

Dated 21 June 2007

- (1) The Secretary of State for Transport
- (2) Stagecoach Midland Rail Limited

CONFORMED COPY

(excluding Annexes A and C to Appendix 1)

EAST MIDLANDS Franchise Agreement
incorporating by reference the National Rail Franchise Terms

Third Edition

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THIS AGREEMENT is dated 21 June 2007

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 MIDLAND RAIL LIMITED** (Company Number 05340682) whose registered office is at c/o Stagecoach Services Limited, Daw Bank, Stockport, Cheshire SK3 0DU (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 issue of a Certificate of

Commencement.

Terms

means the National Rail Franchise Terms (Third Edition), in the form 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.
- 1.4 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(o) (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) paragraph 1 of Schedule 16 (Pensions);
- (n) Schedule 17 (Confidentiality); and
- (o) Schedule 19 (Other Provisions).

2.2 The provisions of:

- (a) paragraph 7 of Appendix 4 (List of Priced Options);
- (b) paragraph 13.2(a) of Appendix 11 (List of Committed Obligations and Related Provisions); and
- (c) paragraphs 2 and 8 of Appendix 13 (East Midlands Specific Provisions),

shall take effect and be binding upon the parties immediately upon signature of this Agreement.

2.3 The other provisions of this Agreement 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 its 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.
- 4.5 The Franchisee and the Secretary of State shall agree a conformed copy of the Terms, incorporating those changes to the Terms set out in this Agreement, by no later than one month after the date of this Agreement or such later date as the Secretary of State and the Franchisee may agree. In the case of any dispute or inconsistency between such conformed copy and this Agreement, this Agreement shall prevail.

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 November;
 - (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 means the document to be issued by the Secretary of State to the Franchisee on or before the Start Date which sets out the allocation of each Commuter Fare to the relevant Fares Basket as required by paragraph 1 of Schedule 5.3 (Allocation of Fares to Fares Baskets) as the same may be amended or re-issued from time to time in accordance with paragraph 8.1 of Schedule 5.7 (Changes to Fares and Fares Regulations);
 - (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 (inclusive) during a Weekday or such other continuous three hour period between 1200 and 2359 (inclusive) as the Secretary of State may specify from time to time;
- (f) the prescribed time and date for the purpose of paragraph (b) of the definition of Expiry Date is 0159 on 1 April 2015;
- (g) for the purposes of the definition of Franchise:
 - (i) the prescribed date is 31 October 2006; and
 - (ii) the prescribed places are London St Pancras, Leicester, Nottingham, Derby, Sheffield, Leeds, Liverpool Lime Street, Manchester Piccadilly, Peterborough, Lincoln Central amongst others and as may be varied from time to time in accordance with the Franchise Agreement;
- (h) the date for the purposes of the definition of Franchise Letting Process Agreement is 31 July 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 time and date for the purpose of the definition of Initial Expiry Date is 0159 on 10 November 2013;
- (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 stations for the purpose of the definition of Managed Station are Leeds, Liverpool Lime Street and Manchester Piccadilly;
- (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 (inclusive) 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) Parent means:
 - (i) in the context of Schedule 10.3 (Events of Default and Termination) of the Terms, either Stagecoach Group plc or Stagecoach Rail Holdings Limited; and
 - (ii) in all other contexts Stagecoach Group plc;
- (r) the Passenger's Charter in the agreed terms is attached to this Agreement marked PC1 (in relation to the period between the Start Date and 31 March 2009) and PC2 (in relation to the period commencing on 1 April 2009);
- (s) Not Used
- (t) the Power of Attorney in the agreed terms is attached to this Agreement marked POA;
- (u) the Protected Fares Document means the document to be issued by the Secretary of State to the Franchisee on or before the Start Date which sets out the allocation of each Protected Fare to the relevant Fares Basket as required by paragraph 1 of Schedule 5.3 (Allocation of Fares to Fares Baskets) as the same may be amended or re-issued from time to time in accordance with paragraph 8.1 of Schedule 5.7 (Changes to Fares and Fares Regulations);

- (v) 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;
- (w) the Record of Assumptions in the agreed terms is attached to this Agreement marked ROA;
- (x) the Reporting Accountants are Ernst & Young LLP;
- (y) the date for the purpose of paragraph (a) of the definition of Review Date is 1 October 2007;
- (z) 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);
- (aa) SLC1 in the agreed terms is attached to this Agreement marked SLC1;
- (ab) SLC2 in the agreed terms is attached to this Agreement marked SLC2;
- (ac) the Service Quality Audit Programme in the agreed terms is attached to this Agreement marked SQAP;
- (ad) the Service Quality Management System in the agreed terms is attached to this Agreement marked SQMS;
- (ae) the Service Quality Standards in the agreed terms are attached to this Agreement marked SQS;
- (af) the time and date for the purpose of paragraph (a) of the definition of Start Date is 0200 on 11 November 2007;
- (ag) 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));
- (ah) for the purposes of the formula set out in the definition of Threshold Amount:
 - (i) the prescribed threshold amount for any Franchisee Year, referred to by the acronym "FAT" is 0.1% of annual Turnover assumed by the Franchisee 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 2007;

- (ai) the Train Plan in the agreed terms is attached to this Agreement marked TP;
- (aj) the Seasonally Adjusted Target Revenue Table in the agreed terms is attached to this Agreement marked SATRT; and
- (ak) the prescribed date for the purpose of paragraph (b) of the definition of Pre Force Majeure Event and the definition of Year 0 is 1 April 2007.

Changes to the Terms

5.2 The Terms shall be amended by:

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

80% Stations means such stations as the Franchisee may specify and which:

- (i) account for 80% of station footfall as derived from "Lennon" or such other sources as the Secretary of State may reasonably agree; and
- (ii) include all of the stations which have been identified by BTP as high risk locations;

95% Stations has the meaning given to it in paragraph 5.1 of Appendix 4 (List of Priced Options);

2012 ITSO Amount means the amount equal to:

¹

where:

Q means the number per hundred Passenger Journeys that are made using ITSO Certified Smartcards in the thirteen Reporting Periods ending on 8 January 2012 as calculated in accordance with paragraph 5.9 of Appendix 13 (East Midlands Specific Provisions) provided that if such number is greater than 15, Q shall be deemed to be 15, and if such number is less than 10, Q shall be deemed to be 10; and

R means the number per hundred Passenger Journeys that are made using ITSO Certified Smartcards in the thirteen Reporting Periods ending on 8 January 2012 as calculated in accordance with paragraph 5.9 of

¹ 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 13 (East Midlands Specific Provisions) provided that if such number is greater than 10, R shall be deemed to be 10;

2014 ITSO Amount means the amount equal to:

2

where:

Q means the number per hundred Passenger Journeys that are made using ITSO Certified Smartcards in the thirteen Reporting Periods ending on 5 January 2014 as calculated in accordance with paragraph 5.9 of Appendix 13 (East Midlands Specific Provisions) provided that if such number is greater than 30, Q shall be deemed to be 30, and if such number is less than 25, Q shall be deemed to be 25;

R means the number per hundred Passenger Journeys that are made using ITSO Certified Smartcards in the thirteen Reporting Periods ending on 5 January 2014 as calculated in accordance with paragraph 5.9 of Appendix 13 (East Midlands Specific Provisions) provided that if such number is greater than 25, R shall be deemed to be 25, and if such number is less than 15, R shall be deemed to be 15; and

S means the number per hundred of Passenger Journeys that are made using ITSO Certified Smartcards in the thirteen Reporting Periods ending on 5 January 2014 as calculated in accordance with paragraph 5.9 of Appendix 13 (East Midlands Specific Provisions) provided that if such number is greater than 15, S shall be deemed to be 15;

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

ITSO Certified Smartcard means the portable cards or devices designed to hold fare and travel information with the monetary or other value encoded which meet the requirements of paragraph 2 of Schedule 1.3 of the Terms and have been fully certified by ITSO provided that in relation to Appendix 11 (Committed Obligations) the Franchisee shall not be required to comply with any specification of ITSO subsequent to TS1000 v2.1.2 which takes effect after the date when the Franchisee first enters into a contract with a relevant supplier for ITSO related equipment and/or hardware;

² 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.

Light Maintenance Services means the light maintenance services to be supplied by the West Midlands Franchisee (or such other person as shall be the depot facility owner at the Start Date) to the Franchisee at Tyseley Depot under the Tyseley Depot Access Agreement;

London Commuter Routes means for the purposes of paragraphs 1.6 and 1.7 of Schedule 1.5 (Information about Passengers) Passenger Services terminating at or originating from London St Pancras;

NCC Franchise means the rights tendered by the Secretary of State on 31 October 2006 to operate railway passenger services to and from Plymouth, Edinburgh, Leeds, Penzance, Aberdeen, Glasgow, Reading, Newcastle, Bristol, Manchester, Bournemouth, Cardiff, Birmingham, Nottingham, Stansted Airport, Cambridge, Leicester and Guildford amongst others and as may be varied from time to time in accordance with the relevant franchise agreement;

NCC Franchisee means the franchisee for the NCC Franchise;

Passenger Journeys means travel by passengers from the stations where such passengers join the Passenger Services to the stations where such passengers exit the Passenger Services as derived from 'Lennon' or such other industry systems as the Secretary of State may reasonably determine;

Porterbrook Side Letter means the letter dated 7 November 2007 from the Secretary of State to the Franchisee headed "**Porterbrook Class 158, 153 and 156 Rolling Stock Lease Agreements**";³

SLC1 means the first Service Level Commitment applicable from the Start Date until the Passenger Change Date occurring in or around December 2008 as may be changed pursuant to the process set out in Schedule 1.1 (Service Development) of the Terms;

SLC2 means the second Service Level Commitment applicable from the Passenger Change Date occurring in or around December 2008 as may be changed pursuant to the process set out in Schedule 1.1 (Service Development) of the Terms;

4

³ Insert new text wef

⁴ 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.

Tyseley Depot means the depot situated at Tyseley in Birmingham;

Tyseley Depot Access Agreement has the meaning given to it in Appendix 13 (East Midlands Specific Provisions);

West Midlands Franchise means the rights tendered by the Secretary of State on 31 October 2007 to operate railway passenger services to and from London, Northampton, Rugby, Coventry, Birmingham, Wolverhampton, Shrewsbury, Stafford, Crewe and Liverpool amongst others and as may be varied from time to time in accordance with the relevant franchise agreement;

West Midlands Franchisee means the franchisee for the West Midlands Franchise.

- (b) ⁵
- (c) the following provisions being amended:
- (i) Schedule 1.5 (Information about Passengers) by the addition of new paragraphs 1.5, 1.6, 1.7, 1.8 and 1.9 as follows:
- “1.5. By the date that is 2 years from the Start Date, the Franchisee shall procure that as a minimum 10% in aggregate of the Train Fleet is fitted with the technology prescribed in paragraph 5.4 of the Franchise Agreement;
- 1.6. In addition to the Franchisee’s obligations under paragraph 1.1 the Franchisee shall, once in every Franchisee Year, carry out a programme of passenger counts or secure that a programme of passenger counts is carried out, in respect of the Passenger Services operated on the London Commuter Routes (“Passenger Counts”), at such times and in such manner (including as to levels of accuracy and the number of days (not being more than 7 consecutive days) over which the programme of counts is carried out) as may be approved from time to time by the Secretary of State;
- 1.7. The manner of undertaking the Passenger Counts shall be designed to ensure so far as practicable that the

⁵ 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.

Passenger Counts are typical of demand for the Passenger Services operated on the London Commuter Routes at the relevant time of the year and for the relevant day of the week. Where applicable, any such Passenger Count shall be carried out by a person or persons approved by the Secretary of State (such approval not to be unreasonably withheld);

- 1.8. The Franchisee shall supply the details of such Passenger Counts to the Secretary of State in accordance with the requirements in paragraphs 1.1 and 1.3;
- 1.9. The Secretary of State shall be entitled to audit any of the Passenger Counts (whether by specimen checks at the time of such Passenger Counts, verification of proper compliance with the manner approved by the Secretary of State or otherwise). If such audit reveals material error, or a reasonable likelihood of material error, in such Passenger Counts, the Secretary of State may require such Passenger Counts to be repeated or the results adjusted as the Secretary of State considers appropriate, and in these circumstances the Franchisee shall pay the Secretary of State the costs of any such audit."

- (ii) paragraph 5(d) of Schedule 1.6 (Franchise Services) by the addition of the following words after the words "Schedule 1.6", "or required under paragraph 2 of Appendix 13 (East Midlands Specific Provisions) of the Franchise Agreement";
- (iii) paragraph 1.2 (b) of Part 1 and paragraph 1.2 (b) of Part 2 of Schedule 2.1 (Asset Vesting and Transfer) by deleting and replacing the words "in the agreed terms" with the words "on substantially the same terms";
- (iv) ⁶
- (v) ⁷

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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⁷ 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.

(vi) ⁸

(vii) ⁹

(viii) ¹⁰

(ix) ¹¹

(x) ¹²

(xi) ¹³

(xii) ¹⁴

(xiii) ¹⁵

(xiv) ¹⁶

(xv) ¹⁷

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 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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¹² 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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¹⁴ . 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.

¹⁵ 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.

¹⁶ 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.

(xvi) Schedule 16 (Pensions), by replacing Schedule 16 in its entirety with the version of Schedule 16 set out in Appendix 16 (New Schedule 16 (Pensions)); and

(xvii) ¹⁸

(xviii) Paragraph 1.4(b) of Schedule 18 (Franchise Consultation Criteria) shall be amended by:

(1) the deletion of the word "If" at the start of paragraph 1.4(b); and

(2) the insertion of the following at the start of such paragraph 1.4(b):

"Subject always to the terms of the Porterbrook Side Letter". ¹⁹

Schedule 1.1 (Service Development)

5.2A For the purpose of paragraph 1 of Schedule 1.1 (Service Level Commitment) of the Terms, as at the date of signing of this Franchise Agreement, the relevant Service Level Commitment is:

- (a) SLC1 in respect of the period up to but excluding the Passenger Change Date occurring in December 2008; and
- (b) SLC2 in respect of the period from the Passenger Change Date in December 2008.

Where the Franchisee is required to operate a Service Level Commitment which is the same as SLC2 in respect of the period immediately following the Passenger Change Date in December 2008, the move from the Service Level Commitment previously in force shall not constitute a Change. However, where in the period immediately following the Passenger Change Date in December 2008 the Secretary of State requires the Franchisee to operate a Service Level Commitment which is different from SLC2, it shall be a Change but paragraph

¹⁷ 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 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 Insert new text wef 7/11/07

(e) of the definition of Change in clause 3.1 of the Terms shall be deemed to be amended such that that Change relates to the difference between the Service Level Commitment which the Franchisee is required to operate and SLC2 (rather than, in the latter case, the Service Level Commitment previously in force).

- 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 in 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 is:²⁰

Extent of Fitment

The following levels of each fleet will be fitted:

Rolling Stock	Total Units in Fleet	Units to be fitted²¹	Percentage of Fleet²²
5-car Class 222	17		
7-car Class 222	6		
HST 2+7	10		
2-car Class 158	19		
3-car Class 158	5		
Class 156	11		
Class 153	14		
TOTAL	82		

Fitment Timescales

*All fleets other than the Cascaded Northern Units which form part of the Class 156 fleet will be fitted with infrared equipment by 31 December 2010.*²³

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 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.

Interim measures to Determine Passenger Load

During the transition to automated load monitoring (and throughout the Franchise Term), the Franchisee shall continue with the existing annual manual autumn passenger counts on London commuter routes. Without prejudice to its obligations under this clause 5.4 and paragraph 1.2 of Schedule 1.5 (Information about Passengers) of the Terms, as a further measure to determine loads, the Franchisee will carry out ad hoc Train Manager/Senior Conductor counts across the Franchise area, throughout the Franchise Term.

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 per cent.; and
 - (b) 1 per cent.
- 5.6 The relevant Depots for the purpose of paragraph 5(e) of Schedule 1.6 (Franchise Services) of the Terms are as follows:
- (a) Etches Park; and
 - (b) Neville Hill (MML element only).
- 5.7 The relevant property for the purpose of paragraph 5(n) of Schedule 1.6 (Franchise Services) of the Terms is as follows:
- (a) any building used for the purposes of head office functions; and
 - (b) Customer Service Academy situated at The Academy, Hudson Way, Pride Park, Derby DE24 8HS.
- 5.8 The prescribed 'Original Amounts' for the purposes of paragraph 5(q) of Schedule 1.6 (Franchise Services) 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 To the extent that the Franchisee enters into replacement Property Leases during the Franchise Term, the provisions of Part 1 of Schedule 2.1 (Asset Vesting and Transfer) of the Terms shall apply, for which purpose any new

²³ Date of Change 12/03/2010

Property Leases shall be substantially in the agreed terms attached to this Agreement marked SL and DL (as appropriate) or on such other terms as the Secretary of State may agree, acting reasonably.

- 5.9A To the extent that the Franchisee enters into new Property Leases on the Start Date, the provisions of Part 2 of Schedule 2.1 (Asset Vesting and Transfer) of the Terms shall apply, for which purpose the Property Leases shall be substantially in the agreed terms attached to this Agreement marked SL and DL (as appropriate) or such other terms as the Secretary of State may agree, acting reasonably.

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 (Transport, Travel and Other Schemes) of the Terms are as follows:

- (a) **Nottinghamshire County Council** - Offer half fare travel on journeys within the scheme boundary (generally Nottinghamshire) and to selected stations outside of the area. Discounts are available on Standard Day single/return, Cheap Day single or return and Saver single/return ticket types. Half fare discounts are available to Senior Citizens (over 60 years), disabled and blind people. A small number of disabled persons receive free travel.
- (b) **Leicestershire County Council** - Scheme operates under the name "Leicestershire Partnerships" and offers half fare travel on journeys within the scheme boundary (generally Leicestershire) and to selected stations outside of the area. Discounts are available on Standard Day single/return, Cheap Day single or return and Saver single/return ticket types. Half fare discounts are available to Senior Citizens (over 60 years), disabled and blind people.

