⁴¹ capital (including project management, procurement and design) on refurbishing the 158/9 fleet, electrical overhaul and CCTV/PIS installation. The Franchisee shall pay for this through increased lease charges to the relevant ROSCO as long as it continues to be the Franchisee. The Franchisee shall complete the refurbishment of 30 of the 36 units by³⁴².
- 3.5 The Franchisee shall complete an external and internal refreshment of Class 483 units by:
- (a) ³⁴³ if it receives notice from the Secretary of State to do so by 4 February 2007; or
- (b) ³⁴⁴ if it receives notice from the Secretary of State to do so by 4 February 2008.
- 3.6 ⁱⁱ³⁴⁵ *The Franchisee shall undertake an acceleration feasibility study for the Class 455 units by 28th February 2008 and modify thirty Class 455 units with brake supply relay coils by 30th June 2009.*

³³⁸ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³³⁹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁴⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁴¹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁴² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁴³ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁴⁴ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

³⁴⁵ Date of change 19/8/2008

3.7 Subject to successful trial of the acceleration improvement test train, the Franchisee shall deliver the acceleration improvement modification on all 91 Class 455 units by³⁴⁶, subject to agreement from Network Rail without the requirement for enhanced power supply.

3.8 The Franchisee shall fit passenger counting equipment to the following number of units by³⁴⁷: Class 455, 23 units; Class 159, 6 units; Class 158, 3 units; Class 458, 8 units.

3.9 The Franchisee shall install "Controlled Emission Toilet" discharge facilities at Poole sidings. For the purposes of this Committed Obligation 3.9, "Controlled Emission Toilet" means a toilet where the waste is not discharged straight onto the tracks but stored in tanks and routinely emptied at servicing facilities.

3.10 The Franchisee shall install staff accommodation at Poole sidings.

3.11 The Franchisee shall install CCTV at Poole sidings.

3.12 The Franchisee shall install a carriage washing machine at Weymouth sidings.

3.13 The Franchisee shall install CCTV at Weymouth sidings.

3.14 The Franchisee shall electrify a siding at Bournemouth Station.

3.15 The Franchisee shall install staff accommodation (including a room, showers and toilets) at Bournemouth Station.

3.16 The Franchisee shall develop Branksome sidings with the provision of fencing, CCTV and trackwork to provide buffers.

3.16A The parties agree that in respect of the Committed Obligations in paragraphs 3.9 to 3.16, the obligations are contingent upon the closure of Bournemouth depot, and the Franchisee reserves the right to provide an alternative operationally equivalent solution in light of discussions with Network Rail.

ⁱⁱⁱ3.17 The Franchisee shall carry out a mid franchise internal refreshment with an aggregate expenditure of £³⁴⁸ in respect of all fleets (other than the Classes 421 and 483) by³⁴⁹.

³⁴⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁴⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁴⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁴⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

3.18 The Franchisee shall produce revised maintenance manuals, fault finding guides and an asset management plan by³⁵⁰ in relation to the Class 455, Class 158, Class 159 and Class 458 units of its fleet.

3.19^{iv} The Franchisee shall purchase a new engineering IT support package, introduce the package by³⁵¹ and shall train staff, and maintain the IT support package throughout the Franchise Term.

3.20 The Franchisee shall carry out joint performance development plans with Siemens and shall invest no less than £³⁵² over the Franchise Term on performance enhancement programmes. The Franchisee shall invest no less than £³⁵³ by³⁵⁴.

3.21 The Franchisee shall carry out operational performance modifications, to include door control modifications for Class 455 and 450 fleets to a total cost of £³⁵⁵, by³⁵⁶.

3.22 The Franchisee shall carry out minor depot investments aggregating to a total spend of £³⁵⁷by³⁵⁸.

³⁵⁰ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵⁴ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁵⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

3.23 The Franchisee shall install flood protection infrastructure at Ryde Depot to a total cost of £³⁵⁹by³⁶⁰.

3.24 The Franchisee shall install bar codes that can be read by a carriage washing machine to all remaining units and shall upgrade the carriage washing machine at Salisbury to read such bar codes to a cost total of £³⁶¹by³⁶².

3.25 The Franchisee shall install lighting, fencing and CCTV at Salisbury East Sidings to a cost of £³⁶³.

3.26 The Franchisee shall install 25kV test equipment in respect of rolling stock at Wimbledon Depot in the event that the Franchisee wins third party heavy maintenance contracts that require this testing.

3.27 The Franchisee shall motorise points 34 and 35 at Wimbledon Depot by³⁶⁴.

3.28^{v365} *Not Used.*

3.29 The Franchisee shall install sanders to all Class 458 units by³⁶⁶.

3.30 The Franchisee shall fit CCTV to all Class 458 units by³⁶⁷.

³⁵⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁶⁰ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

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³⁶⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁶⁵ Date of Change 14/09/2011

³⁶⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁶⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

3.31 The Franchisee shall undertake a review of the business case for improving the performance of carriage washing machines in the first 6 months of the Franchise Term. The Franchisee shall deliver its report to the Secretary of State within 28 days; and shall implement the report if the business case is positive.

3.32 The Franchisee shall increase the inventory of interior fittings held at its depots and by Railpart by £³⁶⁸ in value and shall maintain this inventory throughout the Franchise Term.

3.33 The Franchisee shall combine train presentation manuals with the aesthetic condition standard and reissue the new combined manual called the train interiors standard manual by³⁶⁹.

3.34 The Franchisee shall purchase paint repair equipment to a value of £³⁷⁰ and spend £³⁷¹ per annum on paint repairs.

3.35 The Franchisee shall appoint a Major Project Director from the Start Date and shall maintain such position until at least³⁷².

3.36 Without prejudice to its rights and obligations in relation to Network Change and/or Vehicle Change, the Franchisee shall use reasonable endeavours to consider, with Network Rail, the implications of introducing regenerative braking on electrically operated services within the Franchise to reduce energy consumption and reduce costs, to the extent reasonably practicable and consistent with the Franchisee's other obligations under this Franchise Agreement and/or any condition in its Licence and provided (in the Franchisee's reasonable opinion) that it is likely that there would be a positive business case.

³⁷³*Class 455 Traction Conversion Works*

3.37 The Franchisee shall use all reasonable endeavours to procure that the Traction Conversion Works (which, amongst other things, will replace the traction package on the class 455 units in the Train Fleet so that they operate using alternating current instead of direct current), are carried out on each of the 91 class 455 units so that each unit specified in column 1 of Table A set out below (such unit following the completion of the Traction Conversion Works being a "Modified Class 455 Unit"), is delivered to the Franchisee by no later than the date specified in column 2 of Table A for that unit. The Franchisee shall take

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³⁷¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁷² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁷³ Date of new insertion 11/04/2013

delivery of each Modified Class 455 Unit in accordance with the terms of the Amendment Agreement.

3.38 The Secretary of State and the Franchisee acknowledge and agree that as at the date of the Amendment Agreement the anticipated delivery date of each Modified Class 455 Unit is set out in column 2 of Table A below. The Franchisee shall, as soon as reasonably practicable, notify the Secretary of State of:

- (a) any change or anticipated change to the timescales for carrying out the Traction Conversion Works as described in paragraph 3.37; and*
- (b) without prejudice to paragraph 3.38(a) above, where it has received notice pursuant to paragraph 19.2 of Schedule 1 (New Schedule 17 – The Enhancement Works) to the Amendment Agreement of the occurrence of a Porterbrook Force Majeure Event or a Supplier Force Majeure Event.*

Table A

| Column 1 Modified Class 455 Unit | Column 2 Anticipated delivery date ³⁷⁴ |
|---|--|
| First | |
| Second | |
| Third | |
| Fourth | |
| Fifth | |
| Sixth | |
| Seventh | |
| Eighth | |
| Ninth | |
| Tenth | |
| Eleventh | |
| Twelfth | |
| Thirteenth | |
| Fourteenth | |
| Fifteenth | |
| Sixteenth | |
| Seventeenth | |
| Eighteenth | |
| Nineteenth | |
| Twentieth | |
| Twenty-first | |
| Twenty-second | |
| Twenty-third | |
| Twenty-fourth | |
| Twenty-fifth | |

³⁷⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

| Column 1 Modified Class 455 Unit | Column 2 Anticipated delivery date ³⁷⁴ |
|---|--|
| <i>Twenty-sixth</i> | |
| <i>Twenty-seventh</i> | |
| <i>Twenty-eighth</i> | |
| <i>Twenty-ninth</i> | |
| <i>Thirtieth</i> | |
| <i>Thirty-first</i> | |
| <i>Thirty-second</i> | |
| <i>Thirty-third</i> | |
| <i>Thirty-fourth</i> | |
| <i>Thirty-fifth</i> | |
| <i>Thirty-sixth</i> | |
| <i>Thirty-seventh</i> | |
| <i>Thirty-eighth</i> | |
| <i>Thirty-ninth</i> | |
| <i>Fortieth</i> | |
| <i>Forty-first</i> | |
| <i>Forty-second</i> | |
| <i>Forty-third</i> | |
| <i>Forty-fourth</i> | |
| <i>Forty-fifth</i> | |
| <i>Forty-sixth</i> | |
| <i>Forty-seventh</i> | |
| <i>Forty-eighth</i> | |
| <i>Forty-ninth</i> | |
| <i>Fiftieth</i> | |
| <i>Fifty-first</i> | |
| <i>Fifty-second</i> | |
| <i>Fifty-third</i> | |
| <i>Fifty-fourth</i> | |
| <i>Fifty-fifth</i> | |
| <i>Fifty-sixth</i> | |
| <i>Fifty-seventh</i> | |
| <i>Fifty-eighth</i> | |
| <i>Fifty-ninth</i> | |
| <i>Sixtieth</i> | |
| <i>Sixty-first</i> | |
| <i>Sixty-second</i> | |
| <i>Sixty-third</i> | |
| <i>Sixty-fourth</i> | |
| <i>Sixty-fifth</i> | |
| <i>Sixty-sixth</i> | |
| <i>Sixty-seventh</i> | |
| <i>Sixty-eighth</i> | |
| <i>Sixty-ninth</i> | |
| <i>Seventieth</i> | |
| <i>Seventy-first</i> | |

| Column 1 Modified Class 455 Unit | Column 2 Anticipated delivery date ³⁷⁴ |
|---|--|
| Seventy-second | |
| Seventy-third | |
| Seventy-fourth | |
| Seventy-fifth | |
| Seventy-sixth | |
| Seventy-seventh | |
| Seventy-eighth | |
| Seventy-ninth | |
| Eightieth | |
| Eighty-first | |
| Eighty-second | |
| Eighty-third | |
| Eighty-fourth | |
| Eighty-fifth | |
| Eighty-sixth | |
| Eighty-seventh | |
| Eighty-eighth | |
| Eighty-ninth | |
| Ninetieth | |
| Ninety-first | |

3.39³⁷⁵

3.40 *If the Franchisee receives a draft Supplier Force Majeure Mitigation Plan or Force Majeure Mitigation Plan (each a "Mitigation Plan") pursuant to paragraph 19.2 of Schedule 1 (New Schedule 17 – The Enhancement Works) to the Amendment Agreement, the Franchisee shall:*

- (a) *promptly, and in any event within two (2) Weekdays of receipt, provide a copy of the draft Mitigation Plan to the Secretary of State; and*
- (b) *take into account the views of the Secretary of State in seeking to agree the terms of the relevant Mitigation Plan with Porterbrook.*

³⁷⁶*Franchise Payment Adjustment – Delay to delivery and acceptance*

3.41

3.42

3.43

3.44

3.45

³⁷⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

³⁷⁶ Date of insertion 11/04/2013

3.46

3.47 *For the purposes of paragraphs 3.37 to 3.47 (inclusive):*

Accepted has the meaning given to that term in the Amendment Agreement;

Amendment Agreement means an agreement between Porterbrook and the Franchisee dated on or about the date of this Deed which amends the Lease Agreement in relation to the undertaking of the Traction Conversion Works;

Deed means the Deed of Amendment relating to the South Western Franchise Agreement – Class 455 Traction Conversion, between the Secretary of State and the Franchisee dated on or about 11th April 2013;

Force Majeure Mitigation Plan has the meaning given to that term in the Amendment Agreement;

Framework Agreement means the Framework Agreement for heavy maintenance services (Contract Reference 77-FSA-051-003) dated 10th September 2012 between Porterbrook and Vossloh;

Lease Agreement means the Lease Agreement dated 25 May 2004 in respect of the leasing of ninety one (91) class 455 four car electric multiple units between Porterbrook and South West Trains Limited (as amended and supplemented and as transferred to the Franchisee pursuant to a statutory transfer scheme);

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Porterbrook Force Majeure Event has the meaning given to the "Force Majeure Event" term in the Amendment Agreement;

Supplier Event of Default has the meaning given to that term in the Amendment Agreement;

Supplier Force Majeure Event has the meaning given to that term in the Amendment Agreement;

Supplier Force Majeure Mitigation Plan has the meaning given to that term in the Amendment Agreement;

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³⁷⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁷⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

Traction Conversion Works mean the works to the class 455 units as set out in Schedule 1 (Specification) to the Traction Works Agreement;

Traction Works Agreement means the Works Contract For Class 455 Re-tractioning (incorporating the Framework Agreement) dated on or about the date of this Deed between Porterbrook Maintenance Limited and Vossloh (and as novated by Porterbrook Maintenance Limited to Porterbrook) pursuant to which Vossloh will undertake the Traction Conversion Works; and

Vossloh means Vossloh Kiepe UK Limited, a company incorporated under the laws of England and Wales with registered number 4316445, and whose registered office is at 2 Priestly Wharf, Aston Science Park, Holt Street, Birmingham, West Midlands B7 4BN.

4. CAR PARKS

4.1 The Franchisee shall increase the capacity of selected Station car parks by an aggregate of 2000 car parking spaces by 31 May 2011 and shall use reasonable endeavours, subject to the availability of appropriate sites and planning and other relevant consents and to there being demonstrable net financial benefit to the Franchisee over the Franchise Term, to increase the capacity of selected Station car parks by an aggregate of further 1000 car parking spaces by 31 May 2014.

4.2 The Franchisee shall use all reasonable endeavours to achieve the ‘Association of Chief Police Officers’ ‘Park Mark Safer Car Parking’ accreditation at 25 car parks within four years of the Start Date. These 25 car parks shall be selected by the Franchisee, giving priority to larger Station car parks (by reference to the number of all car parking spaces).

4.3 The Franchisee shall install 132 new Pay & Display machines at car parks by 31 May 2011.

5. INFORMATION

5.1 ³⁷⁹***5.1 The Franchisee shall provide, for the purposes of people seeking to interchange with rail, ten real-time customer information screens at Station car parks to be selected by the Franchisee by 31 May 2009, and five by 31 December 2009.***

5.2 The Franchisee shall use all reasonable endeavours to provide, for the purposes of people seeking to interchange with rail, one real-time customer information screen within Southampton Airport terminal. The Franchisee will, if unable so to provide at Southampton Airport, provide the screen at an alternative location by 31 December 2008.

³⁷⁹ Date of change 22/12/2009

5.3³⁸⁰ *The Franchisee shall provide 850 Personal Digital Assistant devices for use by on-train and other front-line staff for the purposes of providing improved customer information;*

- *434 of these to be in operational use by staff by³⁸¹; and*
- *the remaining 416 to be in operational use by staff by³⁸².*

6. TICKETING AND REVENUE PROTECTION

6.1 The Franchisee shall invest £³⁸³ by ³⁸⁴, with a view to installing 13 new ticket gateline schemes at the following stations:

- (i) *Aldershot*
- (ii) *Bournemouth*
- (iii) *Fareham*
- (iv) *Haslemere*
- (v) *Raynes Park*
- (vi) *Salisbury*
- (vii) *Winchester*
- (viii) *New Maldon*
- (ix) *Norbiton*
- (x) *Queenstown Road*
- (xi) *Staines*
- (xii) *Walton on Thames*
- (xiii) *Wandsworth Town*³⁸⁵

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³⁸⁰ Date of Change 14/09/2011

³⁸¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁸² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁸³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁸⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁸⁵ Insert change text wef 04/09/07

³⁸⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

6.2 The Franchisee shall carry out as soon as reasonably practicable a policy of communication with customers through standard communications media, highlighting the implications of ticketless travel generally and the application of the National Rail Conditions of Carriage specifically in order to ensure the correct application of the National Rail Conditions of Carriage.

6.3 The Franchisee shall carry out as soon as reasonably practicable training of staff to acquire appropriate skills and techniques for dealing with ticketless travel and incorporation of the National Rail Conditions of Carriage (including in relation to the charging of penalty fares).

6.4 ³⁸⁷ ***6.4 The Franchisee shall provide that (with the exception of Millbrook, Redbridge, Holton Heath, Beaulieu Road and Longcross) all mainland stations where it is the SFO and Ryde Esplanade have at least one new style Ticket Vending Machine by 30 September 2008 (mainland stations) and upon completion of the 'interchange scheme' (RYDE Esplanade).***

6.5 Not used.

6.6 The Franchisee shall appoint a Smart Card Project Manager from the Start Date and shall maintain such position until at least ³⁸⁸.

6.7 The Franchisee shall provide the Secretary of State with a Smart Card Implementation update at least once every Reporting Period.

7. ACCESS FOR ALL

7.1 The Franchisee shall maintain awareness of the Secretary of State's 'Access For All' fund (or its successor) through liaison with Network Rail, ATOC and DiPTAC and co-operate in the implementation of works at Stations designated for access improvements under the fund.

7.2 The Franchisee confirms that, if the Access for All fund permits enhancements in the level of staffing at particular Stations, it will co-operate with the Secretary of State in implementing any associated Variation.

7.3 The Franchisee shall implement a programme for the carrying out of Minor Works.

7.4 The Franchisee shall appoint an Access Manager to facilitate, inter alia, the prioritisation and expenditure of Access for All funds.

8. INTEGRATION

8.1 The Franchisee shall procure a bus link between Waterlooville and Petersfield from December 2007 until December 2010. During this period, the Franchisee shall produce a business case of the service and shall disclose a summary of such business case to the Secretary of State. Where a positive business case exists so to do the Franchisee shall continue to provide this service for the remainder of the Franchise Term.

³⁸⁷ Date of Change 23/10/2008

³⁸⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

8.2 The Franchisee shall (subject to the provisions of competition law) promote other transport integration measures to customers which may include:

- (a) the display, advertising and promotion of integrated tickets;
- (b) liaison with local bus and coach operators;
- (c) the leveraging of Transport for London or any 'Local Transport Plan' funding;
- (d) the promotion of park and ride facilities;
- (e) staff training to ensure the Franchisee has informed and helpful staff to assist customers with their onward journey; and
- (f) access integration, working closely with disability groups and organisations.

8.3 The Franchisee shall install an additional 700 bicycle spaces by 4 February 2013 (over and above any bicycle spaces installed and funded by the investment detailed in the Committed Obligations in paragraph 2 above).

8.4 The Franchisee shall establish two new Plus Bus Schemes and maintain them for the Franchise Term, or replace them with alternative schemes of a similar nature.

9. PASSENGERS AND STAKEHOLDERS

9.1 Passengers Charter

The Franchisee shall use all reasonable endeavours to introduce a new Passenger's Charter from the Start Date that offers 100% refund on the value of the journey for all journeys over 1 hour late which are the reasonable responsibility of the rail industry (excluding force majeure, suicide, gross vandalism and extreme weather).

9.2 Passengers Panel

The Franchisee shall throughout the Franchise Term operate a Passenger's Panel comprising no fewer than 8 customers and chaired by an independent Chairman. Should the Franchisee – in consultation with Passenger Focus and other stakeholders – find an alternative and more suitable structure for understanding the detailed views of customers on policy matters then it may implement it subject to the Secretary of State's approval.

9.3 Liaison

9.3.1³⁸⁹ *The Franchisee shall, throughout the Franchise Term;*

(a) operate a biannual roadshow style event at Waterloo Station around the time of the biannual Passenger Change Date, which shall be attended by representatives from the senior management team, to provide information to the Franchisee's customers, as well as providing an opportunity for their customers to give feedback on the services provided by the Franchisee.

A summary of questions and answers provided at the roadshow shall be published on the Franchisee's website 48 hours after the session takes place; and

³⁸⁹ Date of change 11/06/2013

(b) The Franchisee shall hold a monthly ‘Tweet the Manager’ session with a senior manager in attendance to enable customers to ask questions and give feedback on the services provided by the Franchisee.

A summary of questions raised and answers provided shall be published on the Franchisee’s website 48 hours after the session takes place.”

9.3.2^{vi} Through its website, the Franchisee shall hold 6-monthly online ‘webchats’ with either the Managing Director or Customer Service Director and customers in order for customers to ask questions and give feedback on the services provided by the Franchisee.

9.3.3 The Franchisee shall hold a Stakeholder Conference twice yearly throughout the Franchise Term at which the Franchisee shall hold a public discussion on its National Passenger Survey results and how customer service is being delivered.

9.3.4 The Franchisee shall liaise and cooperate with BTP and Passenger Focus/ London Travel Watch to conduct joint visual audits of stations and facilities across the Franchise (‘Station Pride Award’).

9.3.5 The Franchisee shall work with London Travel Watch and Passenger Focus to produce a queuing standard that can be monitored and audited by them for some/ all stations by 4 February 2008.

10. HR AND TRAINING

10.1 The Franchisee shall use all reasonable endeavours to retain accreditation of the Investors in People standard throughout the Franchise Term.

10.2 The Franchisee shall run an annual employee attitude survey to assess staff perceptions, commitment, motivation, morale and to gain employee feedback and shall discuss the results from these staff surveys at Franchisee board level and devise action plans based on the results and discussions.

10.3 The Franchisee shall undertake a biennial talent management programme commencing in year two of the franchise. This programme will identify talent, provide development advice and support to talent and aim to ensure retention of talented individuals.

10.4 The Franchisee shall run an annual corporate recognition programme to identify and reward individuals and teams contributing to excellent customer service and operational performance, referring where appropriate to the latest National Passenger Survey Results, other customer feedback and operational performance statistics.

10.5 The Franchisee shall invest £³⁹⁰ per annum in Customer Service Skills Training.

³⁹⁰ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

10.6 The Franchisee shall invest no less than £³⁹¹ per annum in Management Skills Training. This will cover procedural competency, management skills, individual development requirements, and management effectiveness training.

10.7 The Franchisee shall undertake Time With Your Manager sessions for all non-management staff on a biannual basis.

10.8 The Franchisee shall develop a Training Strategy to identify and meet the training and development requirements of the business and provide a copy of that strategy to the Secretary of State.

10.9 The Franchisee will distribute a 'Welcome to SSW' pack to all employees by 28 February 2007.

10.10 The Franchisee will require all new staff to attend corporate welcome training within one month of their start date to introduce staff to SSW's vision, values and behaviours, and franchise objectives and obligations.

10.11 The Franchisee shall train existing and new station and revenue protection staff to improve customer focus and efficiency.

10.12 The Franchisee shall maintain a centre for open learning for employees throughout the Franchise Term to facilitate professional and personal learning opportunities including acquisition of external qualifications.

11. QUALITY

11.1 The Franchisee shall use reasonable endeavours by 28 February 2010 to achieve ISO 14001 environmental quality accreditation at maintenance depots.

11.2 The Franchisee shall produce an annual environmental plan, and annual progress statement, which it will share with the Secretary of State. These will set out its approach to managing its business in accordance with then current and anticipated legislation

11.3 The Franchisee shall establish an annual Environmental Awareness Week raising awareness to all staff through workshops, campaigns and pledges. The Franchisee shall involve its partners The Carbon Trust and the Environment Agency in a 'roadshow' at major South Western network locations.

11.4 The Franchisee shall achieve EFQM Recognised for Excellence accreditation by 28 February 2009.

11.5 The Franchisee shall undertake a full EFQM self assessment that is externally assessed every two years, which will be shared with the Secretary of State.

11.6 The Franchisee shall use reasonable endeavours to establish a 'Charter mark' for mainland operations.

³⁹¹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

11.7 The Franchisee shall use reasonable endeavours to retain a ‘Charter mark’ for operations on the Isle of Wight.

11.8 The Franchisee shall produce an annual business plan publication to be distributed to all managers which it will share with the Secretary of State.

11.9 The Franchisee shall produce four-weekly KPI packs.

11.10 The Franchisee shall, from the Start Date, ensure that suitable safety management systems are deployed in accordance with maintaining a valid safety certificate and Railway licences during the Franchise Term.

11.11 The Franchisee shall appoint a Head of Business Excellence from the Start Date to lead continuous improvement, business planning and franchise compliance.

11.12 The Franchisee shall appoint an Environmental Manager from the Start Date to oversee energy consumption, recycling and carbon reductions.

12. DEMAND MANAGEMENT

12.1 The Franchisee shall procure ‘Davis Web’ software (or an equivalent information system) for the purpose of monitoring the passenger loadings information referred to in paragraph 1.2 of Schedule 1.5 (*Information about Passengers*) of the Terms within 18 months of the Start Date.

12.2 The Franchisee shall (to the extent it is not prevented from doing so by its other obligations under this Agreement) include in its Train Plan the following Additional Passenger Services from the Passenger Change Date in December 2007:

- (a) one additional service from London Waterloo station to Windsor departing after 2245 (Mondays-Saturdays)
- (b) one service from Staines to London Waterloo station departing before 0545 (Mondays-Saturdays)
- (c) one additional service from London Waterloo station to Reading departing after 2315 (Mondays-Saturdays)
- (d) one service from London Waterloo station to Surbiton departing after 0015 (Tuesdays-Sundays)
- (e) additional services to provide a 15 minute frequency from London Waterloo station to Epsom between 1930 and 2200 (Mondays-Saturdays)
- (f) additional services to provide a 15 minute frequency from Epsom to London Waterloo station between 1930 and 2200 (Mondays-Saturdays)
- (g) additional services to provide two trains an hour between London Waterloo and Kingston via Richmond between 1300 and 2300 on Sundays
- (h) additional services to provide two trains an hour between London Waterloo station and Reading between 0800 and 1200 on Sundays

- (i) services specified in Route 9 of the Service Level Commitment between London Waterloo station and Epsom between 0800 and 2300 (from London Waterloo station) and between 0830 and 2300 (to London Waterloo station) shall be extended to either Dorking or Guildford on Sundays
- (j) services specified in Route B3 of the Service Level Commitment between London Waterloo station and Bournemouth between 0745 and 1945 (from London Waterloo station) and 0845 and 2145 (to London Waterloo station) shall be extended to Poole on Sundays
- (k) one additional service from Basingstoke to Portsmouth & Southsea departing between 1615 and 1645 (Mondays-Fridays)
- (l) one additional service from Basingstoke to Fareham departing between 1915 and 1945 (Mondays-Fridays)
- (m) one additional service from Portsmouth & Southsea to Fareham departing between 1645 and 1730 (Mondays-Fridays)

provided that the Franchisee shall not be liable for any failure secure a Timetable that enables the Franchisee to operate the above services to the extent that such failure is caused by the reasons listed in paragraph 10.4 (a) to 10.4(d) of Schedule 1.1 (*Service Development*) of the Terms mutatis mutandis.

12.3 The Franchisee shall (to the extent it is not prevented from doing so by its other obligations under this Agreement) include in its Train Plan from the Passenger Change Date in December 2008:

- (a) an Additional Passenger Service from Basingstoke to London Waterloo station departing before 0645 (Mondays-Fridays)
- (b) one Peak Passenger Service between Salisbury and London Waterloo station formed of a 10-car diesel multiple unit formation

provided that the Franchisee shall not be liable for any failure secure a Timetable that enables the Franchisee to operate the above services to the extent that such failure is caused by the reasons listed in paragraph 10.4 (a) to 10.4(d) of Schedule 1.1 of the Terms mutatis mutandis.

12.4 ³⁹²

13. FARES AND PROMOTION

13.1 The Franchisee shall re-brand Island Line and re-livery Island Line trains by:

- (a) 31 August 2009 if it receives notice from the Secretary of State to do so by 4 February 2007;

³⁹² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

(b) 31 August 2010 if it receives notice from the Secretary of State to do so by 4 February 2008.

13.2 The Franchisee shall issue a new design of uniforms to all customer-facing staff within twelve months of the Start Date.

13.3 The Franchisee shall progressively update the functionality of the website specified in paragraph 10.1 of Schedule 1.4 (*Passenger Facing Obligations*) of the Terms so as to provide customers with a range of information, including about ticket retailing, Stations and station location maps, travel information, engineering works and service disruptions, timetables, the Passenger's Charter, the Franchisee's business and performance, contact details, policies, email bulletins, and links to third party sites. The Franchisee shall include the functionality in the website to allow customers to register for personalised timetable information by 31 January 2008.

13.4 The Franchisee shall introduce 'route mark' signage for customers on South Western metro routes by 31 December 2011.

³⁹³13.5 *The Franchisee shall develop a database of selected leisure, business and annual season ticket customers by 31 December 2008. The Franchisee shall extend this database to include selected users of ITSO-certified smartcards within 6 months of the implementation of ITSO on Prestige.*

13.6 The Franchisee shall, subject to and in accordance with the Ticketing and Settlement Agreement, introduce 'megatrain.com' Fares on the following Flows by 31 December 2007:

- (a) Poole-London
- (b) Honiton-London
- (c) Axminster-London
- (d) Havant-London

The Franchisee may substitute 'megatrain.com' fares on these Flows for equivalent fares on other flows subject to the Secretary of State's prior consent (not to be unreasonably withheld) and provided such substitution does not result in a breach of the Ticketing and Settlement Agreement.

13.7 The Franchisee shall maintain 'megatrain.com' or an equivalent yield-managed low-cost fares product on selected Flows for the Franchise Term, subject to the Secretary of State's prior consent (not to be unreasonably withheld) and provided such maintenance does not result in a breach of the Ticketing and Settlement Agreement.

13.8 The Franchisee shall introduce a Fare on selected Flows in order to increase revenue through increasing the use of First Class capacity at off-peak times by 31 December 2008. The Franchisee shall provide a report which evaluates the results of introducing such Fare, including any recommendations, to the Secretary of State within 12 months of introducing the Fare. The Franchisee shall implement those recommendations, provided there is a positive business case

³⁹³ Date of change 22/7/2009

and such recommendations are consistent with the performance by the Franchisee of its obligations under the Franchise Agreement.

13.9 The Franchisee shall introduce one or more Fares on selected Flows in order to incentivise travel in the shoulder peaks by 31 December 2009³⁹⁴.

14. CRANBROOK STATION

14.1 The Franchisee shall use reasonable endeavours to co-operate with Devon County Council in relation to its initiative to open Cranbrook station by December 2008.

14.2 Subject to the Secretary of State making the necessary adjustments to Maximum Journey Times or the “Limited Stops” commitment to call at neighbouring stations in the Service Level Commitment, the Franchisee shall include limited stops at Cranbrook in its Timetable provided that the Franchisee shall not be obliged to call more than:

- (a) 13 services each way on Mondays to Saturdays; and
- (b) 7 services each way on Sundays.

15. PURBECK RAIL PARTNERSHIP

15.1 The Franchisee shall use reasonable endeavours to engage with the Purbeck Rail Partnership on the scheme to re-instate passenger rail services between Swanage and Wareham.

16. PERFORMANCE MANAGEMENT

16.1 *The Franchisee shall procure the electrification of the Up Goods Siding at Basingstoke by 31 March 2009*³⁹⁵

16.2 The Franchisee shall carry out a series of special drivers briefing on driving technique during leaf-fall prior to 30 September 2008.

16.3 The Franchisee shall review the timings of critical empty stock movements from depots to form Morning Peak services and shall implement revised timings designed to improve right time departures from originating station during the leaf-fall period commencing in Autumn 2008.

16.4 In conjunction with Network Rail, the Franchisee shall undertake a joint monitoring exercise of train running during the 2007 leaf-fall period. Within three months of the completion of such exercise, the Franchisee shall provide a report which evaluates the results of the monitoring exercise, including recommendations with respect to subsequent leaf-fall timetables, to the Secretary of State. The Franchisee shall (to the extent it is not prevented from doing so by its other obligations under this Agreement) implement those recommendations, provided they do not require an increase in either traincrew headcount or fleet size above the level of such resources assumed in the Financial Model as at the date of this Agreement.

³⁹⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

³⁹⁵ Date of change 20/5/2009

16.5 In conjunction with Network Rail, the Franchisee shall undertake a review of signal overlaps on the sections of line between:

- (a) New Malden and London Waterloo station; and
- (b) Richmond and London Waterloo station

(such sections of line being termed “Red Routes”) and shall identify whether there are any opportunities to reduce them.

16.6 The Franchisee shall review the position of station stop markers at stations on Red Routes and identify any opportunities to move them in a way which would reduce the signal clearance time.

16.7 ³⁹⁶**16.7 The Franchisee shall use reasonable endeavours to agree with Network Rail a scheme to raise the line-speed from 5mph to 10mph at the entrance to Wimbledon Depot by 31 March 2009.**

16.8 At locations on Red Routes where there is a significant risk of delay from boarding/alighting, the Franchisee shall use reasonable endeavours to make public address announcements at Peak times:

- (a) on trains to ask passengers to move down inside the train; and
- (b) at stations to ask passengers to allow people to get off the train before boarding.

within twelve months of the Start Date.

16.9 The Franchisee shall undertake a trial of painting zones on selected platforms at the busiest stations on Red Routes with the objective of improving the flow of boarding and alighting passengers, by 31 December 2009. If this trial is successful, the Franchisee shall extend this to selected platforms at all stations on Red Routes.

16.10 The Franchisee shall use reasonable endeavours to agree with Network Rail a scheme for an additional signal at the country side of Clapham Junction on the Up Slow line and shall invest up to £³⁹⁷ capital equivalent value subject to Network Rail providing funding on the basis of a long-term charge over the asset life.

16.11 The Franchisee shall re-locate the vending machines from the bottom of the footbridge on platform 5 at Wimbledon by 30 September 2008.

16.12 Within six months of the Start Date, the Franchisee shall include information in all or some company briefings regarding:

- (a) right time punctuality
- (b) station dwell times on Red Routes

³⁹⁶ Date of change 12/12/2009

³⁹⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

- (c) autumn operational performance
- (d) performance league tables
- (e) most improved fleet and traincrew depots
- (f) worst performing trains
- (g) examples of best practise

16.13 The Franchisee shall institute a “Best Teamwork” award for performance within 12 months of the Start Date.

16.14 The Franchisee shall issue digital radio-controlled watches to all station, depot and traincrew employees within 12 months of the Start Date.

16.15 The Franchisee shall provide digital clocks at the exit roads of SSW Depots by 31 December 2007.^{vii}

16.16 Subject to the agreement of Network Rail, the Franchisee shall provide a CCTV link so that the relevant Network Rail signaller can view the depot departure roads at Northam and Wimbledon depots.

16.17 By the end of 2007, the Franchisee shall institute a process to identify the worst performing trains every four months, and shall put a remedial action plan in place within 3 months of that review.

16.18 The Franchisee shall work with Network Rail to combine service recovery plans and special timetables into a combined “Contingency Handbook” for SSW by 29 February 2008.

16.19 The Franchisee shall work with Network Rail to update the “Contingency Handbook” for each timetable change and upon the completion of the Portsmouth, Basingstoke and Farnham re-signalling schemes.

16.20 The Franchisee shall prepare an “alternative transport arrangements handbook” by 31 December 2007.

16.21 In respect of Committed Obligations that relate to staff or posts, the Secretary of State shall not unreasonably withhold his consent to proposals by the Franchisee to reallocate staff or posts the subject of Committed Obligations, where the reallocation is to take account of changing circumstances or to improve efficiency and such reallocation does not result in an overall reduction in the number of Franchisee posts or a reduction in the Franchisee’s total payroll costs.

17.³⁹⁸

³⁹⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

18.³⁹⁹ Modern Retailing

18.1 Enhanced Self-Serve Channels

- (a) *By no later than ⁴⁰⁰ the Franchisee shall procure, install, commission, maintain in operational use and replace, if the same cannot be maintained in operational use, an additional 175 ticket vending machines, which shall, subject to paragraphs 18.1(a)(i) and (a)(ii), comprise VTOs and ToDlers only, across the Stations in locations set out in Table A: New VTO TVM Locations and Table B: New ToDler TVM locations in the Annex to this Part 1 of Appendix 11 or at such other locations as notified by the Franchisee to the Secretary of State (the "New TVMs"). The Franchisee shall ensure that:*
- (i) *at least 91 of the New TVMs shall be Virtual Ticket Offices which shall be connected to the call centre described in paragraph 18.1(i); and*
- (ii) *up to 84 of the New TVMs shall be ToDlers.*
- (b) ⁴⁰¹
- (c) ⁴⁰²
- (d) ⁴⁰³
- (e) ⁴⁰⁴

³⁹⁹ Date of insertion 24/03/2015

⁴⁰⁰ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰¹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰² Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰³ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰⁴ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (f) ⁴⁰⁵
- (g) ⁴⁰⁶
- (h) **Any amount payable by the Secretary of State pursuant to paragraph 18.1(e) shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms.**
- (i) **By no later than ⁴⁰⁷ the Franchisee shall procure, install, commission and maintain in operational use a video linked call centre with 24 hour per day operation, which is connected by video link to and supports each New TVM which is a VTO at all times when no ticket office staff are available at the Station at which the relevant VTO is installed.**

18.2 Customer Ambassadors

- (a) **The Franchisee shall use reasonable endeavours to introduce, which could be from existing Franchisee Employees, ⁴⁰⁸ customer ambassadors ("CAs") by no later than ⁴⁰⁹**
- (b) **The Franchisee shall ensure that each CA shall:**
- (i) **be a customer-facing Franchise Employee;**
- (ii) **receive training during the course of their employment with the Franchisee to at least a Level 2 National Vocational Qualification Diploma in Customer Service by:**
- (A) **an independent third party; or**
- (B) **an in-house training provider,**

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⁴⁰⁶ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰⁷ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰⁸ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁰⁹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

with suitable accreditation;

- (iii) be deployed on the applicable Station with a Tablet which enables them to have access to real-time current information on the Passenger Services and any delays or disruption;*
 - (iv) provide face-to-face advice and guidance in relation to the Passenger Services to passengers, and potential passengers; and*
 - (v) carry out other activities which may include gateline operation, passenger assistance, security checks and sales assistance.*
- (c) The Franchisee shall use reasonable endeavours to ensure that at least 50% of the CAs have obtained their Level 2 National Vocational Qualification Diploma in Customer Service by the end of the Franchise Period.*

18.3 ⁴¹⁰

18.4 Smart Ticketing

- (a) Without prejudice and subject to paragraph 7 of Appendix 13 and paragraph 18.4(b), the Franchisee shall in performing its obligation under paragraph 7.1 to Appendix 13 to introduce an ITSO-certified smartcard system throughout the area where the Passenger Services are required to be provided, carry out the following:*

(i) ⁴¹¹

- (A) promote the use of interoperability and maximise the use of synergies with equipment installed on all buses operated by the Parent and/or its Affiliates which call at Stations served by the Passenger Services to accept ticketing and fares using ITSO-certified smartcards;*
- (B) commence a pilot of ITSO-certified smartcard season ticket travel at all Stations between Rowlands Castle and Farncombe, and London Waterloo; and*
- (C) provided that the Secretary of State and the Franchisee (each acting reasonably) consider that the pilot in paragraph 18.4(a)(i)(B) is successful, use all*

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reasonable endeavours to expand the pilot scheme to include Travelcards;

- (ii) ⁴¹², provide, make available and promote Season Ticket Fares on ITSO-certified smartcards;**
 - (iii) provided that the Secretary of State and the Franchisee (each acting reasonably) consider that the pilot in paragraph 18.4(a)(i)(B) is successful, by ⁴¹³, provide, make available and promote Travelcards on ITSO-certified smartcards; and**
 - (iv) ensure that at ⁴¹⁴ of all journeys made on SSWT owned and operated flows by passengers using any season ticket, including but not limited to Annual Season Tickets, Quarterly Season Tickets, Monthly Season Tickets and Weekly Season Tickets, throughout the area in which the Passenger Services are required to be provided are made using ITSO-certified smartcards by ⁴¹⁵.**
- (b) The Franchisee shall be relieved of its obligations under paragraph 18.4(a) to the extent that its performance is prevented or materially adversely affected by a failure by TfL (and/or its contractors and/or agents) to:**
- (i) ensure that the ISAMs contained in the Oystercard readers and validation equipment at all Stations in Zones 1 to 6 and on all ITSO-compatible TfL buses are correctly profiled with the relevant security management systems in order that such Oystercard readers and validation equipment are able to read, validate and accept ITSO-certified smartcards issued by the Franchisee; and**
 - (ii) ensure that the ISAMs and related equipment and systems at all Stations in Zones 1 to 6 are ITSO-certified and operational in all material respects,**

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by ⁴¹⁶. If Tfl fails to fulfill these obligations by ⁴¹⁷, the dates by which the Franchisee has to satisfy its obligations under paragraph 18.4(a) shall each be extended by the number of days between ⁴¹⁸ and the date on which Tfl fulfils the obligations described in paragraphs 18.4(b)(i) and (ii).

18.5 Uniforms

The Franchisee shall spend a minimum of ⁴¹⁹ by issuing to passenger-facing Franchisee Employees redesigned uniforms no later than ⁴²⁰.

19.⁴²¹ Marketing

19.1 New Customer Relationship Management System

(a) *The Franchisee shall introduce into operational use a new CRM System by no later than ⁴²² which will, amongst other things, enable targeted and personalised communications to be sent by postal, e-mail and mobile channels to passengers who use the Passenger Services ("New CRM System"). As and from the date 6 months after the date on which the New CRM System is introduced into operational use, the Franchisee shall use the New CRM System and no other CRM System.*

(b) *The Franchisee shall ensure that all rights relating to or subsisting in the New CRM System are owned by the Franchisee without restriction or are licensed to the Franchisee on terms which have been approved by the Secretary of State (such approval not to be unreasonably withheld or delayed) and that any New CRM Data obtained and/or used by or on behalf of the Franchisee shall be:*

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⁴²¹ Date of insertion 24/03/2015

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- (i) *obtained on terms such that the Franchisee shall be the Data Controller of such data; and*
 - (ii) *owned by the Franchisee without restriction.*
- (c) *In relation to any New CRM Data obtained by or on behalf of the Franchisee, the Franchisee shall ensure or procure that at the same time as the Franchisee seeks consent to Process such New CRM Data, the consent of the Data Subject is also sought to such New CRM Data being disclosed to any Successor Operator and/or the Secretary of State and Processed by any Successor Operator and/or the Secretary of State for the same purposes as the Franchisee sought consent to Process such New CRM Data.*
- (d) *Any consent referred to in paragraph 19.1(c) shall be sought in such manner as shall from time to time be approved by the Secretary of State (such approval not to be unreasonably withheld or delayed) and shall be on such terms as shall permit, in each case in compliance with the Data Protection Act:*
- (i) *the Franchisee to disclose such New CRM Data to any Successor Operator and/or the Secretary of State; and*
 - (ii) *any such Successor Operator and/or the Secretary of the State to Process such New CRM Data in the manner contemplated by paragraph 19.1(c).*
- (e) *Without prejudice to its obligations under paragraphs 19.1(b), (c) and (d) the Franchisee shall not be required to:*
- (i) *disclose, publish, share or otherwise provide or make available any Personal Data (including New CRM Data and Legacy CRM Data) obtained by or on behalf of the Franchisee to any person (including a Successor Operator or any participant involved with the re-letting of the Franchise); or*
 - (ii) *provide access to any CRM System (including the New CRM System),*

in each case pursuant to the terms of the Franchise Agreement (together, the “CRM Obligations”) if and to the extent that the Franchisee demonstrates to the satisfaction of the Secretary of State that compliance with such CRM Obligations would put the Franchisee, acting as a Data Controller, in contravention of its duties and/or obligations under any Personal Data Legislation.

19.2 Legacy CRM Data

The Franchisee shall use reasonable endeavours to obtain all necessary consents:

- (a) *to port all Commercially Valuable Legacy CRM Data to the New CRM System;*

- (b) to upload and publish the Commercially Valuable Legacy CRM Data on any data site used in relation to the re-letting of the Franchise;**
- (c) to disclose the Commercially Valuable Legacy CRM Data to any participant involved with the re-letting of the Franchise, the Successor Operator and the Secretary of State; and**
- (d) for the Commercially Valuable Legacy CRM Data to be Processed by any Successor Operator and/or the Secretary of State for the same purposes as the Franchisee sought consent to Process the Commercially Valuable Legacy CRM Data.**

Any Commercially Valuable Legacy CRM Data which is ported onto the New CRM System and for which the Franchisee has obtained all of the consents described in sub-paragraphs 19.2(a), (b), (c) and (d) shall be deemed to be New CRM Data for the purposes of this paragraph 19.

19.3 Personal Data - General Provisions

- (a) In respect of any New CRM Data processed by the Franchisee, the Franchisee agrees that it shall: (i) comply with the Data Protection Act and all other Legislation relating to the protection and use of personal information (including the Privacy and Electronic Communications (EC Directive) Regulations 2003) (all such Legislation collectively being the "Personal Data Legislation") to the extent that such Legislation applies to it; and (ii) procure that its agents or sub-contractors shall do the same to the extent that such Legislation applies to any of them.**
- (b) Pursuant to paragraph 19.3(a), the Franchisee agrees to comply with the Personal Data Legislation in respect of its Processing of New CRM Data and in particular, but without limitation, the Franchisee shall:**
 - (i) ensure that New CRM Data is Processed fairly and lawfully (in accordance with part 1 of Schedule 1 of the Data Protection Act);**
 - (ii) ensure that New CRM Data is obtained only for one or more specified and lawful purposes, and shall not be further Processed in any manner incompatible with that purpose or those purposes (in accordance with part 2 of Schedule 1 of the Data Protection Act); and**
 - (iii) obtain and maintain all appropriate notifications as required under the Data Protection Act.**
- (c) In accordance with its capacity as Data Controller of New CRM Data and in accordance with the ensuing obligations under the Data Protection Act:**
 - (i) the Franchisee shall procure that any CRM Data Processor which it appoints on or after the date of the Passenger Investment Deed of Amendment shall:**

- (A) *prior to any disclosure of New CRM Data to the CRM Data Processor, enter into written terms between itself and the Franchisee which are equivalent to those contained in this paragraph 19.3(c); and*
 - (B) *Process New CRM Data only on behalf of the Franchisee, only for the purpose(s) as defined by the Franchisee and only in accordance with instructions received from the Franchisee from time to time;*
- (ii) *the Franchisee shall, and shall procure that any CRM Data Processor which it appoints on or after the date of the Passenger Investment Deed of Amendment shall, at all times have in place appropriate technical and organisational measures against unauthorised or unlawful processing of New CRM Data and against accidental loss or destruction of, or damage to, New CRM Data and that such measures shall:*
 - (A) *reflect the level of harm, damage and/or distress that might be suffered by the Data Subject to whom the New CRM Data relates in the event of a breach of the measures as set out herein;*
 - (B) *ensure that only authorised personnel have access to New CRM Data and that any persons authorised to have access to New CRM Data will respect and maintain all due confidentiality; and*
 - (C) *(in the case of the CRM Data Processor) include compliance with a schedule of minimum security measures pursuant to the written terms between the Franchisee and the CRM Data Processor;*
- (iii) *the Franchisee shall procure that any CRM Data Processor which it appoints on or after the date of the Passenger Investment Deed of Amendment shall:*
 - (A) *promptly notify the Franchisee of any actual or suspected, threatened or 'near miss' incident of accidental or unlawful destruction or accidental loss, alteration, unauthorised or accidental disclosure of or access to the New CRM Data or other breach of this paragraph 19.3(c)(iii) ("Security Breach") and, pursuant to this the Franchisee shall promptly notify the Secretary of State of all Security Breaches by itself or by the CRM Data Processor (the Franchisee hereby acknowledges that whilst the Secretary of State is not Data Controller in respect of the New CRM Data, the Secretary of State's legitimate interests given its duties under the Act may be affected in the event of a Security Breach and as such the Secretary of State wishes to be notified of the same); and*

- (B) *promptly provide the Franchisee on request with all reasonable information, assistance and co-operation in relation to its use of the New CRM Data, including in relation to any audit by the Franchisee or by any person appointed on its behalf to permit an accurate and complete assessment of compliance with this paragraph 19.3;*
- (iv) *the Franchisee shall, and shall procure that any CRM Data Processor which it appoints on or after the date of the Passenger Investment Deed of Amendment shall, at all times take reasonable steps to ensure the reliability of its/their personnel who have access to the New CRM Data and ensure they are aware of the obligations of the Franchisee or the New CRM Data Processor (as appropriate) in relation to the same; and*
- (v) *the Franchisee shall, and shall procure that any CRM Data Processor which it appoints on or after the date of the Passenger Investment Deed of Amendment shall, not cause or permit the New CRM Data to be transferred to any location outside the European Economic Area (as defined in the Data Protection Act or otherwise as appropriate) without the prior written permission of:*
 - (A) *(in the case of the Franchisee) the Secretary of State; or*
 - (B) *(in the case of any CRM Data Processor appointed by the Franchisee) the Franchisee provided that the Franchisee shall not give any such consent without the prior written permission of the Secretary of State;*

and in any case without first executing as between the Data Controller and the relevant CRM Data Processor outside the EEA the Standard Contractual Clauses for Data Processors established in Third Countries pursuant to the Commission Decision (2010/87/EU) of 5 February 2010 under the EU Directive (95/46/EC).

19.4 New Website and Mobile App

The Franchisee shall introduce a new website, mobile website and mobile app by no later than ⁴²³ which each, as a minimum, will:

- (a) *present passengers with screens which all have a common look and feel with each other (subject so far as necessary to the different*

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*technological requirements of each platform) and with the New TVMs;
and*

- (b) provide a simple to use interface to find information about the Passenger Services and to book, pay for and obtain delivery of all types of tickets for use of the Passenger Services.*

19.5 Targeted Campaigns

- (a) The Franchisee shall spend at least the Additional Marketing Expenditure (which shall not include any Staff Costs but may include the cost of incremental staff to the Franchisee's business who may be required in respect of a campaign run pursuant to this paragraph 19.5(a)) in the relevant Franchisee Year on brand building, smartcard promotion and marketing activities which the Franchisee, acting reasonably, considers will result in Revenue improvements in that Franchisee Year or subsequent Franchisee Years, including by advertising and promoting service enhancements and improvements in the customer experience, including keeping passengers informed of any planned disruption to the Passenger Services.*
- (b) The Franchisee shall provide such information as the Secretary of State shall reasonably require for the purposes of verifying that the Franchisee has spent the Additional Marketing Expenditure for the relevant Franchisee Year.*
- (c) The rights of the Secretary of State in Schedule 11 (Agreement Management Provisions) of the Terms shall apply to all information and documentation used by the Franchisee in connection with the Additional Marketing Expenditure.*

20.⁴²⁴ Customer Experience

- 20.1** *The Franchisee shall on or before ⁴²⁵ prepare and submit to the Secretary of State for approval a first draft of the customer and stakeholder engagement strategy for the Franchise which shall be broadly based on the customer and stakeholder engagement strategy for the East Coast franchise and which sets out how the Franchisee will maintain customer satisfaction and the NRPS outputs until the end of the Franchise Period and improve customer satisfaction in accordance with performance levels reported through the CSES and the outputs of the NRPS and the information set out in paragraph 20.5 below. The Franchisee shall make any amendments to its customer and stakeholder engagement strategy for the Franchise as agreed between the Franchisee and the Secretary of State or as reasonably determined by the Secretary of State*

⁴²⁴ Date of insertion 24/03/2015

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until such time as the customer and stakeholder engagement strategy for the Franchise is in a form agreed between the parties.

20.2 *The Franchisee shall implement and maintain the Customer and Stakeholder Engagement Strategy within 90 days after the date on which the parties agree the form of the Customer and Stakeholder Engagement Strategy.*

20.3 *The Franchisee shall:*

(a) by no later than 1 February 2016; and

(b) thereafter at least every six months,

publish the Customer Report on the Franchisee's website.

20.4 *The Franchisee shall update the Customer and Stakeholder Engagement Strategy from 1 September 2016 and then every year from that date during the month of September to reflect lessons learned in the period since 1 September 2015 or the previous review of the Customer and Stakeholder Engagement Strategy (as applicable) and to ensure that the Customer and Stakeholder Engagement Strategy achieves effective passenger engagement. Any revisions to the Customer and Stakeholder Engagement Strategy shall require the consent of the Secretary of State (such consent not to be unreasonably withheld or delayed).*

20.5 *From 1 June 2015 until the end of the Franchise Period, the Franchisee shall:*

(a) carry out "Net Promoter Score" benchmarking to better understand advocacy scores measuring the likelihood that a customer will recommend the South West Trains brand to others and using the results of the first six months of such benchmarking to form a reliable baseline, by no later than 4 January 2016 to establish appropriate customer experience improvement targets measured by the metrics used for that benchmarking;

(b) conduct targeted customer satisfaction surveys in each Reporting Period to determine levels of customer satisfaction with the services provided by the Franchisee and, by 4 January 2016, using the results from the initial six months of customer satisfaction surveys to form a reliable baseline, establish appropriate customer satisfaction improvement targets;

(c) introduce "Customer Effort Scores" procedures where passengers may provide feedback on the performance of the Franchisee's customer-facing staff and by 4 January 2016 using the results from the initial six months of feedback to form a reliable baseline, establish appropriate improvement targets for the "Customer Effort Scores"; and

(d) procure that at least 40 "Customer Experience Visits" are undertaken in each Reporting Period across a representative range of Passenger Services and Stations. Each Customer Experience Visit shall include a survey of passengers' perceptions of the standard of services offered by the Franchisee.

- 20.6** *By no later than 4 January 2016, the Franchisee shall prepare, maintain and implement an updated Service Quality Management System in accordance with Schedule 7.2 of the Terms.*
- 20.7** *The Franchisee shall introduce a new intelligence platform data management system to allow detailed analysis of CSES Data (the "Intelligence Platform DMS") by no later than 1 September 2015. The Intelligence Platform DMS shall include sentiment analysis software to enable the Franchisee to track how frequently passengers use particular words or phrases to describe their experience of the Passenger Services and the standard of service delivered by the Franchisee.*
- 20.8** *The Franchisee shall ensure that all rights relating to or subsisting in any Intelligence Platform DMS are owned by the Franchisee without restriction or are licensed to the Franchisee on terms which have been approved by the Secretary of State (such approval not to be unreasonably withheld or delayed) and that all rights relating to or subsisting in any CSES Data obtained by or on behalf of the Franchisee shall be owned by the Franchisee.*
- 20.9** *Without prejudice to paragraph 10 of Part 1 to Appendix 11, the Franchisee shall develop, and with effect from no later than 4 January 2016 implement and maintain as part of the induction programme for new Franchise Employees who will be customer-facing staff, training on brand standards and expectations for service delivery to passengers.*

21.⁴²⁶ **Car Parks**

21.1 **Car Park Improvements**

- (a) *Without prejudice to paragraph 4.1 of Part 1 to Appendix 11, and subject to: (i) the Franchisee being granted all necessary consents and approvals (including planning consent); and (ii) any material issue which would adversely impact the delivery and/or construction at the agreed locations, the Franchisee shall increase the capacity of the car park facilities at the following Stations by building decked car-parks within the existing footprint at the Station premises listed in this paragraph 21.1(a) or at such other location as may be approved or deemed to have been approved by the Secretary of State pursuant to paragraph 21.1(c) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) so that an aggregate of 1,400 additional car parking spaces are provided by no later than ⁴²⁷:*

⁴²⁶ Date of insertion 24/03/2015

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| | | | |
|--------------------|------------------|--------------------|-------------------|
| <i>Andover</i> | <i>Brookwood</i> | <i>Haslemere</i> | <i>Farnham</i> |
| <i>Basingstoke</i> | <i>Havant</i> | <i>Petersfield</i> | <i>Winchester</i> |

- (b) ⁴²⁸
- (c) *Where the Franchisee is unable to increase the capacity of the car parks at the Stations listed in paragraph 21.1(b) above, despite using all reasonable endeavours to do so, by, in aggregate, 1,400 car parking spaces, for any of the reasons set out in paragraphs 21.1(a)(i) or (ii) above, including where the Franchisee is unable to secure planning consent notwithstanding using all reasonable endeavours to do so, the Franchisee shall:*
- (i) *in consultation with the Secretary of State:*
- (A) *identify alternative Stations where an increase in the capacity of the car parks at those Stations would benefit passengers; and*
- (B) *propose an increase in capacity at each of those car parks;*
- (ii) *provide the Secretary of State in relation to any of the alternative Stations considered by the parties pursuant to paragraph 21.1(c)(i) with the following supporting information:*
- (A) *the estimated number of car parking spaces to be secured in the design and other information to support the choice of the alternative Station(s);*
- (B) *the then current car park occupancy levels at the alternative Station(s);*
- (C) *an estimate of the net impact of the change in revenue from the original Station specified in paragraph 21.1(b) to facilitate the economic appraisal by the Secretary of State of the proposed alternative Station(s);*
- (D) *an assessment of deliverability by ⁴²⁹;*
- (E) *the differences from the 2015 Incremental Record of Assumptions between that applicable to the car park*

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location at the original Station in paragraph 21.1(b) and the proposed alternative car park location at the alternative Station(s); and

(F) *such further information as the Secretary of State, acting reasonably, may request; and*

(iii) *following such consultation of no more than fifteen (15) Weekdays after the Secretary of State's receipt of the information set out in paragraph 21.1(c)(ii) and the Secretary of State's approval (not to be unreasonably withheld or delayed), increase the capacity of the car park(s) at the alternative Station(s) identified in accordance with the outcome of the consultation (provided that such increase shall be, in aggregate, no more than 1,400 car parking spaces). In the event the Secretary of State does not respond to the Franchisee within fifteen (15) Weekdays after the Secretary of State's receipt of the information set out in paragraphs 21.1(c)(ii), the Secretary of State's approval in respect of that alternative car parking proposal shall be deemed to have been granted, provided always that the Franchisee has actively sought a response from the Secretary of State.*

Where:

(A) *the number of additional car parking spaces to be provided at an alternative location is different from the number of car parking spaces to be provided at the relevant Station set out in paragraph 21.1(b); and/or*

(B) *there is a change in the number of car parking spaces to be provided at a Station from the number specified for that Station in paragraph 21.1(b),*

in either or both cases, is approved by the Secretary of State (or is deemed to have been approved) in accordance with this paragraph 21.1(c), the amount of assumed capital expenditure in column 2 of the table in the Appendix to Schedule 14.4 of the Terms for the relevant RV Assets which are car parks shall be adjusted to correspond to the number of additional car parking spaces to be delivered in respect of those RV Assets.

(d) 430

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- (e) 431
- (f) 432
- (g) 433
- (h) 434
- (i) 435
- (j) 436

22.⁴³⁷ Timetable Changes

22.1 General

- (a) *Without prejudice to paragraph 10.1 to Schedule 1.1 of the Terms, the Franchisee shall, acting diligently as a skilled and experienced Train Operator, use all reasonable endeavours to amend and/or enter into one or more Track Access Agreements as soon as reasonably practicable after the date of the Passenger Investment Deed of Amendment so that it has the Timetable Development Rights necessary to perform each of the obligations described in paragraphs 22.2 to 22.6 (inclusive) below from the dates specified in the relevant paragraphs without any qualifications having a material adverse effect on the operation of such services (each such right a "Service Enhancement Right").*
- (b) *Where and to the extent that the Franchisee, having used all reasonable endeavours is unable to amend or enter into one or more Track Access Agreements which includes the Service Enhancements Rights from the applicable dates, the Franchisee shall not be in contravention of the*

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⁴³⁷ Date of insertion 24/03/2015

relevant provision and there shall not be a contravention of the Franchise Agreement provided that the Franchisee continues to use all reasonable endeavours to obtain such Service Enhancement Right.

- (c) Where and to the extent that the Franchisee obtains the Service Enhancement Rights necessary to operate the Passenger Services described in paragraphs 22.2 to 22.6 (inclusive) below (such Passenger Services the "Supplemental Passenger Services"):**

 - (i) paragraph 10 to Schedule 1.1 of the Terms shall apply in relation to the Supplemental Passenger Services as if such services formed part of the Service Level Commitment (with such amendments as shall be necessary in the context); and**
 - (ii) paragraphs 1.1 and 1.2 to Schedule 1.2 of the Terms shall apply to the Supplemental Passenger Services to the extent they are included in the Plan of the Day. If a Supplemental Passenger Service is not included in the Plan of the Day there shall not be a contravention of the relevant provision in paragraphs 22.2 to 22.6 below (or a contravention of the Franchise Agreement) to the extent that the Franchisee has complied with paragraph 22.1(b) above and paragraph 10 to Schedule 1.1 of the Terms in relation to that Supplemental Passenger Service.**
- (d) References in paragraphs 22.2 to 22.6 below to the operation of additional Passenger Services or capacity shall be interpreted as Passenger Services which are additional to the Passenger Services or capacity provided by the Franchisee as at the date of the Passenger Investment Deed of Amendment.**
- (e) Paragraphs 22.2 to 22.6 below are subject to this paragraph 22.1 and the obligations set out in those paragraphs shall be construed accordingly.**

22.2 Hampton Court Shuttles and later service to Woking

On and from Monday 14 December 2015 the Franchisee shall operate additional Passenger Services such that, in aggregate:

- (a) one passenger service departing London Waterloo between 19:00 and 19:30 hours extended from Surbiton to Hampton Court on Mondays to Fridays;**
- (b) one passenger service departing London Waterloo between 00:15 and 00:45 hours on Tuesday to Friday mornings extended from Surbiton to Woking;**
- (c) two passenger services operate from London Waterloo to Hampton Court departing from London Waterloo between 21:00 hours and 22:00 hours on Mondays to Saturdays; and**

- (d) *two passenger services operate between Surbiton and Hampton Court departing from Surbiton between 22:30 hours and 23:59 hours on Mondays to Saturdays.*

22.3 Additional seats on Sunday Services

On and from Sunday 13 December 2015 the Franchisee shall provide at least 700 additional seats, in aggregate, across Passenger Services in Service Group HY01 (Suburban Services) operating each hour and in each direction between London Waterloo and Wimbledon each Sunday between 10:00 hours and 21:00 hours.

22.4 Enhance Sunday Services on the Windsor, Reading and Hounslow Lines

- (a) *On and from Sunday 13 December 2015 the Franchisee shall operate the following Passenger Services on each Sunday:*
- (i) *an additional Passenger Service providing no fewer than 270 seats from London Waterloo to Windsor & Eton Riverside departing from London Waterloo between 08:15 hours and 08:45 hours;*
 - (ii) *an additional Passenger Service providing no fewer than 270 seats from Windsor & Eton Riverside to London Waterloo departing from Windsor and Eton Riverside between 09:15 hours and 09:45 hours;*
 - (iii) *an existing Passenger Service providing no fewer than 270 seats between London Waterloo and Staines departing from London Waterloo between 20:00 hours and 21:00 hours extended to Windsor & Eton Riverside;*
 - (iv) *an additional Passenger Service providing no fewer than 270 seats from Windsor & Eton Riverside to Staines departing from Windsor and Eton Riverside between 21:15 hours and 21:45 hours;*
 - (v) *an additional Passenger Service providing no fewer than 270 seats from Staines to Reading departing from Staines between 07:00 hours and 07:30 hours; and*
 - (vi) *an additional Passenger Service providing no fewer than 270 seats from Ascot to London Waterloo departing from Ascot between 07:15 hours and 07:45 hours.*
- (b) *On and from Sunday 13 December 2015, the Franchisee shall operate, in aggregate, two Passenger Services each hour (and pro rata for part hours) providing no fewer than 236 seats each and in each direction from Twickenham to Barnes via Hounslow on Sundays between the hours of:*
- (i) *14:00 hours and 23:30 hours from London Waterloo to Kingston; and*

- (ii) 12:30 hours and 23:00 hours from Kingston to London Waterloo,

by re-routing one London Waterloo to Kingston via Richmond service to operate via Hounslow (calling at all intermediate stations between Twickenham and Barnes).