- (c) **Rutland County Council** - Offer half fare travel for all journeys that start or end at Oakham, Melton Mowbray or Stamford station. Pass holders can only travel as far as Leicester or Peterborough. Discounts are available on Standard Day single/return and Cheap Day single or return ticket types. Half fare discounts are available to Senior Citizens (over 60 years), disabled and blind people. A small number of disabled persons receive free travel.
- (d) **Derbyshire County Council** - Offers half fare travel on journeys within the scheme boundary (generally Derbyshire) and to selected stations outside of the area. Discounts are available on Standard Day single/return, Cheap Day single or return and Saver single/return ticket types. Seniors/Disabled scheme is branded as "Gold Card" and Young Persons as "b line 2". A small number of disabled persons receive free travel.
- (e) **Tamworth Borough Council** - Offers half fare travel from Wilnecote and Tamworth to Burton on Trent. 50% Discounts are available on Cheap Day single and return ticket types. Travel is only valid after 0915.
- (f) **Leicestershire Scholars Concessionary Scheme.**

5.13 The prescribed multi-modal schemes for the purpose of paragraph 3.1(a) of Schedule 2.5 (Transport, Travel and Other Schemes) of the Terms are as follows:

- (a) SYPTE multi-modal
- (b) WYPTE multi-modal
- (c) Kangaroo ticket (Nottingham One Day Travelcard)
- (d) Derbyshire Wayfarer Ranger Ticket
- (e) Trent/Barton bus company through ticketing
- (f) Sheffield Supertram through ticketing
- (g) Nottingham Tram through ticketing

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 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).

5.15A ²⁴

5.16 The Capacity Benchmarks for the purpose of paragraph 1.3 of Schedule 7.1 (Performance Benchmarks) 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 (Performance Benchmarks) 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 is two per cent.

5.18A *The Secretary of State shall, promptly following the agreement or determination of the Appendices pursuant to clause 4 of the Deed dated on or about 6 February 2009 between the Secretary of State and the Franchisee, calculate the aggregate of the values of PFP (as referred to in paragraph 1.1 of Schedule 8.1 to the Terms) for the Reporting Period during which such agreement or determination takes effect (the "Effective Date") and all prior Reporting Periods, on the basis of:*

(i) *the Annual Franchise Payment calculated by reference to the values in Appendix 8 to the Franchise Agreement as adjusted by clause 4 of such Deed (the aggregate of the values of PFP for such Reporting Periods calculated on such basis being "Value 1"; and*

(ii) *the Annual Franchise Payment calculated by reference to the values in Appendix 8 to the Franchise Agreement prior to adjustment by clause 4 of such Deed (the aggregate of the values of PFP for such Reporting Periods calculated on such basis being "Value 2").*

5.18B *The difference between Value 1 and Value 2 shall be paid by the Secretary of State to the Franchisee by way of additional Franchise Payment on the Payment Date occurring next after the Effective Date.*

²⁴ 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 parties agree that such additional Franchise Payment shall not constitute Revenue.

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

- (a) for paragraph (a) of factor "A", the percentage specified for that Franchisee Year in column 2 of the table below;
- (b) for paragraph (b) of factor "A", the percentage specified for that Franchisee Year in column 3 of the table below;
- (c) for factor "X", the percentage specified for that Franchisee Year in column 4 of the table below;
- (d) for factor "B", the percentage specified for that Franchisee Year in column 5 of the table below; and
- (e) for factor "Y", the percentage specified for that Franchisee Year in column 6 of the table below.²⁵

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Franchisee Year	Paragraph (a) of Factor A	Paragraph (b) of Factor A	Factor X	Factor B	Factor Y
Year 1					
Year 2					
Year 3					
Year 4					
Year 5					
Year 6					
Year 7					
Up to 7 Reporting Period extension					
Year 8					
Up to 7 Reporting Period extension					

²⁵ 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 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 (Annual Franchise Payments) of the Terms are, respectively, January and January 2007.

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 is the percentage specified for that Franchisee Year in column 2 of the table below.

Column 1	Column 2
Franchisee Year	Profit Margin Percentage (on Revenue)²⁶
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 7 (up to 7 Reporting Period extension)	
Year 8	
Year 8 (part year)	
Year 9 (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 paragraph 4.4 of Schedule 12 (Financial Obligations and Covenant) of the Terms are, respectively:

²⁶ 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) £²⁷, being ²⁸per cent. of the aggregate forecast operating costs of the Franchisee, in respect of the period from the Start Date to the first anniversary of the Start Date, as forecast in the Initial Business Plan;
- (b) £²⁹, being ³⁰per cent. of the aggregate forecast operating costs of the Franchisee, in respect of the year commencing on the first anniversary of the Start Date, as forecast in the Initial Business Plan;
- (c) £³¹, being ³²per cent. of the aggregate forecast operating costs of the Franchisee, in respect of the year commencing on the second anniversary of the Start Date, as forecast in the latest practicably available Business Plan; and
- (d) an amount which is equal to ³³per cent. of the aggregate forecast operating costs of the Franchisee, in respect of each subsequent year (or part thereof) during the Franchise Term, as forecast in the latest practicably available Business Plan), provided that for the purpose of determining the amount of any Performance Bond in respect of any part year, the aggregate forecast operating costs of the Franchisee for such part year shall be increased by dividing such costs by the number of Reporting Periods in such part year and multiplying by 13.

²⁷ 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.

²⁸ 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.

²⁹ 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.

³⁰ 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.

³¹ 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.

³² 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.

³³ 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 14.3 (Key Contracts)

- 5.24 The 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 2.1(a) of Schedule 14.4 (Designation of Franchise Assets) of the Terms are listed in Appendix 10 (List of Primary Franchise Assets).
- 5.26 Not Used

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.

Schedule 19 (Other Provisions)

- 5.28³⁴ *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

³⁵Address: 33 Horseferry Road, London SW1P 4DR

Facsimile: 020 7944 2446

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

Attention: Director, Rail Commercial Contracts

³⁶Name: Stagecoach Midland Rail Limited

Address: 1 Prospect Place, Millennium Way, Pride Park, Derby DE24 8HG

Facsimile: 01332 867008

E-mail: david.horne@eastmidlandstrains.co.uk

³⁴ Date of Change 20/01/2011

³⁵ Date of Change 01/10/2011

³⁶ Date of Change 08/02/2011

Attention: Managing Director

6. COMMITTED OBLIGATIONS³⁷

The Franchisee shall deliver the Committed Obligations and the HLOS Committed Obligations that are set out in Appendix 11 (List of Committed Obligations and HLOS Committed Obligations and Related Provisions) in accordance with the terms thereof.

7. SUPPLEMENTAL TERMS

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

7.2 The provisions of Appendix 13 (East Midlands Specific Provisions) shall apply.

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 following letters:

- (a) Side letter of even date between the parties to this Agreement relating to the definition of "Change" in the Terms;
- (b) Side letter of even date between the parties to this Agreement relating to preparation of the Commuter Fares Document and the Protected Fares Document; and
- (c) Side letter of even date between the parties to this Agreement relating to the transfer of certain contracts to which the Train Operator under the Previous Franchise Agreement is a party under a Start Date Transfer Scheme,

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

³⁷ Date of Change 12/03/2010

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.

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

- (a) contained in this Agreement; or
- (b) embodied in any warranties, representations or undertakings contained in the long form reports provided by the Reporting Accountants in respect of Midland Main Line Limited and Central Trains Limited each dated 19 September 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, 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, or, except in so far as such warranties, representations or undertakings are:

- (a) contained in this Agreement; or
- (b) embodied in any warranties, representations or undertakings contained in the long form reports provided by the Reporting Accountants in respect of Midland Main Line Limited and Central Trains Limited each dated 19 September 2006.

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:)

J.D. PAINE J.D. PAINE
(SEAL) SEAL REF. No. 3328

Authenticated by authority of the
Secretary of State for Transport

SIGNED for and on behalf of)
STAGECOACH MIDLAND RAIL)
LIMITED)

A.C. PITT A.C. PITT
I. DOBBS I. DOBBS

Authorised Signatory:

APPENDIX 1

Secretary of State Risk Assumptions (Clause 5.1(z))

1. Definitions

“Access Charge Supplement for Passenger’s Charter Arrangements” means the Access Charge Supplement for Passenger’s Charter Arrangements (if any), as set out in and payable by the Franchisee to Network Rail under paragraph 14.10 of Schedule 8 of the Track Access Agreement;

“Access Charge Supplement for Restrictions of Use” means the Access Charge Supplement for Restrictions of Use, as set out in and payable by the Franchisee to Network Rail under Part 5 of Schedule 4 of the Track Access Agreement;

“Actual Access Charge Supplement for Passenger’s Charter Arrangements” means the amount of the Access Charge Supplement for Passenger’s Charter Arrangements (if any) which, following completion of the Initial Franchise Remapping, the Secretary of State reasonably determines will be payable in respect of the Franchise Period;

“Actual Access Charge Supplement for Restrictions of Use” means the amount of the Access Charge Supplement for Restrictions of Use which, following completion of the Initial Franchise Remapping, the Secretary of State reasonably determines will be payable in respect of the Franchise Period;

“Actual BTP Charges” means the amount of the BTP Charges which, following completion of the Initial Franchise Remapping, the Secretary of State reasonably determines will be payable in respect of the Franchise Period;

“Actual CC Term” means the amount of the CC Term which, following completion of the Initial Franchise Remapping, the Secretary of State reasonably determines will be payable in respect of the Franchise Period;

“Actual Fixed Track Charges” means the amount of the Fixed Track Charges which, following completion of the Initial Franchise Remapping, the Secretary of State reasonably determines will be payable in respect of the Franchise Period;

“Assumed Access Charge Supplement for Passenger’s Charter Arrangements” means the amount of the Access Charge Supplement for Passenger’s Charter Arrangements shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 1 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in respect of the Franchise Period;

“Assumed Access Charge Supplement for Restrictions of Use” means the amount of the Access Charge Supplement for Restrictions of Use shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 2 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in respect of the Franchise Period;

“Assumed BTP Charges” means the amount of the BTP Charges shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 3 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in respect of the Franchise Period;

“Assumed CC Term” means the amount of the CC Term shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 4 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in respect of the Franchise Period;

“Assumed Fixed Track Charges” means the amount of the Fixed Track Charges shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 5 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in respect of the Franchise Period;

“BTP” means the British Transport Police;

“BTP Charges” means the charges payable by the Franchisee in respect of the services to be provided by the BTP in connection with the Franchise;

“CC Term” means CCt as defined in paragraph 6 of Part 2 of Schedule 7 of the Track Access Agreement;

“Central Trains” means Central Trains Limited whose registered number is 03007938 and registered office is at 75 Davies Street, London W1K 5HT;

“Fixed Track Charges” means the Fixed Track Charge, as defined in the Track Access Agreement and as payable by the Franchisee to Network Rail under Part 2 of Schedule 7 of the Track Access Agreement;

“Initial Franchise Remapping” means the franchise remapping process directed by the Secretary of State (as announced on 18 October 2005 and thereafter amended) pursuant to which the Franchise, the NCC Franchise and the West Midlands Franchise shall be created, each of which is due to commence on 11 November 2007;

“Maintrain” means Maintrain Limited whose registered number is 2918124 and registered office is at 75 Davies Street, London W1K 5HT;

“Maintrain Agreement” means the agreement in the agreed terms marked MA;

“Thameslink Programme” means the scheme promoted by Network Rail formerly known as ‘Thameslink 2000’, as described in the Network Rail (Thameslink 2000) Order 2006, 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;

“Works” has the meaning given to it in paragraph 11 of this Appendix 1;

“Works Contract” means any contract entered into by a Works Contractor in relation to the carrying out of the Works;

“Works Contractor” means any contractor employed in the carrying out of the Works; and

“Works Schedule” means the works schedule set out in Annex C to this Appendix 1.

2. **Fixed Track Charges**

It shall be a Change if and to the extent that, upon determination of Fixed Track Charges which take into account the impact of the Initial Franchise Remapping thereon:

2.1 there is any difference between:

- (a) the Actual Fixed Track Charges; and
- (b) the Assumed Fixed Track Charges; and

2.2 such difference arises as a result of the Initial Franchise Remapping.

Any Change pursuant to this paragraph 2 shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

The parties agree that the determination of Fixed Track Charges may have occurred prior to the date of this Franchise Agreement and that if so, such determination shall still be a Change.

3. **Access Charge Supplement for Restrictions of Use**

It shall be a Change if and to the extent that, upon determination of the Access Charge Supplement for Restrictions of Use which takes into account the impact of the Initial Franchise Remapping thereon:

3.1 there is any difference between:

- (a) the Actual Access Charge Supplement for Restrictions of Use; and
- (b) the Assumed Access Charge Supplement for Restrictions of Use; and

3.2 such difference arises as a result of the Initial Franchise Remapping.

Any Change pursuant to this paragraph 3 shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

The parties agree that the determination of the Access Charge Supplement for Restrictions of Use may have occurred prior to the date of this Franchise Agreement and that if so, such determination shall still be a Change.

4. **Access Charge Supplement for Passenger's Charter Arrangements**

It shall be a Change if and to the extent that, upon determination of the Access Charge Supplement for Passenger's Charter Arrangements which takes into account the impact of the Initial Franchise Remapping thereon:

4.1 there is any difference between:

- (a) the Actual Access Charge Supplement for Passenger's Charter Arrangements; and
- (b) the Assumed Access Charge Supplement for Passenger's Charter Arrangements; and

4.2 such difference arises as a result of the Initial Franchise Remapping.

For the avoidance of doubt, it shall also be a Change if no Access Charge Supplement for Passenger's Charter Arrangements is included in the Track Access Agreement.

Any Change pursuant to this paragraph 4 shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

The parties agree that the determination of the Access Charge Supplement for Passenger's Charter Arrangements may have occurred prior to the date of this Franchise Agreement and that if so, such determination shall still be a Change.

5. Capacity Charge

It shall be a Change if and to the extent that, upon determination of the CC Term which takes into account the impact of the Initial Franchise Remapping thereon:

5.1 there is any difference between:

- (a) the Actual CC Term; and
- (b) the Assumed CC Term; and

5.2 such difference arises as a result of the Initial Franchise Remapping.

Any Change pursuant to this paragraph 5 shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

The parties agree that the determination of the Actual CC Term may have occurred prior to the date of this Franchise Agreement and that if so, such determination shall still be a Change.

6. British Transport Police Charges

It shall be a Change if and to the extent that, in relation to BTP Charges which take into account the impact of the Initial Franchise Remapping thereon:

6.1 there is any difference between:

- (a) the Actual BTP Charges; and
- (b) the Assumed BTP Charges;

6.2 such difference arises as a result of the Initial Franchise Remapping; and

6.3 the Franchisee has used all reasonable endeavours to minimise the Actual BTP Charges.

Any Change pursuant to this paragraph 6 shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

The parties agree that the Actual BTP Charges may have been fixed prior to the date of this Franchise Agreement and that if so, that shall still be a Change.

7. **Not used**

8. **Start Date**

It shall be a Change if as a direct result of the acts or omissions of the Secretary of State the Start Date is a date later than 11th November 2007 provided that it will not be a Change where:

- 8.1 the Start Date is changed by the Secretary of State pursuant to clauses 4.2 or 4.3 of the Conditions Precedent Agreement; or
- 8.2 the relevant acts or omissions of the Secretary of State arise as a result of or in connection with any failure by the Franchisee to satisfy the conditions precedent set out in the Conditions Precedent Agreement.

9. **St Pancras**³⁸

10. **East Midlands Parkway**

It shall be a Change if, for reasons outside of the reasonable control of the Franchisee:

- 10.1 East Midlands Parkway Station has not been completed and is not open to allow the departure and arrival of railway passenger services by the Passenger Change Date occurring in December 2008; or
- 10.2 fewer than 500 car parking spaces are made available at East Midlands Parkway Station for the use of rail passengers by the Passenger Change Date occurring in December 2008,

and, in consequence, costs and revenues for the Franchisee are different from those set out in the Financial Model, Demand Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in rows 7 and 16 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in each case as a direct result of East Midlands Parkway Station not being open by the Passenger Charge Date occurring in December 2008 or fewer than 500 car parking spaces being made available at East Midlands Parkway Station by such date (as applicable). In the event of such circumstances occurring, the Franchisee shall use all reasonable endeavours to ensure that East Midlands Parkway Station is open or has not less than 500 car parking spaces as soon as possible thereafter (as the case may be).

³⁸ 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.

If any such Change is a Qualifying Change there shall be a further Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change when East Midlands Parkway Station is completed and opened or has not less than 500 car parking spaces (as the case may be).

- 10.3 It shall be a Change to the extent that there is any difference between the actual charges payable by the Franchisee to Network Rail in respect of East Midlands Parkway Station and the amount of such charges in respect of East Midlands Parkway Station shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 8 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) in respect of the Franchise Period subject to it being reasonably determined by the Secretary of State that the Franchisee has used all reasonable endeavours to minimise such charges.

The parties agree that the actual charges payable by the Franchisee to Network Rail in respect of East Midlands Parkway may have been fixed prior to the date of this Franchise Agreement and that if so, that shall still be a Change.

11. **Completion of Committed Obligations under the Previous Franchise Agreements³⁹**

12. **Thameslink Programme**

It shall be a Change if and to the extent that Passenger Services are disrupted by the implementation of the Thameslink Programme for reasons beyond the reasonable control of the Franchisee provided that it will not be a Change to the extent that the Franchisee is reasonably capable of being compensated for any increased costs or reduction in revenue arising directly from such disruption on the basis that such scheme is a Network Change under the Network Code (including Condition G2.2 of that code).

13. **ITSO⁴⁰**

14. **Allocation of Rolling Stock**

- 14.1 It shall be a Change if the Franchisee enters into leases in respect of less than the following quantity of rolling stock vehicles of the prescribed classes or if the period of any such lease expires prior to the end of the Franchise Term;

³⁹ 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.

⁴⁰ 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.

- (i) five three car Class 158 units;
- (ii) nineteen two car Class 158 units;
- (iii) eleven two car Class 156 units and fourteen Class 153 vehicles; and
- (iv) seven nine car and sixteen four car Class 222 units or the relevant vehicles reformed into seven eight car, seven five car and nine four car Class 222 units

Provided that it will not be a Change unless the Franchisee has used all reasonable endeavours to lease the relevant quantity of rolling stock of the prescribed classes on reasonable terms for the relevant lease period.