22.5 Bournemouth Mainline

- (a) *On and from 14 December 2015 the Franchisee shall operate the following services each Weekday:*
 - (i) *an additional passenger service from Southampton Central to London Waterloo departing from Southampton Central between 05:15 hours and 05:45 hours; and*
 - (ii) *an additional passenger service from London Waterloo to Bournemouth departing from London Waterloo between 06:45 hours and 07:15 hours.*
- (b) *On and from 19 December 2015 the Franchisee shall provide at least an additional 270 seats comprising 24 first class seats and 246 standard class seats on each Saturday on each of the following Passenger Services:*
 - (i) *the service from Bournemouth to London Waterloo which departs from Bournemouth on or about 9:20 hours;*
 - (ii) *the service from Bournemouth to London Waterloo which departs from Bournemouth on or about 10:20 hours;*
 - (iii) *the service from London Waterloo to Bournemouth which departs from London Waterloo on or about 18:35 hours; and*
 - (iv) *the service from London Waterloo to Bournemouth which departs from London Waterloo on or about 19:05 hours.*
- (c) *On and from Sunday 13 December 2015 the Franchisee shall operate on each Sunday after 15.30 hours separate Passenger Services from London Waterloo to Poole (Route B3) and from London Waterloo to Portsmouth via Eastleigh (Route D).*
- (d) *On and from the Passenger Change Date in December 2015 the Franchisee shall provide at least an additional 270 seats comprising 24 first class seats and 246 standard class seats on each of the following Passenger Services on each Sunday:*
 - (i) *each service from London Waterloo to Bournemouth departing from London Waterloo between 17:00 hours and 21:00 hours; and*
 - (ii) *each service from Bournemouth to London Waterloo departing from Bournemouth between 16:00 hours and 20:00 hours.*

22.6 Additional West of England capacity on Sunday afternoons

On and from Sunday 13 December 2015 the Franchisee shall:

- (a) provide at least an additional 570 seats in aggregate on Sundays from Salisbury to London Waterloo departing from Salisbury between 15:00 hours and 19:00 hours; and**
- (b) provide at least an additional 570 seats in aggregate on Sundays from London Waterloo to Salisbury, departing from London Waterloo between 17:00 hours and 21:00 hours,**

(each such Passenger Service a "WoE Strengthened Service") provided that the Franchisee shall only be required to operate a WoE Strengthened Service if, and to the extent, that the non-operation of such service would result in the Corresponding Services being overcrowded and such overcrowding is unable to be remedied by providing additional capacity on the relevant Corresponding Service.

23.⁴³⁸ Sustainability

23.1 Community Rail Partnerships

- (a) Without prejudice to its obligations under paragraph 14 of Schedule 13 of the Terms the Franchisee shall:**
 - (i) pay ⁴³⁹ in aggregate in each Franchisee Year to South Western Community Rail Partnerships (save that where a Franchisee Year is less than 13 Reporting Periods such amount shall be reduced pro-rata on a Reporting Period basis);**
 - (ii) appoint and maintain for the Franchise Term a Community Rail Liaison Manager by no later than 1 September 2015; and**
 - (iii) host a community rail conference at least twice in each Franchisee Year (or at least once in a Franchisee Year where such Franchisee Year is less than 13 Reporting Periods) and invite each South Western Community Rail Partnership to attend each conference.**

23.2 Local Community Partnerships

⁴³⁸ Date of insertion 24/03/2015

⁴³⁹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (a) **Without prejudice to paragraph 23.1(a)(i), the Franchisee shall spend a minimum of ⁴⁴⁰ in each Franchisee Year (save that where a Franchisee Year is less than 13 Reporting Periods such amount shall be reduced pro-rata) on community projects including:**
- (i) **community outreach in schools;**
 - (ii) **the development and funding of a suburban Community Rail Partnership; and**
 - (iii) **equipment and/or schemes which support the Friends of South West Trains.**
- (b) **The Franchisee shall as soon as reasonably practical provide the Secretary of State with its spending plans for local community partnerships each Franchisee Year (excluding the Franchisee Year commencing on 1 April 2015).**
- (c) **The Franchisee shall use reasonable endeavours to find third party funding for equipment and/or schemes which support the Friends of South West Trains and pursuant to paragraph 23.2(a)(iii) the Franchisee will spend one pound for each pound of such third party funding secured for equipment and/or schemes which support the Friends of South West Trains provided that such funding in aggregate with the other expenditure incurred or proposed to be incurred by the Franchisee pursuant to paragraph 23.2(a)(iii) may not exceed ⁴⁴¹ in each Franchisee Year without the Franchisee's express prior consent (save that where a Franchisee Year is less than 13 Reporting Periods such amount shall be reduced pro-rata).**

23.3 Island Line

The Franchisee shall:

- (a) **co-operate and engage constructively with either: (i) the Secretary of State; or (ii) where directed in writing by the Secretary of State, the Isle of Wight Council (or other stakeholder, as appropriate); and**
- (b) **use all reasonable endeavours to provide such assistance as the Secretary of State or the Isle of Wight Council or other stakeholder (as the case may be in accordance with paragraph 23.3(a)) may reasonably request, such assistance to include attending meetings and providing**

⁴⁴⁰ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁴⁴¹ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

data, which is not commercially sensitive or subject to any confidentiality obligation binding on the Franchisee,

in connection with the development of a long term plan for the future of the Island Line and any investigation or report in relation to the Island Line.

24.⁴⁴² Smartphones

24.1 By no later than ⁴⁴³, the Franchisee shall:

- (a) replace at least ⁴⁴⁴ existing blackberry devices provided to Franchise Employees with new Smartphones; and**
- (b) provide at least ⁴⁴⁵ new Smartphones to Franchise Employees who previously did not have a blackberry.**

25.⁴⁴⁶ Alliance Reporting and Evaluation

25.1 The Franchisee shall use reasonable endeavours to submit to the Secretary of State by no later than ⁴⁴⁷, a set of key performance indicators ("KPIs") (including a Unit Cost Efficiency KPI and a Customer Satisfaction KPI). The Franchisee and the Secretary of State shall use reasonable endeavours to agree the final form of those KPIs by ⁴⁴⁸. If the Secretary of State and the Franchisee enter into the Direct Award, the agreed KPIs shall be used by the Secretary of State and the Franchisee to monitor the performance of the Alliance during the operational term of the Direct Award.

⁴⁴² Date of insertion 24/03/2015

⁴⁴³ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁴⁴ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁴⁵ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁴⁶ Date of insertion 24/03/2015

⁴⁴⁷ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁴⁴⁸ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- 25.2** *The Franchisee shall, no later than ⁴⁴⁹ appoint and maintain for the remainder of Control Period 5 a Franchise Employee whose responsibilities shall include managing data relating to the performance of the Alliance (an "Alliance Data Manager"). The Alliance Data Manager shall inter alia collate and report measurable KPI data each Reporting Period; produce case study evidence to demonstrate initiatives that the Alliance has undertaken in pursuit of efficiencies, best practice or innovation in the rail industry; and act as the single point of contact for the Secretary of State or its appointed advisors undertaking an evaluation of the Alliance.*
- 25.3** *The Franchisee shall co-operate and shall use reasonable endeavours to procure that Network Rail co-operates with the production of an evaluation of the Alliance at any time during Control Period 5. The Secretary of State will provide the Franchisee with an opportunity to review any such evaluation prior to its completion.*

⁴⁴⁹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

Annex to Part 1 to Appendix 11⁴⁵⁰

Table A: New VTO TVM Locations

| | |
|----------------------------|--|
| Addlestone | |
| Alton | |
| Ash | |
| Ash Vale | |
| Ashford | |
| Axminster | |
| Bagshot | |
| Bedhampton | |
| Bentley | |
| Berrylands | |
| Bookham | |
| Branksome | |
| Brentford | |
| Byfleet and New Haw | |
| Camberley | |
| Chandlers Ford | |
| Chertsey | |
| Chessington North | |
| Chessington South | |
| Chiswick | |
| Christchurch | |
| Clandon | |
| Claygate | |
| Cobham and Stoke d'Abernon | |

⁴⁵⁰ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

| | |
|------------------------|--|
| Cosham | |
| Crewkerne | |
| Datchet | |
| Earley | |
| Effingham Junction | |
| Feniton | |
| Frimley | |
| Fulwell | |
| Gillingham | |
| Hampton | |
| Hampton Wick | |
| Hamworthy | |
| Hedge End | |
| Hersham | |
| Hinchley Wood | |
| Hinton Admiral | |
| Honiton | |
| Hook | |
| Horsley | |
| Hounslow | |
| Liphook | |
| Liss | |
| London Road, Guildford | |
| Lymington Town | |
| Malden Manor | |
| Martins Heron | |
| Micheldever | |
| Milford | |
| Mortlake | |
| Motspur Park | |
| Netley | |

| | |
|-------------------|--|
| New Milton | |
| North Sheen | |
| Overton | |
| Oxshott | |
| Parkstone | |
| Pokesdown | |
| Portchester | |
| Rowlands Castle | |
| Shepperton | |
| Sherborne | |
| St Denys | |
| St Margarets | |
| Stoneleigh | |
| Strawberry Hill | |
| Sunbury | |
| Sunningdale | |
| Swanwick | |
| Sway | |
| Templecombe | |
| Thames Ditton | |
| Tisbury | |
| Tolworth | |
| Totton | |
| Upper Halliford | |
| Virginia Water | |
| Wandsworth Town | |
| Wareham | |
| Whitchurch | |
| Winchfield | |
| Winnersh | |
| Winnersh Triangle | |

| | |
|-----------------|--|
| Witley | |
| Wool | |
| Woolston | |
| Worplesdon | |
| Yeovil Junction | |

Table B: New ToDier TVM Locations

| | |
|------------------|--|
| Aldershot | |
| Andover | |
| Ascot | |
| Barnes | |
| Basingstoke | |
| Bournemouth | |
| Bracknell | |
| Brockenhurst | |
| Brookwood | |
| Clapham Junction | |
| Dorchester South | |
| Earlsfield | |
| Eastleigh | |
| Egham | |
| Esher | |
| Ewell West | |
| Fareham | |
| Farnborough | |
| Farncombe | |
| Farnham | |
| Feltham | |
| Fleet | |

| | |
|-------------------------|--|
| Fratton | |
| Godalming | |
| Guildford | |
| Hampton Court | |
| Haslemere | |
| Havant | |
| Kingston | |
| London Waterloo | |
| New Malden | |
| Norbiton | |
| Petersfield | |
| Poole | |
| Portsmouth and Southsea | |
| Portsmouth Harbour | |
| Putney | |
| Raynes Park | |
| Richmond | |
| Salisbury | |
| Southampton Central | |
| Southampton Airport | |
| Staines | |
| Surbiton | |
| Teddington | |
| Twickenham | |
| Vauxhall | |
| Walton on Thames | |
| West Byfleet | |
| Weybridge | |
| Weymouth | |
| Whitton | |
| Wimbledon | |

| | |
|----------------------------|--|
| Winchester | |
| Windsor and Eton Riverside | |
| Woking | |
| Wokingham | |
| Worcester Park | |

Miscellaneous Provisions relating to Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations

1. *Application*

Rule 1 *This Part 2 sets out further terms which apply to the Committed Obligations set out in Part 1 (List of Committed Obligations), the HLOS Committed Obligations set out in Part 4 (List of HLOS Committed Obligations) and the CP5 RS Committed Obligations set out in Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations). The references to Committed Obligations in this Part 2 are to the Committed Obligations in Part 1 (List of Committed Obligations), the references to HLOS Committed Obligations in this Part 2 are to the HLOS Committed Obligations in Part 4 (List of HLOS Committed Obligations) and the references to CP5 RS Committed Obligations in this Part 2 are to the CP5 RS Committed Obligations in Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations).*

2. *Continuation of Availability*

2.1 *Save as expressly provided in this Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), the Franchisee shall maintain facilities established in accordance with its Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations throughout the remainder of the Franchise Term.*

2.2 *The Franchisee shall be treated as maintaining Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations notwithstanding temporary non-availability due to accidental damage or vandalism or maintenance, repair or replacement activities, or temporary staff absence, subject in each case to the Franchisee taking all reasonable steps to keep any such period of temporary non-availability to a minimum.*

2.3 *Where Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) includes a commitment regarding staffing or particular appointments it plans to make:*

(a) *the obligation of the Franchisee applies, but shall not be regarded as being contravened by:*

(i) *temporary absences (for example for sickness or holiday); or*

⁴⁵¹ Date of Change 23/12/2011

⁴⁵² Date of change 12/09/2014

- (ii) *temporary non-fulfilment of a relevant post whilst the Franchisee is recruiting for that post, subject to the Franchisee using all reasonable endeavours to keep the duration between appointments as short as reasonably practicable;*
- (b) *the Franchisee's rights and obligations in relation to the numbers or deployment of its other staff remain unaffected; and*
- (c) *except where this paragraph 2.3(c) is disapplied by the Secretary of State in writing, the Secretary of State shall not unreasonably withhold his consent to proposals by the Franchisee to reallocate staff or posts the subject of HLOS Committed Obligations or CP5 RS Committed Obligations, where the reallocation is to take account of changing circumstances or improve efficiency and such reallocation does not result in an overall reduction in the number of Franchisee posts or a reduction in the Franchisee's total payroll costs.*

3. *Expenditure Commitments*

Annual Expenditure

- 3.1 *Where Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) provide for the expenditure of an annual amount (or an amount over some other period) by the Franchisee, that amount:*

(a) is assessed net of Value Added Tax; and

(b) is the amount required to be expended by the Franchisee itself or procured by the Franchisee to be expended.

Expenditure Commitments in Real Amounts

- 3.2 *All expenditure commitments set out in Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), to the extent they have not already been incurred by the Franchisee, shall (unless expressly provided in Part 4 and/or Part 6) be indexed by the Retail Prices Index in the same way as variable costs represented by the expression VCRPI are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms.*

Expenditure by Network Rail

- 3.3 *All amounts which the Franchisee has committed (whether unconditionally or otherwise) pursuant to Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS*

Committed Obligations and CP5 RS Committed Obligations) to expend in connection with improvements to track or Stations shall be in addition to any expenditure made by Network Rail as part of its infrastructure improvements or maintenance programme to the extent such expenditure is not directly funded or reimbursed by the Franchisee.

3.4 *For the avoidance of doubt the Franchisee has no commitment or obligation to expend any amount in complying with its obligations in paragraphs 7.2 to 7.8 (inclusive) of Part 6 to Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations).*

4. Liaison and Co-operation

Where the Franchisee is committed to liaison and co-operation under Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of this Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), it shall participate actively in the relevant measures including through the application of management time and internal resources, correspondence and attendance at meetings, in each case as the Franchisee reasonably considers in all the circumstances to be an appropriate use of its resources and effective to help achieve the relevant objective.

5. Nature of Commitment

5.1 *Any commitment in terms of Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) shall be in addition to any obligation of the Franchisee elsewhere in this Agreement and nothing in Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), this Part 2 or Part 3 (Late/Non Completion of Committed Obligations) or Part 5 (Completion and Late/Non Completion of HLOS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) shall limit or restrict an obligation imposed on the Franchisee elsewhere in this Agreement.*

5.2 *Where in Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), references are made to particular manufacturers or suppliers of equipment or services, the Franchisee may fulfil its relevant commitment by using reasonable equivalents. For the avoidance of doubt, in respect of the CP5 RS Committed Obligations, this paragraph 5.2 shall not apply to references to manufacturers or suppliers of equipment or services provided under a Key Contract.*

5.3 *Without prejudice to paragraph 7 (Survival) of Part 7 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS*

Committed Obligations) each commitment under Part 1 (List of Committed Obligations) and/or Part 4 (List of HLOS Committed Obligations) and/or Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) shall come to an end on expiry of the Franchise Term for whatever reason, save in respect of any accrued payments owed pursuant to Part 3 (Late/Non Completion of Committed Obligations), Part 5 (Completion and Late/Non Completion of HLOS Committed Obligations) or Part 7 (Late/ Non Completion of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) but not yet paid.

6. Review of Compliance

6.1 *Progress with Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations is an agenda item for Franchise Performance Meetings and the Franchisee shall ensure that at such meetings, the Secretary of State is given such progress reports as he may reasonably request.*

6.2 *In addition to its obligation under paragraph 6.1, the Franchisee shall from time to time promptly provide such evidence of its compliance with any Committed Obligation and/or HLOS Committed Obligation and/or CP5 RS Committed Obligation as the Secretary of State may reasonably request.*

7. Transfer of Franchise Assets arising from HLOS Committed Obligations and/or CP5 RS Committed Obligations

7.1 *Notwithstanding any provision to the contrary in any Supplemental Agreement, the Franchisee shall transfer to a Successor Operator for nil value the Franchise Assets specified below which arise from the delivery by the Franchisee of its HLOS Committed Obligations and/or its CP5 RS Committed Obligations and which are made the subject of a Transfer Scheme and continue as a Franchise Asset at the point when the Transfer Scheme takes effect. The Franchise Assets referred to above are as follows:*

(a) the rights and liabilities of the Franchisee under the CP5 RS Secondment Agreement and the Maintenance Agreement designated as Primary Franchise Assets pursuant to paragraph 9 to Schedule 15.4 of the Terms;

(b) station equipment (as specified in paragraph 11 of Part 4 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

(c) ticket vending machines at Waterloo station (as specified in paragraph 10.1 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations);

(d) the new server, linked to Siemens and the Franchisee's current servers, that will host incoming data from the CP5 Rolling Stock including for remote diagnostics and passenger information systems

(as specified in paragraph 10.1 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) and the Franchisee shall provide such further information, including the new server's serial number, as the Secretary of State may reasonably request; and

- (e) the fully interactive DVDs, in sufficient quantities so as to be available to every member of train crew, showing the trains and allowing demonstration of all functionality and fault-finding, and providing fleet controllers with the ability to provide assistance to train crew on how to rectify faults (as specified in paragraph 10.1 of Part 6 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)).*

7.2 It is acknowledged that the obligation in paragraph 7.1 does not affect the obligations of a Successor Operator to assume with effect from the date of transfer liabilities in respect of Franchise Assets which comprise leases, hire agreements or other contractual arrangements to the extent that such liabilities are transferred to the Successor Operator pursuant to a Transfer Scheme. Such liabilities shall be valued in accordance with the terms of the Supplemental Agreement. The Supplemental Agreement shall be amended to the extent required to give effect to this paragraph 7.

8⁴⁵³ *Transfer of Franchise Assets arising from Committed Obligation set out in paragraphs 18 to 25 of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)*

8.1 *Notwithstanding any provision to the contrary in any Supplemental Agreement, the Franchisee shall transfer to a Successor Operator for nil value the Franchise Assets specified below which arise from the delivery by the Franchisee of the Committed Obligations set out in paragraphs 18 to 25 of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) and which are made the subject of a Transfer Scheme and continue as a Franchise Asset at the point when the Transfer Scheme takes effect. The Franchise Assets referred to above are as follows:*

- (a) all Smartphones and Tablets owned by, provided to and/or used by the Franchisee from time to time, including the Smartphones referred to in paragraph 24.1 of part 1 of Appendix 11 and the Tablets referred to in paragraph 18.2(b)(iii) of Part 1 of Appendix 11; and*
- (b) the CBE.*

8.2 *It is acknowledged that the obligation in paragraph 8.1 does not affect the obligations of a Successor Operator to assume with effect from the date of transfer liabilities in respect of Franchise Assets which comprise leases, hire agreements or other contractual arrangements to the extent that such liabilities are transferred to the Successor Operator pursuant to a Transfer Scheme. Such liabilities shall be valued in accordance with the terms of the Supplemental Agreement. The*

⁴⁵³ Date of insertion 24/03/2015

Supplemental Agreement shall be amended to the extent required to give effect to this paragraph 8.

9⁴⁵⁴ Consents

9.1 *Where, in delivering a Committed Obligation set out in paragraphs 18 to 20 (inclusive) or 22 to 25 (inclusive) of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), the Franchisee is required to obtain one or more consents, the Franchisee shall use all reasonable endeavours to obtain such consents. If the Franchisee is unable to obtain the relevant consent or the proposed terms upon which the relevant consent would be granted would, in the reasonable opinion of the Franchisee, be likely to prejudice the financial and/or commercial viability of delivering the Committed Obligation, the Franchisee may apply to the Secretary of State for the approval referred to in paragraph 9.2. For the purposes of this paragraph 9.1, the expression "consent" shall mean those approvals, authorisations, consents, derogations, exemptions, licences, permissions, and registrations which are required by Law or any contract to which the Franchisee is a party, to be obtained by the Franchisee in connection with the delivery of a Committed Obligation set out in paragraphs 18 to 20 (inclusive) or 22 to 25 (inclusive) of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations).*

9.2 *The Secretary of State's approval for the purposes of paragraph 9.1 is his approval for the Franchisee to modify the relevant Committed Obligation so as to deliver a scheme which would give rise to benefits to passengers using the Passenger Services similar to (but not necessarily the same as) those benefits which would have arisen if the Franchisee delivered the relevant Committed Obligation. The modifications to the relevant Committed Obligation shall be agreed between the Franchisee and the Secretary of State or failing such agreement shall be reasonably determined by the Secretary of State. The approval of the Secretary of State may not be unreasonably withheld.*

9.3 *If the Secretary of State gives his approval pursuant to paragraph 9.2 in respect of a Committed Obligation set out in paragraphs 18 to 20 (inclusive) or 22 to 25 (inclusive) of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), then to the extent that the Franchisee delivers the modified Committed Obligation by the date agreed between the Franchisee and the Secretary of State, or failing such agreement by the date reasonably determined by the Secretary of State, the Franchisee shall not be in breach of the Franchise Agreement.*

9.4 *For the avoidance of doubt, the provisions of paragraphs 9.1 to 9.3 shall not in any circumstance apply to a Committed Obligation set out in paragraph 21 of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations).*

10⁴⁵⁵ Underspend

⁴⁵⁴ Date of insertion 24/03/2015

⁴⁵⁵ Date of insertion 24/03/2015

- 10.1** *Where in relation to any Committed Obligation set out in paragraphs 18 to 25 of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) that is expressed in terms of a requirement to spend not less than a specified sum in fulfilling its stated objective, the Franchisee is able to achieve that stated objective without incurring the full amount referred to in that Committed Obligation, whether because of cost savings or otherwise, the Franchisee shall notify the Secretary of State, together with a statement of the costs it has incurred (excluding any third party funding) in delivering the relevant obligations and a reconciliation against the amount it had committed to spend (excluding any third party funding) ("Underspend").*
- 10.2** *The parties shall, acting reasonably, seek to agree an alternative scheme or schemes which would give rise to benefits to passengers using the Passenger Services to be funded using the Underspend and, once agreed, the Franchisee shall apply such Underspend in the delivery of the agreed scheme(s). In circumstances only where, despite having used reasonable endeavours the Parties fail to agree an alternative scheme in relation to which the Underspend will be applied, such Underspend shall be repaid to the Secretary of State as soon as reasonably practicable.*
- 10.3** *For the avoidance of doubt, provisions of paragraphs 10.1 and 10.2 shall not in any circumstance apply to any Committed Obligations other than those set out in paragraphs 18 to 25 of Part 1 (List of Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)."*

Part 3 to Appendix 11

Late/Non Completion of Committed Obligations

1. LATE COMPLETION OR NON-DELIVERY OF COMMITTED OBLIGATIONS

If the Franchisee fails to deliver in full a Committed Obligation in accordance with and by the timeframe specified for its delivery in Part 1 (*List of Committed Obligations*) to this Appendix 11, such late, partial or non-delivery shall constitute a contravention of this Agreement.

2. COMMITTED OBLIGATION PAYMENT ADJUSTMENT

2.1 In addition to being a contravention of this Agreement, if any of the Committed Obligations referred to in the Table is not delivered in full by the date specified for that Committed Obligation in column 3 of the Table, the Franchisee shall pay to the Secretary of State:

- (a) in respect of each Reporting Period or part thereof for which that Committed Obligation remains undelivered in full; and
- (b) until the Committed Obligation is delivered in full,

a Committed Obligation Payment Adjustment, being the amount set out in column 4 of the Table, as adjusted in accordance with paragraph 2.3 or 2.4 (as appropriate).

2.2 Column 5 of the Table shall specify which of paragraphs 2.3 or 2.4 shall apply to each Committed Obligation specified therein, should any such Committed Obligation be partially delivered by the date specified for that Committed Obligation in column 3 of the Table.

Pro-rating of Committed Obligation Payment Adjustment where partial delivery

2.3 Where:

- (a) in relation to any Committed Obligation referred to in column 5 of the Table to be subject to the terms of this paragraph 2.3 that is expressed in terms of a requirement to deliver or carry out activities in respect of a specified number of facilities; and
- (b) the Franchisee has delivered or carried out the relevant activity in respect of one or more but less than the number of facilities specified in that Committed Obligation by the relevant delivery date,

then the relevant Committed Obligation Payment Adjustment shall be reduced pro rata by reference to the number of facilities so delivered or by reference to the number of those activities that have been carried out (as appropriate).

Adjustment to Committed Obligation Payment Adjustment where partial spend

2.4 Where:

- (a) in relation to any Committed Obligation referred to in column 5 of the Table to be subject to the terms of this paragraph 2.4 that is expressed in terms of a requirement to spend a specified a sum in fulfilling its stated objective; and
- (b) the Franchisee has spent less than the sum specified in that Committed Obligation in fulfilling its stated objectives by the relevant delivery date,

then the relevant Committed Obligation Payment Adjustment shall be reduced pro rata by reference to the amount actually spent by that delivery date.

- 2.5(a) Where in relation to any Committed Obligation that is expressed in terms of a requirement to spend a specified sum in fulfilling its stated objective, the Franchisee is able to achieve that stated objective within the timeframe specified for its delivery without investing the full amount referred to in that Committed Obligation, whether because of cost savings or securing additional investment from third parties, the Franchisee may apply to the Secretary of State for the consent referred to in paragraph 2.5(b).
- (b) The Secretary of State's consent for the purposes of paragraph 2.5(a) is his consent for the Franchisee to invest any unspent amount towards the fulfilment of such other commitments as the Franchisee proposes at that time. That consent may not be unreasonably withheld.
- (c) If the Secretary of State consents to an application pursuant to paragraph 2.5(a) in respect of any Committed Obligation, then:
- (i) Part 1 to Appendix 11 and this Part 3 shall be amended to reflect the terms of any new commitments; and
 - (ii) no Committed Obligation Payment Adjustment shall be payable in respect of the unspent amount that relates to that Committed Obligation.

2.6 The Committed Obligation Payment Adjustment shall be payable in accordance with Schedule 8.1 (*Franchise Payments*) of the Terms.

Table : Committed Obligations where a Committed Obligation Payment Adjustment applies

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|--|------------------------------|-------------------------------|---|---|
| Reference in Part 1 (paragraph) | Summary Description | Deadline⁴⁵⁶ | Committed Obligation Payment Adjustment (£ per Reporting Period)⁴⁵⁷ | Does paragraph 2.3 or 2.4 apply? |
| 1.1.1 | Secure Station Scheme Status | | | 2.3 |
| 1.1.2 | CCTV at Stations | | | 2.3 |
| 1.1.3 | Travel Safe Officers | | | 2.3 |
| 1.1.4 | BTP plain clothes officers | | | 2.3 |
| 1.1.5 | Joint review | | | No |

⁴⁵⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁴⁵⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|-----------------|--|-----------------|-----------------|------------------|
| 1.1.7 | Head of Security and Crime Prevention | | | No |
| 1.1.8 | Security Centre Facility | | | No |
| 2.1.1 | Refurbishment of Stations | | | 2.4 |
| 2.1.2 | Upgrade of facilities at Stations | | | 2.4 |
| 2.1.3 | Extension of canopies/ additional waiting shelters | | | 2.3 |
| 2.2.1 | Painting of Stations | | | 2.3 |
| 3.1 | Refurbishment of Class 455 | | | 2.3 |
| 3.2 | Conversion of Class 455 to high capacity | | | 2.3 |
| 3.3 | Conversion of Class 450 to high capacity | | | 2.3 |
| 3.4 | Refurbishment of 158/159 fleet | | | 2.4 |
| 3.5 | Refreshment of Class 483 units | | | 2.3 |
| 3.6 | Acceleration improvement test train | | | No |
| 3.7 | Acceleration improvement modification | | | 2.3 |
| 3.8 | Installation of load weighing equipment | | | 2.3 |
| 3.9 | CET discharge facilities at Poole sidings | | | 2.3 for 3.9-3.16 |
| 3.10 | Staff accommodation at Poole sidings | | | |
| 3.11 | CCTV at Poole sidings | | | |
| 3.12 | Carriage washing machine at Weymouth sidings | | | |
| 3.13 | CCTV at Weymouth sidings | | | |
| 3.14 | Electrify siding at Bournemouth Station | | | |

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------------|--|-----------------------------|-------------------|-------------------|
| 3.15 | Staff accommodation at Bournemouth Station | | | |
| 3.16 | Development of Branksome sidings | | | |
| 3.17 | Mid franchise internal refreshment | | | 2.4 |
| 3.18 | Revised maintenance manuals etc | | | 2.3 |
| 3.19 | Engineering IT support package | | | No |
| 3.20 | Investment in performance enhancement programmes | | | 2.4 |
| 3.21 | Operational performance modifications | | | 2.4 |
| 3.22 | Minor depot investments | | | 2.4 |
| 3.23 | Flood protection at Ryde depot | | | 2.4 |
| 3.24 | Carriage washing machines | | | 2.4 |
| 3.25 | Installations at Salisbury East Sidings | | | 2.4 |
| 3.26 | Test equipment at Wimbledon depot | | | No |
| ⁴⁵⁸ 3.27 | <i>Wimbledon Various</i> | <i>31 March 2009</i> | <i>100</i> | <i>2.3</i> |
| 3.28 | Additional seats in Class 444 | | | 2.3 |
| 3.29 | Sanders installed on Class 458 | | | 2.3 |
| 3.30 | CCTVs on Class 158/159 and 458 | | | 2.3 |
| 3.31 | Business case for carriage washing machine | | | No |
| 3.32 | Inventory of interior fittings | | | 2.4 |
| 3.33 | Train presentation manuals | | | No |
| 3.34 | Paint repair equipment | | | 2.4 |

⁴⁵⁸ Date of Change 22/12/2009

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|--------------------------|---|-------------------|------------------------|------------|
| 3.35 | Major Project Director | | | No |
| ⁴⁵⁹ 3.37 | Class 455 Traction Conversion Works | | | <i>n/a</i> |
| 4.1 | Station car park capacity | | | |
| 4.2 | Park Mark Safer Car Parking | | | 2.3 |
| 4.3 | Pay & Display | | | 2.3 |
| 5.1 | CIS at car parks | | | 2.3 |
| 5.2 | Southampton Airport CIS | | | No |
| 6.1 | New gateline schemes | | | 2.3 |
| 6.2 | Customer communication on ticketless travel | | | No |
| 6.3 | Staff training on ticketless travel | | | No |
| 6.4 | New style TVM | | | 2.3 |
| 6.5 | Not used | | | N/A |
| 6.6 | Smart Card Project Manager | | | No |
| 6.7 | Smart Card Implementation updates | | | No |
| 7.1 | Access for All awareness | | | No |
| 7.2 | Cooperation for Variations | | | No |
| 7.3 | Minor Works Programme | | | No |
| 7.4 | Access Manager | | | No |
| 8.1 | Waterlooville-Petersfield bus link | | | No |
| 8.2 | Promotion of transport integration measures | | | No |
| 8.3 | Bicycle spaces | | | 2.3 |
| 8.4 | Plus Bus Schemes | | | 2.3 |
| 9.1 | Passengers Charter | | | No |
| 9.2 | Passengers Panel | | | No |
| ⁴⁶⁰ 9.3.1 (a) | Biannual Roadshow | <i>Start Date</i> | <i>6k per Roadshow</i> | <i>No</i> |
| ⁴⁶¹ 9.3.1 (b) | Tweet the Manager | <i>Start Date</i> | <i>1k per session</i> | <i>No</i> |

⁴⁵⁹ Date of change 11/04/2013

⁴⁶⁰ Date of change 11/06/2013

⁴⁶¹ Date of change 11/06/2013

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|-----------------|---|-----------------|-----------------|-----------------|
| 9.3.2 | Online webchats | | | No |
| 9.3.3 | Stakeholder conference | | | No |
| 9.3.4 | Station Pride Award | | | No |
| 9.3.5 | Queuing standard | | | No |
| 10.1 | liP accreditation | | | No |
| 10.2 | Employee attitude survey | | | No |
| 10.3 | Talent Management Programme | | | No |
| 10.4 | Corporate recognition programme | | | No |
| 10.5 | Customer Service Skills | | | 2.4 |
| 10.6 | Management skills training | | | 2.4 |
| 10.7 | Time with your Manager | | | 2.3 |
| 10.8 | Training strategy | | | No |
| 10.9 | Welcome to SSW | | | No |
| 10.10 | Corporate training | | | No |
| 10.11 | Training on customer focus | | | No |
| 10.12 | Open Learning Centre | | | No |
| 11.1 | ISO | | | No |
| 11.2 | Annual Environmental Plan | | | No |
| 11.3 | Environmental Awareness Week | | | No |
| 11.4 | EFQM accreditation | | | No |
| 11.5 | EFQM external assessment | | | No |
| 11.6 | Charter Mark for Mainland operations | | | No |
| 11.7 | Charter Mark for Isle of Wight operations | | | No |
| 11.8 | Annual business plan | | | No |
| 11.9 | KPI packs | | | No |
| 11.11 | Head of Business Excellence | | | No |
| 11.12 | Environmental Manager | | | No |

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------------|--|-----------------------------|-------------------|------------------|
| 12.1 | Davis Web software | | | No |
| 12.2 | Additional Passenger Services | | | 2.3 |
| 12.3 | Additional Passenger Services | | | 2.3 |
| 12.4 | 5-car Class 450 units | | | No |
| 13.1 | Rebrand Island Line | | | 2.3 |
| 13.2 | New uniform design | | | 2.3 |
| 13.3 | Updating of website and personalised timetable information | | | No |
| 13.4 | Route Mark Signage | | | No |
| 13.5 | Database of customers | | | No |
| 13.6 | Introduction of megatrain.com fares on selected routes | | | 2.3 |
| 13.7 | Maintain Megatrain or equivalent | | | No |
| 13.8 | First Class off-peak Fare Introduction | | | No |
| 13.9 | Introduction of shoulder-peak fares | | | No |
| 14.1 | Co-operate with Devon County Council regarding Cranbrook Station opening | | | No |
| 14.2 | Include stops at Cranbrook Station | | | No |
| 15.1 | Purbeck Rail Partnership | | | No |
| ⁴⁶² 16.1 | <i>Electrification of Up Goods Siding</i> | <i>31 March 2009</i> | <i>500</i> | <i>No</i> |
| 16.2 | Leaf-fall driving technique | | | 2.3 |
| 16.3 | Review of empty stock movements | | | No |

⁴⁶² Date of change 20/5/2009

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---------------------|---|-----------------------------|-------------------|-------------------|
| 16.4 | Review of train running in leaf fall | | | No |
| 16.4 | Report results | | | No |
| 16.4 | Implement recommendations | | | 2.3 |
| 16.5 | Review of signal overlaps | | | No |
| 16.6 | Review of station stop markers | | | No |
| ⁴⁶³ 16.7 | <i>Raise line speed on approach to Wimbledon</i> | <i>31 March 2009</i> | <i>500</i> | <i>2.3</i> |
| 16.8 | Public address announcements at peak times | | | No |
| 16.9 | Painting zones on platforms | | | No |
| 16.10 | Additional signal at Clapham Junction | | | 2.4 |
| 16.11 | Vending machines at Wimbledon | | | 2.3 |
| 16.12 | Information briefings | | | 2.3 |
| 16.13 | Best Teamwork Award | | | No |
| 16.14 | Digital radio controlled watches | | | 2.3 |
| 16.15 | Digital clocks | | | 2.3 |
| 16.16 | CCTV link: Northam and Wimbledon | | | 2.3 |
| 16.17 | Identify poorly performing trains | | | 2.3 |
| 16.18 | Contingency Handbook | | | 2.3 |
| 16.19 | Update contingency handbook | | | No |
| 16.20 | Alternative Transport Arrangements Handbook | | | 2.3 |

Note: in respect of Committed Obligations 2.1.1; 2.1.2; 3.4; 3.17; 3.20; 6.1; and 16.1, where the Committed Obligation relates to a sum of money to be spent, the aggregate of any money spent in connection with that Committed Obligation and any COPA paid in respect of that Committed Obligation shall not exceed the sum of money relating to the Committed Obligation plus 4%.