The Secretary of State agrees that if the Franchisee enters into leases with relevant rolling stock leasing companies on terms substantially the same as the terms outlined in its bid for the East Midlands franchise dated 26 February 2007 the Secretary of State will regard these terms as reasonable for the purposes of the proviso in this paragraph 14.1.

- 14.2 It shall be a Change if the Franchisee enters into leases in respect of less than all of the following Class 43 HST power cars and Mark III trailer vehicles including catering vehicles identified as such:

Class 43 HST Power Cars	HST Mark III Trailer Vehicles	HST Mark III Trailer Vehicles Cont	HST Mark III Catering Vehs
43043	41041	42140	40700
43044	41046	42141	40728
43045	41057	42148	40729
43046	41062	42149	40730
43047	41063	42151	40741
43048	41064	42152	40746
43049	41067	42153	40751
43050	41068	42155	40753
43052	41069	42156	40754
43054	41070	42157	40756
43055	41071	42163	Another
43058	41072	42194	Another
43059	41075	42205	
43060	41076	42210	
43061	41077	42220	
43066	41078	42225	

Class 43 HST Power Cars	HST Mark III Trailer Vehicles	HST Mark III Trailer Vehicles Cont	HST Mark III Catering Vehs
43072	41079	42227	
43073	41080	42228	
43074	41111	42229	
43075	41113	42230	
43076	41117	42324	
43081	41153	42327	
43082	41154	42328	
43083	41155	42329	
43085	41156	42331	
	42100	42335	
	42111	42337	
	42112	42339	
	42113	42341	
	42119	44027	
	42120	44041	
	42121	44044	
	42123	44046	
	42124	44047	
	42125	44048	
	42131	44051	
	42132	44054	
	42133	44070	
	42135	44071	
	42136	44073	
	42137	44085	
	42139		
Total 25		Total 83	Total 12

or if the period of any such lease expires prior to the end of the Franchise Term except that with regard to the catering vehicles set out in column 4 of the table above there will only be a Change (in circumstances where they are leased by the Franchisee) if the lease expires prior to 31 December 2008

Provided that it will not be a Change unless the Franchisee has used all reasonable endeavours to lease the relevant identified Class 43 HST power cars and Mark III trailer vehicles and Mark III catering vehicles on reasonable terms

for the relevant lease period. The Secretary of State agrees for these purposes that terms substantially the same as the terms identified in the Record of Assumptions as at the date of the Franchise Agreement are reasonable.

- 14.3 It shall be a Change if and to the extent that any of the Class 43 HST Power Cars and/or Mark III Trailer Vehicles and/or Mark III catering vehicles identified in paragraph 14.2 is leased or subleased to the NCC Franchisee in circumstances where the Franchisee was willing to lease them on terms substantially the same as the terms offered by Porterbrook Leasing Limited referred to in the Franchisee's bid for the East Midlands franchise dated 26 February 2007.
- 14.4 Without prejudice to the operation of Schedule 9 (Changes) of the Terms, where there is a Change pursuant to this paragraph 14 the Franchisee will consult with the Secretary of State about potential alternative rolling stock and will use all reasonable endeavours to obtain offers in respect of consequently required replacement rolling stock which can reasonably be considered to be a suitable alternative in the context of the obligations of the Franchisee under the Franchise Agreement and the rolling stock available in the market for leasing. The Franchisee will use reasonable endeavours to obtain a reasonable price in respect of the offer of leases of such replacement rolling stock.

15. Mandatory Train Crew Trading

It shall be a Change if:

- (a) the New Cross Country Franchisee fails to enter into the New Cross Country Train Crew Trading Agreement (as defined in paragraph 2.1(a) of Appendix 13 (East Midlands Specific Provisions)) on or before the Start Date; or
- (b) the West Midlands Franchisee fails to enter into the West Midlands Train Crew Trading Agreement (as defined in paragraph 2.1(b) of Appendix 13 (East Midlands Specific Provisions)) on or before the Start Date.

The Secretary of State agrees that if the NCC Franchise or the West Midlands Franchise have not commenced on or before the Start Date, the Secretary of State will procure that reasonable alternative train crew trading arrangements are put in place within a reasonable period with appropriate relevant parties.

16. Maintrain⁴¹

17. Transfer of Rolling Stock Leases⁴²

⁴¹ 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. Pensions

- 18.1 It shall be a Change if no East Midlands Top-Up Liability arises or if the East Midlands Top-Up Liability payable by the Franchisee is not £3,700,000.
- 18.2 For the purposes of paragraph 18.1, East Midlands Top-Up Liability means any payment which the Franchisee is required to make pursuant to paragraph 1.5 of Schedule 16 (Pensions) of the Terms (as amended pursuant to 5.2(c)(xvi) of this Franchise Agreement).
- 18.3 For the purposes of this Change, the only Revised Input shall be the need to replace £3,700,000 as shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 10 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) with the actual amount of the East Midlands Top-Up Liability.
- 18.4 Any Change pursuant to this paragraph 18 shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

⁴² 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 A

Etches Park Depot Remodelling Works Scope of Works⁴³

⁴³ 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 B

Maintrain Assets and Staff at Nottingham Eastcroft Depot⁴⁴

⁴⁴ 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 C

Etches Park Work Schedule

See following 37 pages

APPENDIX 2

Target Revenue (expressed in real terms) (Clause 5.1(ag))

Column 1	Column 2
Franchisee Year	Target Revenue (£k) ⁴⁵
Year 1 (part year)	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 7 (up to first expiry period)	
Year 7 (up to 7 Reporting Period extension)	
Year 7 (part year)	
Year 8 (part year)	
Year 8	
Year 9 (up to 7 Reporting Period extension)	

⁴⁵ 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.

Table 1 (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		
<i>HST PC⁴⁶</i>	<i>23 vehs (20 form part of 10 HST sets, 3 spare)</i>	<i>nil</i>	<i>nil</i>	<i>nil</i>	<i>nil</i>	<i>Porterbrook</i>	<i>Expiry Date</i>
<i>HST TC⁴⁷ Note 1</i>	<i>75 vehs (70 form part of 10 HST sets, 5 spare)</i>	<i>441</i>	<i>n/a</i>	<i>441</i>	<i>357</i>	<i>Porterbrook</i>	<i>Expiry Date</i>
HST catering vehicles	12 vehs (11 form part of HST sets, 1 spare)	n/a	n/a	n/a	n/a	Porterbrook	31.12.08
Class 222 Note 2	9 x 4 car (36 vehs)	181	n/a	181	131	HSBC	Expiry Date (reformed)

⁴⁶ Date of Change 19/05/2011

⁴⁷ Date of Change 19/05/2011

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		
							as below)
Class 222 Note 2	7 x 5 car (35 vehs)	252	n/a	252	202	HSBC	Expiry Date (reformed as below)
Class 222 Note 2	7 x 8 car (56 vehs)	429	n/a	429	323	HSBC	Expiry Date (reformed as below)
Class 222⁴⁸	3x4 car (12 Vehs)	188	n/a	188	155	HSBC	Expiry Date
Class 222 Note 2⁴⁹	17 x 5 car (85 vehs)	250	n/a	250	200	HSBC	Expiry Date (reformed as below)
Class 222 Note 2⁵⁰	6 x 7 car (42 vehs)	354	n/a	354	248	HSBC	Expiry Date (reformed as below)
Class 222 (high capacity) Note 3	6 x 7 car (42 vehs)	378	n/a	378	272	HSBC	Expiry Date
Class 153 Note 4	9 x 1 car	75	n/a	75	75	Porterbrook	Expiry Date
Class 153 Note 4	5 x 1 car	75	n/a	75	75	ATC	Expiry Date
Class 156 Note 5	11 x 2 car	148	n/a	148	148	Porterbrook	Expiry Date
Class 156⁵¹	4 x 2 car	148	n/a	148	148	ATC	Expiry Date
2-car Class 158 Note 6	18 x 2 car	138	n/a	138	138	ATC	Expiry Date (refurbished as high capacity units between 2008 and Jan 2011)
2-car Class 158	1 x 2 car	138	n/a	138	138	Porterbrook	Expiry Date (refurbished as high

⁴⁸ Date of Insertion 19/05/2011

⁴⁹ Date of change 17/05/2011

⁵⁰ Date of change 17/05/2011

⁵¹ Date of Change 12/03/2010

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		
Note 6							capacity units between 2008 and Jan 2011)
2-car Class 158 (high capacity) Note 6	18 x 2 car	157	n/a	157	157	ATC	Expiry Date
2-car Class 158 (high capacity) Note 6	1 x 2 car	157	n/a	157	157	Porterbrook	Expiry Date
3-car Class 158	5 x 3 car	207	n/a	207	207	Porterbrook	Expiry Date

Note 1 Capacity of units shown following conversion of sets from HST 2+8 to HST 2+7 (by removal of catering vehicle). During the conversion programme, the catering vehicles will become surplus to requirements and, unless otherwise agreed with the Secretary of State, will cease to be part of the Train Fleet and will either be returned to their owner/lessor or stored, without being subject to any substitution requirement.

Note 2 Class 222 4-car, 5-car and 8-car units will be reformed as 5-car and 7-car units by 31 December 2009. Subject to paragraph 12.12 of Part 1 to Appendix 11 (List of Committed Obligations and Related Provisions), the 5-car and 7-car units will be reconfigured as high capacity units by 31 December 2012, see Note 3.

Note 3 Class 222 5-car (high capacity) and 7-car (high capacity) units will (subject to paragraph 12.12 of Part 1 to Appendix 11 (List of Committed Obligations and Related Provisions)) be created by reconfiguring Class 222 5-car and 7-car units by 31 December 2012.

Note 4 Total capacity excludes 4 additional 'tip-up' seats to be fitted by October 2011.

Note 5 Total capacity excludes 8 additional 'tip-up' seats to be fitted by August 2011.

Note 6 Class 158 2-car units will be reconfigured as Class 158 2-car (high capacity) units by 31 December 2012.

APPENDIX 4

List of Priced Options (Clause 5.14)

Part 1

1A NOT USED

1B NOT USED

2. Introduction of GSM-R

Description, objective and specification

2.1 This option relates to:

- (a) the procurement and installation of GSM-R radio units to the Train Fleet;
- (b) the training of drivers employed by the Franchisee in the use of that equipment and the maintenance of that equipment;
- (c) any costs associated with any requirement under any Rolling Stock Lease to obtain the approval from a relevant Rolling Stock Provider to install such equipment; and
- (d) any costs associated with the removal and making good of any legacy radio systems in any rolling stock vehicles comprised in the Train Fleet.

2.2 This Priced Option is based on the following assumptions:

- (a) the Franchisee is not required to meet any costs, charges or liabilities in relation to any additional infrastructure, or any modification, refurbishment or maintenance of infrastructure, required in order that this Priced Option can be implemented other than those relating to equipment installed in rolling stock vehicles;
- (b) the Franchisee will not claim any compensation from Network Rail under the Network Code (including condition G2.2 of that code) in respect of the procurement and installation of GSM-R radio units to any of the rolling stock vehicles comprised in its Train Fleet.

2.3 Where any of the assumptions specified in paragraph 2.2 is not met (either on or following the date that the Secretary of State elects to call this Priced Option) the following shall apply in respect of this Priced Option:

- (a) it shall be considered to have been called by the Secretary of State on different terms from those specified in this Priced Option;
- (b) accordingly, there shall be a Change under paragraph (b) of the definition of Change in Clause 3.1 of the Terms; and
- (c) such Change shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

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

Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to adjustment in accordance with Schedule 9 (Changes) of the Terms to reflect any Change that occurs prior to its exercise, 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.¹

- 2.5 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.

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

This Priced Option can be implemented three months after it is called with the installation of GSM-R to the Train Fleet being completed 30 months after such date. The earliest date from which this Priced Option can be implemented is 30 December 2010.

2.7 Other effects on the Franchise Agreement

The only effects on the Franchise Agreement will be:

- (a) the inclusion of the following in Appendix 11 (List of Committed Obligations and Related Provisions):
 - a new Committed Obligation in Part 1 to Appendix 11 (List of Committed Obligations and Related Provisions) which reads "Without prejudice to its rights and obligations in relation to a Network Change under the Network Code (other than those relating to compensation in respect of the costs incurred in carrying out the following), on or before 30 December 2010 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";

- (b) the addition of a new entry in the Table in Part 3 to Appendix 11 (List of Committed Obligations and Related Provisions) 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?
6	GSM-R introduction	30 December 2010	0	No

2.8 Latest date for calling this Priced Option to maintain the price in paragraph 2.4

- (a) The latest date on which the Secretary of State may call this Priced Option in order to maintain the price quoted at paragraph 2.5 is 1 April 2008.
- (b) If the Secretary of State calls this Priced Option at any time later than the date specified in paragraph 2.8(a) then the provisions of paragraph (b) of the definition of Change shall apply.

3. Additional Sunday Services from Mansfield to Nottingham

Description, objective and specification

- 3.1 To provide ten return services on each Sunday (other than a Sunday which is also Christmas Day) during the Franchise Term between Nottingham and Mansfield Woodhouse. Subject to Schedule 1.1 (Service Development) of the Terms, the Franchisee will be responsible for obtaining all requisite rights under Access Agreements to operate the amended Service Level Commitment. The first train of the day shall be timed to arrive at Mansfield Woodhouse no later than 08:30 and at Nottingham no later than 09:45 and the last train of the day shall be timed to arrive at Mansfield Woodhouse no earlier than 20:30 and at Nottingham no earlier than 21:30. At least four services should extend to Worksop timed to give two arrivals in Nottingham before 12:00 and a departure from Nottingham after 16:00.

- 3.2 This Priced Option is based on the following assumptions:

- (a) Network Rail grants to the Franchisee such track access rights as are required in order to enable the Franchisee to operate a timetable consistent with paragraph 3.1;
- (b) the access charges payable by the Franchisee in connection with the access rights referred to in paragraph (a) are different from the relevant amounts shown in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 13 of the table in Appendix 17 (Financial Model and Record of Assumptions References)).

3.3 Where any of the assumptions specified in paragraph 3.2 is not met (either on or following the date that the Secretary of State elects to call this Priced Option) the following shall apply in respect of this Priced Option:

- (a) it shall be considered to have been called by the Secretary of State on different terms from those specified in this Priced Option;
- (b) accordingly, there shall be a Change under paragraph (b) of the definition of Change in Clause 3.1 of the Terms; and
- (c) such Change shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.

Provided that where the assumption referred to in paragraph 3.2(a) has not been met then (except at the discretion of the Secretary of State) there shall not be a Change if and to the extent that:

- (i) the Franchisee has not exercised all reasonable endeavours to obtain the requisite Timetable Development Rights in accordance with paragraph 8.1 of Schedule 1.1 (Service Development) of the Terms; and
- (ii) the Franchisee is not relieved from liability for such failure pursuant to paragraph 8.4 of Schedule 1.1 (Service Development) of the Terms.

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

Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to adjustment in accordance with Schedule 9 (Changes) of the Terms to reflect any Change that occurs prior to its exercise, shall be the price set out in Tables 3A and 3B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.

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

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

Provided that the Secretary of State has called this Priced Option by no later than one week before the first day of any annual timetable conference specified under the Network Code, the Franchisee shall procure that this Priced Option is implemented on and from the Passenger Change Date occurring in the first December following that conference unless otherwise agreed by the parties. The first Passenger Change Date on which the Priced Option is capable of being implemented from is that occurring in December 2008.¹

3.6 Other effects on the Franchise Agreement

The effects on the Franchise Agreement will be the need to make such consequential amendments to the rights and obligations of the parties including the Service Level Commitment and the Train Plan as are reasonably required to give effect to the implementation of the Priced Option. In the absence of agreement such consequential amendments shall be as reasonably determined by the Secretary of State. The Secretary of State and the Franchisee agree that any consequential amendments made to the Service Level Commitment and/or the Train Plan in order to give effect to the implementation of this Priced Option under the Franchise Agreement shall not be a Change, save to the extent that such consequential amendments are not consistent with paragraph 3.1.

With effect from the commencement of the Railway Passenger Services which are the subject of this Priced Option the Service Delivery Benchmark in respect of Target Delivery minutes will be recalibrated in accordance with paragraph 3.2 of Schedule 7.1 (Performance Benchmarks) of the Terms.

3.7 Latest date for calling this Priced Option to maintain the price in paragraph 3.4

- (a) The latest date on which the Secretary of State may call this Priced Option in order to maintain the price quoted at paragraph 3.4 is the date which is ninety days after the Start Date.
- (b) If the Secretary of State calls this Priced Option at any time later than the date specified in paragraph 3.7(a) then the provisions of paragraph (b) of the definition of Change shall apply.
- (c) Where this Priced Option:

- (i) is called on or before the date specified in paragraph 3.7(a); and
- (ii) the relevant date of implementation is not the Passenger Change Date occurring in the first December following the annual timetable conference referred to in paragraph 3.5,

then it shall be a Qualifying Change provided that the Revised Inputs shall be those agreed or reasonably determined by the Secretary of State to be necessary for the purposes of revising the price set out in Tables 3A and 3B in Part 2 to this Appendix 4 to take account of the changes to the assumptions underlying that price (as set out in the Record of Assumptions as at the date of this Franchise Agreement) consequent upon the date on which the Priced Option is implemented being different to that assumed.

4. Doncaster to Lincoln via Gainsborough Decrements

4.1 Description, objective and specification

Subject to Schedule 1.1 (Service Development) of the Terms, to delete from the Service Level Commitment all services between Doncaster and Lincoln via Gainsborough with effect from the December 2008 Passenger Change Date leading to the withdrawal of such services from this date.

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

Where this Priced Option is called in accordance with its terms, the price for this Priced Option, subject to adjustment in accordance with Schedule 9 (Changes) of the Terms to reflect any Change that occurs prior to its exercise, 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.

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

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

Provided that the Secretary of State has called this Priced Option by no later than one week before the first day of any annual timetable conference specified under the Network Code, the Franchisee shall procure that this Priced Option is implemented on and from the Passenger Change Date occurring in the first December following that conference unless otherwise agreed by the parties. The first Passenger Change Date on which the Priced

Option is capable of being implemented from is that occurring in December 2008.

4.4 Other effects on the Franchise Agreement

The effects on the Franchise Agreement will be the need to make such consequential amendments to the rights and obligations of the parties including the Service Level Commitment and the Train Plan as are reasonably required to give effect to the implementation of the Priced Option. In the absence of agreement such consequential amendments shall be as reasonably determined by the Secretary of State. The Secretary of State and the Franchisee agree that any consequential amendments made to the Service Level Commitment and/or the Train Plan in order to give effect to the implementation of this Priced Option under the Franchise Agreement shall not be a Change save to the extent that such consequential amendments are not consistent with paragraph 4.1.

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

- (a) 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 the date which is ninety days after the Start Date.
- (b) If the Secretary of State calls this Priced Option at any time later than the date specified in paragraph 4.5(a) then the provisions of paragraph (b) of the definition of Change shall apply.
- (c) Where this Priced Option:
 - (i) is called on or before the date specified in paragraph 4.5(a); and
 - (ii) the relevant date of implementation is not the Passenger Change Date occurring in the first December following the annual timetable conference referred to in paragraph 4.3,

then it shall be a Qualifying Change provided that the Revised Inputs shall be those agreed or reasonably determined by the Secretary of State to be necessary for the purposes of revising the price set out in Tables 4A and 4B in Part 2 to this Appendix 4 to take account of the changes to the assumptions underlying that price (as set out in the Record of Assumptions as at the date of this Franchise Agreement) consequent upon the date on which the Priced Option is implemented being different to that assumed.

5. **Secure Station Accreditation for 95% of Station Footfall**

Description, objective and specification

- 5.1 This option relates to the achievement of secure station accreditation ('SSA') in respect of such stations as the Franchisee may specify:
- (a) which account for 95% of station footfall as derived from "Lennon" or such other sources as the Secretary of State may reasonably agree ("95% Stations"); and
 - (b) include all the stations which have been identified by BTP as high risk locations.

The SSA guidelines on which this Priced Option is based are those published on the 24 May 2005 (as modified in 22 May 2006).

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 adjustment in accordance with Schedule 9 (Changes) of the Terms to reflect any Change that occurs prior to its exercise, 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. 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.

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

The timescale for implementation of this Priced Option will be the date that is 3 years from the date on which the Priced Option is called.

- 5.4 **Other effects on the Franchise Agreement**

The only effects on the Franchise Agreement will be the inclusion of the following in Appendix 11 (List of Committed Obligations and Related Provisions):

- (a) a new Committed Obligation in Part 1 to Appendix 11 (List of Committed Obligations and Related Provisions) which reads:

"On or before the date that is 3 years from [*insert date on which Priced Option is called*] the Franchisee shall achieve 'Secure Station Accreditation' at each of the 95% Stations";

- (b) the addition of a new entry in the Table in Part 3 to Appendix 11 (List of Committed Obligations and Related Provisions) 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?
5	'Secure Station Scheme' Accreditation	<i>On or before the date that is 3 years from the date on which Priced Option is called.</i>	75 for each 1% of Station footfall for which SSA is not achieved, up to a maximum of 1,125 per Reporting Period	2.3

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

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 30 September 2008.

6. Financial Model

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.

7. Consultation

The Franchisee shall, from the date of signature of this Agreement, at its own cost consult in connection with the implementation of the Priced Options set out in paragraphs 1A, 1B, 3 and 4 above with Network Rail, relevant stakeholders and any other relevant and interested party (which shall include, without limitation, in respect of Priced Option 3, Nottinghamshire County Council and in respect of Priced Option 4, South Yorkshire PTE). This obligation shall apply notwithstanding that as at such date the Secretary of State has not exercised these Priced Options.

Part 2

1A NOT USED

1B NOT USED

2. Introduction of GSM-R

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

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 called in accordance with its terms:

Column 1	Column 2
Franchisee Year	Target Revenue (£k) ⁵²
<i>Year 1 part year</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 7 (up to first expiry period)</i>	
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>	
<i>Year 8</i>	
<i>Year 9 (up to 7 Reporting Period extension)</i>	

⁵² 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.

Table 2B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)⁵³

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 called in accordance with its terms:

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 part year</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 7 (up to first expiry period)</i>					
<i>Year 7 (up to 7 Reporting Period extension)</i>					
<i>Year 7 part year</i>					
<i>Year 8 part year</i>					
<i>Year 8</i>					
<i>Year 9 (up to 7 Reporting Period extension)</i>					

⁵³ 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. **Additional Sunday Service From Mansfield To Nottingham**

Table 3A: Target Revenue (expressed in real terms) (*Clause 5.1(ag)*)

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 called in accordance with its terms:

Column 1	Column 2
Franchisee Year	Target Revenue (£k)⁵⁴
<i>Year 1 part year</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 7 (up to first expiry period)</i>	
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>	
<i>Year 8</i>	
<i>Year 9 (up to 7 Reporting Period extension)</i>	

⁵⁴ 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.

Table 3B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)⁵⁵

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 called in accordance with its terms:

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 part year</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 7 (up to first expiry period)</i>					
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>					
<i>Year 8</i>					
<i>Year 9 (up to 7 Reporting Period extension)</i>					

⁵⁵ 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. **Doncaster To Lincoln Via Gainsborough Decrements**

Table 4A: Target Revenue (expressed in real terms) (*Clause 5.1(ag)*)

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 called in accordance with its terms:

Column 1	Column 2
Franchisee Year	Target Revenue (£k)⁵⁶
<i>Year 1 part year</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 7 (up to first expiry period)</i>	
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>	
<i>Year 8</i>	
<i>Year 9 (up to 7 Reporting Period extension)</i>	

⁵⁶ 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.

Table 4B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)⁵⁷

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 called in accordance with its terms:

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 part year</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 7 (up to first expiry period)</i>					
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>					
<i>Year 8</i>					
<i>Year 9 (up to 7 Reporting Period extension)</i>					

⁵⁷ 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.

5. **Secure Station Accreditation For 95% Of Station Footfall**

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

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 called in accordance with its terms:

Column 1	Column 2
Franchisee Year	Target Revenue (£k)⁵⁸
<i>Year 1 part year</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 7 (up to first expiry period)</i>	
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>	
<i>Year 8</i>	
<i>Year 9 (up to 7 Reporting Period extension)</i>	

⁵⁸ 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.

Table 5B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)⁵⁹

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 called in accordance with its terms:

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 part year</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 7 (up to first expiry period)</i>					
<i>Year 7 (up to 7 Reporting Period extension)</i> <i>Year 7 part year</i> <i>Year 8 part year</i>					
<i>Year 8</i>					
<i>Year 9 (up to 7 Reporting Period extension)</i>					

⁵⁹ 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 5

Cancellations Benchmark Table (Clause 5.15)

Column 1		Column 2	Column 3	Column 4	Column 5
Reporting Year Reporting Period		Target Performance Level	Improvement Plan Performance Level	Breach Performance Level	Default Performance Level
Year 1 ⁶⁰	Period 9	1.35%	1.45%	1.55%	1.62%
	Period 10	1.35%	1.45%	1.55%	1.62%
	Period 11	1.34%	1.44%	1.54%	1.61%
	Period 12	1.34%	1.44%	1.54%	1.61%
	Period 13	1.34%	1.44%	1.54%	1.61%
Year 2	Period 1	1.33%	1.43%	1.54%	1.60%
	Period 2	1.33%	1.43%	1.53%	1.60%
	Period 3	1.33%	1.43%	1.53%	1.60%
	Period 4	1.32%	1.43%	1.53%	1.59%
	Period 5	1.32%	1.42%	1.52%	1.59%
	Period 6	1.14%	1.24%	1.34%	1.41%
	Period 7	1.14%	1.24%	1.34%	1.41%
	Period 8	1.32%	1.43%	1.53%	1.59%
	Period 9	1.32%	1.42%	1.52%	1.59%
	Period 10	1.32%	1.42%	1.52%	1.59%
	Period 11	1.32%	1.42%	1.52%	1.59%
	Period 12	1.32%	1.42%	1.52%	1.59%
	Period 13	1.31%	1.42%	1.52%	1.58%
Year 3	Period 1	1.31%	1.41%	1.51%	1.58%
	Period 2	1.31%	1.41%	1.51%	1.58%
	Period 3	1.31%	1.41%	1.51%	1.58%
	Period 4	1.31%	1.41%	1.51%	1.58%
	Period 5	1.30%	1.40%	1.51%	1.57%
	Period 6	1.30%	1.40%	1.50%	1.57%
	Period 7	1.30%	1.40%	1.50%	1.57%
	Period 8	1.30%	1.40%	1.50%	1.57%
	Period 9	1.30%	1.40%	1.50%	1.57%
	Period 10	1.29%	1.39%	1.50%	1.56%
	Period 11	1.29%	1.39%	1.49%	1.56%
	Period 12	1.29%	1.39%	1.49%	1.56%
	Period 13	1.29%	1.39%	1.49%	1.56%
Year 4	Period 1	1.29%	1.39%	1.49%	1.56%
	Period 2	1.28%	1.38%	1.49%	1.55%
	Period 3	1.28%	1.38%	1.48%	1.55%
	Period 4	1.28%	1.38%	1.48%	1.55%
	Period 5	1.28%	1.38%	1.48%	1.55%
	Period 6	1.28%	1.38%	1.48%	1.55%
	Period 7	1.27%	1.37%	1.48%	1.54%
	Period 8	1.27%	1.37%	1.47%	1.54%

⁶⁰

Benchmarks will be recalibrated to reflect actual performance achieved up to the Start Date.

Column 1		Column 2	Column 3	Column 4	Column 5
Reporting Year Reporting Period		Target Performance Level	Improvement Plan Performance Level	Breach Performance Level	Default Performance Level
	Period 9	1.27%	1.37%	1.47%	1.54%
	Period 10	1.27%	1.37%	1.47%	1.54%
	Period 11	1.27%	1.37%	1.47%	1.54%
	Period 12	1.26%	1.36%	1.47%	1.53%
	Period 13	1.26%	1.36%	1.46%	1.53%
Year 5	Period 1	1.26%	1.36%	1.46%	1.53%
	Period 2	1.26%	1.36%	1.46%	1.53%
	Period 3	1.26%	1.36%	1.46%	1.53%
	Period 4	1.25%	1.36%	1.46%	1.52%
	Period 5	1.25%	1.35%	1.45%	1.52%
	Period 6	1.25%	1.35%	1.45%	1.52%
	Period 7	1.25%	1.35%	1.45%	1.52%
	Period 8	1.25%	1.35%	1.45%	1.52%
	Period 9	1.24%	1.35%	1.45%	1.51%
	Period 10	1.24%	1.34%	1.44%	1.51%
	Period 11	1.24%	1.34%	1.44%	1.51%
	Period 12	1.24%	1.34%	1.44%	1.51%
	Period 13	1.24%	1.34%	1.44%	1.51%
Year 6	Period 1	1.23%	1.34%	1.44%	1.50%
	Period 2	1.23%	1.33%	1.44%	1.50%
	Period 3	1.23%	1.33%	1.43%	1.50%
	Period 4	1.23%	1.33%	1.43%	1.50%
	Period 5	1.23%	1.33%	1.43%	1.50%
	Period 6	1.22%	1.33%	1.43%	1.50%
	Period 7	1.22%	1.32%	1.43%	1.49%
	Period 8	1.22%	1.32%	1.42%	1.49%
	Period 9	1.22%	1.32%	1.42%	1.49%
	Period 10	1.22%	1.32%	1.42%	1.49%
	Period 11	1.22%	1.32%	1.42%	1.49%
	Period 12	1.21%	1.31%	1.42%	1.48%
	Period 13	1.21%	1.31%	1.41%	1.48%
Year 7	Period 1	1.21%	1.31%	1.41%	1.48%
	Period 2	1.21%	1.31%	1.41%	1.48%
	Period 3	1.21%	1.31%	1.41%	1.48%
	Period 4	1.20%	1.31%	1.41%	1.47%
	Period 5	1.20%	1.30%	1.40%	1.47%
	Period 6	1.20%	1.30%	1.40%	1.47%
	Period 7	1.20%	1.30%	1.40%	1.47%
	Period 8	1.20%	1.30%	1.40%	1.47%

Until Franchise ends

1. Start of the Franchise

The Reporting Period in the cells entitled “Year 1 Period 9” shall be the first Reporting Period of the Franchise Term.

APPENDIX 5A⁶¹

⁶¹ 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 6

Capacity Benchmark Table (Clause 5.16)

Column 1		Column 2	Column 3	Column 4	Column 5
Reporting Year Reporting Period		Target Performance Level	Improvement Plan Performance Level	Breach Performance Level	Default Performance Level
Year 1 ⁶²	Period 9	2.00%	2.10%	2.30%	2.40%
	Period 10	2.00%	2.10%	2.30%	2.40%
	Period 11	2.00%	2.10%	2.30%	2.40%
	Period 12	2.00%	2.10%	2.30%	2.40%
	Period 13	2.00%	2.10%	2.30%	2.40%
Year 2	Period 1	2.00%	2.10%	2.30%	2.40%
	Period 2	2.00%	2.10%	2.30%	2.40%
	Period 3	2.00%	2.10%	2.30%	2.40%
	Period 4	2.00%	2.10%	2.30%	2.40%
	Period 5	2.00%	2.10%	2.30%	2.40%
	Period 6	2.00%	2.10%	2.30%	2.40%
	Period 7	2.00%	2.10%	2.30%	2.40%
	Period 8	2.00%	2.10%	2.30%	2.40%
	Period 9	2.00%	2.10%	2.30%	2.40%
	Period 10	2.00%	2.10%	2.30%	2.40%
	Period 11	2.00%	2.10%	2.30%	2.40%
	Period 12	2.00%	2.10%	2.30%	2.40%
	Period 13	2.00%	2.10%	2.30%	2.40%
Year 3	Period 1	2.00%	2.10%	2.30%	2.40%
	Period 2	2.00%	2.10%	2.30%	2.40%
	Period 3	2.00%	2.10%	2.30%	2.40%
	Period 4	2.00%	2.10%	2.30%	2.40%
	Period 5	1.90%	2.00%	2.20%	2.30%
	Period 6	1.90%	2.00%	2.20%	2.30%
	Period 7	1.90%	2.00%	2.20%	2.30%
	Period 8	1.90%	2.00%	2.20%	2.30%
	Period 9	1.90%	2.00%	2.20%	2.30%
	Period 10	1.90%	2.00%	2.20%	2.30%
	Period 11	1.90%	2.00%	2.20%	2.30%
	Period 12	1.90%	2.00%	2.20%	2.30%
	Period 13	1.90%	2.00%	2.20%	2.30%
Year 4	Period 1	1.90%	2.00%	2.20%	2.30%
	Period 2	1.90%	2.00%	2.20%	2.30%
	Period 3	1.90%	2.00%	2.20%	2.30%
	Period 4	1.90%	2.00%	2.20%	2.30%
	Period 5	1.90%	2.00%	2.20%	2.30%
	Period 6	1.90%	2.00%	2.20%	2.30%
	Period 7	1.90%	2.00%	2.20%	2.30%
	Period 8	1.90%	2.00%	2.20%	2.30%
	Period 9	1.90%	2.00%	2.20%	2.30%

⁶²

Benchmarks will be recalibrated to reflect actual performance achieved up to the Start Date

Column 1		Column 2	Column 3	Column 4	Column 5
Reporting Year Reporting Period		Target Performance Level	Improvement Plan Performance Level	Breach Performance Level	Default Performance Level
	Period 10	1.90%	2.00%	2.20%	2.30%
	Period 11	1.90%	2.00%	2.20%	2.30%
	Period 12	1.90%	2.00%	2.20%	2.30%
	Period 13	1.90%	2.00%	2.20%	2.30%
Year 5	Period 1	1.90%	2.00%	2.20%	2.30%
	Period 2	1.90%	2.00%	2.20%	2.30%
	Period 3	1.90%	2.00%	2.20%	2.30%
	Period 4	1.90%	2.00%	2.20%	2.30%
	Period 5	1.90%	2.00%	2.20%	2.30%
	Period 6	1.90%	2.00%	2.20%	2.30%
	Period 7	1.90%	2.00%	2.20%	2.30%
	Period 8	1.90%	2.00%	2.20%	2.30%
	Period 9	1.80%	1.90%	2.10%	2.20%
	Period 10	1.80%	1.90%	2.10%	2.20%
	Period 11	1.80%	1.90%	2.10%	2.20%
	Period 12	1.80%	1.90%	2.10%	2.20%
	Period 13	1.80%	1.90%	2.10%	2.20%
Year 6	Period 1	1.80%	1.90%	2.10%	2.20%
	Period 2	1.80%	1.90%	2.10%	2.20%
	Period 3	1.80%	1.90%	2.10%	2.20%
	Period 4	1.80%	1.90%	2.10%	2.20%
	Period 5	1.80%	1.90%	2.10%	2.20%
	Period 6	1.80%	1.90%	2.10%	2.20%
	Period 7	1.80%	1.90%	2.10%	2.20%
	Period 8	1.80%	1.90%	2.10%	2.20%
	Period 9	1.80%	1.90%	2.10%	2.20%
	Period 10	1.80%	1.90%	2.10%	2.20%
	Period 11	1.80%	1.90%	2.10%	2.20%
	Period 12	1.80%	1.90%	2.10%	2.20%
	Period 13	1.80%	1.90%	2.10%	2.20%
Year 7	Period 1	1.80%	1.90%	2.10%	2.20%
	Period 2	1.80%	1.90%	2.10%	2.20%
	Period 3	1.80%	1.90%	2.10%	2.20%
	Period 4	1.80%	1.90%	2.10%	2.20%
	Period 5	1.80%	1.90%	2.10%	2.20%
	Period 6	1.80%	1.90%	2.10%	2.20%
	Period 7	1.80%	1.90%	2.10%	2.20%
	Period 8	1.80%	1.90%	2.10%	2.20%

Until Franchise ends

1. Start of the Franchise

The Reporting Period in the cells entitled “Year 1 Period 9” shall be the first Reporting Period of the Franchise Term.