Note: Column two (*Summary Description*) in the Table should be read in conjunction with the relevant Committed Obligation in Part 1 to this Appendix 11 set out at the paragraph specified in column 1 (*Reference*).

⁴⁶³ Date of change 12/12/2009

3. WAIVER OF PAYMENTS UNDER THIS PART 3

3.1 The Secretary of State may at its reasonable discretion decide to waive its rights to receive any payments payable in respect of a late, partial or non-delivery of any Committed Obligations.

3.2 In deciding whether to waive such rights the Secretary of State may, but shall not be obliged to, take into consideration the circumstances under which the late, partial or non-delivery arose.

List of HLOS Committed Obligations

1. Acquisition of Phase 1 Rolling Stock

Phase 1 Rolling Stock

- 1.1 For the purposes of paragraph 15.1 of Schedule 1.1 and paragraph 2.1 of Schedule 2.2 to the Terms, the Secretary of State consents to the Franchisee entering into the Modification Agreement and the Phase 1 Rolling Stock Lease (which are Rolling Stock Related Contracts), in each case in the agreed form. The Franchisee shall enter into the Modification Agreement and the Phase 1 Rolling Stock Lease as soon as reasonably practicable after the date of the HLOS Deed of Amendment.
- 1.2 The Secretary of State acknowledges and agrees that pursuant to the terms of the Modification Agreement the Franchisee shall procure the formation of 36 five-car Class 458/5 units ("**Phase 1 Rolling Stock**") through:
- (a) the modification of 30 four car Class 458 units (which form part of the Train Fleet as at the date of the HLOS Deed of Amendment) through the addition of a vehicle previously formed within a Class 460 unit (which does not form part of the Train Fleet at the date of the HLOS Deed of Amendment) and modified to form 30 five car Class 458/5 units; and
 - (b) the creation of 6 further Class 458/5 units from vehicles previously formed within Class 460 units (which do not form part of the Train Fleet as at the date of the HLOS Deed of Amendment).
- 1.3 The Franchisee shall take delivery of each unit of Phase 1 Rolling Stock in accordance with the terms of the Modification Agreement. As at the date of the HLOS Deed of Amendment the anticipated delivery dates of each unit of Phase 1 Rolling Stock are set out in the table below:

| Class 458/5 Unit | Anticipated Delivery Date (being the start of a Reporting Period)⁴⁶⁵ |
|--|--|
| 1 (to be formed entirely from former Class 460 vehicles) | |
| 2 (to be formed entirely from former Class 460 vehicles) | |

⁴⁶⁴ Date of new insertion 23/12/2011

⁴⁶⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

| | |
|---|--|
| 3 (to be formed entirely from former Class 460 vehicles) | |
| 4 (to be formed entirely from former Class 460 vehicles) | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |
| 11 | |
| 12 | |
| 13 (to be formed entirely from former Class 460 vehicles) | |
| 14 (to be formed entirely from former Class 460 vehicles) | |
| 15 | |
| 16 | |
| 17 | |
| 18 | |
| 19 | |
| 20 | |
| 21 | |
| 22 | |
| 23 | |
| 24 | |
| 25 | |
| 26 | |
| 27 | |
| 28 | |
| 29 | |
| 30 | |
| 31 | |
| 32 | |
| 33 | |
| 34 | |
| 35 | |
| 36 | |

- 1.4 The Franchisee shall use all reasonable endeavours to ensure that the actual delivery date of each unit of Phase 1 Rolling Stock is the same as the anticipated delivery date as described in paragraph 1.3. The Franchisee shall, as soon as reasonably practicable, notify the Secretary of State of any change to the anticipated delivery date of any unit of Phase 1 Rolling Stock.
- 1.5 For the purposes of paragraph 2.1 of Schedule 2.2 of the Terms the Secretary of State acknowledges that where the Franchisee accepts delivery of a unit of Phase 1 Rolling Stock that unit will, from the date of such delivery, become subject to the terms of the Phase 1 Rolling Stock Lease and where such unit was previously formed principally as a 4-car Class 458 unit the existing lease for such unit will cease at that time.

1.6 The Secretary of State acknowledges that under the Modification Agreement the Franchisee has the right to decline to take delivery of a unit of Phase 1 Rolling Stock which does not satisfy the requirements set out in the Modification Agreement. The Secretary of State agrees to the Franchisee exercising such right subject to it acting reasonably in the circumstances as a skilled and experienced train operator.⁴⁶⁶:

(a)⁴⁶⁷

(b)⁴⁶⁸

(c)⁴⁶⁹

1.7⁴⁷⁰

1.8⁴⁷¹

1.9⁴⁷²

2. CLASS 458/5 ROLLING STOCK WORKS

2.1 The Franchisee shall procure that the Phase 1 Rolling Stock is reformed and refreshed in accordance with the outline specification in the table below:

| |
|--|
| Class 458/5 Units Outline Specification |
|--|

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⁴⁶⁸ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

⁴⁶⁹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

⁴⁷⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

⁴⁷¹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

⁴⁷² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

The interiors will be converted to high capacity layout. The number of seats per vehicle is detailed below:-

| Vehicle | Seats | Comment |
|-------------|-------|--|
| 458 DMOS | 58 | 1 st class declassified on original class 458 |
| 458 TOSL(W) | 42 | Universal toilet |
| 458 TOS | 58 | |
| 458 MOSL | 54 | |
| 458 DMOS | 58 | Standard toilet |
| TOTAL | 270 | 1 st class declassified on original class 458 |
| 10 Car | 540 | |

- All vehicles will be re-liveried in the SWT 'Blue' livery as applied to Class 450 units.

- The Train Management System (TMS) software and hardware will be revised to make provision for the fifth vehicle.

- Remote communications and download facilities for the TMS will be provided.

- New 'Dellner type' couplers will be installed on all units which will be mechanically compatible with a Desiro Class 450 (retaining existing electrical box). Trace heating shall be provided on moving parts subject to freezing and this will be controlled by a switch in the driver's cab.

- A new faceplate gangway will be fitted which is mechanically compatible with the Desiro fleet. This requires modification of the existing 60 cabs and construction of 12 new cabs to the new design.

- The new gangwayed cab shall be suitable for use by traincrew and passengers.

- Timed automatic door closure will be installed.

- A vehicle by vehicle ASDO system shall be fitted. The ASDO system shall be free-standing and not interface with the TMS system.

- A CCTV system will be fitted to the class 460 vehicles, compatible with the system currently fitted on class 458.

- Forward Facing CCTV will be fitted to all class 458/5.

- In total one third of the total 5 car fleet will have passenger counting equipment. Such passenger counting equipment shall be that referred to in paragraph 5.4 of the Franchise Agreement (being a Dilax infra red system including detectors above each passenger body side door, a central processing unit and mobile phone link for data download – the data being automatically processed on a Franchisee server and accessed remotely using specified software). The Franchisee may seek prior approval to use a different system or supplier and in such circumstances the Secretary of State shall not unreasonably withhold approval.

- The ex-Class 460 vehicles will have various modifications to make them fully compliant to the RVAR legislation, the class 458s are already deemed compliant. For Ex-Class 460 vehicles the following is required:-

| |
|--|
| <ol style="list-style-type: none"> 1. Fit RVAR compliant LED step lights at all doorways 2. Fit RVAR compliant external door sounders. 3. Handrails and seat back handles shall be changed for orange. 4. Apply “visualisations” to interior door glass to extend existing to compliant height. 5. The force required to open the interior doors is too high. This is to be rectified by fitting standard EAO buttons beside the doors and blanking off the buttons in the doors. To avoid passengers being trapped in the gangway the opening time is to be extended to 22 seconds. This has already been done on the existing Class 458 vehicles. |
| <ul style="list-style-type: none"> • The units formed entirely of vehicles formerly included within Class 460 units shall be fitted with sanding equipment in the same way that Class 458/5 units formed from a mixture of Class 458 and former Class 460 vehicles are so fitted. |
| <ul style="list-style-type: none"> • The completed units shall be compliant to all standards for operation on the 3rd. rail dc electrified network. There is no requirement to preserve compatibility with AC conversion. |

2.2

(a) Franchise Payments were revised by the HLOS Deed of Amendment on the basis that ten car train formations of Phase 1 Rolling Stock comprising two units used to provide the Windsor and Eton Services and some Waterloo Mainline Services (as shown in Annex 5 to this Part 4) will not be reduced outside of the Peak by detaching one unit to save costs at a time when passenger demand may not require 10 car train formations (“Off Peak Splitting and Joining”) to a greater extent than specified in Annex 5 to this Part 4. If the Franchisee did start to engage in further Off Peak Splitting and Joining it would make a cost saving in consequence.

(b) If the Franchisee has engaged in Off Peak Splitting and Joining to a greater extent than specified in Annex 5 to this Part 4 (“Additional Off Peak Splitting and Joining”) in any Franchisee Year it shall within four weeks of the end of such Franchisee Year prepare and deliver to the Secretary of State a true and accurate report setting out the amount of the net cost saving attributable to the Additional Off Peak Splitting and Joining in that Franchisee Year taking into account any revenue impacts and any additional costs arising directly from it (the “Net Incremental Splitting and Joining Cost Saving”). The Secretary of State shall have the right to require the Franchisee to provide such further information as he shall reasonably require for the purposes of verifying the amount of the Net Incremental Splitting and Joining Cost Saving. If the Secretary of State reasonably considers that the report submitted by the Franchisee is inaccurate he shall have the right to reasonably determine the amount of the Net Incremental Splitting and Joining Cost Saving. If the Net Incremental Splitting and Joining Cost Saving is greater than £⁴⁷³ (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) the Franchisee shall pay to the Secretary of State a HLOS Franchise Payment Adjustment

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equal to ⁴⁷⁴% of the Net Incremental Splitting and Joining Cost Saving by way (subject to paragraph 6.3 of Part 5 of Appendix 11 (*Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations*)) of adjustment to Franchise Payments due in relation to the Reporting Period after the Secretary of State notifies the Franchisee that it accepts the Franchisee's proposed figure for Net Incremental Splitting and Joining Saving or reasonably determines a different amount.

3. INTRODUCTION INTO PASSENGER SERVICE OF PHASE 1 ROLLING STOCK

3.1 Subject to paragraph 3.2 and paragraph 5 the Franchisee shall:

- (a) use all reasonable endeavours to introduce all of the Phase 1 Rolling Stock into passenger service by ⁴⁷⁵ and in any event shall do so by ⁴⁷⁶ (without prejudice to the obligations of the Franchisee pursuant to sub paragraph (b) below);
- (b) use all reasonable endeavours to introduce each unit of Phase 1 Rolling Stock into passenger service as soon as reasonably practicable after delivery has been taken by the Franchisee (subject to any reasonable maintenance and operational requirements); and
- (c) use all reasonable endeavours to introduce train services departing from or arriving at platform 20 at Waterloo International as soon as reasonably practicable following the delivery into service of such platform as described in paragraph 3.2(b)(iv).

3.2⁴⁷⁷

3.3⁴⁷⁸

3.4 Where the Franchisee has failed to introduce any unit of Phase 1 Rolling Stock into passenger service by the date specified for anticipated delivery in the table in paragraph 1.3:

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⁴⁷⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

(a)⁴⁷⁹

(b)⁴⁸⁰

- 3.5 No later than the third business day prior to each Franchise Performance Meeting, the Franchisee shall provide to the Secretary of State, in accordance with any reasonable guidance the Secretary of State may issue to the Franchisee from time to time and reasonably in advance of the next Franchise Performance Meeting, a report detailing the Franchisee's progress with respect to the use of the Phase 1 Rolling Stock in services serving Waterloo during the Peak as required by paragraphs 4.3 and 4.4.

4. ADDITIONAL PHASE 1 CAPACITY

- 4.1 The Secretary of State and the Franchisee acknowledge that as at the date of this Deed of Amendment the parties anticipate that the best use of the Phase 1 Rolling Stock is the provision of additional passenger carrying capacity on the Windsor & Eton Services and some Waterloo Mainline Services as set out in Section B of Annex 1 to this Part 4 in the column headed "HLOS Strengthened Services (1)" and highlighted in "bold yellow" (the "**Initial Windsor & Eton and Waterloo Mainline Strengthened Services**").
- 4.2 It is acknowledged that the strengthening anticipated in the Initial Windsor & Eton and Waterloo Mainline Strengthened Services involves the deployment of more capacity than the Windsor & Eton Base Capacity and the Waterloo Mainline Base Capacity. The amount of that capacity (the "**Additional Phase 1 Capacity**") is set out in Section A of Annex 1 to this Part 4 in the columns headed "Additional Phase 1 Capacity (4)" in the Section A summary tables.
- 4.3 Where the Franchisee has taken delivery of and accepted the first two units of Phase 1 Rolling Stock (and on each subsequent occasion where the Franchisee has taken delivery of two units of Phase 1 Rolling Stock) the Franchisee shall use all reasonable endeavours to allocate the applicable two units of Phase 1 Rolling Stock to one of the Passenger Services identified as suitable for 10 car operation as set out in Annex 1 to this Part 4 in "bold yellow" in the tables relating to Service Group 6710 and Service Group 6730.
- 4.4 (a) The Franchisee shall use all reasonable endeavours to operate the Passenger Services so that the Additional Phase 1 Capacity as stated in Annex 1 to this Part 4 is actually provided for the purposes of strengthening the Windsor & Eton Passenger Services and Waterloo Mainline Services from ⁴⁸¹

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and shall in any event, and to the extent that it is not otherwise directed by the Secretary of State pursuant to paragraph 4.4(b) operate the Passenger Services in such manner by ⁴⁸²:

- (i) provided that the Franchisee shall not be in contravention of the obligation to operate the Passenger Services in such manner by ⁴⁸³ pursuant to paragraph 4.4(a) where this is caused by any failure to secure a Timetable that enables the Franchisee to operate the Passenger Services so that the Additional Phase 1 Capacity is actually provided to the extent that such failure is caused by the reasons listed in paragraph 10.4(a) to 10.4(d) of Schedule 1.1 of the Terms; and
 - (ii) further provided that the Franchisee shall not be in contravention of the obligation to operate the Passenger Services in such manner by ⁴⁸⁴ pursuant to this paragraph 4.4(a) in relation to the non operation of any Passenger Services included in the Timetable and Train Plan where the non operation of those Passenger Services would not constitute a contravention of the Franchise Agreement were such Passenger Services not required to deliver Additional Phase 1 Capacity but were otherwise delivered pursuant to the terms of the Franchise Agreement.
- (b) If the Franchisee reasonably considers that performance of another of its obligations under this Franchise Agreement ("**Franchise Operating Requirement**") would be inconsistent with the performance of its obligation under paragraph 4.4(a) to operate the Passenger Services in such manner by ⁴⁸⁵ it shall, as soon as reasonably practicable, give written notice to the Secretary of State describing the inconsistency between the relevant obligations. The Franchisee shall provide such further information as the Secretary of State may reasonably request. The Secretary of State shall promptly provide the Franchisee with written directions as to whether the said obligation in paragraph 4.4(a) or the relevant Franchise Operating Requirement should take precedence. The Franchisee shall be obliged to comply with the obligation which the Secretary of State determines should take precedence and shall be relieved from the other obligation to the extent to which it is inconsistent.
- (c) The Franchisee shall not be in breach of its obligation under this paragraph 4.4(a) (and accordingly there shall not be a contravention of the Franchise Agreement) if and to the extent that it is not able to introduce one or more units of Phase 1 Rolling Stock into passenger service in circumstances where it is not in breach of its obligation to do so in consequence of the operation of paragraph 3.2 and/or paragraph 5.
- (d) The Franchisee shall indicate in its Train Plan which of the Windsor & Eton Passenger Services and Waterloo Mainline Services have been strengthened by the utilisation of the Additional Phase 1 Capacity.

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5. TOTAL LOSS OF A UNIT

5.1 Where a Class 458/5 unit is damaged, to the extent that a skilled and experienced train operator acting reasonably would not permit such unit to operate passenger services, prior to the Franchisee achieving Milestone 4 in accordance with paragraph 2 of Part 5 of this Appendix 11, then this paragraph 5 shall apply.

5.2 For the purposes of this paragraph 5:

- (A) a "Total Loss of a Unit" shall occur where one or more class 458/5 units have been damaged to the extent that a skilled and experienced train operator acting reasonably would not permit such units to operate passenger services and such units would not be able to be repaired (in accordance with standard industry repair and maintenance arrangements) to a condition which would enable the Franchisee to use such units in passenger service;
- (B) "Decision Period" means, in relation to any relevant unit, the period of time between the date when the damage to the affected Phase 1 Rolling Stock unit occurred and the date on which the Franchisee agrees with Porterbrook and any relevant insurer as to whether the relevant unit should be repaired or should be regarded as a Total Loss of a Unit;
- (C) "Repair Period" means the period of time between the date on which the Franchisee agrees with Porterbrook and any relevant insurer that the affected Phase 1 Rolling Stock unit should be repaired and the date on which the relevant unit has been repaired to a condition where a skilled and experienced train operator acting reasonably would permit such unit to operate passenger services.

5.3 The Franchisee shall notify the Secretary of State in writing as soon as reasonably practicable following any incident which might result in a potential Total Loss of a Unit.

5.4 Where the Franchisee has agreed with Porterbrook and any relevant insurer that the relevant Phase 1 Rolling Stock unit should be repaired or should be regarded as a Total Loss of a Unit the Franchisee shall promptly give written notice to the Secretary in State of such fact together with supporting information demonstrating such agreement.

5.5 Where the Franchisee agrees with Porterbrook and any relevant insurer that the affected Phase 1 Rolling Stock unit should be repaired, the Franchisee shall use all reasonable endeavours to procure that such repairs are carried out as soon as reasonably practicable.

5.6 During the Decision Period and, where relevant, the Repair Period:

(a) the Train Fleet tables in Appendix 3 and the Table in Annex 1 to this Part 4 to Appendix 11 shall be deemed to be amended to the extent necessary to reflect the unavailability of the affected units of Phase 1 Rolling Stock;

(b)⁴⁸⁶

(c) the Franchisee shall not be liable for any HLOS Committed Obligation Payment Adjustments, and there shall not be a contravention of the Franchise Agreement, to the extent that the Franchisee is

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unable to perform its HLOS Committed Obligations under paragraphs 3 or 4 of this Part 4 as a result of the non-availability of the affected units of Phase 1 Rolling Stock for passenger services;

(d) paragraph 1.6 and/or paragraph 3.3 shall, where applicable in accordance with their terms, operate to extend each Milestone Deadline in accordance with paragraph 2.9 of Part 5 of Appendix 11;

(e) ⁴⁸⁷

5.7 Where a Total Loss of a Unit occurs:

(A) the Train Fleet tables in Appendix 3 and the Table in Annex 1 to this Part 4 to Appendix 11 shall be deemed to be amended to the extent necessary to reflect the unavailability of the affected units of Phase 1 Rolling Stock arising from the Total Loss of a Unit;

(B) ⁴⁸⁸

(C) ⁴⁸⁹

(D) the Franchisee and the Secretary of State shall discuss in good faith options for reasonably mitigating the impact on passengers of the adjustment to the Franchisee's HLOS Committed Obligations under paragraphs 3 and 4 of this Part 4 as referred to in paragraph 5.7(c) above, ⁴⁹⁰;

(E) ⁴⁹¹

(F) ⁴⁹²

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5.8⁴⁹³

6 BASE CAPACITY

- 6.1 The Secretary of State acknowledges and agrees that the Base Capacity may change as a consequence of changes to the Timetable prepared in accordance with the Network Code and/or the Train Plan prepared by the Franchisee in accordance with the terms of this Franchise Agreement.
- 6.2 With effect from the Train Plan commencing from the Passenger Change Date in ⁴⁹⁴ and thereafter for the remainder of the Franchise Term, in submitting the proposed Train Plan to the Secretary of State in accordance with paragraph 13 of Schedule 1.1 of the Terms, the Franchisee shall notify the Secretary of State of the amount of the Base Capacity proposed in the Train Plan and any consequential adjustments to the amount of Base Capacity described in Annex 1 to this Part 4 together with supporting information. The Franchisee shall provide any further information reasonably requested by the Secretary of State in respect of the adjustment to the amount of Base Capacity. Without prejudice to the rights of the Secretary of State pursuant to paragraph 13.2 of Schedule 1.1, the amount of Base Capacity shall be adjusted to reflect the Base Capacity set out in the Train Plan.

7 ENHANCED DEPOT AND STABLING FACILITIES

- 7.1 The Franchisee shall procure, implement and bring into operational use the
- (a) Wimbledon Light Maintenance Depot Enhancements; and
 - (b) Farnham Light Maintenance Depot Enhancements.
- in accordance with the specification contained in Annex 3 to this Part 4 (“the Depot and Stabling Improvements”) by no later than the dates specified in Annex 3 to this Part 4.
- 7.2 ⁴⁹⁵

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7.3 ⁴⁹⁶

7.4 The Franchisee shall liaise and cooperate with Network Rail in the implementation and bringing into operational use by Network Rail of two additional sidings at Guildford yard electrified on the third rail system and each capable of berthing one ten vehicle train with associated facilities being raised walkways, secure fencing, lighting and access by footbridge. This duty of liaison and cooperation shall not restrict the Franchisee in the exercise of its existing rights.

7.5 (a)⁴⁹⁷

(b) The Franchisee shall inform the Secretary of State as soon as reasonably practicable if it appears likely that Network Rail will not deliver the additional berthing capacity and associated facilities at Guildford referred to at paragraph 6.4 above by ⁴⁹⁸. The Franchisee shall as soon as reasonably practicable after such notification in such circumstances provide a mitigation plan (“the Guildford Mitigation Plan”) setting out how it proposes to stable rolling stock planned to be stabled at the new Guildford facility in the absence of such facility. The Guildford Mitigation Plan shall also include the opinion of the Franchisee of the net financial cost or benefit to the Franchisee of delivering the Guildford Mitigation Plan and not using the enhanced Guildford yard facilities when they are not available (“Guildford Mitigation Net Financial Outcome”) calculated on a Reporting Period basis. ⁴⁹⁹. The Franchisee shall act diligently as a skilled and experienced Train Operator in producing the Guildford Mitigation Plan and shall meet with the Secretary of State to discuss the Guildford Mitigation Plan and provide further information and analysis and additional iterations of the Guildford Mitigation Plan in both cases as the Secretary of State shall reasonably require. ⁵⁰⁰.

(c) ⁵⁰¹

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8 PLATFORM EXTENSION WORKS

The Franchisee shall liaise and cooperate with Network Rail in the implementation and bringing into operational use by Network Rail of the station platform extensions (including in each case associated works including track, dispatch, electrification infrastructure alterations and signal sighting resolution plus platform furniture) to accommodate trains of up to 10-car formation which Network Rail is required to deliver during Regulatory Control Period 4 at stations at which the Passenger Services delivering the Additional Phase 1 Capacity call (other than in respect of platform 20 at Waterloo International). This duty of liaison and cooperation shall not restrict the Franchisee in the exercise of its existing rights.

9 WATERLOO STATION

9.1 The Franchisee shall liaise and cooperate with Network Rail in relation to the bringing into service of platform 20 at Waterloo International station and the installation of an operational ticket gateline, Customer Information System, Passenger Information System and water supply at platform 20.

The Franchisee shall be permitted to exercise relevant rights under Access Agreements and the Network Code (including Network Change under Part G) in relation to such works provided that the Franchisee shall not exercise or refrain from exercising rights in a manner different to that in which a skilled and experienced Train Operator acting properly in all of the circumstances including the importance of timely delivery of Additional Phase 1 Capacity would exercise such rights.

9.2 ⁵⁰²

10 HLOS ENHANCED FACILITIES

The Franchisee shall procure, implement and bring into full operational use the works and rolling stock enhancements specified at paragraphs 10.1 to 10.5 below

10.1 CET at Clapham & Wimbledon

On or before ⁵⁰³ the Franchisee shall upgrade one manual CET road at both Clapham and Wimbledon to operate semi automatically.

10.2 Security Enhancements for berthing locations

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On or before ⁵⁰⁴ the Franchisee shall install CCTV, fencing and improved lighting at Windsor and Eton Riverside Station, and fencing of the Eurostar sidings at Clapham Depot.

10.3 **Closed Circuit Television**

On or before ⁵⁰⁵ the Franchisee shall install closed circuit television at the following locations: Virginia Water, Staines, Richmond, Mortlake, Putney, Wandsworth Town, Clapham, Vauxhall, Kew Bridge, Barnes Bridge and Windsor.

10.4 **First Class Seating in Class 450s**

Following the introduction of all of the Phase 1 Rolling Stock into passenger service (save for any unit(s) in relation to which a Total Loss of a Unit has occurred in accordance with paragraph 5 of this Part 4) the Franchisee shall modify twenty eight Class 450 units so that all Class 450 units contain twenty four first class seats in 2+2 formation.

The Franchisee shall incur expenditure of £2,235,351 (pounds sterling two million two hundred and thirty five thousand three hundred and fifty one) (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) in aggregate in delivering the obligations set out in this paragraph 10 by no later than the latest date specified in sub paragraphs 10.1 to 10.4 for delivery of relevant outputs. If the expenditure incurred by the Franchisee in procuring the works referenced in paragraph 10 is less than the prescribed amount, the provisions of paragraph 7 of Part 5 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) shall apply.

The Franchisee shall ensure that all works completed and facilities and equipment provided pursuant to paragraphs 10.1, 10.2 and 10.3 are completed or provided in accordance with all relevant standards (including without limitation Group Standards and Network Rail Standards) required by Network Rail and shall be transferred to Network Rail in an operational state in such manner as Network Rail shall require on or before the end of the Franchise Period without cost to Network Rail. The Franchisee shall supply to Network Rail on or before such date of transfer a reasonable and appropriate set of drawings and maintenance and operations manuals in relation to relevant works and facilities. The Franchisee shall use reasonable endeavours to

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procure that the guarantees or warranties (if any) in relation to such works are novated without cost to Network Rail as Network Rail may reasonably require.

11 STATION EQUIPMENT

On or before ⁵⁰⁶ the Franchisee shall spend £⁵⁰⁷ (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) installing new station equipment and shall as soon as reasonably practicable after such date provide a schedule to the Secretary of State detailing the equipment installed at each relevant station and its cost.

12 ⁵⁰⁸

13 SIEMENS CLASS 450 MAINTENANCE AGREEMENT

The Franchisee expects that under the terms of the Services Agreement dated 2nd February 2007 and made between the Franchisee and Siemens plc relating, inter alia, to maintenance of Class 450 units (“Class 450 Maintenance Contract”) the cost of maintaining Class 450 units shall increase following the introduction into service of all Phase 1 Rolling Stock because they will be operating an increased mileage to meet the obligations of the Franchisee under the Franchise Agreement and will accordingly fall into a higher cost band under the Class 450 Maintenance Contract. Franchise Payments are adjusted accordingly under the provisions of the HLOS Deed of Amendment. The Franchisee shall promptly notify the Secretary of State if the Class 450 units do not in fact fall into such higher cost band, specify the cost band they do fall into and state why ⁵⁰⁹.

14 FUTURE SERVICE LEVEL COMMITMENT CHANGES

If at any time after the HLOS Deed of Amendment the Secretary of State amends the then current Service Level Commitment, then:-

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- 14.1 for the purpose of determining whether there is a Qualifying Change; and/or
- 14.2 if there is a Qualifying Change, for the purpose of determining the appropriate Revised Inputs in respect of the Change

and for the avoidance of doubt, regard shall be had to the extent to which such amendments made by the Secretary of State reflect changes to the Passenger Services and the way in which they are operated, which are a result of the amendments to the Franchise Agreement made by the HLOS Deed of Amendment and in consequence reflected in the revisions to the Franchise Payments and Target Revenue effected by the HLOS Deed of Amendment. For the avoidance of doubt there shall be no Change or Qualifying Change consequent upon the amendment of the Service Level Commitment pursuant to clause 5 of the HLOS Deed of Amendment.

15 ASSIGNMENT OF THE MODIFICATION AGREEMENT

At the end of the Franchise Period the Franchisee shall, if so directed by the Secretary of State, exercise its rights under the Modification Agreement to assign, transfer or novate the Modification Agreement in such manner (consistent with such rights) as the Secretary of State shall require.

16⁵¹⁰ Acquisition and introduction into Passenger Service of Phase 2 Rolling Stock

- 16.1 (a) The Franchisee shall acquire on lease 24 two car Class 456 Units (“Phase 2 Rolling Stock”) on ⁵¹¹ and introduce such units of Phase 2 Rolling Stock into service in delivering the Passenger Services in accordance with Table A below so that the Franchisee shall be required to use in passenger service throughout the periods specified in column 1 of Table A the number of units of Phase 2 Rolling Stock specified in column 2:

⁵¹⁰ Date of new insertion 02/05/2012

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Table A

| Column 1 Period ⁵¹² | Column 2 Number of units of Phase 2 Rolling Stock to be used in delivering the Passenger Services throughout the relevant period | Column 3 Number of vehicles in service in the Morning Peak/Evening Peak, providing Additional Phase 2 Capacity throughout the relevant period | |
|-----------------------------------|---|--|--------------|
| | | Morning Peak | Evening Peak |
| | four two car units | Eight | Eight |
| | thirteen two car units | Twenty Six | Twenty |
| | seventeen two car units | Thirty Four | Twenty Eight |
| | twenty four two car units | Forty | Thirty Seven |

The Secretary of State acknowledges that the Franchisee shall not be in breach of this sub paragraph (a) (and accordingly there shall not be a contravention of the Franchise Agreement) to the extent that it is unable to comply because:

(i) ⁵¹³

(ii) a Decision/Repair Period is subsisting in relation to a unit of Phase 2 Rolling Stock (but only while such Decision/Repair Period subsists);

(iii) a Phase 2 Unit Write off has occurred.

(b) The Franchisee shall use all reasonable endeavours to ensure that the relevant works specified in paragraph 17 in relation to each such unit of Phase 2 Rolling Stock specified in column 1 of Table B below is completed by no later than the date specified in column 2:

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Table B

| Column 1 | Column 2⁵¹⁴ |
|--------------------------------------|-------------------------------|
| Unit of Phase 2 Rolling Stock | |
| first | |
| second | |
| third | |
| fourth | |
| fifth | |
| sixth | |
| seventh | |
| eighth | |
| ninth | |
| tenth | |
| eleventh | |
| twelfth | |
| thirteenth | |
| fourteenth | |
| fifteenth | |
| sixteenth | |
| seventeenth | |
| eighteenth | |
| nineteenth | |
| twentieth | |
| twenty first | |
| twenty second | |

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| | |
|---------------|--|
| twenty third | |
| twenty fourth | |

(c)

(i) In the event that on any day between ⁵¹⁵ and the day before the Passenger Change Date in ⁵¹⁶ the Franchisee has:

(x) increased the Additional Phase 2 Capacity by less than eight vehicles in the Morning Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and/or

(y) increased the Additional Phase 2 Capacity by less than eight vehicles in the Evening Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services,

the Franchisee shall pay to the Secretary of State an HLOS Franchise Payment Adjustment in relation to each such day calculated as the sum of :

£⁵¹⁷ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional Phase 2 Capacity in the Morning Peak and the number required pursuant to column 3 of Table A (being eight);and

£⁵¹⁸ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional Phase 2 Capacity in the Evening Peak and the number required pursuant to column 3 of Table A (being eight)

provided that no HLOS Franchise Payment Adjustment shall be payable under this sub paragraph from the earlier of:

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(A) the day before Passenger Change Date in ⁵¹⁹; and

(B) the later of:

(1) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Morning Peak by eight vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and

(2) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Evening Peak by eight vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services.

(ii) In the event that on any day between the Passenger Change Date in ⁵²⁰ and ⁵²¹ the Franchisee has:

(x) increased the Additional Phase 2 Capacity by less than twenty six vehicles in the Morning Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and/or

(y) increased the Additional Phase 2 Capacity by less than twenty vehicles in the Evening Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services,

the Franchisee shall pay to the Secretary of State an HLOS Franchise Payment Adjustment in relation to each such day calculated as the sum of :

£⁵²² per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional Phase 2 Capacity in the Morning Peak and the number required pursuant to column 3 of Table A (being twenty six);and

£⁵²³ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional

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Phase 2 Capacity in the Evening Peak and the number required pursuant to column 3 of Table A (being twenty),

provided that no HLOS Franchise Payment Adjustment shall be payable under this sub paragraph from the earlier of:

(A)⁵²⁴; and

(B) the later of:

(1) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Morning Peak by twenty six vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and

(2) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Evening Peak by twenty vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services.

(iii) In the event that on any day between ⁵²⁵ and ⁵²⁶ the Franchisee has:

(x) increased the Additional Phase 2 Capacity by less than thirty four vehicles in the Morning Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and/or

(y) increased the Additional Phase 2 Capacity by less than twenty eight vehicles in the Evening Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services,

the Franchisee shall pay to the Secretary of State an HLOS Franchise Payment Adjustment in relation to each such day calculated as the sum of :

£⁵²⁷ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional Phase 2 Capacity in the Morning Peak and the number required pursuant to column 3 of Table A (being thirty four);and

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£⁵²⁸ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional Phase 2 Capacity in the Evening Peak and the number required pursuant to column 3 of Table A (being twenty eight),

provided that no HLOS Franchise Payment Adjustment shall be payable under this sub paragraph from the earlier of:

(A)⁵²⁹; and

(B) the later of:

(1) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Morning Peak by thirty four vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and

(2) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Evening Peak by twenty eight vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services.

(iv) In the event that on any day after ⁵³⁰ the Franchisee has:

(x) increased the Additional Phase 2 Capacity by less than forty vehicles in the Morning Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and

(y) increased the Additional Phase 2 Capacity by less than thirty seven vehicles in the Evening Peak in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services,

the Franchisee shall pay to the Secretary of State an HLOS Franchise Payment Adjustment in relation to each such day calculated as the sum of:

£⁵³¹ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional

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Phase 2 Capacity in the Morning Peak and the number required pursuant to column 3 of Table A (being less than forty);and

£⁵³² per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the actual increase in the number of vehicles delivering the Additional Phase 2 Capacity in the Evening Peak and the number required pursuant to column 3 of Table A (being less than thirty seven),

provided that no HLOS Franchise Payment Adjustment shall be payable under this sub paragraph from the later of:

(1) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Morning Peak by forty vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services; and

(2) the date that the Franchisee has increased the Additional Phase 2 Capacity in the Evening Peak by thirty seven vehicles in consequence of the introduction of Phase 2 Rolling Stock into use in delivering the Passenger Services

and provided that no such HLOS Franchise Payment Adjustment shall be payable under subparagraphs 16.1(c)(i) to 16.1(c) (iv):

(x) ⁵³³

(y) to the extent that the Franchisee cannot comply with its obligation because a unit of Phase 2 Rolling Stock has become a Phase 2 Unit Write Off from the date that it satisfies such criteria.

(d) ⁵³⁴

(e) The daily amounts stated in sub paragraphs (c) and (d) above shall be increased by the amount of liquidated damages or equivalent compensatory payments (if any) which the Franchisee is entitled to receive in relation to each relevant day of delay.

(f) Relevant HLOS Franchise Payment Adjustments shall be payable on a Reporting Period basis so that the Secretary of State shall (subject to paragraph 6.3 of Part 5 of Appendix 11 (*Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations*)) be paid with Franchise Payments for any Reporting Period the amount of the HLOS Franchise Payment Adjustment which accrued in the previous Reporting Period.

a. Not Used.

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- b. Subject to paragraph 16.4(c) (i) the Franchisee shall obtain all appropriate rights and approvals required to enable the Phase 2 Rolling Stock to be used to provide the Additional Phase 2 Capacity ⁵³⁵.
- c. (a) Subject to paragraph 16.4(c) (i) the Franchisee shall obtain the following additional track access rights which the Franchisee and the Secretary of State agree are required to be obtained by no later than ⁵³⁶ to enable the Franchisee to deliver that part of the Phase 2 Strengthened Services identified in the Tables in Annex 6 to this Part 4 (“**Phase 2 Access Rights**”):

Two additional passenger train timetable slots in the HY01 Main Suburban Peak service group between Raynes Park and London Waterloo.

(b) In the event that it is reasonably likely that the Phase 2 Access Rights will not be obtained in whole or in part because of failure of ORR to give required consent the Franchisee shall notify the Secretary of State as soon as reasonable practicable and consult with him about the implications for the delivery of the Phase 2 Strengthened Services and the Additional Phase 2 Capacity. The parties shall discuss in good faith options that would enable capacity derived from the introduction of the Phase 2 Units in accordance with the obligations of the Franchisee under this Part 4 to Appendix 11 to be delivered to the greatest extent reasonably practicable in the circumstances of non availability of the Phase 2 Access Rights. The Franchisee shall in proposing and discussing such options indicate with reasons supported by evidence how they might impact on the HLOS Franchise Payment Adjustments otherwise payable by the Franchisee to the Secretary of State pursuant to paragraph 16.4(c) below. If the Secretary of State and the Franchisee agree that such an option should be implemented the Franchise Agreement shall be amended accordingly.

(c) In the event that the Phase 2 Access Rights are not obtained in whole or in part by ⁵³⁷ because of failure of ORR to give the required consent and the Secretary of State and the Franchisee do not agree an amendment to the Franchise Agreement pursuant to sub paragraph (b) then:

(i) to the extent that the Franchisee is unable to comply with its obligations under paragraphs 16.3 and 16.4 (a) and in relation to the delivery of the Phase 2 Strengthened Services and the Additional Phase 2 Capacity in accordance with paragraph 18 as a result of such Phase 2 Access Rights not being available in whole or in part because of failure of ORR to give required consent the Franchisee shall not in consequence be in contravention of the Franchise Agreement; and

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⁵³⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

(ii) the Franchisee shall, with effect from the Passenger Change Date in ⁵³⁸, pay to the Secretary of State an HLOS Franchise Payment Adjustment in relation to each day calculated as £⁵³⁹ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the difference between the number of vehicles of the Additional Phase 2 Capacity not able to be provided in consequence of the Phase 2 Access Rights not being available in the prescribed circumstance

but so that the any HLOS Franchise Payment Adjustment payable pursuant to 16.1(c) shall be reduced by an amount equal to the HLOS Franchise Payment Adjustment payable pursuant to this paragraph 16.4(c)(ii) where the same deficit in the number of vehicles of Additional Phase 2 Capacity is taken into account for the purpose of calculating an HLOS Franchise Payment Adjustment pursuant to paragraph 16.1(c).

Such HLOS Franchise Payment Adjustment shall be payable on a Reporting Period basis so that the Secretary of State shall (subject to paragraph 6.3 of Part 5 of Appendix 11 (*Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations*)) be paid by an adjustment to the Franchise Payment for any Reporting Period the amount of the HLOS Franchise Payment Adjustment which accrued in the previous Reporting Period.

17⁵⁴⁰. **Class 456 Rolling Stock works**

17.1 By the dates specified in relation to each unit of Phase 2 Rolling Stock in column 2 of Table B at paragraph 16.1(b) above, the Franchisee shall procure that the Phase 2 Rolling Stock vehicles are refreshed in accordance with the outline specification in the table below:

| Class 456 units outline specification |
|---|
| <ul style="list-style-type: none"> • All vehicles will re-liveried in the SWT 'Red' livery as applied to Class 455 units. |
| <ul style="list-style-type: none"> • New seats and paneling shall be fitted in a layout identical to the Class 455 as refurbished for SSW. There will be a total of 118 seats per 2-car unit. |
| <ul style="list-style-type: none"> • Installation of GOP at one set of passenger doors on each unit. |
| <ul style="list-style-type: none"> • The Class 455 useable door opening modification applied to SWT Class 455s will be applied to Class 456s units to provide the same door opening width as provided on modified Class 455s. |
| <ul style="list-style-type: none"> • The Passenger Information System will be made compatible with the system fitted in the SSW Class 455. |
| <ul style="list-style-type: none"> • Forward Facing CCTV shall be fitted linking in to the existing saloon CCTV already fitted. |
| <ul style="list-style-type: none"> • Passenger counting shall be fitted to eight units. Such passenger counting equipment shall be that referred to in paragraph 5.4 of the Franchise Agreement (being a Dilax infra red system including detectors above each passenger body side door, a central processing unit and mobile phone link |

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⁵⁴⁰ Date of new insertion 02/05/2012

for data download – the data being automatically processed on a Franchisee server and accessed remotely using specified software). The Franchisee may seek prior approval to use a different system or supplier and in such circumstances the Secretary of State shall not unreasonably withhold approval.

- The following modifications will be applied to make the units RVAR compliant:
 1. RVAR compliant external door sounders.
 2. Call for aid buttons at both wheelchair space positions
 3. RVAR compliant door open / close buttons
 4. New handles on interior doors to reduce operating force
 5. Compliant seat back handles
 6. Priority seats

18⁵⁴¹ **Additional Phase 2 Capacity**

18.1 ⁵⁴²

18.2 ⁵⁴³

18.3 Where the Franchisee introduces into passenger service a unit of Phase 2 Rolling Stock the Franchisee shall use all reasonable endeavours to allocate such unit for the purposes of providing the Additional Phase 2 Capacity so that the Phase 2 Strengthened Services are delivered.

18.4 (a) The Franchisee shall:

⁵⁴¹ Date of new insertion 02/05/2012

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(i) during each period specified in column 1 to Table A in paragraph 16.1(a), include in its Train Plan and use all reasonable endeavours to operate on each relevant day in accordance with the provisions of Schedule 1.2 of the Terms the corresponding amount of Additional Phase 2 Capacity in relation to the Morning Peak and the Evening Peak set out in Column 3 to Table A; and

(ii) include the Phase 2 Strengthened Services with the capacity specified in Table 1 in Annex 6 to this Part 4 in its Train Plan and use all reasonable endeavours to operate such Phase 2 Strengthened Services with such capacity on each relevant day in accordance with the provisions of Schedule 1.2 of the Terms

provided that where:

(x) ⁵⁴⁴,

(y) a Decision/Repair Period is subsisting in relation to any unit of Phase 2 Rolling Stock where the relevant damage occurred prior to ⁵⁴⁵; or

(z) a Phase 2 Unit Write Off has occurred where the relevant damage that caused the Phase 2 Unit Write Off occurred prior to ⁵⁴⁶

the obligations of the Franchisee under this paragraph 18.4 shall be ⁵⁴⁷ subject to a Decision/Repair Period or subject to a Phase 2 Rolling Stock Write Off in the prescribed circumstances and consequently are unavailable for the operation of the Passenger Services.

18.5 The Franchisee shall indicate in its Train Plan which of the Main Suburban Services, the Windsor & Eton Services and the Waterloo Mainline Services have been strengthened in consequence of the utilisation of the Additional Phase 2 Capacity in the provision of the Passenger Services (including as a result of the deployment of other rolling stock within the Train Fleet for the purposes of delivering the Phase 2 Strengthened Services).

18.6 No later than the third business day prior to each Franchise Performance Meeting, the Franchisee shall provide to the Secretary of State, in accordance with any reasonable guidance the Secretary of State may issue to the Franchisee from time to time and reasonably in advance

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of the next Franchise Performance Meeting, a report detailing the Franchisee's progress with respect to delivering the Additional Phase 2 Capacity and the Phase 2 Strengthened Services.

18.7 Where there is any conflict between the Tables at Annex 1 to Part 4 and the Tables at Annex 6 to this Part 4 the Tables at Annex 6 shall take precedence.

19.⁵⁴⁸

19.1⁵⁴⁹

19.2⁵⁵⁰

19.3⁵⁵¹

19.4⁵⁵²

19.5⁵⁵³

19.6⁵⁵⁴

19.7⁵⁵⁵

⁵⁴⁸ Date of new insertion 02/05/2012

⁵⁴⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

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20 ⁵⁵⁶Phase 2 Unit Write Off

Where at any time before or after ⁵⁵⁷ a Phase 2 Write Off has occurred then the Franchisee shall pay to the Secretary of State in relation to each unit subject to a Phase 2 Unit Write Off an HLOS Franchise Payment Adjustment which shall be a daily amount calculated as the sum of

£⁵⁵⁸ per day (which sum shall not be subject to indexation); and

£⁵⁵⁹ per day (which shall be indexed by the Retail Prices Index in the same way that variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms).

Such HLOS Franchise Payment Adjustment shall be payable on a Reporting Period basis so that the Secretary of State shall (subject to paragraph 6.3 of Part 5 of Appendix 11 (*Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations*)) be paid by an adjustment to the Franchise Payment for any Reporting Period the amount of the HLOS Franchise Payment Adjustment which accrued in the previous Reporting Period.

21 ⁵⁶⁰ ⁵⁶¹Phase 2 HLOS Enhanced Facilities

The Franchisee shall procure, implement and bring into full operational use the works specified at paragraphs 21.1 to 21.2 below

21.1 Closed Circuit Television

On or before 1st December 2014 the Franchisee shall install closed circuit television for train dispatch at the following Stations: Vauxhall, Clapham Junction, Raynes Park, Norbiton, Hinchley Wood, London Road (Guildford), Hampton Wick, Cobham & Stoke D'Abernon, Hampton (one platform) and Upper Halliford (one platform).

21.2 Raised Walkways

On or before 1st March 2014 the Franchisee shall install raised walkways to enable drivers to walk between the cabs of trains formed with vehicles including the Phase 2 Rolling Stock at the following locations: Aldershot Station, Farnham Depot, Clapham Yard and Wimbledon Depot.

The Franchisee shall incur expenditure of £736,462 (pounds sterling seven hundred and thirty six thousand four hundred and sixty two) (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise

⁵⁵⁶ Date of new insertion 02/05/2012

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⁵⁶⁰ Date of new insertion 02/05/2012

⁵⁶¹ Date of change 09/01/2014

Payments) of the Terms) in aggregate in delivering the obligations set out in this paragraph 21 by no later than the latest date specified in sub paragraphs 21.1 and 21.2 for delivery of relevant outputs. If the expenditure incurred by the Franchisee in procuring the works referenced in paragraph 21 is less than the prescribed amount, the provisions of paragraph 7 of Part 5 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) shall apply.

The Franchisee shall ensure that all works completed and facilities and equipment provided pursuant to paragraphs 21.1 and 21.2 are completed or provided in accordance with all relevant standards (including without limitation Group Standards and Network Rail Standards) required by Network Rail and shall be transferred to Network Rail in an operational state in such manner as Network Rail shall require on or before the end of the Franchise Period without cost to Network Rail. The Franchisee shall supply to Network Rail on or before such date of transfer a reasonable and appropriate set of drawings and maintenance and operations manuals in relation to relevant works and facilities. The Franchisee shall use reasonable endeavours to procure that the guarantees or warranties (if any) in relation to such works are novated without cost to Network Rail as Network Rail may reasonably require.

22 ⁵⁶²Station Equipment

On or before ⁵⁶³ the Franchisee shall spend £⁵⁶⁴ which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) installing new station equipment and shall as soon as reasonably practicable after such date provide a schedule to the Secretary of State detailing the equipment installed at each relevant station and its cost.

23 ⁵⁶⁵Future Service Level Commitment Changes

If at any time after the HLOS Phase 2 Deed of Amendment the Secretary of State amends the then current Service Level Commitment, then:-

(a) for the purpose of determining whether there is a Qualifying Change; and/or

⁵⁶² Date of new insertion 02/05/2012

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⁵⁶⁵ Date of new insertion 02/05/2012

(b) if there is a Qualifying Change, for the purpose of determining the appropriate Revised Inputs in respect of the Change

and for the avoidance of doubt, regard shall be had to the extent to which such amendments made by the Secretary of State reflect changes to the Passenger Services and the way in which they are operated, which are a result of the amendments to the Franchise Agreement made by the HLOS Phase 2 Deed of Amendment and in consequence reflected in the revisions to the Franchise Payments and Target Revenue effected by the HLOS Phase 2 Deed of Amendment.

⁵⁶⁶**HLOS Revisions**

The Franchisee shall procure, implement and bring into full operational use the works specified in paragraphs 24.1 to 24.4 below:

24.1 Train dispatch CCTV

On or before 31st December 2014 the Franchisee shall install additional closed circuit television facilities at Oxshott platform 2.

24.2^{viii} Additional 10 car siding at Staines

On or before 30th April 2015 the Franchisee shall lengthen roads 1 and 2 at Staines East Sidings so that each is capable of berthing one ten vehicle train.

24.3 Additional Customer Information Screens (CIS)

On or before 31st August 2014 the Franchisee shall install 18 real time Customer Information System (CIS) displays and associated control equipment at fourteen stations within the Suburban area as follows:

Ashford (Surrey) x1;

Chessington North x1;

Earlsfield x1;

Fullwell x1;

Hampton Court x2;

Kempton Park x1;

Kingston x2;

Mortlake x1;

Norbiton x1;

North Sheen x1;

Putney x2;

Stoneleigh x2;

⁵⁶⁶ Date of new insertion 09/01/2014

Sunbury x1;

Tolworth x1.

The installation will comprise of modern CIS next train indicator Light Emitting Diode (LED) displays in suitable locations to promote the use of platform extensions, helping to relieve areas of current and potential congestion, reducing the associated safety and performance risks.

24.4 Clapham Pitted Road/Inspection Pit

On or before 31st October 2015 the Franchisee shall install one side pit capable of being used by one five car unit on Road 8 in the maintenance shed at Clapham Traincare Depot. Following completion of these works the asset would be managed by the Franchisee.

The Franchisee shall incur expenditure of £1,504,064 (pounds sterling one million five hundred and four thousand and sixty four) (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) in aggregate in delivering the obligations set out in this paragraph 24 by no later than the latest date specified in sub paragraphs 24.1 to 24.4 for delivery of relevant outputs. If the expenditure incurred by the Franchisee in procuring the works referenced in paragraph 24 is less than the prescribed amount, the provisions of paragraph 7 of Part 5 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations) shall apply.

The Franchisee shall ensure that all works completed and facilities and equipment provided pursuant to paragraphs 24.1, 24.2, 24.3 and 24.4 are completed or provided in accordance with all relevant standards (including without limitation Group Standards and Network Rail Standards) required by Network Rail and shall be transferred to Network Rail in an operational state in such manner as Network Rail shall require on or before the end of the Franchise Period without cost to Network Rail. The Franchisee shall supply to Network Rail on or before such date of transfer a reasonable and appropriate set of drawings and maintenance and operations manuals in relation to relevant works and facilities. The Franchisee shall use reasonable endeavours to procure that the guarantees or warranties (if any) in relation to such works are novated without cost to Network Rail as Network Rail may reasonably require.

ANNEX 1 TO PART 4⁵⁶⁷

SECTION A – SUMMARY TABLES

| Waterloo Mainline Services | | | | |
|-----------------------------------|--------------------|------------------------|----------------------------|---------------------------------|
| Vehicles into Waterloo | | Base Capacity - Dec 08 | HLOS Strengthened Services | Additional Phase 1 Capacity (4) |
| | Total AM Peak | 444 | 452 | 8 |
| | Total AM High Peak | 209 | 211 | 2 |
| | Total PM Peak | 421 | 433 | 12 |

| Windsor & Eton Services | | | | |
|------------------------------------|--------------------|------------------------|----------------------------|---------------------------------|
| Vehicles into Waterloo | | Base Capacity - Dec 08 | HLOS Strengthened Services | Additional Phase 1 Capacity (4) |
| | Total AM Peak | 820 | 886 | 66 |
| | Total AM High Peak | 344 | 366 | 22 |
| | Total PM Peak | 792 | 852 | 60 |

| Total Additional Phase 1 Capacity (vehicles) | | | | |
|---|--------------------|------------------------|----------------------------|---------------------------------|
| Vehicles into Waterloo | | Base Capacity - Dec 08 | HLOS Strengthened Services | Additional Phase 1 Capacity (4) |
| | Total AM Peak | 1264 | 1338 | 74 |
| | Total AM High Peak | 553 | 577 | 24 |
| | Total PM Peak | 1213 | 1285 | 72 |

NOTES

Additional Capacity Services shown in **BOLD Yellow**

New Services shown in **BOLD Orange**.

High peak hour services shaded in Grey

⁵⁶⁷ Date of new insertion 23/12/2011

SECTION B ⁵⁶⁸

⁵⁶⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

ANNEX 2 TO PART 4⁵⁶⁹

Not Used

⁵⁶⁹ Date of new insertion 23/12/2011

ANNEX 3 TO PART 4⁵⁷⁰

Depot and Stabling Improvements

1. Wimbledon Light Maintenance Depot

The Franchisee shall install and commission into use the following enhancements at Wimbledon Light Maintenance Depot by ⁵⁷¹ ("**Wimbledon Light Maintenance Depot Enhancements**"):

- (a) a side pit on Road 7 capable of being used by one ten car unit;
- (b) a bogie drop facility and an overhead crane;
- (c) a new store facility; and
- (c) additional staff lockers.

2. FARNHAM LIGHT MAINTENANCE DEPOT

The Franchisee shall install and commission into use an additional siding at Farnham Light Maintenance Depot capable of berthing one ten vehicle train by ⁵⁷² ("**Farnham Light Maintenance Depot Enhancements**").

⁵⁷⁰ Date of new insertion 23/12/2011

⁵⁷¹ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

⁵⁷² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

ANNEX 4 TO PART 4⁵⁷³⁵⁷⁴

⁵⁷³ Date of new insertion 23/12/2011

⁵⁷⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

ANNEX 5 TO PART 4⁵⁷⁵⁵⁷⁶

⁵⁷⁵ Date of new insertion 23/12/2011

⁵⁷⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

Annex 6 to Part 4 (Capacity Tables)⁵⁷⁷

⁵⁷⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

ANNEX 7 TO PART 4⁵⁷⁸

⁵⁷⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

Part 5⁵⁷⁹⁵⁸⁰

⁵⁷⁹ Date of new insertion 23/12/2011

⁵⁸⁰ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

List of CP5 RS Committed Obligations

1. Acquisition of CP5 Rolling Stock

1.1 *For the purposes of paragraph 15.1 of Schedule 1.1 and paragraph 2.1 of Schedule 2.2 to the Terms, the Secretary of State consents to the Franchisee entering into the Maintenance Agreement and the CP5 Rolling Stock Lease (which are Rolling Stock Related Contracts) and the MSA, the CP5 RS Project Management Agreement and the CP5 Secondment Agreement, in each case in the agreed form. The Franchisee shall enter into the MSA, the Maintenance Agreement, the CP5 RS Project Management Agreement and the CP5 Rolling Stock Lease and the CP5 RS Secondment Agreement as soon as reasonably practicable after the date of the CP5 RS Deed of Amendment.*

1.2 *The Secretary of State acknowledges and agrees that pursuant to the terms of the MSA the Franchisee shall procure the delivery of 30 five-car Class 707 units ("CP5 Rolling Stock") and the Associated Equipment.*

1.3 *Not used.*

1.4 *The Franchisee shall take delivery of each unit of CP5 Rolling Stock and the Associated Equipment in accordance with the terms of the MSA. As at the date of the CP5 RS Deed of Amendment the anticipated Acceptance dates of each unit of CP5 RS Rolling Stock are set out in the table below:*

⁵⁸¹ Date of insertion 12/09/2014

| <i>Class 707/ 5 car unit</i> | <i>Anticipated Acceptance Date⁵⁸²</i> |
|------------------------------|--|
| <i>Unit No. 1</i> | |
| <i>Unit No. 2</i> | |
| <i>Unit No. 3</i> | |
| <i>Unit No. 4</i> | |
| <i>Unit No. 5</i> | |
| <i>Unit No. 6</i> | |
| <i>Unit No. 7</i> | |
| <i>Unit No. 8</i> | |
| <i>Unit No. 9</i> | |
| <i>Unit No. 10</i> | |
| <i>Unit No. 11</i> | |
| <i>Unit No. 12</i> | |
| <i>Unit No. 13</i> | |
| <i>Unit No. 14</i> | |
| <i>Unit No. 15</i> | |
| <i>Unit No. 16</i> | |
| <i>Unit No. 17</i> | |
| <i>Unit No. 18</i> | |
| <i>Unit No. 19</i> | |
| <i>Unit No. 20</i> | |
| <i>Unit No. 21</i> | |
| <i>Unit No. 22</i> | |
| <i>Unit No. 23</i> | |
| <i>Unit No. 24</i> | |
| <i>Unit No. 25</i> | |
| <i>Unit No. 26</i> | |

| | |
|--------------------|--|
| <i>Unit No. 27</i> | |
| <i>Unit No. 28</i> | |
| <i>Unit No. 29</i> | |
| <i>Unit No. 30</i> | |

1.5 *The Franchisee shall use all reasonable endeavours to ensure that the actual Acceptance date of each unit of CP5 Rolling Stock is the same as the anticipated Acceptance date as described in paragraph 1.4. The Franchisee shall, as soon as reasonably practicable, notify the Secretary of State of any change to the anticipated Acceptance date of any unit of CP5 Rolling Stock.*

1.6 *For the purposes of paragraph 2.1 of Schedule 2.2 of the Terms the Secretary of State acknowledges that where a unit of CP5 Rolling Stock is Accepted that unit will, from the date of such Acceptance, become subject to the terms of the CP5 Rolling Stock Lease.*

1.7 *The Secretary of State acknowledges that under the MSA the Franchisee and Angel Trains have the right not to Accept a unit of CP5 Rolling Stock which the Franchisee and/or Angel Trains (acting via the Project Manager) considers does not satisfy the requirements set out in the MSA. The Secretary of State agrees to the Franchisee and Angel Trains exercising such right subject to the Franchisee and Angel Trains acting reasonably in the circumstances as a skilled and experienced train operator or rolling stock leasing company (as applicable). If the Franchisee or Angel Trains (acting via the Project Manager) does not Accept a unit of CP5 Rolling Stock by the anticipated Acceptance date for that unit as specified in the Table in paragraph 1.4 for such reason in circumstances where the Franchisee has acted reasonably:*

(a) There shall not be a contravention of this agreement (including of paragraphs 2.1, 5.1, 5.5 and 5.6);

(b) ⁵⁸³ and

(c) there shall be a CP5 RS Franchise Payment Adjustment in accordance with paragraph .8.

1.8

(a) If a unit of CP5 Rolling Stock is not Accepted on or before the anticipated Acceptance date for that unit as specified in the Table at paragraph 1.4 (a "CP5 RS Delayed Unit") for any reason then the Franchisee shall pay to the Secretary of State in relation to each CP5 RS Delayed Unit a CP5 RS Franchise Payment Adjustment for each day that

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elapses between the anticipated Acceptance date of the CP5 RS Delayed Unit to the Franchisee and the actual date that the CP5 RS Delayed Unit is Accepted.

- (b) Where a unit of CP5 Rolling Stock is Accepted under the MSA but either or both of the Franchisee and Angel Trains is subsequently entitled to and does hand it back in circumstances where it is relieved of the capital and maintenance reserve CP5 Rolling Stock Lease charges relating to that unit, the unit shall be deemed to be a CP5 RS Delayed Unit for the purposes of this paragraph 1.8 and a CP5 RS Franchise Payment Adjustment shall be paid to the Secretary of State for each day that elapses from the date on which the unit is handed back until the end of the Franchise Period.*
- (c) Any CP5 RS Franchise Payment Adjustment under this paragraph 1.8 shall be payable on a Reporting Period basis so that the Secretary of State shall (subject to paragraph 6.3 of Part 7 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)) be paid by way of an adjustment to the Franchise Payment for any Reporting Period, the amount of the CP5 RS Franchise Payment Adjustment which accrued in the previous Reporting Period.*
- (d) The CP5 RS Franchise Payment Adjustment in respect of each relevant Reporting Period shall be calculated in respect of each CP5 RS Delayed Unit as:*

 - (i) in respect of a CP5 RS Delayed Unit which either or both of the Franchisee and Angel Trains is entitled to, and does, hand back, as set out in paragraph 1.8(b),⁵⁸⁴ multiplied by the number of days in the Reporting Period between:*

 - (A) the date on which the unit is handed back or if the unit has been handed back prior to the start of the relevant Reporting Period, the start of the relevant Reporting Period; and*
 - (B) the end of the Reporting Period; and*
 - (ii) in respect of all other CP5 RS Delayed Units,⁵⁸⁵ multiplied by the number of days in the Reporting Period between:*

 - (A) the date on which the CP5 RS Delayed Unit was anticipated to have been Accepted as specified in the Table at paragraph 1.4 or, if such date occurred prior to the start of the relevant Reporting Period the start of the relevant Reporting Period; and*
 - (B) the date of actual Acceptance of that CP5 RS Delayed Unit or,*

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if earlier, the end of the relevant Reporting Period;

- (iii) *for the purposes of sub-paragraphs (i) and (ii) above,*⁵⁸⁶ *is the sum of:*
- (A) ⁵⁸⁷ *(which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the number of vehicles in the relevant unit; and*
 - (B) ⁵⁸⁸ *(which shall not be subject to indexation) multiplied by the number of vehicles in the relevant unit;*

Schedule 1 *The daily amounts referred to above shall be increased by the amount of liquidated damages or equivalent compensatory payments (if any) which the Franchisee is entitled to receive in relation to each relevant day in respect of such delay.*

1.9 ⁵⁸⁹ .