APPENDIX 7^{63 64 65}

Service Delivery Benchmark Table (Clause 5.17)

Column 1	Column 2	Column 3	Column 4	Column 5
Reporting Year, Reporting Period	Target Performance Level (Minutes Delay)	Improvement/ Remedial Plan Performance Level (Minutes Delay)	Breach Performance Level (Minutes Delay)	Default Performance Level (Minutes Delay)
Year 1, Period 9	10400	11180	11960	12480
Year 1, Period 10	10380	11160	11940	12460
Year 1, Period 11	10370	11150	11930	12450
Year 1, Period 12	10360	11140	11910	12430
Year 1, Period 13	10350	11120	11900	12420
Year 2, Period 1	10340	11110	11890	12400
Year 2, Period 2	10320	11100	11870	12390
Year 2, Period 3	10310	11080	11860	12370
Year 2, Period 4	10300	11070	11840	12360
Year 2, Period 5	10290	11060	11830	12340
Year 2, Period 6	10270	11040	11820	12330
Year 2, Period 7	10260	11030	11800	12310
Year 2, Period 8	10250	11020	11790	12300
Year 2, Period 9	10230	11000	11770	12280
Year 2, Period 10	10910	11730	12550	13090
Year 2, Period 11	10890	11710	12530	13070
Year 2, Period 12	10870	11690	12500	13050
Year 2, Period 13	10850	11660	12480	13020
Year 3, Period 1	10830	11640	12450	13000
Year 3, Period 2	11890	12780	13670	14270
Year 3, Period 3	11870	12760	13650	14240
Year 3, Period 4	11840	12730	13620	14210
Year 3, Period 5	11820	12710	13590	14180
Year 3, Period 6	11800	12680	13570	14160
Year 3, Period 7	11770	12660	13540	14130
Year 3, Period 8	11750	12630	13520	14100
Year 3, Period 9	11730	12610	13490	14080
Year 3, Period 10	12530	13470	14400	15030
Year 3, Period 11	12490	13440	14380	15000
Year 3, Period 12	12470	13410	14350	14970
Year 3, Period 13	12450	13380	14320	14940
Year 4, Period 1	12430	13360	14290	14910
Year 4, Period 2	12400	13330	14260	14880
Year 4, Period 3	11040	11860	12690	13250
Year 4, Period 4	11020	11840	12670	13220

⁶³ Date of change 18/5/2009

⁶⁴ Date of Change 30/12/2010

⁶⁵ Date of Change 22/05/2011

Year 4, Period 5	11000	11820	12650	13190
Year 4, Period 6	10980	11790	12620	13170
Year 4, Period 7	10950	11770	12590	13140
Year 4, Period 8	10930	11750	12570	13120
Year 4, Period 9	10910	11730	12540	13090
Year 4, Period 10	10940	11270	12060	12580
Year 4, Period 11	10920	11250	12040	12560
Year 4, Period 12	10900	11230	12010	12540
Year 4, Period 13	10870	11210	11990	12510
Year 5, Period 1	10850	11190	11970	12480
Year 5, Period 2	10840	11170	11940	12460
Year 5, Period 3	10690	11500	12300	12830
Year 5, Period 4	10670	11470	12260	12800
Year 5, Period 5	10650	11440	12240	12780
Year 5, Period 6	10630	11420	12220	12750
Year 5, Period 7	10600	11400	12200	12720
Year 5, Period 8	10580	11370	12180	12700
Year 5, Period 9	10560	11350	12140	12680
Year 5, Period 10	10540	11330	12120	12640
Year 5, Period 11	10520	11310	12100	12620
Year 5, Period 12	10490	11280	12080	12600
Year 5, Period 13	10470	11260	12040	12570
Year 6, Period 1	10450	11240	12020	12540
Year 6, Period 2	10440	11220	12000	12520
Year 6, Period 3	10420	11200	11970	12500
Year 6, Period 4	10390	11170	11950	12470
Year 6, Period 5	10370	11150	11920	12440
Year 6, Period 6	10350	11130	11900	12420
Year 6, Period 7	10330	11090	11870	12390
Year 6, Period 8	10300	11070	11850	12360
Year 6, Period 9	10280	11050	11830	12340
Year 6, Period 10	10260	11030	11800	12310
Year 6, Period 11	10240	11010	11770	12290
Year 6, Period 12	10210	10980	11750	12260
Year 6, Period 13	10190	10960	11730	12230
Year 7, Period 1	10170	10940	11700	12210
Year 7, Period 2	10160	10920	11670	12190
Year 7, Period 3	10140	10890	11650	12160
Year 7, Period 4	10110	10870	11630	12130
Year 7, Period 5	10090	10850	11610	12110
Year 7, Period 6	10070	10830	11570	12090
Year 7, Period 7	10050	10810	11550	12050
Year 7, Period 8	10030	10780	11530	12030
until Franchise end				

1. Start of the Franchise

The Reporting Period in the cells entitled “Year 1 Period 9” shall be the first Reporting Period of the Franchise Term.

APPENDIX 8

Figures for Calculation of Annual Franchise Payments (Clause 5.20)⁶⁶

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Franchisee Year	FXD (£k)	VCRPI (£k)	VCAEI (£k)	PRPI (£k)	TRRPI (£k)
Year 1 (part year)					
Year 2					
Year 3					
Year 4					
Year 5					
Year 6					
Year 7					
Year 7 (up to first expiry period)					
Year 7 (Up to 7 reporting extension)					
Year 7 (part year)					
Year 8 (part year)					
Year 8					
Year 9 (up to 7 reporting period extension)					

⁶⁶ 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) of the Terms).
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.
11. Any licence of any CRM System or Yield Management System.

APPENDIX 10

List of Primary Franchise Assets (*Clause 5.25*)

1. The following assets to be transferred to the Franchisee under a Start Date Transfer Scheme:
 - 1.1 The rights and liabilities of the Franchise Operator under the Universal Licence Agreement between the Board and the Franchise Operator dated 12 November 1995.
 - 1.2 The rights and liabilities of the Franchise Operator under the Sub-licence Deed between the Board and the Franchise Operator dated 12 November 1995.
 - 1.3 The rights and liabilities of the Franchise Operator under the Master Software Licence between the Board and the Franchise Operator dated 12 November 1995.
 - 1.4 The rights and liabilities of the Franchise Operator under the Computer Services Agreement between the Board and the Franchise Operator dated 12 November 1995.
 - 1.5 Local Information Control Centre Server at PO Box 4323, 102 New Street, Birmingham B2 4JB.

APPENDIX 11

List of Committed Obligations and HLOS Committed Obligations and Related Provisions⁶⁷ (Clause 6)

Part 1 to Appendix 11

List of Committed Obligations

1. Definitions

"HOPS" means the ITSO host operator or processing system as more particularly described in part 4 of the ITSO specification TS 1000 (version 2.1.1 dated 28 October 2006);

"ITSO Environment" has the meaning ascribed to it in the document titled "ITSO Operating Licence" approved by the members of ITSO at an extraordinary general meeting on 21 December 2006;

"Joint NR Support Letter" means the document in the agreed terms marked JNRSL;

"Local Stations" are Stations other than those included in the definition of any of Premier Stations, Market Town Stations and Travel to Work Stations;

"Market Town Stations" are Burton-on-Trent, Long Eaton, Skegness, Mansfield, Beeston, Sleaford, Newark Castle, Melton Mowbray, Hinckley, Stamford, Boston, Oakham and Spalding;

"MML Fast and MML Slow Peak Services" means those Passenger Services which are designated as 'fast' or 'semi-fast' in the Franchisee's Track Access Agreement and which terminate at or originate from London St Pancras station during the Morning Peak or the Evening Peak;

"Premier Stations" shall mean Nottingham, Sheffield, Leicester, Derby, Lincoln Central, Loughborough, Chesterfield, Kettering, Wellingborough, Market Harborough and East Midlands Parkway;

"Shoulder-Peak" means in relation to any Passenger Service one or more periods including part of the Morning Peak, Evening Peak and/or the Off-Peak periods in each case as determined by the Franchisee (in its discretion);

"Travel to Work Stations" are Kirkby in Ashfield, Alferton, Narborough, Hucknall, Gainsborough Lea Road, Syston, Mansfield Woodhouse, Sutton Parkway, Metheringham, Ruskington, Matlock, Uttoxeter, Wainfleet, Belper,

⁶⁷ Date of Change 12/03/2010

Sileby, Bulwell, Shirebrook, Heckington, Langley Mill, Saxilby and Barrow Upon Soar.

2. **Introduction of ITSO Ticketing/Smart Card Technology**

- 2.1 The Franchisee shall appoint a 'Smart Card Project Manager' who shall fulfil an appropriate role in the business commensurate with such title from the Start Date and shall maintain such position until 30 September 2012.
- 2.2 Within 6 months of the Start Date, the Franchisee shall provide the Secretary of State with a smart card implementation plan setting out in reasonable detail the Franchisee's plans for implementing ITSO ticketing.
- 2.3 The Franchisee shall provide to the Secretary of State an update to the smart card implementation plan in reasonable detail at least every three months.
- 2.4 By ⁶⁸, (*except where otherwise indicated below*), the Franchisee shall:

(a)^{69 70} *install or modify retailing equipment, readers and or validators, and provide and install functionality on automatic ticket gate lines (where fitted) to permit ITSO Certified Smartcard use at the following Stations:*

Alfreton, Barrow Upon Soar, Beeston, Belper, Bulwell, Chesterfield, Derby, Duffield, East Midlands Parkway, Hucknall, Kettering, Kirkby in Ashfield, Long Eaton, London St Pancras, Mansfield, Mansfield Woodhouse, Market Harborough, Nottingham, Sheffield, Sileby, Sutton Parkway, Syston, Wellingborough; and

Leicester, Lincoln and Loughborough [save that the Franchisee shall deliver this obligation in respect of these last three stations by⁷¹].

- (b) provide portable handheld checkers of ITSO Certified Smartcards (which may be incorporated into handheld ticket issuing systems, at the Franchisee's discretion) to substantially all of its revenue

⁶⁸ 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.

⁶⁹ Date of Change 30/12/2010

⁷⁰ Date of Change 30/06/2011

⁷¹ 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.

protection staff who are rostered to work the Passenger Services calling at any of the Stations listed in paragraph 2.4(a) above;

- (c) install an ITSO Certified Smartcard back office which interfaces with other HOPS across the ITSO Environment where required by the Franchisee's ITSO operating licence and the ITSO security management service,

in each case so that passengers travelling on some (but not necessarily all) of its Passenger Services can purchase and use ITSO Certified Smartcards.

2.5 The Franchisee shall, by ⁷², have undertaken a trial (for a 12 month period) of a 'flexi-smart' smart card based product having amongst other things the following characteristics:

- (a) it will take place on the flows from Wellingborough and Kettering to London St Pancras (or alternative flows subject to the prior written consent of the Secretary of State);
- (b) it will offer to customers a range of one-way fares available on Passenger Services during certain times of the Peak, Shoulder-Peak and Off-Peak periods (in each case as determined by the Franchisee in its absolute discretion) with different price levels, designed to incentivise customers who would use Passenger Services during the Peak to use Passenger Services during the Shoulder-Peak or Off-Peak periods;
- (c) it will include a capping arrangement so that a customer is not charged more than the monthly season ticket price (plus a modest premium, at the Franchisee's reasonable discretion) for journeys that they make using the 'flexi-smart' product on the relevant flow during a one month period; and
- (d) it will be available to customers who shall be required to register their direct debit details and (at the Franchisee's discretion) pay a monthly fee reflecting the convenience and flexibility of the 'flexi smart' product provided that the Franchisee shall not be permitted to charge such a fee to any customer who pays such a premium on the monthly season ticket price as referred to in paragraph 2.5(c) or vice versa.

⁷² 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 provide a report which evaluates the results of introducing such Fares including any recommendations, to the Secretary of State within 4 months of the end of the trial. The Franchisee shall implement those recommendations provided that there is a positive business case and such recommendations are consistent with the performance by the Franchisee of its obligations under the Franchise Agreement.

3. **Not used.**

4. **Secure Station Accreditation**

4.1 On or before the date that is 2 years from the Start Date, the Franchisee shall achieve "Secure Station Scheme" status (in accordance with the guidelines published on 24 March 2005 (as modified on 22 May 2006)) for the 80% Stations.

4.2 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 4.1, the Franchisee shall within 12 months from the Start Date provide to the Secretary of State a delivery plan which sets out:

- (a) its then current thinking on the Stations it proposes to select and the improvements (together with any associated improvements to facilities) it proposes to make at each of such Stations pursuant to paragraph 4.1; and
- (b) its then current expectation as to the dates of planned completion of such improvements at each affected Station.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 4.1 in the manner set out in the delivery plan provided under this paragraph 4.2.

5. **Major Projects**

5.1 Without prejudice to the Franchisee's rights and obligations under Schedule 1.7 (Extended Restrictions of Use) of the Terms the Franchisee shall, to the extent so requested by the Secretary of State following consultation with the Franchisee and other train operators likely to be affected by major projects, co-operate and liaise to the extent reasonably required with Network Rail, the Secretary of State and all the relevant parties in connection with any major project developed during the Franchise Term including but not limited to:

- (a) the Thameslink Programme;

- (b) Midland Main Line speed enhancements;
 - (c) new station proposals;
 - (d) major station refurbishment work including the Leicester Station Master Plan and Nottingham Station Master Plan;
 - (e) the Intercity Express Programme;
 - (f) Derby Station canopy renewal;
 - (g) East Midlands Parkway Station;
 - (h) Channel Tunnel rail link and new St Pancras Station;
 - (i) West Coast Route modernisation;
 - (j) Etches Park Depot enhancements;
 - (k) Network Rail re-signalling schemes; and
 - (l) London 2012 Olympic and Paralympic Games.
- 5.2 In fulfilling its obligations to co-operate and liaise pursuant to paragraph 5.1, the Franchisee shall amongst other things seek to:
- (a) participate in a positive and constructive manner and in a way which offers full transparency of information available from the Franchisee to the Secretary of State; and
 - (b) identify solutions that minimise overall rail industry costs.
- 5.3 The Franchisee shall within twelve months of the Start Date appoint a Project Manager Linespeeds and Re-Signalling who shall fulfil an appropriate role in the business commensurate with such title and with responsibility for managing the interface with Network Rail on all railway infrastructure improvement projects and shall maintain that post for at least three years from the date of appointment. Until such time as a Project Manager Linespeeds and Re-signalling is appointed, the Franchisee shall provide (at its cost) the necessary human resources to ensure that its obligations in paragraph 5.4 can be met.
- 5.4 The Franchisee shall present to the Secretary of State no later than 31 December 2008 a joint business case with Network Rail (subject to co operation from Network Rail which the Franchisee shall use reasonable endeavours to obtain) with recommendations for improving linespeeds between London and Sheffield/Nottingham. The Franchisee shall also provide

to the Secretary of State its opinion of the changes to the Service Level Commitment which could be implemented if the linespeeds were improved and the associated impact on the resources used to deliver the train service.

6. **Not used.**

7. **Security**

7.1 The Franchisee shall carry out the following security enhancements:

- (a) create an 'Information & Security Centre' to provide a central monitoring facility (which shall be staffed between 0600 and 2330 Monday to Saturday and 0800 and 2230 Sunday), for CCTV cameras and Help Points which are installed at Stations within 1 year of the Start Date;
- (b) install 68 additional CCTV cameras at the Premier Stations, Market Town Stations and Travel to Work Stations and shall link these to the 'Information & Security Centre' within 4 years of the Start Date;
- (c)⁷³ ***install 64 new or upgraded Help Points at Local Stations, Market Town Stations and Travel to Work Stations and shall link these to the 'Information & Security Centre' within 4 years of the Start Date; and***
- (d) procure or provide 420 hours of security staff coverage per week (unless such week shall include Christmas Day or Boxing Day in which case it shall provide a proportionate amount) from November 2008 until the end of the Franchise Term.

8⁷⁴. **Information**

- 8.1 The Franchisee shall carry out the following enhancements within 4 years of the Start Date: install and maintain a monitored electronic customer information system at all Premier Stations and Market Town Stations where Passenger Services call which do not currently have such a system.
- 8.2 The Franchisee shall expend not less than £162,865 (which may include project management, procurement, design, station change and planning consent costs) by 30 April 2012 on the following improvements to station signage and information:

⁷³ Date of change 20/09/2011

⁷⁴ Date of Change 11/11/2011

- (a) the procurement of not fewer than a total of 8 additional highways signs to East midlands Parkway Station on the M1, A453 and A50 roads;
 - (b) the provision of enhanced passenger information signage at Stations.
- 8.3 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 8.2, the Franchisee shall provide to the Secretary of State by 31 March 2012, a delivery plan which sets out:
 - (a) the proposed locations of the additional signs to be provided under paragraph 8.2(a); and
 - (b) its plans to provide enhanced signage under paragraph 8.2(b).

9. Station Enhancements

- 9.1 In addition to the improvements specified in the other provisions in this Appendix 11, the Franchisee shall invest not less than the following amounts (which may include project management, procurement, design, station change and planning consent costs) by 31 March 2014 on enhancements or refurbishment at the following stations:
 - (a) Premier Stations £⁷⁵
 - (b) Market Town Stations £⁷⁶
 - (c) Travel to Work and Local Stations £⁷⁷of which no less than £⁷⁸ shall be invested by 31 March 2011.

⁷⁵ 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.

⁷⁶ 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.

⁷⁷ 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.

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.

9.2 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 9.1, the Franchisee shall provide to the Secretary of State within 12 months of the start of the proposed works a delivery plan which sets out:

- (a) its then current thinking on the Stations it proposes to select and the proposed enhancement or refurbishment works (together with any associated improvements to facilities) to be undertaken at each of those Stations pursuant to paragraph 9.1; and
- (b) its then current expectation as to the dates of planned completion of such enhancements or refurbishment works at each affected Station.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 9.1 in the manner set out in the delivery plan provided under this paragraph 9.2.

9.3 The Franchisee shall repaint all Stations to a reasonable standard by 31 December 2012 and at least half of all Stations by 31 December 2010. This shall comprise substantially all of the following areas at each Station:

- (a) Waiting rooms;
- (b) Platform areas;
- (c) Station buildings;
- (d) Booking halls;
- (e) Ticket offices;
- (f) Shelters; and
- (g) Lighting columns and stanchions.