1.10 *Without prejudice to any other rights and obligations of the Franchisee or the Secretary of State the Franchisee shall not, and shall procure that neither Siemens or Angel Trains shall make any variation to the terms or conditions of the MSA without the prior written consent of the Secretary of State provided that the Secretary of State shall not unreasonably withhold or delay his consent.*

2. *Introduction into Passenger Service of CP5 Rolling Stock*

2.1 *Subject to paragraph 2.2, the Franchisee shall:*

- (a) *use all reasonable endeavours to introduce each unit of CP5 Rolling Stock into*

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passenger service in accordance with the dates in the following table;

| <i>Date for introduction into passenger service⁵⁹⁰</i> | <i>Total number of units of CP5 Rolling Stock in passenger service on each Weekday</i> |
|---|--|
| | <i>2</i> |
| | <i>4</i> |
| | <i>6</i> |
| | <i>8</i> |
| | <i>10</i> |
| | <i>12</i> |
| | <i>14</i> |
| | <i>16</i> |
| | <i>18</i> |
| | <i>20</i> |
| | <i>22</i> |
| | <i>24</i> |
| | <i>27</i> |

- (b) *in any event introduce 27 units of CP5 Rolling Stock into passenger service by⁵⁹¹; and*
- (c) *subsequent to the introduction of each unit of CP5 Rolling Stock set out in the table in paragraph 2.1 into passenger service, use all reasonable endeavours to operate 27 units of CP5 Rolling Stock in accordance with the Plan of the Day for the relevant day with at least the passenger carrying capacity specified in the Train Plan.*

2.2 ⁵⁹².

2.2A *Where the circumstance referred to in paragraph 2.2 applies the Franchisee shall:*

- (a) *notify the Secretary of State promptly upon becoming aware of any anticipated or actual delay to the introduction into passenger service of one or more units*

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⁵⁹² **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

of CP5 Rolling Stock ⁵⁹³ (a "CP5 RS Unavailability");

- (b) *use all reasonable endeavours to mitigate the effects of the relevant CP5 RS Unavailability; and*
- (c) *provide the Secretary of State updates on any CP5 RS Unavailability in accordance with paragraph 12 (Project Management),* ⁵⁹⁴ *which the Franchisee has taken or plans to take to address the CP5 RS Unavailability.*

2.3 ⁵⁹⁵

2.4 *Where the Franchisee has failed to introduce one or more units of CP5 Rolling Stock into passenger service by the date specified in the table in paragraph 2.1:*

- (a) *a CP5 RS Franchise Payment Adjustment shall be paid by the Franchisee to the Secretary of State from the relevant date specified in the table at paragraph 2.1 until the relevant unit has been introduced into passenger service. The amount of the CP5 RS Franchise Payment Adjustment payable by the Franchisee to the Secretary of State shall be calculated as* ⁵⁹⁶ *per vehicle within the relevant unit (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the number of days in the relevant Reporting Period following the date specified in the table in paragraph 2.1 during which the relevant vehicle was not in passenger service, multiplied by the number of vehicles in the unit; and*
- (b) *relevant CP5 RS Franchise Payment Adjustments shall be payable on a Reporting Period basis so that the Secretary of State shall (subject to paragraph 6.3 of Part 7 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)) be paid by way of an adjustment to the Franchise Payment for any Reporting Period the amount of the CP5 RS Franchise Payment Adjustment which accrued in the previous*

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Reporting Period.

2.5 *Not Used.*

2.6 ⁵⁹⁷

3. *Additional CP5 RS Capacity*

3.1 *The Parties acknowledge and agree that the additional capacity to be introduced into passenger service during Control Period 5 will be provided in the following three increments:*

- (a) *the additional capacity arising from the introduction of CP5 Rolling Stock into passenger service in accordance with paragraph 2.1;*
- (b) *the additional capacity arising from the cascade of the CP5 Re-diagrammed Trains in accordance with paragraph 5.1; and*
- (c) *the additional capacity arising from the additional Passenger Services in accordance with paragraphs 5.5 and 5.6.*

3.2 *The parties acknowledge and agree:*

- (a) *subject to paragraph 3.2(b), as at the date of the CP5 RS Deed of Amendment the parties anticipate that the best use of the CP5 Rolling Stock and the other additional capacity described in paragraphs 3.1(b) and 3.1(c) and set out in Section A of Annex 1 to this Part 6 in the columns headed "Additional CP5 RS Capacity " in the Section A summary tables (the "Additional CP5 RS Capacity") is the provision of additional passenger carrying capacity on the lines as set out in Section B of Annex 1 to this Part 6 in the column headed "Additional Capacity Services".*
- (b) *without prejudice to paragraph 3.5, the Franchisee acting reasonably and in accordance with its obligations under Schedule 1.1 of the Terms may operate*
 - (i) *a single unit of CP5 Rolling Stock on the Main Suburban Service Group in substitution for a CP5 Re-diagrammed Train; and*
 - (ii) *a CP5 Re-diagrammed Train on the Windsor & Eton Services in substitution for a unit of CP5 Rolling Stock,*

provided that there is no reduction in the aggregate amount of Additional CP5 RS Capacity being operated by the Franchisee.

3.3. *Where the Franchisee has introduced a unit of CP5 Rolling Stock into passenger service in accordance with paragraph 2.1 the Franchisee shall use all reasonable endeavours to allocate that unit of CP5 Rolling Stock to one of the Passenger Services identified in blue as suitable for 10 car operation as set out in Annex 1 to this Part 6.*

3.4. *The Franchisee shall use all reasonable endeavours to operate the Passenger Services so*

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that the Additional CP5 RS Capacity is actually provided as soon as reasonably practicable and shall in any event, (to the extent that it is not otherwise directed by the Secretary of State pursuant to paragraph 3.5) operate the Passenger Services so that the Additional CP5 RS Capacity is actually provided on and from the Passenger Change Date in May 2018, provided that, without prejudice to the Franchisee's other obligations under this Agreement, the Franchisee shall not be in breach of its obligation under this paragraph 3.4 (and accordingly there shall not be a contravention of this Agreement) to the extent that it has failed, having used all reasonable endeavours, to secure a Timetable that enables the Franchisee to so operate the Passenger Services which is caused by a reason listed in paragraph 10.4(a) to 10.4(d) of Schedule 1.1 of the Terms.

- 3.5. If the Franchisee reasonably considers that performance of another of its obligations under this Agreement ("Franchise Operating Requirement") would be inconsistent with the performance of its obligation under paragraph 3.4 to operate the Passenger Services in such manner by the Passenger Change Date in May 2018 it shall, as soon as reasonably practicable, give written notice to the Secretary of State describing the inconsistency between the relevant obligations. The Franchisee shall provide such further information as the Secretary of State may reasonably request. The Secretary of State shall promptly provide the Franchisee with written directions as to whether the said obligation in paragraph 3.4 or the relevant Franchise Operating Requirement should take precedence. The Franchisee shall be obliged to comply with the obligation which the Secretary of State determines should take precedence and shall be relieved from the other obligation to the extent to which it is inconsistent.*
- 3.6. The Franchisee shall not be in breach of its obligation under paragraph 3.4 (and accordingly there shall not be a contravention of this Agreement) if and to the extent that:*

 - (a) it is not able to introduce one or more units of CP5 Rolling Stock into passenger service in circumstances where it is not in breach of its obligation to do so in consequence of the operation of paragraph 1.7 and/or 2.2;*
 - (b) it is not able to operate one or more of the CP5 Re-diagrammed Trains in circumstances where it is not in breach of its obligations to do so in consequence of the operation of paragraphs 1.7 and/or 5.2; and/or*
 - (c) it is not able to operate one or more of the CP5 Additional Services where it is not in breach of its obligation to do so in consequence of the operation of paragraphs 1.7 and/or 5.7.*
- 3.7. The Franchisee shall indicate in its Train Plan which of the Passenger Services have been strengthened by the utilisation of the Additional CP5 RS Capacity.*
- 3.8. The parties agree that to the extent that deployment of the Additional CP5 RS Capacity as contemplated by the Train Plan set out in Annex 1 to Part 6, conflicts with the deployment of either one or both of the Additional Phase 1 Capacity as contemplated by Annex 1 to Part 4 (List of HLOS Committed Obligations) or the Additional Phase 2 Capacity as contemplated by Annex 6 to Part 4 (List of HLOS Committed Obligations),*

 - (a) the deployment of the Additional CP5 RS Capacity as contemplated by the Train Plan set out in Annex 1 to Part 6 shall prevail; and*
 - (b) the Franchisee shall not be in contravention of its obligations to deploy either one or both of the Additional Phase 1 Capacity or the Additional Phase 2 Capacity as required by Part 4 to Appendix 11 (and accordingly there shall not be a contravention of this*

Agreement),

and save to that extent, the HLOS Committed Obligations remain in full force.

4. CP5 RS Base Capacity

4.1 *The Secretary of State acknowledges and agrees that the CP5 RS Base Capacity may change as a consequence of changes to the Timetable prepared in accordance with the Network Code and/or the Train Plan prepared by the Franchisee in accordance with the terms of this Agreement.*

4.2 *With effect from the Train Plan commencing from the Passenger Change Date in December 2017 and thereafter, in submitting the proposed Train Plan to the Secretary of State in accordance with paragraph 13 of Schedule 1.1 of the Terms, the Franchisee shall notify the Secretary of State of the amount of the CP5 RS Base Capacity proposed in the Train Plan and any consequential adjustments to the amount of CP5 RS Base Capacity described in Annex 1 to this Part 6 together with supporting information. The Franchisee shall provide any further information reasonably requested by the Secretary of State in respect of the adjustment to the amount of CP5 RS Base Capacity. Without prejudice to the rights of the Secretary of State pursuant to paragraph 13.2 of Schedule 1.1, the amount of CP5 RS Base Capacity shall be adjusted to reflect the CP5 RS Base Capacity set out in the Train Plan.*

5. Cascaded Trains

5.1 *Subject to paragraph 5.2 the Franchisee, in preparing its Train Plan,:*

(a) *will use all reasonable endeavours to*

(i) *re-diagram the Class 458 units operating the CP5 Windsor & Eton Services which will be replaced by the introduction into passenger service of the CP5 Rolling Stock, such that those Class 458 units are introduced into passenger service on the Windsor Outers as set out in the tables in Annex 1 to this Part 6 as soon as reasonably practicable after the introduction into passenger service of each pair of units of CP5 Rolling Stock; and*

(ii) *re-diagram the Class 456 units (which form part of the Train Fleet as at the date of the CP5 RS Deed of Amendment), such that 20 unit diagrams in the Peak are operated by units, each of which is ten vehicles in length and consists of two class 455 units and one class 456 unit and introduce them into passenger service as soon as reasonably practicable after the introduction into passenger service of each pair of units of CP5 Rolling Stock on the routes between:*

(A) *London Waterloo and Chessington South, Guildford, Epsom,*

Effingham Junction and Hampton Court;

(B) London Waterloo and Dorking;

(C) London Waterloo and Woking;

(D) London Waterloo and Shepperton; and

(E) London Waterloo and London Waterloo via Kingston,

(together, the "Main Suburban Service Group"), as set out in the tables in Annex 1 to this Part 6;

such re-diagrammed class 458 units and class 455/456 units being the "CP5 Re-diagrammed Trains" and

*(b) shall in any event introduce the CP5 Re-diagrammed Trains into passenger service on or before*⁵⁹⁸

5.2⁵⁹⁹

*the Franchisee shall not be in breach of its obligations under paragraph 5.1 (and accordingly there shall not be a contravention of this Agreement) if and to the extent that failure to introduce one or more of the CP5 Re-diagrammed Trains into passenger service as set out in the tables in Annex 1 to this Part 6 on or before*⁶⁰⁰ *arises as a result of:*

*(i)*⁶⁰¹

*(A) the upgrade by*⁶⁰² *of the power supply infrastructure to provide an increase in the available traction power which is sufficient to enable the operation of the Class 458 units during the Peak on the Windsor Outer routes without any detriment to acceleration and/or speed which causes existing sectional running times to be materially adversely affected;*

(B) the extension to the following platforms at the following stations so that

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*they are each of a CP5 RS Minimum Platform Length by*⁶⁰³

(1) Virginia Water – platforms 1 and 2;

(2) Sunningdale - platforms 1 and 2;

(3) Ascot - platforms 1, 2 and 3;

(4) Martins Heron - platforms 1 and 2;

(5) Bracknell - platforms 1 and 2;

(6) Wokingham - platform 1;

(7) Feltham – platforms 1 and 2;

(8) Egham – platforms 1 and 2; and

(9) Chertsey - platforms 1 and 2;

*(C) the extension of platforms 1 and 2 at Camberley station such that the first six vehicles (each of which is 20 metres in length) in passenger service can call at those platforms by*⁶⁰⁴ *(with the full length of those six vehicles accommodated by the platform); and*

*(D) the re-opening and extension to the CP5 RS Minimum Platform Length of platform 1 at Queenstown Road station and the segregation of the Main Lines from the routes on which the CP5 RS Windsor & Eton Services operate by*⁶⁰⁵

in each case to the extent that such failure is not due to any act, omission or default of the Franchisee or a material failure to comply with relevant obligations of the Franchisee to liaise and co-operate with Network Rail; and

(ii) the matter described in paragraph 2.2;

(iii) a failure by the Franchisee, having used all reasonable endeavours, to secure a Timetable that enables the Franchisee to operate the CP5 Re-diagrammed Trains in ten car formations which is caused by a reason listed in paragraph 10.4(a) to 10.4(d) of Schedule 1.1 of the Terms (including where the Franchisee has been unable to

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obtain the CP5 Access Rights described in paragraph 6.1); or

(iv) ⁶⁰⁶ *including:*

(A) delivering into service platforms 20 – 24 at London Waterloo International Terminal such that they are capable of accommodating at least 20 arrivals and 20 departures of trains in passenger service in aggregate per hour, together with the track and signalling layout as represented in the schematic in the agreed form marked A3+ Works, operational ticket gatelines and passenger access to the main station concourse of London Waterloo by ⁶⁰⁷ *and*

(B) delivering into service platforms at London Waterloo Station so that all are at least the CP5 RS Minimum Platform Length and ensuring that no platform is made shorter than its current length (save for platforms 5 and 6 at London Waterloo station which shall be no shorter than the CP5 RS Minimum Platform Length) together with the track and signalling layout as represented in the schematic in the agreed form marked as B4 Works, and upgrading the means by which passengers enter and exit the London Waterloo Station and platforms such that the additional passenger numbers can be accommodated safely by ⁶⁰⁸

in each case to the extent that such failure is not due to any act, omission or default of the Franchisee or a material failure to comply with relevant obligations of the Franchisee to liaise and co-operate with Network Rail.

5.3 *Where Network Rail fails to deliver into full operational use one or more of the infrastructure enhancements set out in paragraph 5.2(i) on or before the date specified in paragraph 5.2(i) for completion of the relevant infrastructure enhancement ("CP5 Network Rail Delay") the Franchisee shall:*

- (a) notify the Secretary of State promptly upon becoming aware of any anticipated or actual CP5 Network Rail Delay of the fact that the CP5 Network Rail Delay is anticipated to or has arisen and the anticipated or actual impact of that CP5 Network Rail Delay on the introduction of one or more units of CP5 Re-diagrammed Trains into passenger service;*
- (b) use all reasonable endeavours to mitigate the effects of the relevant CP5 Network Rail Delay;*
- (c) provide the Secretary of State updates on any CP5 Network Rail Delay in accordance*

⁶⁰⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

⁶⁰⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

⁶⁰⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

with paragraph 12 (Project Management); and

- (d) following receipt from Network Rail of the revised schedule for the delivery of the relevant infrastructure enhancement, promptly provide the Secretary of State with a copy of such schedule.*

5.4 ⁶⁰⁹

Additional CP5 Services

5.5 *Subject to paragraph 5.7 and any written direction given by the Secretary of State under paragraph 3.5, the Franchisee shall:*

- (a) use all reasonable endeavours to operate the two additional Passenger Services identified in orange in Annex 1 to Part 6 using five Class 450 Units as part of the Waterloo Mainline Services in the Peak as soon as practicable after the Network Rail Traffic Management System is brought into full operational use; and*
- (b) operate those five Class 450 Units in passenger service on the SSWT Electrified Network in any event from the Passenger Change Date in May 2018.*

5.6 *Subject to paragraph 5.7 and any written direction given by the Secretary of State under paragraph 3.5, the Franchisee shall use all reasonable endeavours to operate:*

- (a) the four additional Passenger Services identified in yellow in Annex 1 to Part 6 using eight Class 455 Units from Hounslow station to London Waterloo Station in the Peak as soon as practicable after Network Rail has brought the new turn-back facility at Hounslow ("Hounslow Turn Back Facility") into full operational use; and*
- (b) those additional Passenger Services from the Passenger Change Date in May 2018.*

5.7 *To the extent that such failure is not due to any act, omission or default of the Franchisee or a material failure to comply with relevant obligations of the Franchisee to liaise and co-operate with Network Rail, the Franchisee shall not be in breach of its obligations under paragraph 5.5 and/or 5.6 (and accordingly there shall not be a contravention of this Agreement) if and to the extent that failure to operate one or more of the additional Passenger Services contemplated by paragraph 5.5 and 5.6 (together the "CP5 Additional Services") from the Passenger Change Date in May 2018 arises as a result of:*

- (a) any of the matters described in paragraphs 2.2 and 5.2;*
- (b) a failure by the Franchisee, having used all reasonable endeavours, to amend and/or enter into any Access Agreements which are necessary for the operation of the CP5 Additional Services;*
- (c) a failure by the Franchisee, having used all reasonable endeavours, to secure a Timetable that enables the Franchisee to operate the CP5 Additional Services which is caused by a reason listed in paragraph 10.4(a) to 10.4(d) of Schedule 1.1 of the Terms (including where the Franchisee has been unable to obtain the CP5 Access Rights*

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described in paragraph 6.1); or

- (d) *a failure by Network Rail to bring into full operational use the Network Rail Traffic Management System and the Hounslow Turn Back Facility infrastructure enhancements to the extent necessary to permit the operation of the CP5 Additional Services without any speed restrictions or other detriment to acceleration and/or speed which causes existing sectional running times to be materially adversely affected by no later than the Passenger Change Date in May 2018*⁶¹⁰

(i)⁶¹¹

(ii)⁶¹²

in each case to the extent that such failure is not due to any act, omission or default of the Franchisee or a material failure to comply with relevant obligations of the Franchisee to liaise and co-operate with Network Rail.

5.8 The parties agree and acknowledge that some minor changes may be required to the Service Level Commitment in order to bring into operation the CP5 Additional Services and there shall be no Change or Qualifying Change consequent upon such Service Level Commitment amendment.

6. Infrastructure Enhancements and Franchise Payment Adjustments

Amendment to Track Access Agreement

6.1 Without prejudice to paragraph 10.1 to Schedule 1.1 of the Terms, the Franchisee shall, acting diligently as a skilled and experienced Train Operator, use all reasonable endeavours to amend and/or enter into one or more Track Access Agreements as soon as reasonably practicable so that it has the following rights from the dates specified below until at least 1 April 2019 or, if a Direct Award is entered into, and if later, the end of the franchise period for the Direct Award (including any extensions in accordance with its terms) (the "CP5 Access Right Target Date"):

- (a) *in relation to the CP5 Windsor & Eton Services the right (without any qualifications having a material adverse effect on the operation of such services) for trains consisting of 10 vehicles, each of which is 20 metres in length, (including the CP5 Rolling Stock):*
- (i) *to depart from or terminate at platforms 20 to 24 at London Waterloo International Terminal with each platform being at least the CP5 RS Minimum Platform Length and, together with the relevant station infrastructure, such platforms being capable of accommodating at least 20 arrivals and 20 departures*

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*of trains in passenger service in aggregate per hour on each Weekday on and after*⁶¹³ ;

- (ii) *to call at platforms 1 and 2 at Feltham station with each platform being at least the CP5 RS Minimum Platform Length and without the operation of any level crossing barriers or similar protections on each Weekday on and after*⁶¹⁴;
- (iii) *to call at platforms 1 and 2 at Egham station with each platform being at least the CP5 RS Minimum Platform Length and without the operation of any level crossing barriers or similar protections on each Weekday on and after*⁶¹⁵;
- (b) *in relation to the Passenger Services operating on the Main Suburban routes the right without any qualifications having a material adverse effect on the operation of such services for trains consisting of 10 vehicles, each of which is 20 metres in length, (including the CP5 Re-diagrammed Trains) to depart from or terminate at platforms 1 to 4 at London Waterloo station with each platform being at least the CP5 RS Minimum Platform Length on each Weekday on and after*⁶¹⁶,

(each of the rights set out in paragraph 6.1(a)(i) to 6.1(a)(iii) and 6.1(b) a "CP5 Access Right").

Franchise Payment Adjustment

6.2 Where, and to the extent that, in relation to any CP5 Access Right:

- (a) *the Franchisee having used all reasonable endeavours, is unable to amend or enter into one or more Track Access Agreements which includes that CP5 Access Right from the applicable date specified in paragraph 6.1; and/or*
- (b) *the Franchisee has amended and/or entered into one or more Track Access Agreements in relation to that CP5 Access Right but:*
 - (i) *the CP5 Access Right is for a period shorter than that specified in paragraph 6.1; or*
 - (ii) *the CP5 Access Right is qualified in a manner which adversely impacts on the ability of the Franchisee to provide the CP5 Additional Capacity as contemplated*

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by paragraph 3,

(each such event, a "CP5 Access Constraint");

a CP5 Franchise Payment Adjustment shall be payable by the Secretary of State or the Franchisee (as the case may be) in accordance with paragraph 6.4 below, provided that the Franchisee shall continue to use all reasonable endeavours to amend or enter into such Track Access Agreements as are necessary to obtain such CP5 Access Right without any qualifications having a material adverse effect on the operation of such services for the applicable period and provided that any adjustment to the Franchise Payment made pursuant to this paragraph 6.2 shall be adjusted to take account of any compensation received by the Franchisee (or, but for any default or failure by the Franchisee, would have received) in relation to a CP5 Access Constraint.

6.3 *Not used.*

6.4 *Where paragraph 6.2 applies and the Franchisee has failed to introduce one or more CP5 Re-diagrammed Trains into passenger service as set out in the tables in Annex 1 to this Part 6 on or before⁶¹⁷, the amount of the CP5 RS Franchise Payment Adjustment payable by the Franchisee to the Secretary of State shall be:*

(a) *payable on a Reporting Period basis so that the party receiving the CP5 RS Franchise Payment Adjustment shall (subject to paragraph 6.3 of Part 7 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)) be paid by way of an adjustment to the Franchise Payment for any Reporting Period the amount of the CP5 RS Franchise Payment Adjustment which accrued in the previous Reporting Period; and*

(b) *indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms; and*

(c) *calculated as:*

$A - B$

where:

$A = A1 + A2$

where

A1 is

(i) *where the Franchisee has not been granted the CP5 Access Right described in paragraph 6.1(b) or such CP5 Access Right is subject to a CP5 Access Constraint, the fixed daily passenger revenue amount of⁶¹⁸ (which shall be indexed by the Retail*

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Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the number of Weekdays in the relevant Reporting Period;

(ii) where the Franchisee has been granted the CP5 Access Right described in paragraph 6.1(b),⁶¹⁹,

A2 is

(i) where the Franchisee has not been granted the CP5 Access Rights described in paragraphs 6.1(a)(ii) and/or (iii) or either or both such CP5 Access Rights is or are subject to a CP5 Access Constraint,⁶²⁰ (which shall be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) multiplied by the number of Weekdays in the relevant Reporting Period, reduced pro rata to take account of the proportion of Passenger Services in the 6720 (Waterloo-Reading) Service Group set out in Annex 1 to Part 6 actually operated by the Franchisee on Weekdays during the relevant Reporting Period; and

(ii) where the Franchisee has been granted the CP5 Access Rights described in paragraphs 6.1(a)(ii) and (iii), zero

B is amount calculated by multiplying the difference between:

(i)⁶²¹

(ii)⁶²²

⁶²³ as set out in the Incremental Financial Model and Financial Model, provided that there shall be no double counting of any costs which are taken into account in the calculation of any other CP5 RS Franchise Payment Adjustment being paid by the Franchisee, whether in the event of a CP5 Network Rail Delay or in other

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circumstances; and

- (d) *where A-B is greater than zero, the Franchisee shall pay the Franchise Payment Adjustment to the Secretary of State. Where A-B is less than zero, the Secretary of State shall pay the Franchise Payment Adjustment to the Franchisee.*

6.5 ⁶²⁴

7. *Enhanced Depot and Stabling Facilities*

7.1 ⁶²⁵

7.2 *Wimbledon Light Maintenance Depot Enhancements*

On or before ⁶²⁶ the Franchisee shall carry out or procure the carrying-out of the following works at Wimbledon Light Maintenance Depot:

⁶²⁷

7.3 *Clapham Yard Depot Enhancements*

On or before ⁶²⁸ the Franchisee shall carry out or procure the carrying-out of the following works at Clapham Yard Depot:

- (a) *the lengthening of sidings 35 and 36 to two 10-cars sidings and bringing those lengthened sidings into operational use; and*
- (b) *the electrification, and bringing into operational use, of siding 6.*

7.4 *Strawberry Hill Light Maintenance Depot Enhancements*

The Franchisee shall carry out, or procure the carrying out of, the lengthening and bringing into

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operational use, of sidings 3 and 4 at Strawberry Hill Depot to 10-car roads on or before ⁶²⁹.

7.5 Farnham Light Maintenance Depot Enhancements

The Franchisee shall carry out, or procure the carrying out, of the construction and bringing into operational use, of one additional 12-car siding at Farnham Light Maintenance Depot on the north side of siding 16 on or before ⁶³⁰.

7.6 Basingstoke Sidings

The Franchisee shall carry out or procure the carrying out of the construction and bringing into operational use, of two additional 12-car sidings and a Controlled Emission Toilet ("CET") facility to the west of Basingstoke station on or before ⁶³¹.

7.7 Fratton Light Maintenance Depot Enhancements

The Franchisee shall carry out or procure the carrying out of the construction and bringing into operational use, of three additional 12-car sidings at Fratton Light Maintenance Depot between Fratton station and the current berthing depot and a CET facility between two of the three additional sidings on or before ⁶³².

7.8 Woking Sidings

The Franchisee shall provide, and bring into operational use, 9 additional berthing sidings and one CET facility at Woking on or before ⁶³³.

7.9 Cooperation

The Franchisee shall liaise and cooperate with Network Rail in relation to the works specified in this paragraph 6. This duty of liaison and cooperation shall not restrict the Franchisee in the exercise of its existing rights.

7.10 CP5 RS Mitigation Plan

The Franchisee shall inform the Secretary of State as soon as reasonably practicable if it appears

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likely that any of the works specified in this paragraph 7 will not be delivered by the date specified in this paragraph 7 for the completion of such works. The Franchisee shall as soon as reasonably practicable after giving such notification provide the Secretary of State with a mitigation plan (the "CP5 RS Mitigation Plan") setting out how it proposes to stable the rolling stock planned to be stabled at the relevant enhanced facility in the absence of such facility. The Franchisee shall act diligently as a skilled and experienced Train Operator in producing the CP5 RS Mitigation Plan and shall meet with the Secretary of State to discuss the CP5 RS Mitigation Plan and provide further information and analysis and additional iterations of the CP5 RS Mitigation Plan in both cases as the Secretary of State shall reasonably require.

7.11⁶³⁴ Grant Funding Agreement

- (a) In satisfaction of its obligation under paragraph 7.1(b) the Franchisee has entered into a Grant Funding Agreement with Network Rail dated 23 December 2015 (the "Grant Funding Agreement") pursuant to which Network Rail will provide funding from the Network Rail CP5 Depots, Stabling and Ancillary Fund in consideration for the Franchisee acting as delivery agent for the infrastructure enhancements referred to in paragraphs 7.2 to 7.8.*
- (b) Clause 3.2(c) of the Grant Funding Agreement provides that subject to clause 3.4 of the Grant Funding Agreement the Franchisee may not progress a Work Package beyond GRIP Stage 5 unless certain conditions have been satisfied.*
- (c) Clause 3.4 of the Grant Funding Agreement entitles the Franchisee to commence GRIP Stages 6 to 8 in relation to a Work Package where it has entered into an asset protection agreement with Network Rail and obtained certain approvals and consents. The commencement of GRIP Stage 6 to 8 by the Franchisee in relation to a Work Package pursuant to clause 3.4 does not oblige Network Rail to provide funding for such works above the level of authorised funding.*
- (d) Where:*
 - (i) pursuant to Clause 3.4 of the Grant Funding Agreement the Franchisee has commenced GRIP Stages 6 to 8 in respect of a Construction Deliverable for a Work Package; and*
 - (ii) as at the end of the Franchise Period:*
 - (1) the Construction Deliverable referred to in paragraph 7.11(d)(i) has not been completed; and*
 - (2) the level of the Authorised Funding Cap has not been increased by Network Rail to take account of the undertaking of such Construction Deliverable,*

the Secretary of State shall be entitled to vary the terms of the Supplemental Agreement to the extent necessary to provide that the Successor Operator is not obliged to reimburse the Franchisee for the Qualifying Costs which the Franchisee incurred in respect of such Construction Deliverable prior to the end of the Franchise Period.
- (e) For the purposes of this paragraph 7.11 references to the "Authorised Funding Cap", "Construction Deliverable", "GRIP Stage 5", "GRIP Stages 6 to 8" and "Work Package" shall have the meaning given to those expressions in the Grant Funding Agreement.*

8. Platform Extension Works

The Franchisee shall liaise and cooperate with Network Rail in the implementation and bringing

⁶³⁴ Date of insertion 23/12/2015

into operational use by Network Rail of the station platform extensions (including in each case associated works including track, dispatch, electrification infrastructure alterations and signal sighting resolution plus platform furniture) to accommodate trains of up to 10-car formation (each of 20 metres in length) which Network Rail is required to deliver during Control Period 5 at stations at which the Passenger Services delivering the Additional CP5 RS Capacity call (other than in respect of platforms 21 to 24 at Waterloo International which are addressed in paragraph 9). This duty of liaison and cooperation shall not restrict the Franchisee in the exercise of its rights existing as at the date of the CP5 RS Deed of Amendment and, for the avoidance of doubt, shall not require the Franchisee to undertake or procure the undertaking of any station platform extensions.