9.4 During the period of three years commencing on 30 April 2008 the Franchisee will invest £⁷⁹ on:

- (a) Improved signage at Stations; and
- (b) Removing redundant fixtures and fittings.

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By agreement with the Secretary of State, such agreement not to be unreasonably withheld or delayed, the Franchisee may transfer investment from the above categories to other Station investment where it provides better value to passengers.

10. Car Parking

10.1 The Franchisee shall increase the capacity of selected Station car parks by an aggregate of 750 car parking spaces by 31 March 2012. For the avoidance of doubt:

- (a) the 500 car parking spaces at East Midlands Parkway Station to be funded by Network Rail under the terms of the "Functional Specification Project East Midlands Parkway New Station final v2.1" dated 1 November 2006; and
- (b) the car parking spaces that the Secretary of State or any third party may procure at Corby Station

shall not count towards the fulfilment of this Committed Obligation.

10.2 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 10.1, the Franchisee shall within 12 months of the Start Date provide to the Secretary of State, a delivery plan which sets out:

- (a) its then current thinking on the proposed location of the additional Station car parking spaces; and
- (b) its then current expectation as to the dates by which such additional Station car parking spaces will be provided at each of the proposed Stations.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 10.1 in the manner set out in the delivery plan provided under this paragraph 10.2.

10.3 The Franchisee shall use all reasonable endeavours to maintain the Association of Chief Police Officers' "Park Mark Safer Car Parking" accreditation at the following Station car parks from the Start Date:

Chesterfield, Derby, Kettering, Leicester, Wellingborough, Market Harborough, Alfreton, Beeston, Loughborough, Melton Mowbray.

If the "Park Mark Safer Car Parking" accreditation scheme is discontinued, the Franchisee shall use all reasonable endeavours to maintain the standards which would have applied had such scheme continued.

10.4 The Franchisee shall spend the equivalent of £⁸⁰ capital at Hinckley, Lincoln and Spalding Stations in making improvements reasonably intended to achieve "Park Mark Safer Car Parking" accreditation (or the equivalent under any successor scheme) by 31 October 2010. The Franchisee shall have fulfilled this Committed Obligation if, by 31 October 2010, it has in relation to each of the Stations listed above either:

- (a) achieved "Park Mark Safer Car Parking" accreditation (or the equivalent under any successor scheme) in relation to the Station; or
- (b) reasonably spent £⁸¹ in pursuit of such accreditation at that Station.

10.5⁸² The Franchisee shall:

- (a) by 31 March 2011 replace all car park barriers and pay on foot equipment with new equipment with at least equivalent functionality to the old at the following locations: Chesterfield, Derby (North, South and Pride Park), Kettering, Leicester, Wellingborough (North and South), Market Harborough;
- (b)ⁱⁱ by 31 March 2011 replace all pay and display machines with new equipment with at least equivalent functionality to the old at the following locations: Beeston, Lincoln, Hinckley, Melton Mowbray, Alfreton and Spalding. Replacement pay and display equipment will have credit card functionality;
- (c) by 31 October 2011 replace all Pay and Display machines with car park barriers and pay on foot equipment at Loughborough; and
- (d) by 30 September 2012 replace all Pay and Display machines with car park barriers and pay on foot equipment at Nottingham

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⁸² Date of Change 12/10/2011

New equipment provided pursuant to this paragraph 10.5 shall be of a reasonable modern standard at the time that it is procured by the Franchisee and will have credit card functionality.

11. Ticketing & Revenue Protection

11.1 The Franchisee shall provide:

- (a) 45 additional ticket vending machines at Stations within two years of the Start Date; and
- (b) a further 20 additional ticket vending machines in addition to those provided under 11.1(a) at Stations within three years of the Start Date.

11.2 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 11.1, the Franchisee shall within 12 months of the Start Date provide to the Secretary of State a delivery plan which sets out:

- (a) its then current thinking on the Stations where it proposes that the additional ticket vending machines will be installed (specifying the numbers to be installed at each such Station);
- (b) its then current expectation as to the dates of planned completion of such installation at each such Station.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 11.1 in the manner set out in the delivery plan provided under this paragraph 11.2.

11.3 Subject to the Franchise Term continuing until 31 March 2015, the Franchisee shall provide 8 additional ticket vending machines (additional to those provided under paragraph 11.1) at Premier Stations by the Expiry Date.

11.4 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 11.3, the Franchisee shall provide to the Secretary of State by 31 March 2012 a delivery plan which sets out:

- (a) its then current thinking on the Stations where it proposes that the additional ticket vending machines will be installed (specifying the numbers to be installed at each such Station); and

- (b) its then current expectation as to the dates of planned completion of such installation at each such Station.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 11.3 in the manner set out in the delivery plan provided under this paragraph 11.4.

- 11.5 The Franchisee shall employ or procure the employment of six Station sales contractors for one year from October 2008 for the purpose of encouraging passengers to purchase tickets from TVMs rather than booking office windows.

- 11.6 The Franchisee shall invest the equivalent of £⁸³ capital (including project management, procurement, design and station change costs) by ⁸⁴ on the installation of automatic ticket gate lines at the following Stations:

- (a) Derby; and
(b) London St Pancras.

- 11.7 Subject to other Train Operators and other station beneficiaries agreeing to contribute at least ⁸⁵ per cent of the on-going operating costs, the Franchisee shall invest £ ⁸⁶(including project management, procurement, design and station change costs) by ⁸⁷on the installation of an automatic ticket gate line at Sheffield Station.

- 11.8 Where the Franchisee is unable to secure planning, safety approval or “station change” approval for the obligations in paragraphs 11.6 and 11.7 despite having used all reasonable endeavours, or where third parties do not

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agree to contribute to the operating costs referred to in paragraph 11.7, the Franchisee shall by ⁸⁸ (in respect of Derby and London St Pancras Stations) and by ⁸⁹ (in respect of Sheffield Station):

- (a) operate staffed ticket barriers at those locations during the Peak; or
- (b) provide reasonable additional revenue protection measures on trains serving those Stations.

11.8A Where the Franchisee has fulfilled its obligations in paragraph 11.6 above but the installation of the automatic ticket gate lines at Derby and/or London St Pancras stations is not completed by⁹⁰ the Franchisee shall operate staffed ticket barriers during the Peak at the locations where installation has not been completed from ⁹¹ until such date as the installation at the relevant location is completed.

11.9 ***The Franchisee will install automatic ticket gate lines at Nottingham Station by no later than 1 January 2010. The automatic ticket gate line will be staffed for at least 13 hours 40 minutes in aggregate on each day of the week except Sunday and Bank Holidays on which days it will be manned at the discretion of the Franchisee. In addition, it will be manned for five further hours per week, the times of which will be at the discretion of the Franchisee. The Franchisee will be responsible for obtaining all requisite consents from Network Rail and ensuring that its proposals for the automatic ticket gate line are consistent with the Nottingham Station Master Plan.***⁹²

11.10 The Franchisee shall, by the first anniversary of the Start Date, implement a policy to communicate with customers through standard communications media (including, without limitation, station posters, website and pocket timetables), highlighting the implications of ticketless travel generally and the

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⁹² Date of Change 24/12/09

application of the National Rail Conditions of Carriage specifically in order to ensure the correct application of the National Rail Conditions of Carriage.

11.11 The Franchisee shall keep current the policy referred to in paragraph 11.10 for the purpose of improving its efficacy.

11.12 The Franchisee shall provide 50 Personal Digital Assistants for use by revenue protection staff and 200 for use by on-train staff for the purpose of improving on-train customer information in each case by 30 April 2009 and shall maintain such equipment for the Franchise Term.

12. **Rolling Stock**

12.1 The Franchisee shall use all reasonable endeavours to carry out a deep clean of all Class 153, 156 and 158 rolling stock vehicles comprising the Train Fleet (as at the Start Date) (in other words a clean which is more thorough than that carried out during routine regular cleaning) within 12 months of the Start Date.

12.2 The Franchisee shall invest the equivalent of £⁹³ capital (including project management, procurement and design costs) on at least the following categories of works in a relation to a refresh of the High Speed Train vehicles to be completed by⁹⁴, with the principal aim of improving the internal appearance of such rolling stock for passengers:

- (a) renewal, refinishing or refreshing of passenger accommodation and/or vestibules;
- (b) refresh of toilets;
- (c) cleaning of heater grills and ceilings; and
- (d) corrosion repairs.

12.3 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 12.2, the Franchisee shall provide to the Secretary of State within 12 months of the start of the proposed works a delivery plan which sets out:

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- (a) its then current expectation as to the dates for the planned completion of the intended works; and
- (b) its then current thinking on the proposed outputs from the intended works.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 12.2 in the manner set out in the delivery plan provided under this paragraph 12.3.

⁹⁵12.4 ***The Franchisee shall invest the equivalent of £⁹⁶ capital (including project management, procurement and design costs) on a refresh of the Class 222 vehicles to be completed by⁹⁷ with the principal aim of improving the internal appearance of such rolling stock for passengers. The Franchisee shall have regard to the condition of the vehicles, at the time of procuring the refresh, in order to determine the precise manner in which this obligation is met. The refresh shall include the installation of an additional luggage storage rack in one vehicle of each 5-car Class 222 unit and two vehicles on each 7-car Class 222 unit.***

12.5 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 12.4, the Franchisee shall provide to the Secretary of State within 12 months of the start of the proposed works a delivery plan which sets out:

- (a) its then current expectation as to the dates of planned completion of such works; and
- (b) its current thinking on the proposed outputs from such works.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 12.4 in the manner set out in the delivery plan provided under this paragraph 12.5.

⁹⁵ Date of Change 17/05/2011

⁹⁶ 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.

⁹⁷ 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.

12.6 The Franchisee shall invest the equivalent of ⁹⁸£capital (including project management, procurement and design costs) on at least the following categories of works in a relation to a refresh of the Class 153, 156 and 158 vehicles to be completed by,⁹⁹ with the principal aim of improving the internal appearance of such rolling stock for passengers:

- (a) renewal, refinishing or refreshing of passenger accommodation; and
- (b) cleaning of tables and vestibules.

12.7 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 12.6, the Franchisee shall provide to the Secretary of State within 12 months of the start of the proposed works a delivery plan which sets out:

- (a) its then current expectation as to the dates for the planned completion of the intended works; and
- (b) its then current thinking on the proposed outputs from the intended works.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 12.6 in the manner set out in the delivery plan provided under this paragraph 12.7.

12.8 The Franchisee shall invest the equivalent of £¹⁰⁰ capital (including project management, procurement and design costs) on technical modifications to the High Speed Train vehicles referred to in Appendix 3 (Train Fleet) to be completed by¹⁰¹, with the principal aim of improving performance and reducing the number of delay minutes incurred. The technical modifications shall include the fitting of new VP185 engines and cooler groups to all such High Speed Train power cars to which they are not already fitted.

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12.9 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 12.8, the Franchisee shall provide to the Secretary of State within 12 months of the start of the proposed works a delivery plan which sets out:

- (a) its then current expectation as to the dates for the planned completion of the intended works; and
- (b) its then current thinking on the proposed outputs from the intended works.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 12.8 in the manner set out in the delivery plan provided under this paragraph 12.9.

12.10 The Franchisee shall invest the equivalent of £¹⁰² capital (including project management, procurement and design costs) on technical modifications to the Class 153, 156 and 158 vehicles to be completed by, ¹⁰³with the aim of improving performance and reducing the number of delay minutes incurred. The technical modifications will include:

- (a) ¹⁰⁴;
- (c) ¹⁰⁵;
- (d) ¹⁰⁶;
- (e) ¹⁰⁷; and

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(f) ¹⁰⁸.

12.11 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraph 12.10, the Franchisee shall provide to the Secretary of State within 12 months of the start of the proposed works a delivery plan which sets out:

- (a) its then current expectation as to the dates for the planned completion of the intended works; and
- (b) its then current thinking on the proposed outputs from the intended works.

For the avoidance of doubt, the Franchisee shall be permitted to refine and update its delivery plan from time to time in its sole discretion and shall not be committed to deliver its obligations set out in paragraph 12.10 in the manner set out in the delivery plan provided under this paragraph 12.11.

12.12 The Franchisee shall invest the equivalent of £¹⁰⁹ (Class 222s) and £¹¹⁰ (Class 158s) capital (including in each case project management, procurement and design costs) on the fitment of high density seating with the intention of providing not less than an additional 18 seats per unit to the Class 158 units to be completed by ¹¹¹ and to the Class 222 units to be completed by ¹¹² (subject to, in the case of Class 222 units, the average passenger loading for each of the MML Fast and the MML Slow Peak Services in the three

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consecutive Reporting Periods ending prior to¹¹³, in each case, being not less than 95 per cent of the average passenger loading for those Passenger Services as forecast in the Financial Model for that period ("**Passenger Loading Trigger**"). The Franchisee shall have fulfilled this Committed Obligation if:

- (a) by ¹¹⁴ in relation to the Class 158s, it has invested the equivalent of £¹¹⁵ capital (including the project management, procurement and design costs) on the fitment of high density seating to the Class 158 units, or it has provided not less than 18 additional seats on each Class 158 unit; and
- (b) subject to the Passenger Loading Trigger being satisfied, by¹¹⁶, it has invested the equivalent of £¹¹⁷ capital (including the project management, procurement and design costs) on the fitment of high density seating to the Class 222 units, or it has provided not less than 18 additional seats on each Class 222 unit.

12.13 The Franchisee shall invest the equivalent of £¹¹⁸ capital (including project management, procurement and design costs) on the fitment of CCTV cameras to the Class 153, 156 and 158 vehicles in the Train Fleet to be completed by¹¹⁹.

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- 12.14 The Franchisee shall invest the equivalent of £¹²⁰ capital (including project management, procurement and design costs) on the installation of Wi-Fi to all HST and Class 222 vehicles (or alternative improvements to passenger facilities) to be completed by¹²¹.
- 12.15 The Franchisee may pay for the investment covered by paragraphs 12.2 to 12.14 inclusive either directly (in the form of additional labour, materials or services charged (and the Franchisee shall ensure that its own internal costs and charges are reasonable)) or through increased lease charges to the relevant ROSCO as long as it continues to be the Franchisee. The Franchisee may vary the amount invested in the schemes covered by paragraphs 12.2 to 12.14 by up to 20 per cent of the individual obligations provided that a total of not less than £¹²² (not less than £¹²³ in the event that the fitment of high density seating to the Class 222 vehicles is not required) is invested.
- 12.16 The Franchisee shall reconfigure the Class 222 fleet as six 7-car and seventeen 5-car units by¹²⁴. The Franchisee reserves the right to reform the units if reasonably required to reflect changes in passenger demand at a subsequent period in the Franchise Term.
- 12.17 ***“Without prejudice to its obligations under clause 5.4 of the Agreement and paragraph 1.2 of Schedule 1.5 (Information about Passengers) of the Terms, the Franchisee shall fit automated passenger counting equipment to the following number of units by 30 April 2010: Class 222, 4 5-car units and 2 7-car units; Class 158, 9 2-car units; Class 156, 4 2-car units; Class 153, 4 vehicles.”***
- ¹²⁵ 12.18 ***“The Franchisee shall procure ‘Davis Web’ software (or an equivalent management information system) for the purpose of monitoring the***

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¹²⁵ Date of change 15/10/2008

passenger loadings information referred to in paragraph 12.17 and paragraph 1.2 of Schedule 1.5 (Information about Passengers) of the Terms. The software will interface with the automated passenger counting equipment fitted pursuant to paragraph 12.17. The Franchisee shall provide loading reports from the "Davis Web" software (or equivalent) to the Secretary of State every six months, commencing from the completion of fitment of the automated passenger counting equipment and in any case no later than September 2010."

12.19 The Franchisee shall present to the Secretary of State no later than 31 December 2011 a business case for introducing an additional HST diagram to operate a Passenger Service previously diagrammed to be operated by a lower capacity unit from June 2012 with a view to reducing crowding between London and Sheffield/Nottingham. The business case shall be in a form appropriate to the amount of expenditure concerned and shall include an analysis of the marginal income in revenues and costs including the marginal revenue benefit to the Franchisee of reduced crowding. The Franchisee shall implement the recommendations set out in that business case, if:

- (a) required to do so by the Secretary of State;
- (b) such recommendations are consistent with the performance by the Franchisee of its obligations under the Franchise Agreement; and
- (c) the average passenger loading for each of the MML Fast and MML Slow Peak Services in the three consecutive Reporting Periods ending immediately prior to the Franchisee's submission to the Secretary of State of the Train Plan for the Timetable commencing in June 2012 is, in each case, not less than 95 per cent of the average passenger loading for those Passenger Services as forecast in the Franchisee's Financial Model for that period,

and in any event subject to its obligations under paragraph 6.3 of Schedule 1.1 (Service Development) of the Terms.

13. Etches Park Committed Depot Works (Small Depot)

13.1 Subject to paragraphs 13.2 and 13.3, the Franchisee shall invest an amount of not less than the equivalent of £¹²⁶ capital (including project management,

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procurement, design and planning consent costs) on depot enhancement works at Etches Park Depot. The Franchisee shall carry out such depot enhancement works so that the Franchisee or its relevant maintenance contractor can commence use of each of the following facilities by 30 June 2011:

- (a) a new maintenance shed comprising ¹²⁷*three 7-car* roads fitted internally;
- (b) a new wheel lathe;
- (c) a new under frame wash facility; and
- (d) a new 7-car lifting facility located within the new maintenance shed,

(together the “**Committed Depot Works**”) and, for the avoidance of doubt, the Franchisee’s obligation to deliver such outputs shall not be limited by reference to its obligation to spend not less than £13.5m capital. In carrying out the Committed Depot Works the Franchisee will make passive provision for the construction of an additional shed measuring no greater than 220 metres in length and 15 metres in width to accommodate two 2+7 car diesel HST units (“**Additional Shed**”) adjacent to the new shed to which this paragraph 13 applies (the “**New Shed**”). Passive provision shall mean designing the New Shed so that there is space for the Additional Shed without structural alteration to the New Shed and so that the utilities for the New Shed are not routed through the space upon which the Additional Shed is proposed to be located and the track layout to serve the New Shed is not inconsistent with the construction of the Additional Shed with reasonable modification. Any dispute between the parties as to whether the proposed track layout to serve the New Shed is consistent with the construction of the Additional Shed with reasonable modification shall be referred to the President of the Institution of Civil Engineers for the time being and he shall act as an expert and not as an arbitrator and his determination shall be final and binding upon the parties in the absence of manifest error. The Franchisee shall pay for the Committed Depot Works through increased lease charges to Network Rail as long as it continues to be the Franchisee.

13.2 The Secretary of State shall provide (and not withdraw) reasonable support to the Franchisee in relation to the Franchisee carrying out the Committed Depot Works and the passive provision for the Additional Shed including by:

- (a) within one month of the date of this Agreement, providing the Franchisee with a signed version of the Joint NR Support Letter; and

¹²⁷ Date of change 29/5/2008

- (b) within two months of the Start Date sending a letter to the ORR (copied to Network Rail and the Franchisee) supporting the inclusion of the Committed Depot Works and the making of passive provision for the Additional Shed on Network Rail's Regulatory Asset Base at a value not exceeding that set out in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 14 of the table in Appendix 17 (Financial Model and Record of Assumptions References)).

The Secretary of State shall promptly provide the ORR with any document and/or other information directly requested by the ORR or by the Franchisee on behalf of the ORR or Network Rail in connection with such application.

- 13.3 If the additional depot rental charges arising out of the inclusion of the Committed Depot Works on the Regulatory Asset Base of Network Rail are less than the amount assumed in the Financial Model and Record of Assumptions as at the date of this Franchise Agreement (as specified in row 15 of the table in Appendix 17 (Financial Model and Record of Assumptions References)) ("**Assumed CDW Depot Rental Charge**") there shall be a Change, the only Revised Input being to substitute for the Assumed CDW Depot Rental Charge the Revised CDW Depot Rental Charge. The Revised CDW Depot Rental Charge shall be an amount equal to the lower actual additional depot charge plus half of the difference between the Assumed Depot Rental Charge and the lower actual additional depot rental charges.

13.4 ¹²⁸

13.5 ¹²⁹

14. **Integration & Access For All**

- 14.1 The Franchisee shall (subject to obtaining any necessary approval from relevant competition bodies which the Franchisee shall use all reasonable endeavours to obtain) promote transport integration measures reasonably expected to achieve improved transport integration to customers which shall include some or all of the following:

- (a) the display, advertising and promotion of integrated tickets;

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- (b) liaison with local bus and coach operators;
 - (c) the facilitating of funding from Transport for London or any 'Local Transport Plan';
 - (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.
- 14.2 The Franchisee shall facilitate the development of bus services at East Midlands Parkway such that (subject to obtaining any necessary approval from relevant competition bodies which the Franchisee shall use all reasonable endeavours to obtain) by the date trains are calling at the Station it shall have:
- (a) Provided a bus drop-off point and turning circle at the Station;
 - (b) Used reasonable endeavours to introduce through ticketing with bus operators; and
 - (c) Publicised the bus links in timetables, by posters at the Station and in its promotional campaigns.
- 14.3 The Franchisee shall use reasonable endeavours to maintain integration with regional PlusBus networks to a level no worse than the level available on 31 December 2006.
- 14.4 The Franchisee shall use reasonable endeavours to create through-ticketing with the following transport modes by 30 April 2009:
- (a) From Derby and/or Matlock Stations through ticketing to Bakewell and Buxton
 - (b) From Sheffield Station through ticketing to all destinations served by Sheffield Supertram
 - (c) From Mansfield Station through ticketing to the local bus network
 - (d) From Lincoln Station through ticketing by bus to
 - (i) Grantham via Honington
 - (ii) Skegness via Horncastle

(iii) Cleethorpes via Caistor

(iv) Scunthorpe

14.5 The Franchisee shall throughout the Franchise Term:

- (a) maintain its awareness of the Secretary of State's 'Access For All' fund (or its successor) through reasonable liaison with Network Rail, ATOC and DiPTAC;
- (b) make bids for funding each Year; and
- (c) co-operate in the implementation of works at Stations designated for access improvements under the fund.

14.6 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 in accordance with the Secretary of State's reasonable timetable.

14.7 The Franchisee shall implement a rolling programme for the carrying out of Minor Works and shall provide a copy of this to the Secretary of State upon request.

14.8 The Franchisee shall appoint a Local Stations & Access Manager who shall fulfil an appropriate role in the business commensurate with such title within six months of the Start Date, and shall maintain such post for the Franchise Term, to facilitate, inter alia:

- (a) the reasonable prioritisation and expenditure of Access for All funds;
- (b) reasonable promotion of transport integration measures and liaison with Local Authorities and other Stakeholders; and
- (c) investment by the Franchisee of £60k on installing not less than 400 cycle hoops by December 30 2012 at such locations as may be reasonable taking into account likely passenger demand.

15. **HR & Training**

15.1 The Franchisee shall use all reasonable endeavours to achieve Investors in People status by 31 March 2010 (or earlier where reasonably practicable) and once achieved, to maintain such status.

15.2 The Franchisee shall run an annual employee attitude survey to assess staff perceptions, commitment, motivation and to gain employee feedback. The first such survey shall be undertaken within nine months of the Start Date.

The Franchisee shall provide the Secretary of State with such survey results at the first quarterly review meeting after the Franchise board-level meeting in each year. The Secretary of State shall be promptly advised of action plans and regularly updated on implementation.

16. Environmental

16.1 The Franchisee shall:

- (a) within one year of the Start Date, appoint an Environmental Manager who shall fulfil an appropriate role in the business commensurate with such title and shall maintain such position for the Franchise Term;
- (b) within one year of the Start Date, produce a reasonable first environmental plan setting out its reasonable and prudent approach to managing its business in accordance with then current and anticipated legislation and shall produce an annual environmental plan thereafter;
- (c) produce an annual progress statement against the environmental plan to a reasonable level of detail; and
- (d) provide the environmental plan and statement to the Secretary of State, each within seven days of their respective completion.

16.2 The Franchisee shall use reasonable endeavours to maintain ISO 14001 environmental quality accreditation at the Depots from the Start Date and throughout the Franchise Term.

16.3 Within eighteen months of the Start Date, the Franchisee shall establish an annual Environmental Awareness Week raising awareness of environmental issues to all staff through workshops, campaigns and pledges and shall run such week annually throughout the Franchise Term.

16.4 The Franchisee shall use reasonable endeavours to recycle a minimum of ¹³⁰ of waste from its operations at Stations and Depots by December 31 2010 and maintain not less than ¹³¹ of waste recycling thereafter if such level has

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been achieved or shall continue to use reasonable endeavours to recycle ¹³² of waste until the Expiry Date if this has not been achieved. The Franchisee shall use all reasonable endeavours to provide such evidence demonstrating the level of recycling achieved as may be reasonably satisfactory to the Secretary of State.

17. Quality & Business Improvement

17.1 The Franchisee shall use all reasonable endeavours to achieve:

- (a) EFQM Committed to Excellence status within 18 months of the Start Date; and
- (b) EFQM Recognised for Excellence status within four years of the Start Date,

and maintain such status once achieved until the Expiry Date.

17.2 The Franchisee shall carry out a full EFQM self assessment that is externally assessed within 18 months of the Start Date and thereafter at intervals of not less than once every two years. The Franchisee shall share its self assessment results with the Secretary of State.

17.3 The Franchisee shall if requested by the Secretary of State produce four-weekly KPI packs from the Start Date.

18. Marketing, Fares & Demand Management

18.1 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 provide access to its megatrain fares upon its website from June 2009.

18.2 The Franchisee shall include the functionality in the website to allow customers to register for personalised timetable information by 30 November 2008 and shall maintain such functionality for the Franchise Term.

18.3 The Franchisee shall, subject to and in accordance with the Ticketing & Settlement Agreement, introduce 'megatrain.com' Fares on a selection of

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targeted flows by 30 June 2009. The Franchisee shall maintain such 'megatrain.com' fares or an equivalent yield managed low cost fares product on selected flows for the Franchise Term provided that there is a positive business case.

- 18.4 The Franchisee shall appoint a Head of Revenue Management who shall fulfil an appropriate role in the business commensurate with such title within six months of the Start Date and shall maintain such post throughout the Franchise Term.
- 18.5 From 1 June 2008 until the Expiry Date, the Franchisee shall maintain a database of selected leisure, business and season ticket customers in compliance with the Data Protection Act 1998.
- 18.6 The Franchisee shall extend this database to include users of smartcards by 31 December 2010 in compliance with the Data Protection Act 1998.

19. **Branding**

- 19.1 The Franchisee shall use all reasonable endeavours to replace published materials relating to the Franchise Services (such as statutory notices and online communication details) which are branded 'Central Trains' or 'Midland Mainline' and which are on public display at Stations with the Franchisee's own brand published materials within two months of the Start Date.
- 19.2 The Franchisee shall issue new name badges to all customer facing staff:
 - (a) within two weeks of the Start Date, subject to the Franchisee being permitted prior to that date the access reasonably required by it to make the necessary arrangements; and
 - (b) otherwise no later than one month after the Start Date.
- 19.3 The Franchisee shall issue new uniforms to all customer facing staff within 13 months of the Start Date.

20. **Performance Management**

- 20.1 Within 3 months of the Start Date, the Franchisee shall include information where relevant at company briefings regarding:
 - (a) right time punctuality
 - (b) autumn operational performance
 - (c) station league tables

- (d) most improved fleet and traincrew depots
 - (e) worst performing Passenger Services
 - (f) examples of best practice
- 20.2 The Franchisee shall support the development by Network Rail of the Derby Integrated Control Centre and shall use reasonable endeavours to establish its service control functions at the centre by 31 December 2008. In establishing its functions at the centre and in supporting its development during the Franchise Term, the Franchisee shall promote the transfer of best practice from the Wessex Integrated Control Centre where this is likely to contribute to the aim of improving performance and reducing the number of delay minutes incurred on the Franchise. The Franchisee shall provide a report to the Secretary of State containing a reasonable level of detail on the impact on performance of the new control centre between 12 and 18 months after its opening.
- 20.3 The Franchisee shall launch a 'delay hotline' (to enable delays to be reported to control staff by Franchisee staff) by 31 December 2008 and shall maintain such hotline for the Franchise Term.
- 20.4 The Franchisee shall launch an "Aide Memoire" system (an electronic system to enable control staff to record rolling stock fault reports) by 31 December 2008 and shall maintain such system for the Franchise Term.
21. **Stakeholder Management**
- 21.1 The Franchisee shall appoint within 9 months of the Start Date a Head of Stakeholder Management reporting to a director or senior officer of the Franchisee and a Stakeholder Development Manager, who will act as his assistant who shall respectively fulfil an appropriate role in the business commensurate with such titles and shall maintain such position for the Franchise Term.
- 21.2 The Franchisee shall undertake a consultation with all relevant and interested parties, including Passenger User Groups on the detail, merits and implications of SLC2 during the Timetable Development Period. The Franchisee shall provide a report of the findings of that consultation to the Secretary of State within 4 weeks of the consultation close and in any event no later than 30 September 2008.

- 21.3 The Franchisee shall invest £¹³³ p.a. for each Franchisee Year from the second Franchisee Year on projects, staff and materials for each of the following Community Railways: "Derwent Valley Line", "Poacher Line" and the "North Staffordshire Line". The projects, staff and materials to be invested in shall be subject to the agreement of the partnership officer, management board or equivalent entity. Any such money not invested at the end of each Franchisee Year shall be required to be invested in the next year and all such outstanding investment by the end of the Franchise Term.

22. **Kettering-Corby Rail Link Feeder Bus Service**

- 22.1 The Franchisee shall, from the Start Date until ¹³⁴*the commencement of rail passenger services introduced pursuant to the Deed dated on or about 6 February 2009 between the Secretary of State and the Franchisee*"; and, schedule to operate and use reasonable endeavours to operate or procure the operation of a half-hourly rail link feeder bus service ("Bus-Rail Service") between Kettering Station and the centre of Corby in lieu of the train service. The first and last services on each Bus-Rail Service will be at or around the times specified in the table below. The Bus-Rail Service shall provide reasonable connections to Passenger Services to and from London calling at Kettering Station and shall allow for through-ticketing. The Franchisee shall include details of the Bus-Rail Service in its published timetables. For the avoidance of doubt, the vehicles which operate the Bus-Rail Service do not need to be branded as a rail link feeder bus service.

	First Departure from Corby	Last Departure from Kettering
Monday to Friday	0530	2200
Saturday	0600	2130
Sunday	0800	2200

23. **Option for Class 158 Units**

- 23.1 The Franchisee will use its reasonable endeavours to obtain an option from a rolling stock leasing company for two three car Class 158 Units additional to the units in the Train Fleet on reasonable terms for the purposes of providing the Priced Options set out in paragraphs 1A and 1B of Appendix 4 (List of Priced Options). The Secretary of State agrees that if the Franchisee enters into an option for a price equal to or less than the amount set out in the

¹³³ 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.

¹³⁴ Date of change of text 17/2/2009

Financial Model the Secretary of State will regard these terms as reasonable for the purposes of this paragraph 23.1.

Part 2 to Appendix 11 Miscellaneous Provisions–Committed Obligations¹³⁵

Miscellaneous Provisions

1.¹³⁶ Application

This Appendix sets out further terms which apply to the Committed Obligations set out in Part 1 (List of Committed Obligations) to this Appendix 11 and the references to Committed Obligations in **Parts 1,2 and 3** of this Appendix 11 are only to the Committed Obligations in Part 1.

2. Continuation of Availability

2.1 Save as expressly provided in this Appendix 11, the Franchisee shall maintain facilities established in accordance with its Committed Obligations throughout the remainder of the Franchise Term.

2.2 The Franchisee shall be treated as maintaining 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 to this Appendix 11 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

(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) where the person fulfilling any relevant post which the Franchisee is required to create and maintain under Part 1 of Appendix 11 (Committed Obligations) leaves the employment of the Franchisee, the Franchisee shall recruit a replacement person for such post as

¹³⁵ Date of Change 12/03/2010

¹³⁶ Date of Change 12/03/2010

soon as reasonably practicable for so long as the Franchisee is required to maintain such post; and

- (c) the Franchisee's rights in relation to the numbers or deployment of its other staff remain unaffected.

3. Expenditure Commitments

Annual Expenditure

- 3.1 Where Part 1 (List of Committed Obligations) to this Appendix 11 provides 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 to this Appendix 11, to the extent they have not already been incurred by the Franchisee, 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).

Expenditure on Project Management, Procurement, Design and Planning Consent Costs

- 3.3 Subject to paragraph 11 of Schedule 19 (Other Provisions) of the Terms, where the expenditure commitments set out in Part 1 to this Appendix 11 refer to project management, procurement, design or planning consent costs, such costs shall be limited to costs reasonably and properly incurred by the Franchisee, its Affiliates, professional advisors, contractors and or agents in fulfilling such Committed Obligations and the Franchisee shall provide such evidence in support of costs incurred as the Secretary of State may reasonably request from time to time.

Expenditure by Network Rail

- 3.4 All amounts which the Franchisee has committed (whether unconditionally or otherwise) pursuant to Part 1 to this Appendix 11 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.

Expenditure by Third Parties

- 3.5 Without limiting paragraph 3.4 all amounts which the Franchisee has committed (whether unconditionally or otherwise) pursuant to Part 1 to this Appendix 11 to expend in connection with such commitment shall be in addition to any expenditure made by any third party (including any Train Operator, Passenger Transport Executive or Local Authority) to the extent such expenditure is not directly funded or is not reimbursed by the Franchisee.

4. Liaison and Co-Operation

Where the Franchisee is committed to liaison and co-operation under Part 1 (List of Committed Obligations) to this Appendix 11, 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) to this Appendix 11 shall be in addition to any obligation of the Franchisee elsewhere in this Agreement and nothing in this Appendix 11 shall limit or restrict an obligation imposed on the Franchisee elsewhere in this Agreement.
- 5.2 Where in Part 1 to this Appendix 11, references are made to particular manufacturers or suppliers of equipment or services, the Franchisee may fulfil its relevant commitment by using reasonable equivalents.
- 5.3 Each commitment under this Appendix 11 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) to this Appendix 11 but not yet paid.

6. Review of Compliance

- 6.1 Progress with 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 as the Secretary of State may reasonably request.

- 6.3 Where in respect of any commitment in Part 1 to this Appendix 11 (Committed Obligations) the Franchisee is required to provide a plan to assist the Secretary of State in the monitoring of the Franchisee's compliance with such commitment, the Franchisee shall provide regular updates at the Franchise Performance Meetings of any progress it has made in the implementation of such plan since the last Franchise Performance Meeting.

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 a 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	Deadline ¹³⁷	Committed Obligation Payment Adjustment (£ per Reporting Period) ¹³⁸	Does paragraph 2.3 or 2.4 apply?
2.1	Appoint Smart Card Manager			No
2.2	Provide Smart Card implementation plan			No
2.3	Update Smart Card implementation plan			No
2.4(a)	Install retailing equipment at certain stations			2.3
2.4(b)	Provide portable handheld checkers			2.3
2.4(c)	ITSO back office			No
2.5	'Flexi-smart' trial			No
4.1	Secure Station accreditation			2.3
5.1	Cooperate on major projects			No
5.2	Cooperate on major projects			No
5.3	Linespeeds and Re-Signalling Manager			No
5.4	Linespeeds Business case			No

¹³⁷ 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.

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.