9. Waterloo International

9.1. The Franchisee shall liaise and cooperate with Network Rail and London & Continental Railways in relation to the bringing into service of platforms 21 to 24 at Waterloo International station and the installation of:

- (a) an operational ticket gateline,**
- (b) Customer Information System,**
- (c) a fully fitted out crew mess room of approximately 140m² which is acceptable to staff representatives including the following:**
 - (i) rest areas including furniture;**
 - (ii) good decoration in all areas;**
 - (iii) refurbished male and female toilets, wash basins and showers;**
 - (iv) new kitchen facilities including hot and cold running water;**
 - (v) adequate heating, lighting and ventilation;**
 - (vi) appropriate IT facilities;**
 - (vii) integration of the fire alarm system into the station system and provision of appropriate emergency escape routes; and**
 - (viii) checking and upgrading where appropriate of the electrical system;**
- (d) Passenger Information System;**
- (e) seats and signage which are not otherwise provided by Network Rail; and**
- (f) water supply,**

⁶³⁵ The Franchisee shall be permitted to exercise relevant rights under Access Agreements and the Network Code (including Network Change under Part G) in

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relation to such works provided that the Franchisee shall not exercise or refrain from exercising rights in a manner different to that in which a skilled and experienced Train Operator acting properly in all of the circumstances including the importance of timely delivery of Additional CP5 RS Capacity would exercise such rights and for the avoidance of doubt, this duty of liaison and cooperation shall not restrict the Franchisee in the exercise of its rights existing as at the date of the CP5 RS Deed of Amendment and, for the avoidance of doubt, shall not require the Franchisee to undertake or procure the undertaking of any station platform extensions.

9.2 *If the amount payable by the Franchisee in relation to additional Long Term Charge, qualifying expenditure payments and/or other station related charges which the Franchisee is required to pay in all such cases in consequence of the Passenger Services using platforms 21 to 24 at Waterloo International Station are different to those stated in the Incremental Financial Model sheet "Project Summary" at line 1232 "Long Term Lease (WIT) and line 1233 "WIT Access charges (QX)" (with the value for each year being required to be discounted from a nominal basis using the current RPI index (as stated in the "Inflation sheet") to 06/07 prices and reinflated by the actual Retail Prices Index so that they are indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms) (except to the extent that such difference arises from the quantum of use of the relevant platform 21 to 24 facilities by the Franchisee being different to that assumed as set out in the Incremental Record of Assumptions) a CP5 RS Franchise Payment Adjustment shall be payable:*

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Provided that there shall be no double counting of any operating expenditure costs for the operation of the mess room at Waterloo International station which are subject to paragraph 10.5 the CP5 RS Franchise Payment Adjustment shall be payable on a Reporting Period basis so that payment to the Secretary of State or the Franchisee as the case may be shall (subject to paragraph 6.3 of Part 7 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations)) be taken into account in the determination of the Franchise Payment payable for the Reporting Period following that in which the relevant payment of Long Term Charge, qualifying expenditure payments and/or other station related charges was made.

10. Fleet and Facilities Works

10.1 *The Franchisee shall procure, install, commission and, subject to paragraph 2.2 of Part 2 of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), maintain in full operational use the facilities listed in the first column in the table in paragraph 10.3 ("Capital Expenditure Table") by no later than the date in the second column of the Capital Expenditure Table.*

10.2 *If the Franchisee incurs less in direct capital expenditure than the amount set out in the*

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third column of the Capital Expenditure Table in procuring, installing, commissioning and bringing into full operational use the relevant facility, in respect of each such facility individually, the Franchisee shall notify the Secretary of State and shall, at the direction of the Secretary of State:

- (a) pay to the Secretary of State the difference between the relevant sum identified in the third column of the Capital Expenditure Table and the amount actually incurred; or*
- (b) expend the difference between the relevant sum identified in the third column of the Capital Expenditure Table and the amount incurred for infrastructure improvements in*

accordance with the direction of the Secretary of State.

10.3 Capital Expenditure Table

| Facility | Due Date⁶³⁸ | Anticipated Expenditure⁶³⁹ | Capital |
|---|-------------------------------|--|----------------|
| <i>Six additional ticket vending machines at Waterloo Station.</i> | | | |
| <i>Waterloo International platform fit out</i> | | | |
| <i>Waterloo International mess room as set out in paragraph 9.1(c).</i> | | | |
| | | | |
| <i>New IT server, linked to Siemens and the Franchisee's current servers, that will host incoming data from the CP5 Rolling Stock including for remote diagnostics and passenger information systems.</i> | | | |
| <i>^{ix}Production of fully-interactive DVDs, in sufficient quantities so as to be available to every member of train crew, showing the trains and allowing demonstration of all functionality and fault-finding, and providing fleet controllers with the ability to provide assistance to train crew on how to rectify faults</i> | | | |
| <i>Restoration of the first class carriages on the Class 458 Units as set out in paragraph 10.4</i> | | | |
| <i>Modification to the ground based acoustic bearing monitoring system (RailBAM) at Mortlake which monitors the bearings of passing trains to enable it to monitor bearings of the CP5 Rolling Stock.</i> | | | |

| | | |
|--|--|--|
| <p><i>The design and installation of altered stop mark arrangement for the platforms where CP5 Rolling Stock call, so as to enable drivers to see stop marks, and in order that the driver can stop in exactly the correct position.</i></p> | | |
| | | |

10.4 In restoring the first class carriages on the Class 458 Units, the Franchisee shall:

- (a) re-install first class seats;*
- (b) re-install screens between first and standard class areas;*
- (c) re-install reading lights and pelmet, which may require wiring to be re-connected;*
- (d) re-install sliding power door, door control unit and associated mechanism, which will require the removal of draughtscreen; the floors to be lifted for supports to be installed and wiring to be re-connected;*
- (e) re-lino the vestibule after lifting the floors;*
- (f) fit new internal and external labels;*
- (g) fit new carpets;*
- (h) fit new dado panels;*
- (i) re-fit ceiling panel and coving assemblies;*
- (j) apply vinyl covering on walls, and*
- (k) any further associated minor changes at both ends of each Class 458/5 unit.*

10.5 If the Franchisee incurs less direct operating expenditure than the amount set out in the third column in the table in paragraph 10.6 ("Operating Expenditure Table") in maintaining, subject to paragraph 2.2 to Part 2 of Appendix 11 in full operational use the facilities listed in the first column, over the relevant period listed in the second column of the Operating Expenditure Table in respect of each such facility individually, the Franchisee shall notify the Secretary of State and shall, at the

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direction of the Secretary of State:

- (a) pay to the Secretary of State the difference between the relevant sum identified in the third column of the Operating Expenditure Table and the amount actually incurred in maintaining those facilities in full operational use over the relevant period; or*
- (b) expend the difference between the relevant sum identified in the third column of the Operating Expenditure Table and the amount actually incurred in maintaining those facilities in full operational use over the relevant period.*

10.6 Operating Expenditure Table

| <i>Facility</i> | <i>Relevant Period</i> ⁶⁴⁰ | <i>Anticipated Operating Expenditure</i> ⁶⁴¹ |
|--|--|--|
| <i>Waterloo International mess room as set out in paragraph 9.1(c).</i> | | |
| | | |
| <i>Six additional ticket vending machines at Waterloo Station.</i> | | |
| | | |
| | | |

11. Assignment of the Rolling Stock Agreements

*Subject to the right of the Franchisee to require the Secretary of State to make a Transfer Scheme in accordance with paragraph 3.1 to Schedule 15.4 of the Terms, at the end of the Franchise Period the Franchisee shall, if so directed by the Secretary of State, exercise its rights under the MSA, Secondment Agreement, Project Management Agreement and/or the Maintenance Agreement to assign, transfer or novate such agreements in such a manner (consistent with such rights) as the Secretary of State shall require,*⁶⁴² .

12. Project Management

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⁶⁴² Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

12.1 Project Office

The Franchisee shall promptly after the date of the CP5 RS Deed of Amendment establish, and thereafter throughout the Franchise Period resource, a project office to facilitate the carrying out of the CP5 RS Committed Obligations who will perform the role and responsibilities and use the resources, each as set out in the Incremental Record of Assumptions.

12.2 *The Franchisee shall co-operate with Network Rail, the Secretary of State and/or any other third party relevant to the CP5 RS Committed Obligations including, in particular, being proactive in co-operating with Network Rail in developing the best overall solution for the associated construction works, and in so doing, the Franchisee shall use all reasonable endeavours to optimise the way in which that solution meets the Secretary of State's potentially competing needs to:*

- (a) minimise disruption to the Passenger Services during the implementation of associated works;*
- (b) secure the best service level output for passengers from that programme; and*
- (c) maximise value for money for the taxpayer from that programme.*

12.3 *The Franchisee acknowledges and agrees that it shall co-operate fully and effectively with:*

- (a) Network Rail;*
- (b) and any Successor Operator to ensure that the end of the Franchise Period does not have any adverse impacts on the CP5 RS Committed Obligations*

12.4 *In fulfilling its obligation to co-operate pursuant to paragraphs 12.2 and 12.3, the Franchisee shall, amongst other things:*

- (a) make the employees specified in paragraph 12.1 and (where appropriate) other suitably-qualified personnel available from time to time to attend such meetings with Network Rail, the Secretary of State and/or any other third party relevant to the CP5 RS Committed Obligations as those parties reasonably require;*
- (b) procure that those employees are proactive in:*
 - (i) seeking to identify solutions that minimise overall rail industry costs; and*
 - (ii) communicating those solutions and the Franchisee's opinion on any other relevant matter regarding the CP5 RS Committed Obligations, including its opinion in respect of the implementation timetable and schedule of works or any implementation timetable or schedule of works in respect of a particular element of that project;*
- (c) use all reasonable endeavours to agree in advance of any phase of the Depot works in paragraph 7 comprising part of the CP5 RS Committed Obligations:*
 - (i) the costs associated with any such phase, where possible, on a fixed cost basis; and*
 - (ii) suitable compensation arrangements with Network Rail or any relevant third*

party;

12.5 *The Franchisee shall on reasonable notice grant access to any Stations to the persons identified in this paragraph 12 as is reasonably necessary in order to further the development of the CP5 RS Committed Obligations.*

12.6 *CP5 RS Project Plans*

The Franchisee shall maintain detailed project plans ("CP5 RS Project Plans") in connection with the CP5 RS Committed Obligations in accordance with a recognised project planning methodology, and shall provide copies of the CP5 RS Project Plans to the Secretary of State on a regular basis and promptly on request. The CP5 RS Project Plans shall include, without limitation, the Franchisee's planning for and progress against each of the CP5 RS Committed Obligations, and the impact of any CP5 Network Rail Delay and any of the events set out in paragraphs 2.2, 5.2 and 5.7.

12.7 *The Franchisee shall provide a project manager who shall work full time for the Franchisee on the delivery of the CP5 Rolling Stock units into passenger service and the construction and enhancement of infrastructure to facilitate the CP5 RS Committed Obligations, managing the execution of the Franchisee's responsibilities and activities using an accredited project management system and working to coordinate activities with the Secretary of State, Network Rail and other relevant project stakeholders (the "CP5 RS Project Manager"). The CP5 RS Project Manager's responsibilities will include:*

- (a) arranging suitable attendance at all project progress meetings with all key project stakeholders;*
- (b) monitoring progress against the CP5 RS Project Plans, approval dates and major activities, reporting any significant delays to the Secretary of State;*
- (c) production and maintenance in connection with the CP5 RS Committed Obligations of project documentation, risk registers, plans and strategies;*
- (d) developing and managing an effective change control management procedure and change log;*
- (e) subject to any confidentiality obligations to third parties, forwarding a copy of any relevant report produced by any third party to the Secretary of State, along with Franchisee comments, highlighting any claims or potential claims, any instances where any of the CP5 RS Committed Obligations, or any obligation which has a bearing on the CP5 RS Committed Obligations, has been or is likely to be delivered later than its scheduled delivery date, any Force Majeure Events, key risks, non-compliances and other potential delays; and*
- (f) to the extent of any confidentiality obligations to third parties, using all reasonable endeavours to obtain the relevant third party consents to disclosure to the Secretary of State.*

12.8 *The Franchisee shall produce and provide to the Secretary of State, a written report in*

the agreed form, once in each Reporting Period that provides inter alia:

- (a) a copy of the current Project Plan together with the original baseline plan;*
- (b) a summary of the current key project risks and issues together with commentary;*
- (c) commentary on progress against each CP5 RS Committed Obligation since the previous report;*
- (d) identification of any deviation against project plan baselines together with commentary of the impact on the project delivery; and*
- (e) detail of actions being taken by the Franchisee or its suppliers to maintain or recover the original project timescales.*

ANNEX 1 TO PART 6⁶⁴³

Section A – Summary Tables

| | | | |
|---|---------------------------|--|-------------------------------|
| Waterloo Mainline Services Vehicles into Waterloo | Base Capacity – HLOS 2 | Initial CP5 RS Strengthened Services | Additional CP5 RS Capacity |
| Total AM Peak | 461 | 485 | 24 |
| Total AM High Peak | 202 | 223 | 21 |
| Total PMPeak | 448 | 476 | 28 |
| Suburban Services Vehicles into Waterloo | Base Capacity – HLOS 2 | Initial CP5 RS Strengthened Services | Additional CP5 RS Capacity |
| Total AM Peak | 906 | 1049 | 143 |
| Total AM High Peak | 368 | 466 | 98 |
| Total PMPeak | 872 | 976 | 104 |
| Total Additional Capacity (vehicles) Vehicles into Waterloo | Base Capacity – HLOS 2 | Initial CP5 RS Strengthened Services | Additional CP5 RS Capacity |
| Total AM Peak | 1367 | 1534 | 167 |
| Total AM High Peak | 570 | 689 | 119 |
| Total PMPeak | 1320 | 1452 | 132 |

NOTES for Section B – DETAILED TABLES

- Additional Capacity Services shown as follows:
 - Blue – increased vehicles directly resulting from introduction of CP5 RS Rolling Stock.
 - Lilac – increased vehicles as a result of CP5 Re-diagrammed Trains.
 - Orange – additional C-DAS trains described in paragraph 5.3 of Part 6 to Appendix 11.
 - Yellow – additional Hounslow trains described in paragraph 5.4 of Part 6 to Appendix 11.
 - High peak hour services shaded in grey.

The times for the morning peak Additional Services are approximate (shown in brackets) and the evening peak Additional Services have not been timed. The introduction of these trains will require a timetable redraft resulting in changes to the times of other trains.

⁶⁴³ Date of insertion 12/09/2014

Section B⁶⁴⁴

⁶⁴⁴ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

Completion and Late/ Non Completion of CP5 RS Committed Obligations

1. **Definitions and references to the Table**

1.1 **In this Part 7:**

"CP5 RS Committed Obligation Payment Adjustment" or "CP5 RS COPA" means any amount payable by the Franchisee to the Secretary of State pursuant to paragraph 4 of this Part 7;

"CP5 RS Milestone" has the meaning given to it in paragraph 2.2 of this Part 7;

"CP5 RS Milestone Payment" means, in respect of a CP5 RS Milestone, the amount specified in the applicable CP5 RS Milestone Table for that CP5 RS Milestone as such amount may be reduced in accordance with paragraph 0 of this Part 7;

"CP5 RS Milestone Tables" has the meaning given to it in paragraph 2.2 of this Part 7;

"Longstop Date"⁶⁴⁶

"Milestone Deadline" means in respect of a CP5 RS Milestone, the date specified in column 3 in the CP5 RS Milestone Table for that CP5 RS Milestone as such date may change in accordance with the provisions of this Part 7 to Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations).

2. **CP5 RS Milestone Payments**

2.1 **This paragraph 2 applies in respect of the following milestones in respect of each of which the Secretary of State has agreed to make a CP5 RS Milestone Payment in an amount and in the circumstances set out below.**

2.2 **As at the date of the CP5 RS Deed of Amendment, alternative milestones (each a "CP5 RS Milestone") are described in CP5 RS Milestone Table A and in CP5 RS Milestone Table B in paragraph 2.3 below (the "CP5 RS Milestone Tables"). The CP5 RS Milestones Table which applies shall be determined in accordance with paragraph 2.3 below.**

2.3 **CP5 RS Milestones**

(a) **CP5 RS Milestone Table A**

The CP5 RS Milestones set out in CP5 RS Milestone Table A shall apply unless and until the

⁶⁴⁵ Date of insertion 12/09/2014

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CP5 RS Milestones in CP5 Milestone Table B apply in accordance with paragraph 2.3(b) below.

*CP5 RS Milestone Table A*⁶⁴⁷

(b) CP5 RS Milestone Table B

648

2.4 The Franchisee shall have achieved a CP5 RS Milestone when it has satisfied the relevant conditions specified in column 2 of the applicable CP5 RS Milestone Table for that CP5 RS Milestone on the relevant Milestone Deadline. In order to establish whether the conditions specified in column 2 have been met, a statutory director of the Franchisee shall provide the Secretary of State with a certificate in writing and such supporting evidence (to be agreed in writing as soon as reasonably practicable after execution of the Deed) reasonably required by the Secretary of State that the Franchisee (in the Secretary of State's reasonable opinion) has satisfied the relevant conditions to each CP5 RS Milestone ("CP5 RS Milestone Certificate"). The Secretary of State (acting reasonably) will notify the Franchisee as soon as reasonably practicable after receipt of the CP5 RS Milestone Certificate, whether the Franchisee has achieved the CP5 RS Milestone or failed to achieve the CP5 RS Milestone and/or whether the Secretary of State requires further information. Subject to paragraphs 2.5 and 2.7, where the Secretary of State has notified the Franchisee that it has achieved a CP5 RS Milestone, the Secretary of State shall pay the Franchisee the CP5 RS Milestone Payment specified in column 4 of the applicable CP5 RS Milestone Table for that CP5 RS Milestone in accordance with paragraph 2.6 .

*2.5*⁶⁴⁹.

2.6 Subject to paragraphs 2.7 and 4.13, any CP5 RS Milestone Payment to which the Franchisee is entitled under paragraph 2.4 shall be paid by the Secretary of State in accordance with Schedule 8.1 (Franchise Payments) of the Terms on the Payment Date of the Reporting Period after the Reporting Period in which the relevant CP5 RS Milestone is achieved, or on the Payment Date of the next Reporting Period if the date on which the fact or the amount of the CP5 RS Milestone Payment is established is after the date on which the Secretary of State has notified the Franchisee of the amount of the Franchise Payment payable in respect of that Reporting Period pursuant to paragraph 2.1 of Schedule 8.1 (Franchise Payments) of the Terms.

2.7 In the event that the Secretary of State exercises his right to terminate the Franchise Agreement following the occurrence of an Event of Default pursuant to paragraph 1.1(a) of Schedule 10.2 (Termination and Expiry), no further CP5 RS Milestone Payments shall accrue to the Franchisee after the effective date of termination set out in the relevant Termination Notice.

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⁶⁴⁸ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁶⁴⁹ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

2.8 ⁶⁵⁰

Extension to CP5 RS Milestone Deadlines

2.9 ⁶⁵¹

2.10 ⁶⁵²

2.11 ⁶⁵³

3. *Late Completion or Non-Delivery of CP5 RS Committed Obligation*

3.1 *If the Franchisee fails to perform or deliver in full a CP5 RS Committed Obligation in accordance with and by the timeframe specified for its performance or delivery in Part 6 (List of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, CP5 RS Committed Obligations and CP5 RS Committed Obligations) as such timeframe may be amended in accordance with the terms of Part 6 and Part 7, such late, partial or non-performance/delivery shall constitute a contravention of this Agreement.*

3.2 *For the avoidance of doubt, if and to the extent that such CP5 RS Committed Obligation is an obligation to use all reasonable endeavours to achieve an objective, then subject to the Franchisee complying with all of its obligations in that respect, the non-achievement of that objective shall not of itself constitute a contravention.*

4. *CP5 RS Committed Obligation Payment Adjustment*

CP5 RS Committed Obligation Payment Adjustments if a Replacement Franchise Agreement is entered into with the Franchisee or any of its Affiliates

4.1 *Paragraphs 4.2 to 4.5 (inclusive) shall only apply from and where:*

- (i) a Replacement Franchise Agreement has been entered into with the Franchisee or any of its Affiliates on or before the end of the Franchise Period; and*
- (ii) after the Passenger Change Date in May 2018 (subject to paragraph 4.4) the Franchisee has failed to comply with its obligation pursuant to paragraph*

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2.1(a) of Part 6 to use all reasonable endeavours to introduce into, and operate in, passenger service the CP5 RS Rolling Stock.

4.2 ⁶⁵⁴

4.3 *The CP5 RS Committed Obligation Payment Adjustment shall (subject to paragraph 6.3 below) be payable on a Reporting Period basis and shall be determined in relation to each Reporting Period as the sum of the following amount calculated in relation to each relevant unit of CP5 RS Rolling Stock which has not been introduced into and operated in passenger service prior to the start of the Reporting Period or which is introduced into and operated in passenger service during the Reporting Period:*

A x B

Where:

A is the number of days in that Reporting Period prior to the date on which the relevant unit of CP5 Rolling Stock was introduced in and operated in passenger service; and

⁶⁵⁵

4.3A ⁶⁵⁶

4.4 ⁶⁵⁷

CP5 RS Committed Obligation Payment Adjustments if no Replacement Franchise Agreement is entered into with the Franchisee or any of its Affiliates

4.5 *Paragraphs 4.7 to 4.10 (inclusive) shall apply from the earlier of:*

- (a) *where no Replacement Franchise Agreement has been entered into with the Franchisee or any of its Affiliates as at the end of the Franchise Period; and*
- (b) *the date upon which the Secretary of State notifies the Franchisee that the Secretary of State shall not enter into such a Replacement Franchise Agreement with the Franchisee or its Affiliate.*

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⁶⁵⁵ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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⁶⁵⁷ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

4.6 *Where:*

- (a) *the circumstances in paragraph 4.5(a) apply (including where this Agreement is terminated prior to the Expiry Date), the parties shall follow the CP5 RS Expert Determination Procedure provided that the dates referred to in such procedure shall not apply and the parties shall act reasonably and seek to implement the CP5 RS Expert Determination Procedure in a prompt and timely manner; and*
- (b) *the Secretary of State has notified the Franchisee as described in paragraph 4.5(b), the parties shall follow the CP5 RS Expert Determination Procedure.*

4.7 *The "CP5 RS Expert Determination Procedure" is as follows:*

- (a) *on or before ⁶⁵⁸ the parties shall agree on an organisation experienced in railway project management and rolling stock procurement in the United Kingdom to be appointed and to act as the "CP5 RS Expert". Each party shall act reasonably and in good faith in agreeing the identity of the CP5 RS Expert;*
- (b) *if the parties fail to agree on the identity of the CP5 RS Expert on or before ⁶⁵⁹, the Secretary of State, acting reasonably, shall nominate the CP5 RS Expert and the Franchisee shall accept the Secretary of State's nominee as the CP5 RS Expert;*
- (c) *the CP5 RS Expert shall be appointed jointly by the parties and the Franchisee shall pay the reasonably and properly incurred fees of the CP5 RS Expert. Each party shall otherwise be responsible for its own costs of participating in the CP5 RS Expert Determination Procedure;*
- (d) *on or before ⁶⁶⁰ the parties shall instruct the CP5 RS Expert to commence the CP5 RS Independent Assessment on ⁶⁶¹, and submit its report on or before ⁶⁶²;*

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⁶⁶² Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (e) *the "CP5 RS Independent Assessment" shall be an independent assessment by the CP5 RS Expert with the purpose of assessing:*
- (i) *how far, as at*
 - (A) *the end of the Franchise Period (if this Agreement is terminated on or before ⁶⁶³);*
 - (B) *⁶⁶⁴ (if this Agreement terminates or expires in the period commencing on ⁶⁶⁵ and ending on ⁶⁶⁶); and*
 - (C) *if the Secretary of State exercises his right to continue the Franchise Agreement pursuant to paragraph 1.4 of Schedule 18 (Franchise Continuation Criteria) three months before the date on which the Franchise Agreement is due to expire following such continuation, the Franchisee has performed the activities that a skilled and experienced Train Operator seeking to comply with the CP5 RS Committed Obligations would have performed up to that date (the "CP5 RS Expected Activities"); and*
 - (ii) *to the extent that the Franchisee has not performed the CP5 RS Expected Activities (as referred to in sub-paragraph (i)), the cost of performing (including, where appropriate, engaging a third party to perform) the activities required to remedy the delay or shortfall in the performance of such activities; (the "Remedy Costs");*
- (f) *the CP5 RS Expert shall also take into account any instructions of the parties agreed in writing in performing the CP5 RS Independent Assessment;*
- (g) *the CP5 RS Expert shall produce a report in writing, setting out the evidence and reasoning for its conclusions;*

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- (h) *for the purpose of the performance of the CP5 RS Independent Assessment, the Franchisee shall on or before ⁶⁶⁷ provide to the Secretary of State and CP5 RS Expert a detailed, accurate, up-to-date copy of the CP5 RS Project Plan showing the Franchisee's progress, and any delay or shortfall, in performing each of the CP5 RS Expected Activities, and, unless the Franchise Period has ended, provide to the Secretary of State and CP5 RS Expert an update to such project plan at least once each week until the production of the CP5 RS Expert's report; and*
- (i) *each party shall co-operate with and promptly provide all assistance and information requested by the CP5 RS Expert in connection with the CP5 RS Independent Assessment.*

4.8 *If the report of the CP5 RS Expert indicates that the Franchisee has not fully performed the CP5 RS Expected Activities, then the Franchisee shall pay to the Secretary of State a CP5 RS Committed Obligation Payment Adjustment in the amount equal to the Remedy Cost assessed by the CP5 RS Expert under paragraph 4.7(e)(ii) on or before the final day of the Reporting Period following the delivery of the CP5 RS Expert's report.*

4.9 *The CP5 RS Expert's conclusion shall (in the absence of a material failure to follow the procedure or instructions provided in accordance with paragraphs 4.7(e) and 4.7(f)) or manifest error) be final and binding on the parties.*

Terms applicable to all CP5 RS Committed Obligation Payment Adjustments

4.10 *Paragraphs 4.11 to 4.14 shall apply to all CP5 RS Committed Obligation Payment Adjustments.*

4.11 *Subject to paragraph 4.12, the maximum aggregate amount of CP5 RS Committed Obligation Payment Adjustments payable by the Franchisee pursuant to paragraph 4 of this Part 7 shall be:*

(a) the amount equivalent to the aggregate of all CP5 RS Milestone Payments received by the Franchisee in accordance with this Part 7; or

(b) ⁶⁶⁸

whichever is the higher.

4.12 *Notwithstanding paragraph 4.11, where the amount of a CP5 RS Committed Obligation Payment Adjustment is or would be reduced or would cease to be payable due to the application of the financial cap described in paragraph 4.11(a), the Secretary of State shall be entitled to set-off the amount of such reduction (or, as appropriate, the amount which would thus cease to be payable) against any and all future CP5 RS Milestone Payments which subsequently become*

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due and payable to the Franchisee.

4.13 *Any obligation of the Franchisee to pay a CP5 RS Committed Obligation Payment Adjustment shall be entirely without prejudice to the obligation of the Franchisee to pay a CP5 RS Franchise Payment Adjustment including (without limitation) pursuant to paragraphs 1.8 or 2.4 of Part 6 to Appendix 11 (Committed Obligations and CP5 RS Committed Obligations and CP5 RS Committed Obligations).*

5. *Waiver and adjustment of payments under this Part 7 and extension of time for delivery*

5.1 *The Secretary of State may at his reasonable discretion decide to waive his rights to receive any payments payable under this Part 7 in respect of a late, partial or non- performance or delivery of any CP5 RS Committed Obligation.*

5.2 *In deciding whether to waive such rights the Secretary of State may, but shall not be obliged to, take into consideration the circumstances under which the late, partial or non- performance or delivery of any CP5 RS Committed Obligation arose.*

6. *Miscellaneous Payment Provisions*

6.1 *Save to the extent expressly provided otherwise in Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), any CP5 RS Committed Obligation Payment Adjustment or CP5 RS Franchise Payment Adjustment to which a party is entitled shall be paid in accordance with Schedule 8.1 (Franchise Payments) of the Terms on the Payment Date of the Reporting Period during which it becomes due, or on the Payment Date of the next Reporting Period if the date on which it becomes due is after the date on which the Secretary of State has notified the Franchisee of the amount of the Franchise Payment payable in respect of that Reporting Period pursuant to paragraph 2.1 of Schedule 8.1.*

6.2 *All CP5 RS Franchise Payment Adjustments and CP5 RS Committed Obligation Payment Adjustments shall, unless otherwise expressly provided in Part 7 of this Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), be indexed by the Retail Prices Index in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms.*

6.3 *Where the amount of any liability to pay a CP5 RS Franchise Payment Adjustment or CP5 RS Committed Obligation Payment Adjustment becomes known on a date after which no further Franchise Payments are payable such amount shall be recoverable as a debt payable on demand by the party that incurred the relevant liability.*

7. *Survival*

7.1 ⁶⁶⁹*The following provisions shall survive termination or expiry of this Agreement:*

(a) the provisions of this Part 7 (Completion and Late/ Non Completion of CP5 RS Committed Obligations) of Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), with respect to the period before, on and after termination or expiry of this Agreement, subject to paragraph 2.7 of Part 7 of

⁶⁶⁹ Date of change 24/03/2015

Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), where the Secretary of State exercises his right to terminate the Franchise Agreement following the occurrence of an Event of Default;

- (b) any liability of either party to make a CP5 RS Franchise Payment Adjustment that has accrued prior to the date of termination or expiry;**
- (c)⁶⁷⁰ any liability of either party to make a payment to the other under paragraphs 18 to 25 of Part 1 to Appendix 11 that has accrued prior to the date of termination or expiry;**
- (d)⁶⁷¹ any liability of the Secretary of State to make a Facilitation Fee Milestone Payment (save where paragraph 2.8 of Part 8 to Appendix 11 applies) and/or a RV Asset Sunk Costs Franchise Payment Adjustment that has accrued prior to the date of termination or expiry; and**
- (e)⁶⁷² any other provisions of this Agreement necessary to give full effect to the provisions referred to in paragraphs (a) to (d) above:**
 - (i) the provisions of Schedule 8.1 (Franchise Payments) of the Terms; and**
 - (ii) the disapplication of limb (b)(iv) of the definition of Reporting Periods such that for the purposes of this Part 7, Reporting Periods shall continue following the end of the Franchise Period.**

7.2⁶⁷³ Save to the extent provided for in paragraph 7.1, the obligations of each party under paragraphs 18 to 25 of Part 1 and Part 6 of this Appendix 11 (Committed Obligations, HLOS Committed Obligations and CP5 RS Committed Obligations), shall, in accordance with paragraph 2.1 of Schedule 10.2 of the Terms, cease on the termination of the Franchise Agreement (whether through default or effluxion of time or otherwise) except for any obligations arising as a result of any antecedent contravention of this Agreement.

⁶⁷⁰ Date of insertion 24/03/2015

⁶⁷¹ Date of insertion 24/03/2015

⁶⁷² Date of change 24/03/2015

⁶⁷³ Date of change 24/03/2015

*Part 8*⁶⁷⁴

⁶⁷⁴ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000**

APPENDIX 12

2012 Olympic Games and Paralympic Games (*Clause 7.1*)

1. ACKNOWLEDGEMENT

The parties acknowledge that:

- (a) London will host the Games in 2012;
- (b) as a key provider of public transport services into and out of London, the surrounding area and other areas serving as venues for the Games, the Franchisee will have an important role to play during the Franchise Term in helping to make the staging of the Games successful; and
- (c) the Olympic Delivery Authority must prepare and keep under review the Olympic Transport Plan for addressing transport matters relating to the Games.

2. FRANCHISEE CO-OPERATION

The Franchisee:

- (a) shall at its own cost, co-operate and consult as reasonably required by and with the Olympic Delivery Authority, the LOCOG, the Secretary of State, Transport for London, Network Rail, the British Transport Police and any other relevant party in connection with any arrangements directly or indirectly connected with the Games, including:
 - (i) the provision of additional and/or specific railway passenger services;
 - (ii) the carrying out of necessary works to the network;
 - (iii) the provision of additional and/or specific security arrangements at stations at which the Passenger Services call and on the Passenger Services;
 - (iv) the provision of specific integrated ticketing in relation to the Passenger Services; and
 - (v) advertising and marketing of the Games in relation to the Franchise Services; and
- (b) shall not for the purposes of publicity, advertising, marketing or any other reason, without the prior written consent of LOCOG, represent that any product or service provided by the Franchisee under this Agreement:
 - (i) has been endorsed or approved by LOCOG, the Olympic Delivery Authority or any other Olympic body; or
 - (ii) is in any way associated with those organisations or the Games, including by publishing or issuing any statement (factual or otherwise) about the Franchisee's products or services under this Agreement.

3. ENTRY INTO THE OLYMPIC SERVICES DELIVERY PLAN

- 3.1 The Secretary of State may require the Franchisee to enter into a plan with him:

- (a) to facilitate, in particular, the implementation of the railway aspects of the Olympic Transport Plan;
- (b) to the extent not already provided for under paragraph 3.1(a), to:
 - (i) implement any or all of the matters referred to in paragraph 2; and
 - (ii) any other matter relevant to the planning or staging of the Games,

(the *Olympic Services Delivery Plan*).

3.2 The Secretary of State shall give the Franchisee reasonable notice of the terms of the Olympic Services Delivery Plan he wishes to enter into and the date on which he wishes to enter into the Olympic Services Delivery Plan.

3.3 The Franchisee may make representations to the Secretary of State in respect of the Secretary of State's proposed terms of the Olympic Services Delivery Plan.

3.4 If the Secretary of State and the Franchisee cannot agree on the terms of the Olympic Services Delivery Plan, then the Secretary of State shall reasonably determine such terms.

3.5 On the date notified to the Franchisee by the Secretary of State pursuant to paragraph 3.2, the Secretary of State and the Franchisee shall enter into the Olympic Services Delivery Plan.

4. FINANCIAL EFFECTS OF THE OLYMPIC SERVICES DELIVERY PLAN

For the purpose of paragraph (j) of the definition of *Change*, the Franchisee's implementation of the Olympic Services Delivery Plan shall be a Change, insofar as such implementation results in the imposition of costs on and receipt of revenue by the Franchisee.

5. IMPLEMENTATION OF THE OLYMPIC SERVICES DELIVERY PLAN

The Franchisee shall implement the Olympic Services Delivery Plan in accordance with its terms.

APPENDIX 13

South Western Specific Provisions (*Clause 7.2*)

1. CROSSRAIL

1.1 Without prejudice to the Franchisee's obligations under Schedule 1.7 (Extended Restrictions of Use) to the Terms, the Franchisee shall co-operate with Network Rail, the Secretary of State and/or any other relevant third party in the development and implementation of the Crossrail Scheme with a view to achieving the best overall solution for that scheme, and in so doing, the Franchisee shall use all reasonable endeavours to optimise the Secretary of State's potentially competing needs to:

- (a) minimise disruption to the Passenger Services during the implementation of associated works;
- (b) secure the best service level output for passengers from that programme; and
- (c) maximise value for money for the taxpayer from that programme.

1.2 In fulfilling its obligation to co-operate pursuant to paragraph 1.1, the Franchisee shall, amongst other things seek to (i) participate in a positive and constructive manner and in a way which offers full transparency of information available to the Franchisee to the Secretary of State; and (ii) identify solutions that minimise overall rail industry costs.

2. THAMESLINK PROGRAMME

2.1 Without prejudice to the Franchisee's obligations under Schedule 1.7 (*Extended Restrictions of Use*) to the Terms, the Franchisee shall co-operate with Network Rail, the Secretary of State and/or any other third party relevant to that programme, including, in particular being proactive in partnering Network Rail as a member of Network Rail's Thameslink Programme project team, or otherwise in developing the best overall solution for the associated construction works, and in so doing, the Franchisee shall use all reasonable endeavours to optimise the Secretary of State's potentially competing needs to:

- (a) minimise disruption to the Passenger Services during the implementation of associated works;
- (b) secure the best service level output for passengers from that programme; and
- (c) maximise value for money for the taxpayer from that programme.

2.2 In fulfilling its obligation to co-operate pursuant to paragraph 2.1, the Franchisee shall, amongst other things seek to (i) participate in a positive and constructive manner and in a way which offers full transparency of information available to the Franchisee to the Secretary of State; and (ii) identify solutions that minimise overall rail industry costs.

3. WATERLOO GATELINE

3.1 Without prejudice to the Franchisee's obligations under Schedule 1.7 (*Extended Restrictions of Use*) to the Terms and subject to paragraphs 3.3 and 3.4, the Franchisee shall co-operate with Network Rail, the Secretary of State and/or any other relevant third party in the development and implementation of the Waterloo Gateline Project with a view to achieving the

best overall solution for that scheme, and in so doing, the Franchisee shall use all reasonable endeavours to optimise the Secretary of State's potentially competing needs to:

- (a) minimise disruption to the Passenger Services during the implementation of associated works;
- (b) secure the best service level output for fare-paying passengers from that programme; and
- (c) maximise value for money for the taxpayer from that programme.

3.2 In fulfilling its obligation to co-operate pursuant to paragraph 3.1, the Franchisee shall, to the extent required by the Secretary of State and subject to paragraphs 3.3 and 3.4, amongst other things:

- (a) seek to:
 - (i) participate in a positive and constructive manner and in a way which offers full transparency of information available to the Franchisee to the Secretary of State; and
 - (ii) identify solutions that minimise overall rail industry net costs.
- (b) upon reasonable notice make its relevant personnel available to attend meetings with, and sit on any steering groups of, Network Rail, the Secretary of State and/or any other relevant third party in relation to the Waterloo Gateline Project;
- (c) upon reasonable notice actively participate in such meetings or steering groups; and
- (d) co-operate with Network Rail in developing a management, maintenance and operation agreement in respect of the automatic ticket gates, which shall, amongst other things, provide for the Franchisee to be responsible for the day-to-day operation and staffing of the automatic ticket gates but, for the avoidance of doubt, excluding the repair and/or maintenance of those automatic ticket gates (subject to agreement with Network Rail).

3.3 The Franchisee shall not, in complying with its obligations under paragraph(s) 3.1 and/or 3.2 be obliged to take or omit to take any action where to do so would be prejudicial to and/or inconsistent with the provision by the Franchisee of the Passenger Services in a reliable, punctual and efficient manner.

3.4 ⁶⁷⁵

4. AIRTRACK

4.1 Without prejudice to the Franchisee's rights under any Access Agreement and/or the Network Code, the Franchisee shall co-operate with the Secretary of State, Network Rail and/or any other relevant third party in relation to the development of the Airtrack Project except where to do so would be inconsistent with the Franchisee's obligations under this Franchise Agreement

⁶⁷⁵ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

and/or any condition in any of its Licences and/or would be prejudicial to and/or inconsistent with the provision by the Franchisee of the Passenger Services in a reliable, punctual and efficient manner.

4.2 ⁶⁷⁶

5. OTHER INFRASTRUCTURE PROJECTS

The Franchisee shall co-operate with the Secretary of State and/or any other relevant third party in the development of any other infrastructure project that will have an impact on the Franchise (including, without limitation, the redevelopment of Clapham Junction Station) on a consistent basis with the manner and extent of co-operation required pursuant to paragraph 2 in respect of the Thameslink Programme.

6. ROLLING STOCK COSTS⁶⁷⁷

7. ITS/OYSTERCARD⁶⁷⁸

8. REPORTING TO TRANSPORT FOR LONDON

8.1 Subject to paragraph 8.3 the Franchisee shall, on a periodic basis throughout the Franchise Term, to the extent directed by the Secretary of State, provide to TfL such information as it reports to the Secretary of State for each London Regional Inner Suburban (LRIS) service group.

8.2 Subject to paragraph 8.3 the Franchisee shall provide the information with supporting commentary.

8.3 The obligations of the Franchisee under paragraphs 8.1 and 8.2 shall be conditional upon the Franchisee and TfL agreeing appropriate terms regarding the confidentiality of such information and the use and/or disclosure of such information by TfL (including, without limitation disclosure by TfL following a request under the Freedom of Information Act 2000).

⁶⁷⁶ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁶⁷⁷ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁶⁷⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

9. SECRETARY OF STATE RISK ASSUMPTIONS RELATING TO COMPLETION OF A THING OR THINGS⁶⁷⁹

10. DEMAND MANAGEMENT REGULATION

Purpose of Demand Management Regulation and Agreement of Principles

- 10.1 The Franchisee and the Secretary of State acknowledge:
- (a) their mutual desire to regulate certain Fares differently (***Demand Management Regulation***) from the way in which those Fares are regulated under Schedule 5 (*Fares*) of the Terms as at the Start Date;
 - (b) that the intended purpose of Demand Management Regulation is to enable the Franchisee to:
 - (i) address overcrowding on certain Passenger Services at peak times of the day; and
 - (ii) be innovative in its approach to Fares pricing to reflect changes in working practices, and therefore London commuting practices; and
 - (c) that it is intended that Demand Management Regulation will provide for such overcrowding and innovation to be addressed through the setting by the Franchisee of certain Fares in relation to those peak periods under such terms and conditions and at such prices as would not be permitted under Schedule 5 of the Terms as at the date of this Agreement.

*10.2 Subject to paragraph 10.3, the Franchisee and the Secretary of State shall use all reasonable endeavours to discuss and to seek to reach agreement, by no later than 30 September 2008, on the methodology, terms and conditions and implementation of Demand Management Regulation in accordance with the principles (the Demand Management Principles) set out in the Demand Management Principles Document. The Demand Management Principles are not intended to be legally binding on the parties and shall not give rise to any legal rights or obligations between them, save insofar as incorporated in any amendments to this Agreement which are agreed between the parties as set out in paragraph 10.3.*⁶⁸⁰

Amendments to this Agreement

10.3 Where the Franchisee and the Secretary of State are able to reach agreement in relation to the methodology, terms and conditions and implementation of Demand Management Regulation as set out in paragraph 10.2, they shall as soon as reasonably practicable thereafter seek to agree appropriate amendments to this Agreement to effect such agreement.

⁶⁷⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁶⁸⁰ Insert change text wef 07/11/07

Failure to agree Demand Management Regulation

10.4 *Where the Franchisee and the Secretary of State have not reached agreement on each of the methodology, terms and conditions and implementation of Demand Management Regulation, as set out in paragraph 10.2, and the appropriate amendments to this Agreement to reflect them, as set out in paragraph 10.3, by 30 September 2008 then:*

- (a) the Target Revenue set out in Appendix 2 (Target Revenue (expressed in real terms)) shall be amended in accordance with Table 1 and adjustments to Franchise Payments shall be made accordingly; and*
- (b) the figures for calculation of the Annual Franchise Payments set out in Appendix 8 (Figures for Calculation of Annual Franchise Payments) shall be amended in accordance with Table 2 and adjustments to Franchise Payments shall be made accordingly,*

in each case subject to:

- (i) adjustment in accordance with Schedule 9 (Changes) to the Terms to reflect any Change that occurs prior to 30 September 2008; and*
- (ii) indexation in accordance with the principles set out in Schedule 8.2 (Annual Franchise Payments) of the Terms⁶⁸¹.*

10.5 No amendments may be made to this Agreement to implement Demand Management Regulation (whether in accordance with the Demand Management Principles or otherwise) without the express agreement of both the Franchisee and the Secretary of State (which each party may withhold in its absolute discretion) and in particular it is not the parties' intention that amendments should be determined by a third party (whether pursuant to paragraph 4 of Schedule 19 (*Other Provisions*) of the Terms or otherwise).

⁶⁸²10.6 *In the event that the Franchisee and the Secretary of State do not reach agreement by the 30 September 2008, as set out in paragraph 10.2, the Franchisee and the Secretary of State shall use all reasonable endeavours to discuss and to seek to reach agreement, by no later than 31 December 2010, on the methodology, terms and conditions and implementation of Demand Management Regulation in accordance with the principles (the Demand Management Principles) set out in the Demand Management Principles Document. The Demand Management Principles are not intended to be legally binding on the parties and shall not give rise to any legal rights or obligations between them, save in so far as incorporated in any amendments to this Agreement which are agreed between the parties as set out in paragraph 10.3.*

⁶⁸¹ Insert change text wef 07/11/07

⁶⁸² date of new text 3.10.2008

Table 1: Target Revenue (expressed in real terms)

| Column 1 | Column 2 |
|---|--|
| Franchisee Year | Target Revenue (£k)⁶⁸³ |
| <i>Year 1⁶⁸⁴</i> | |
| <i>Year 2</i> | |
| <i>Year 3</i> | |
| <i>Year 4</i> | |
| <i>Year 5</i> | |
| <i>Year 6</i> | |
| <i>Year 7</i> | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | |
| <i>Up to 7 Reporting Period extension</i> | |
| <i>Year 9</i> | |
| <i>Year 10</i> | |
| <i>Year 11⁶⁸⁵</i> | |
| <i>Up to 7 Reporting Period extension</i> | |

⁶⁸³ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁶⁸⁴ Year 1 will run from 4 February 2007 to 31 March 2007.

⁶⁸⁵ Year 11 will run from 1 April 2016 to 4 February 2017.

Table 2: Figures for Calculation of Annual Franchise Payments (*Clause 5.20*)⁶⁸⁶

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|-----------------|-------------------|-------------------|------------------|-------------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Year 1</i> | | | | | |
| <i>Year 2</i> | | | | | |
| <i>Year 3</i> | | | | | |
| <i>Year 4</i> | | | | | |
| <i>Year 5</i> | | | | | |
| <i>Year 6</i> | | | | | |
| <i>Year 7</i> | | | | | |
| <i>Year 8 (if the Franchise is not extended in accordance with Schedule 18)</i> | | | | | |
| <i>Year 8 (if the Franchise is extended in accordance with Schedule 18)</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |
| <i>Year 9</i> | | | | | |
| <i>Year 10</i> | | | | | |

Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.⁶⁸⁶

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
|---|----------|------------|------------|-----------|------------|
| Franchisee Year | FXD (£k) | VCRPI (£k) | VCAEI (£k) | PRPI (£k) | TRRPI (£k) |
| <i>Year 11⁶⁸⁷</i> | | | | | |
| <i>Up to 7 Reporting Period extension</i> | | | | | |

11⁶⁸⁸.

⁶⁸⁹12. **MARKETING ACTIVITIES**

12.1 From 1 January 2014 until the end of the Franchise Term:

- (a) the Franchisee shall undertake in each Franchisee Year such marketing activities, intended to advertise, market and promote the CTOT Fares and Services as the Franchisee, acting reasonably, considers would increase patronage or otherwise result in improvements in Revenue in that Franchisee Year. For the avoidance of doubt, the Franchisee shall be entitled, at its discretion, to introduce, operate or cease operating any marketing activities relating to CTOT Fares and Services at any time; and*
- (b) the Franchisee shall spend no less than the Minimum Marketing Expenditure in each Franchisee Year on marketing activities (including Staff Costs) intended to advertise, market and promote the Passenger Services other than in respect of the CTOT Fares and Services. Any expenditure on such marketing activities in a Franchisee Year in excess of the Minimum Marketing Expenditure shall be at the discretion of the Franchisee (acting reasonably) (such expenditure "Discretionary Marketing Expenditure").*

12.2 The Franchisee shall provide such information as the Secretary of State shall reasonably require for the purposes of verifying that the Franchisee has spent the Minimum Marketing Expenditure in each Franchisee Year.

12.3 Where it is agreed or determined that the Franchisee has not spent an amount equal to or greater than the Minimum Marketing Expenditure in a Franchisee Year on marketing the Passenger Services other than the CTOT Fares and Services the Franchisee shall pay to the Secretary

⁶⁸⁷ Year 11 will run from 1 April 2016 to 4 February 2017.

⁶⁸⁸ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

⁶⁸⁹ Date of insertion 26/02/2014

of State, by way of an adjustment to the Franchise Payments, an amount equal to the difference between (i) the Minimum Marketing Expenditure for the relevant Franchisee Year and (ii) the aggregate expenditure actually incurred on marketing the Passenger Services other than the CTOT Fares and Services by the Franchisee in that Franchisee Year (the "Marketing Shortfall"). The adjustment to the Franchise Payments shall be made on the next Payment Date falling no less than 14 (fourteen) days from the date that the amount of the Marketing Shortfall for a Franchisee Year is agreed or determined. For the avoidance of doubt, where the aggregate marketing expenditure incurred by the Franchisee in a Franchisee Year is greater than or equal to the Minimum Marketing Expenditure for that Franchisee Year, no adjustment shall be made to the Franchise Payments pursuant to this paragraph 12.3.

12.4 ⁶⁹⁰

⁶⁹¹13. 2015 RUGBY WORLD CUP

13.1 Acknowledgement

The parties acknowledge that:

(a) England 2015 will host the Rugby World Cup between 15th August 2015 and 31st October 2015;

(b) The Franchisee is a key provider of public transport services into and out of Twickenham, the surrounding area and other areas serving as venues for the Rugby World Cup; and

(c) ⁶⁹²

13.2 *Additional Services to be operated during the duration of the Rugby World Cup*

⁶⁹⁰ Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

⁶⁹¹ Date of insertion 22/06/2015

⁶⁹² Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

The Franchisee shall operate the Rugby World Cup Additional Services as agreed between the Franchisee and England 2015 and described at Annex 1 (Rugby World Cup Additional Services Specification) to this Appendix 13.

13.3 ⁶⁹³

13.4 Train Plan and Plan of the Day

The Franchisee shall include the Rugby World Cup Additional Services in the Train Plan and Plan of the Day as needed to reflect those additional railway passenger services described at Annex 1 (Rugby World Cup Additional Services Specification) to this Appendix 13.

13.5 Impact on other Passenger Services

The Franchisee shall ensure that the provision of the Rugby World Cup Additional Services shall not cause any adverse impact to any other Passenger Services.

13.6 Publishing the Rugby World Cup Additional Services

The Franchisee shall publish all details of the Rugby World Cup Additional Services in accordance with the provisions of Schedule 1.4 (Passenger Facing Obligations) of the Terms.

13.7 Benchmarks

In respect of Cancellation benchmarks and Capacity benchmarks the existing performance regime under Schedule 7.1 (Performance Benchmarks) of the Terms will apply to the Rugby World Cup Additional Services.

⁶⁹³ Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

Rugby World Cup Additional Services Specification

TRAIN SERVICE PLANNING

Apart from the opening ceremony at 1900 on Friday 18 September, for which special arrangements will apply, all of the other Twickenham matches take place on Saturdays or Sundays and the service will be comprised of the following, applying from 15th August 2015 to 31st October 2015:

1. Saturday matches (Afternoon or Evening kick-off)

**FROM WATERLOO IN A THREE HOUR PERIOD BEFORE THE MATCH
(FINISHING ONE HOUR PRIOR TO KICK-OFF)**

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|---|---|------------------------|
| <i>Waterloo and Reading</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Waterloo and Windsor</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Waterloo and Hounslow</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Waterloo and Kingston</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Additional services from Waterloo or Clapham Jn</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Waterloo and Weybridge diverted away from Hounslow route</i> | <i>Half-hourly (two hours before match)</i> | <i>2</i> |
| | TOTAL | 12 |

Also, the following additional services will also operate for 2-hours before the match from

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|---|--------------------|------------------------|
| <i>Reading to Twickenham</i> | <i>Hourly</i> | <i>1</i> |
| <i>Shepperton, Kempton Park (for Park & Ride) to Twickenham</i> | <i>Half-hourly</i> | <i>2</i> |

TO WATERLOO AFTER THE MATCH *these services will also operate for 2-hours after the match*

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|--|--------------------|-------------------------|
| <i>Reading and Waterloo</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Windsor and Waterloo</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Hounslow and Waterloo</i> | <i>Half-hourly</i> | <i>2 until 2300</i> |
| <i>Kingston and Waterloo</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Additional services to Waterloo</i> | <i>Half-hourly</i> | <i>2 to 4 as needed</i> |
| | TOTAL | 10 |

⁶⁹⁴ Date of insertion 22/06/2015

Also, the following additional services will also operate for 2-hours after the match

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|--|--------------------|------------------------|
| <i>Twickenham and Reading</i> | <i>Hourly</i> | <i>1</i> |
| <i>Twickenham to Kempton Park (for Park & Ride) and Shepperton</i> | <i>Half-hourly</i> | <i>2</i> |

All of the above services are lengthened as necessary to 8 or 10 carriages

Certain connecting Main Line services at Clapham Junction (e.g. to/from Bournemouth and Salisbury) will also be lengthened as necessary.

2. Sunday matches (Afternoon 1600 kick-off)

FROM WATERLOO IN THREE HOUR PERIOD BEFORE THE MATCH (FINISHING ONE HOUR PRIOR TO KICK-OFF)

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|--|-------------------------|------------------------|
| <i>Waterloo and Reading</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Waterloo and Windsor</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Waterloo and Kingston</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Additional services from Waterloo or Clapham Jn</i> | <i>Half-hourly plus</i> | <i>4</i> |
| | TOTAL | 10 |

Also, the following additional services will also operate for 2-hours before the match from

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|---|--------------------|------------------------|
| <i>Reading to Twickenham</i> | <i>Hourly</i> | <i>1</i> |
| <i>Shepperton, Kempton Park (for P&R) to Twickenham</i> | <i>Half-hourly</i> | <i>2</i> |

TO WATERLOO AFTER THE MATCH these services will also operate for 2-hours after the match

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|--|-------------------------|-------------------------|
| <i>Reading and Waterloo</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Windsor and Waterloo</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Kingston and Waterloo</i> | <i>Half-hourly</i> | <i>2</i> |
| <i>Additional services to Waterloo</i> | <i>Half-hourly plus</i> | <i>2 to 4 as needed</i> |
| | TOTAL | 10 |

Also, the following additional services will also operate for 2-hours after the match

| ROUTE | FREQUENCY | TRAINS PER HOUR |
|--------------|------------------|------------------------|
|--------------|------------------|------------------------|

| | | |
|--|--------------------|----------|
| <i>Twickenham and Reading</i> | <i>Hourly</i> | <i>1</i> |
| <i>Twickenham to Kempton Park (for Park & Ride) and Shepperton</i> | <i>Half-hourly</i> | <i>2</i> |

All of the above services are lengthened as necessary to 8 or 10 carriages

Certain connecting Main Line services at Clapham Junction (e.g. to/from Bournemouth and Salisbury) will also be lengthened as necessary.

HOT STANDBY TRAIN

For all Twickenham matches during the Rugby World Cup SSWT will deploy a hot standby train at Strawberry Hill depot (or other nearby location) for the period after the match until close of service, to be used by SSWT as deemed necessary for relief of congestion.

WALES MATCHES AND DEMAND FROM THE READING ROUTE DIRECTION

For matches where Wales are playing at Twickenham during the Rugby World Cup or those matches where predicted demand shows an increase in expected capacity requirements (listed below) for the Reading line direction from Twickenham, a minimum of one additional train per hour will operate.

The relevant dates are:

*Saturday 19th September
Saturday 26th September
Saturday 03rd October
Saturday 10th October
Saturday 17th October
Sunday 18th October
Saturday 24th October
Sunday 25th October
Saturday 31st October*

MATCHES AT OTHER LOCATIONS

Matches will be played at other locations which may result in additional passengers using SSWT services. For these matches the following strengthening will apply:

*Matches played at Wembley Stadium strengthen 2 trains in up direction
Matches played at Olympic Stadium (Stratford) strengthen 2 trains in up direction
Matches played at Sandy Park Exeter strengthen 1 train in each direction to 6-cars if required. (Including last UP train from Exeter, depending on time of match)*

OPENING CEREMONY

For the opening ceremony the service frequency that will apply along with maximum number of trains per hour provided is noted below:

*12:00 to 13:00 10 trains from Waterloo
13:00 to 14:00 10 trains from Waterloo
14:00 to 15:00 10 trains from Waterloo*

15:00 to 16:00 *10 trains from Waterloo*
16:00 to 17:00 *10 trains from Waterloo and 2 trains from Clapham*
17:00 to 18:00 *12 trains from Waterloo*
18:00 to 19:00 *12 trains from Waterloo*

Opening ceremony at 19:00 and Kick off at 20:00

22:00 to 23:00 *09 trains to Waterloo*
23:00 to 00:00 *10 trains to Waterloo*
00:00 to 01:00 *07 trains to Waterloo*
01:00 to 02:00 *07 trains to Waterloo*

⁶⁹⁵ **Where text has been omitted from the document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**

APPENDIX 14

Recalibration of the Benchmarks (*Clause 8*)

1. CANCELLATIONS TARGET PERFORMANCE LEVEL FOR FIRST REPORTING PERIOD

In respect of the Cancellations Benchmark Table, the Target Performance Level specified therein for the first Reporting Period of the Franchise Term shall be recalibrated by:

- (a) taking the number of instances where a Previous Passenger Service was cancelled during the Performance Measurement Period, where a cancellation satisfying the requirements equivalent to those specified in the definition of Cancellation shall count as 1 and a cancellation satisfying the requirements equivalent to those specified in the definition of Partial Cancellation shall count as 0.5;
- (b) dividing the sum of that number by 13; and
- (c) calculating a percentage in respect of that total in accordance with the following:

$$\frac{A}{B} \times 100$$

where:

- A equals the number determined in accordance with paragraph 1(a), as divided in accordance with paragraph 1(b); and
- B equals the number determined by dividing the total number of Previous Passenger Services that were scheduled to be operated during the Performance Measurement Period by 13.

2. CAPACITY TARGET PERFORMANCE LEVEL FOR FIRST REPORTING PERIOD

In respect of the Capacity Benchmark Table, the Target Performance Level specified therein for the first Reporting Period of the Franchise Term shall be recalibrated by:

- (a) taking the number of instances where a Previous Passenger Service operated in the period equivalent to the Peak was short formed in accordance with the definition of Short Formation during the Performance Measurement Period; and
- (b) dividing the sum of that number by 13; and
- (c) calculating a percentage in respect of that number in accordance with the following:

$$\frac{A}{B} \times 100$$

where:

- A equals the number determined in accordance with paragraph 2(a), as divided in accordance with paragraph 2 (b); and

B equals the number determined by dividing the total number of Previous Passenger Services that were scheduled to be operated in the period equivalent to the Peak during the Performance Measurement Period by 13.

3. MINUTES DELAY TARGET PERFORMANCE LEVEL FOR FIRST REPORTING PERIOD

In respect of the Service Delivery Benchmark Table, the Target Performance Level specified therein for the first Reporting Period of the Franchise Term shall be recalibrated by:

- (a) taking the minutes of delay attributed to the Train Operator that provided the Previous Passenger Services under its track access agreement with Network Rail in respect of the Performance Measurement Period; and
- (b) dividing the sum of that number by 13.

4. TARGET PERFORMANCE LEVELS FOR EACH BENCHMARK FOR SUBSEQUENT REPORTING PERIODS

4.1 In respect of the Cancellations Benchmark Table, the Target Performance Level specified therein for each Reporting Period during the remainder of the Franchise Term shall, subject to paragraph 4.4, be determined by calculating:

- (a) the Target Performance Level for the eleventh Reporting Period in Franchisee Year 8 of the Franchise Term in accordance with the following formula:

$$\frac{80}{100} \times \text{TPL}$$

where:

TPL equals the Target Performance Level in respect of the Cancellations Benchmark Table for the first Reporting Period of the Franchise Term as determined pursuant to paragraph 1; and

- (b) the Target Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the eleventh Reporting Period in Franchisee Year 8 of the Franchise Term.

4.2 In respect of the Capacity Benchmark Table, the Target Performance Level specified therein for each Reporting Period during the remainder of the Franchise Term shall, subject to paragraphs 4.4 and 8, be determined by calculating:

- (a) the Target Performance Level for the eleventh Reporting Period in Franchisee Year 8 of the Franchise Term in accordance with the following formula:

$$\frac{(100 - (0.5 \times 7))}{100} \times \text{TPL}$$

where:

TPL equals the Target Performance Level in respect of the Capacity Benchmark Table for the first Reporting Period of the Franchise Term as determined pursuant to paragraph 2; and

- (b) the Target Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the eleventh Reporting Period in Franchisee Year 8 of the Franchise Term.

4.3 In respect of the Service Delivery Benchmark Table, the Target Performance Level specified therein for each Reporting Period during the remainder of the Franchise Term shall, subject to paragraph 4.4, be determined by calculating:

- (a) the Target Performance Level for the eleventh Reporting Period in Franchisee Year 8 of the Franchise Term in accordance with the following formula:

$$\frac{(100 - (0.5 \times 7))}{100} \times \text{TPL}$$

where:

TPL equals the Target Performance Level in respect of the Service Delivery Benchmark Table for the first Reporting Period of the Franchise Term as determined pursuant to paragraph 3; and

- (b) the Target Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the eleventh Reporting Period in Franchisee Year 8 of the Franchise Term.

4.4 In respect of each Benchmark Table the relevant Target Performance Level in respect of each Reporting Period after the eleventh Reporting Period in Franchisee Year 8 shall be the same as for the eleventh Reporting Period in Franchisee Year 8.

5. IMPROVEMENT PLAN PERFORMANCE LEVELS FOR EACH BENCHMARK FOR ALL REPORTING PERIODS

The Target Performance Levels for each Benchmark (as calculated in accordance with this Appendix 14) shall then be used to determine the relevant Improvement Plan Performance Level for each Reporting Period of the Franchise Term. The Improvement Plan Performance Level for each Reporting Period shall be calculated in accordance with the following formula:

$$\frac{(100 + 7.5)}{100} \times \text{TPL}$$

where:

TPL equals the Target Performance Level for that Reporting Period as determined pursuant to this Appendix 14.

6. BREACH PERFORMANCE LEVELS FOR EACH BENCHMARK FOR ALL REPORTING PERIODS

The Target Performance Levels for each Benchmark (as calculated in accordance with this Appendix 14) shall then be used to determine the relevant Breach Performance Level for each Reporting Period of the Franchise Term. The Breach Performance Level for each Reporting Period shall be calculated in accordance with the following formula:

$$\frac{(100+15)}{100} \times \text{TPL}$$

where:

TPL equals the Target Performance Level for that Reporting Period as determined pursuant to this Appendix 14.

7. DEFAULT PERFORMANCE LEVELS FOR EACH BENCHMARK FOR ALL REPORTING PERIODS-*Reporting Period shall be calculated in accordance with the following formula:

$$\frac{(100+20)}{100} \times \text{TPL}$$

where:

TPL equals the Target Performance Level for that Reporting Period as determined pursuant to this Appendix 14.

8. ROUNDINGS

8.1 The:

- (a) Cancellations Benchmark percentages recalibrated pursuant to paragraphs 1 and 4 to 7 (inclusive); and
- (b) Capacity Benchmarks percentages recalibrated pursuant to paragraphs 2 and 4 to 7 (inclusive),

shall be rounded to two decimal places, with the midpoint (that is, 2.835) rounded upwards (that is, 2.84).

8.2 The Service Delivery Benchmarks recalibrated pursuant to paragraphs 3 to 7 (inclusive) shall be rounded to the nearest ten minutes of delay, with the midpoint (that is, 5,005) rounded upwards (that is, 5,010).

APPENDIX 15⁶⁹⁶

List of Documents in the Agreed Terms (*Clause 9*)

| | |
|-------------------------------|---|
| A3+ Works | Waterloo International A3+ Layout |
| B4 Works | Waterloo B4 Layout |
| CFD | Commuter Fares Document |
| CP5 RS FM | Incremental Financial Model for CP5 Committed Obligations |
| CP5 RS ROA | Incremental Record of Assumptions for CP5 Committed Obligations |
| DAA | Depot Access Agreement |
| DL | Depot Lease |
| DMPD | Demand Management Principles Document |
| 2015 FM⁶⁹⁷ | 2015 Incremental Financial Model |
| FM | Financial Model |
| IBP | Initial Business Plan |
| LSHR | Lambert Smith Hampton Report (extract) |
| OM | Operational Model |
| OOA | Olympic Option Agreement |
| PC | Passenger's Charter |
| PFD | Protected Fares Document |
| POA | Power of Attorney |
| 2015 ROA⁶⁹⁸ | 2015 Incremental Record of Assumptions |
| ROA | Record of Assumptions |
| SAA | Station Access Agreement |
| SATRT | Seasonally Adjusted Target Revenue Table |
| SLC 1 | Service Level Commitment 1 |
| SLC 2 | Service Level Commitment 2 |
| SL | Station Lease |
| SQAP | Service Quality Audit Programme |
| SQMS | Service Quality Management System |
| SQS | Service Quality Standards |
| Sub-Lease | Phase 2 Rolling Stock Sub-Lease |
| TP | Train Plan |

⁶⁹⁶ Date of change 12/09/2014

Appendix 16⁶⁹⁹

⁶⁹⁷ Date of insertion 24/03/2015

⁶⁹⁸ Date of insertion 24/03/2015

⁶⁹⁹ **Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.**



FRESHFIELDS BRUCKHAUS DERINGER