Column 1	Column 2	Column 3	Column 4	Column 5
Reference in Part 1 (paragraph)	Summary Description	Deadline ¹³⁷	Committed Obligation Payment Adjustment (£ per Reporting Period) ¹³⁸	Does paragraph 2.3 or 2.4 apply?
7.1 (a)	Install Information and Security Centre			2.3
7.1 (b)	Install CCTVs			2.3
7.1 (c)	Install Help Points			2.3
7.1 (d)	Security Staff			2.3
8.1 ¹³⁹	Install customer information system	11 November 2011	10k	2.3
8.2 ¹⁴⁰	Signage	30 April 2012	5k	2.3
9.1	Investment of no less than £2.7m under paragraphs 9.1(a)-(c)			2.4
9.1 (a)	Investment at Premier Stations			2.4
9.1 (b)	Investment at Market Town Stations			2.4
9.1 (c)	Investment at Travel to Work and Local Stations			2.4
9.3	Repaint stations			2.3?
9.4	Signage and Clean sweep			2.3
10.1	Increase capacity of Station car parks			2.3
10.3	Safer Car Parking Accreditation			2.3
10.4	New Safer Car Parking Accreditation			2.4
10.5 (a)	Replace car park barriers			2.3
10.5 (b)	Replace pay and display machines			2.3
11.1(a)	45 additional TVMs			2.3
11.1(b)	20 additional TVMs			2.3

¹³⁹ Date of Change 11/11/2011

¹⁴⁰ Date of Change 11/11/2011

Column 1	Column 2	Column 3	Column 4	Column 5
Reference in Part 1 (paragraph)	Summary Description	Deadline ¹³⁷	Committed Obligation Payment Adjustment (£ per Reporting Period) ¹³⁸	Does paragraph 2.3 or 2.4 apply?
11.3	8 additional TVMs			2.3
11.5	6 Sales Contractors			2.3
11.6	Automatic ticket gate lines			2.3
11.7	Ticket gate lines at Sheffield			2.4
11.8	Invest unspent capital under 11.6 and 11.7			2.4
11.8A	Operate staffed ticket barriers at London St Pancras and/or Derby			2.3
11.9	Ticket gatelines at Nottingham			No
11.10	Communication policy			No
11.11	Annual update of communication policy			No
11.12	Purchase of PDAs			2.3
12.1	Deep clean of Class 153, 156 and 158 rolling stock			2.3
12.2	Refresh of High Speed Trains			2.4
12.4	Refresh of Class 222 rolling stock			2.4
12.6	Refresh of Class 153, 156 and 158 rolling stock			2.4
12.8	Technical modifications to High Speed Trains			2.4
12.10	Technical modifications to Class 153, 156 and 158 rolling stock			2.4
12.12	High density seating on Class 158 rolling stock			2.4
	High density seating on Class 222 rolling stock			2.4

Column 1	Column 2	Column 3	Column 4	Column 5
Reference in Part 1 (paragraph)	Summary Description	Deadline ¹³⁷	Committed Obligation Payment Adjustment (£ per Reporting Period) ¹³⁸	Does paragraph 2.3 or 2.4 apply?
12.13	CCTV on Class 153, 156 and 158 rolling stock			2.4
12.14	Wi-Fi			2.4
12.16	Reconfigure Class 222 rolling stock			2.3
12.17	Passenger counting equipment			2.3
12.18	Davis web software			No
12.19	Additional HST diagram			2.4
13.1	Depot enhancement works			2.4
13.4	Staff amenities at depots			2.4
13.5	Fuelling point at Cricklewood depot			No
14.1	Transport Integration measures			No
14.2	Provision of a bus turning circle at East Midlands Parkway Reasonable endeavours to introduce through ticketing Publicise bus links in timetables etc			No
14.3	PlusBus			2.3
14.4	Reasonable endeavours to create through ticketing			No
14.5	Awareness of Access for All			No
14.6	Staffing for Access for All			No
14.7	Minor Works Programme			No
14.8	(a) Local Stations and Access Manager			No

Column 1	Column 2	Column 3	Column 4	Column 5
Reference in Part 1 (paragraph)	Summary Description	Deadline ¹³⁷	Committed Obligation Payment Adjustment (£ per Reporting Period) ¹³⁸	Does paragraph 2.3 or 2.4 apply?
	(c) Cycle Hoops			2.4
15.1	Investors in People status			No
15.2	Annual employee attitude survey			No
16.1 (a)	Environmental Manager			No
16.1 (b)	Environmental plan			No
16.1 (c)	Progress statement on environmental plan			No
16.1 (d)	Submit update to Secretary of State			No
16.2	ISO accreditation			No
16.3	Environmental awareness week			No
16.4	Waste Re-Cycling			No
17.1(a)	EFQM status			No
17.1(b)	EFQM status			No
17.2	EFQM assessment			No
17.3	KPI packs			No
18.1	Update website Access to mega train fares			No
18.2	Personalised timetable on website			No
18.3	megatrain.com fares			2.3
18.4	Head of Revenue Management			No
18.5	Database of customers			No
18.6	Extend database of customers			No
19.1	Rebranding			No
19.2	New name badges			2.3
19.3	New uniforms			2.3
20.1	Information at company briefings			No

Column 1	Column 2	Column 3	Column 4	Column 5
Reference in Part 1 (paragraph)	Summary Description	Deadline ¹³⁷	Committed Obligation Payment Adjustment (£ per Reporting Period) ¹³⁸	Does paragraph 2.3 or 2.4 apply?
20.2	Integrated Control Centre			No
20.3	Launch delay hotline			No
20.4	Aide memoire system			No
21.1	Head of Stakeholder Management			No
21.2	Timetable Consultation report			No
21.3	Community Rail Funding			No

In respect of Committed Obligations: 9.1, 11.6, 11.7, 12.2, 12.4, 12.6, 12.8 and 12.10 and 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 amount paid in respect of that Committed Obligation shall not exceed the sum of money relating to the Committed Obligation plus 7%.

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).

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.

Part 4¹⁴¹

List of HLOS Committed Obligations

1 Definitions

1.1 In this Part 4:

“Additional” means additional to the passenger carrying capacity provided by the Franchisee's Timetable as at the Passenger Change Date in December 2009 which Timetable includes Liverpool – Nottingham Passenger Services being operated by Class 158 Rolling Stock Units in 2-car formation, save for the following Liverpool – Nottingham Passenger Services which are being operated by Class 158 Rolling Stock Units in 4-car formation:

Monday to Friday (excluding the period 24 to 31 December and New Year's Day annually)

06:40 Nottingham to Liverpool and 09:52 Liverpool to Nottingham

07:42 Liverpool to Nottingham

14:45 Nottingham to Liverpool and 17:52 Liverpool to Nottingham

15:45 Nottingham to Liverpool and 18:52 Liverpool to Nottingham

Saturday (excluding the period 24 to 31 December and New Year's Day annually)

08:45 Nottingham to Liverpool and 11:52 Liverpool to Nottingham

09:45 Nottingham to Liverpool and 12:52 Liverpool to Nottingham

New Year's Day and Sunday (excluding the period 24 to 31 December annually)

09:31 Nottingham to Liverpool and 12:52 Liverpool to Nottingham

14:38 Nottingham to Liverpool and 17:52 Liverpool to Nottingham; and

“Extended Service” means the extended Passenger Service contemplated by paragraph 2.1(a), being the 13:52 Liverpool to Nottingham Passenger Service extended so that it runs from Liverpool to Norwich Monday to Saturday

¹⁴¹ Date of Change 12/03/2010

inclusive.

2 Extended and strengthened Liverpool – Nottingham services

Scheme 1

2.1 With effect from the Passenger Change Date in May 2011:

- (a) *the Service Level Commitment in force immediately before the Passenger Change Date in May 2011 shall be amended as follows:*

- (i) *in Route K2 Nottingham – Peterborough paragraph 2.1 the words “Two intervals may be extended to 2 hours.” shall be replaced by the words “One interval may be extended to 2 hours.”; and*
- (ii) *in Route K3 Peterborough – Norwich paragraph 2.1 the words “and one further interval may be extended to 2 hours 15 minutes.” shall be replaced by the words “and one further interval may be extended to 1 hour 15 minutes.”,*

and the parties acknowledge and agree that, notwithstanding paragraph (e) of the definition of Change in clause 3.1 of the Terms, such amendments shall not constitute a Change and Schedule 1.1 (Service Development) of the Terms shall be construed accordingly;

- (b) *subject to paragraph 4:*

- (i) *the Franchisee shall in accordance with its rights and obligations under Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms, seek a Timetable which incorporates the Extended Service and if successful subsequently submit a Train Plan which incorporates the Extended Service to take effect on and after the Passenger Change Date in May 2011;*
- (ii) *if, having complied with its obligations under Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms, the Franchisee is unable to submit the Train Plan contemplated by paragraph 2.1(b)(i), the Franchisee shall:*
 - (A) *not be obliged to submit a Train Plan to take effect on and after the Passenger Change Date in May 2011 which incorporates the Extended Service;*
 - (B) *nevertheless, in accordance with its rights and obligations under Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms, continue to seek a Timetable which incorporates the Extended Service and if successful subsequently submit a Train Plan which incorporates the Extended Service to take effect on and after the Passenger Change Date first*

occurring at least 12 weeks after the date on which the such Timetable is secured; and

- (C) *until such time as a Timetable and a Train Plan which incorporate the Extended Service take effect, use the Rolling Stock Units that it would have deployed to operate the Extended Service to strengthen from 2-car formation to 4-car formation a Liverpool – Nottingham or Nottingham – Norwich Passenger Service which is additional to those to be strengthened under paragraph 2.1(c) or, to strengthen such other Passenger Service as the Secretary of State may approve (such approval not to be unreasonably withheld),*

provided that where this paragraph 2.1(b)(ii) applies and the Franchisee is in compliance with the applicable part of it at the applicable time, for the purposes of this Agreement, the Franchisee shall be deemed to have delivered in full the HLOS Committed Obligations in paragraphs 2.1(a) and 2.1(b) by the date specified for their delivery; and

- (c) *subject to paragraph 4, in preparing each Train Plan which will take effect on or after the Passenger Change Date in May 2011, the Franchisee shall allocate the Cascaded Northern Units to Passenger Services so as to release other Rolling Stock Units which it has on lease to strengthen Liverpool – Nottingham Passenger Services from 2-car formation to 4-car formation, provided that this obligation shall not apply to any day falling in the period 24 December to 31 December in any year.*

- 2.2 *As at the date of the HLOS Deed of Amendment, the Franchisee and the Secretary of State intend that each Train Plan to take effect on and after the Passenger Change Date in May 2011 incorporating the strengthened Passenger Services referred to in paragraph 2.1(c) which is submitted or proposed to the Secretary of State by the Franchisee from time to time pursuant to Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms will show the services listed below being operated in 4-car formation:*

Monday to Friday (excluding the period 24 to 31 December and New Year's Day annually)

*05:20 Nottingham to Liverpool and 08:52 Liverpool to Nottingham
05:50 Norwich to Nottingham (subject to the Extended Service having been incorporated into the Franchisee's Train Plan)
06:40 Nottingham to Liverpool and 09:52 Liverpool to Nottingham
07:42 Liverpool to Nottingham
07:45 Nottingham to Liverpool and 10:52 Liverpool to Nottingham
08:45 Nottingham to Liverpool and 11:52 Liverpool to Nottingham
12:45 Nottingham to Liverpool and 15:52 Liverpool to Nottingham
13:45 Nottingham to Liverpool and 16:52 Liverpool to Nottingham
14:45 Nottingham to Liverpool and 17:52 Liverpool to Nottingham
15:45 Nottingham to Liverpool and 18:52 Liverpool to Nottingham*

Saturday (excluding the period 24 to 31 December and New Year's Day annually)

05:50 Norwich to Nottingham (subject to the Extended Service having been incorporated into the Franchisee's Train Plan)

08:45 Nottingham to Liverpool and 11:52 Liverpool to Nottingham

09:45 Nottingham to Liverpool and 12:52 Liverpool to Nottingham

10:45 Nottingham to Liverpool and 13:52 Liverpool to Nottingham

11:45 Nottingham to Liverpool and 14:52 Liverpool to Nottingham

13:45 Nottingham to Liverpool and 16:52 Liverpool to Nottingham

15:45 Nottingham to Liverpool and 18:52 Liverpool to Nottingham

16:45 Nottingham to Liverpool and 19:52 Liverpool to Nottingham

New Year's Day and Sunday (excluding the period 24 to 31 December annually)

09:31 Nottingham to Liverpool and 12:52 Liverpool to Nottingham

10:40 Nottingham to Liverpool and 13:52 Liverpool to Nottingham

13:38 Nottingham to Liverpool and 16:52 Liverpool to Nottingham

14:38 Nottingham to Liverpool and 17:52 Liverpool to Nottingham

- 2.3 *The Service Delivery Benchmarks are revised after each Passenger Change Date pursuant to paragraph 3.1 of Schedule 7.1 (Performance Benchmarks). If the date on which the Franchisee delivers the extended Passenger Services required by paragraph 2.1(b) is not a Passenger Change Date, the Service Delivery Benchmarks shall be revised pursuant to paragraph 3.1 of Schedule 7.1 (Performance Benchmarks) of the Terms as if such date were a Passenger Change Date.*

Scheme 2

- 2.4 *Subject to paragraph 4, in preparing each Train Plan which will take effect on or after the Passenger Change Date in December 2012, the Franchisee shall allocate 2 additional Rolling Stock Units which it has on lease to strengthen additional Liverpool – Nottingham Passenger Services from 2-car formation to 4-car formation, provided that this obligation shall not apply to any day falling in the period 24 December to 31 December in any year.*
- 2.5 *As at the date of the HLOS Deed of Amendment, the Franchisee and the Secretary of State intend that each Train Plan to take effect on and after the Passenger Change Date in December 2012 incorporating the strengthened Passenger Services referred to in paragraph 2.4 which is submitted or proposed to the Secretary of State by the Franchisee from time to time pursuant to Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms will show the services listed below being operated in 4-car formation:*

Monday to Friday (excluding the period 24 to 31 December and New Year's Day annually)

06:47 Liverpool to Nottingham

09:45 Nottingham to Liverpool and 12:52 Liverpool to Nottingham

10:45 Nottingham to Liverpool and 13:52 Liverpool to Nottingham

11:45 Nottingham to Liverpool and 14:52 Liverpool to Nottingham

16:45 Nottingham to Liverpool and 19:52 Liverpool to Nottingham

Saturday (excluding the period 24 to 31 December and New Year's Day annually)

***06:40 Nottingham to Liverpool and 09:52 Liverpool to Nottingham
07:45 Nottingham to Liverpool and 10:52 Liverpool to Nottingham
12:45 Nottingham to Liverpool and 15:52 Liverpool to Nottingham
14:45 Nottingham to Liverpool and 17:52 Liverpool to Nottingham***

New Year's Day and Sunday (excluding the period 24 to 31 December annually)

***10:47 Norwich to Nottingham and 16:45 Nottingham to Norwich
11:46 Nottingham to Liverpool and 14:52 Liverpool to Nottingham
12:39 Nottingham to Liverpool and 15:52 Liverpool to Nottingham
15:44 Nottingham to Liverpool and 18:52 Liverpool to Nottingham
17:37 Nottingham to Liverpool and 21:22 Liverpool to Nottingham***

3 Capacity requirements

- 3.1 Subject to paragraph 4, the Franchisee shall ensure that with effect on and from the Passenger Change Date in May 2011, the Franchisee's Train Plan from time to time in respect of the Passenger Services which are extended and/or strengthened pursuant to paragraph 2.1 includes, in respect of Passenger Services arriving at Manchester, Liverpool, Sheffield and Nottingham in the Morning Peak, provision for Additional passenger carrying capacity (standard class seated and standing) of at least the numbers set out below:**

	<i>Morning Peak</i>	<i>Middle hour of the Morning Peak</i>
<i>Manchester</i>	<i>630</i>	<i>0</i>
<i>Liverpool</i>	<i>210</i>	<i>210</i>
<i>Sheffield</i>	<i>420</i>	<i>210</i>
<i>Nottingham</i>	<i>210*</i>	<i>210*</i>

**** Subject to the Extended Service having been incorporated into the Franchisee's Train Plan. If this is not the case the figure stated shall be reduced by 210.***

and for these purposes a 2-car Class 158 Rolling Stock Unit shall be treated as having a passenger carrying capacity of 210.

- 3.2 Subject to paragraph 4, the Franchisee shall ensure that with effect on and from the Passenger Change Date in December 2012, the Franchisee's Train Plan from time to time in respect of the Passenger Services which are extended and/or strengthened pursuant to paragraphs 2.1 and 2.4 includes, in respect of Passenger Services arriving at Manchester, Liverpool, Sheffield and Nottingham in the Morning Peak, provision for Additional passenger carrying capacity (standard class seated and standing) of at least the numbers set out below:**

	Morning Peak	Middle hour of the Morning Peak
Manchester	840	0
Liverpool	210	210
Sheffield	630	420
Nottingham	420*	210*

** Subject to the Extended Service having been incorporated into the Franchisee's Train Plan. If this is not the case the figure stated shall be reduced by 210.*

and for these purposes a 2-car Class 158 Rolling Stock Unit shall be treated as having a passenger carrying capacity of 210.

4 Variations to the Passenger Services to be operated pursuant to the HLOS Committed Obligations

4.1 The provisions of paragraphs 2 and 3 are subject to and without prejudice to the rights and obligations of the Franchisee under Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms.

4.2 Without prejudice to paragraph 4.1 and notwithstanding the intention stated in paragraphs 2 and 3:

- (a) where Network Rail exercises its flexing rights from time to time under the Track Access Agreement or the Network Code (as referred to in paragraph 8.4(b) of Schedule 1.1 (Service Development) of the Terms); or**
- (b) where the Franchisee reasonably considers it to be necessary in order to exercise its rights or comply with its obligations under Schedule 1.1 (Service Development) or Schedule 1.2 (Operating Obligations) of the Terms,**

the Franchisee may, notwithstanding paragraphs 2 and 3, submit or propose a Train Plan pursuant to Schedule 1.1 (Service Development) or Schedule 1.2 (Operating Obligations) of the Terms in respect of a Timetable which shows an equivalent number of extended or strengthened Passenger Services running between Liverpool – Nottingham/Norwich but at different times, or other Passenger Services which are extended or strengthened, in either case so as to better match the passenger carrying capacity of the Train Fleet to Target Passenger Demand.

4.3 Notwithstanding its obligations under paragraphs 2 and 3 and its rights and obligations under Schedule 1.1 (Service Development) and Schedule 1.2 (Operating Obligations) of the Terms, where the Franchisee reasonably considers that on any Saturday, Sunday or Bank Holiday it can better match the passenger carrying capacity of the Train Fleet to Target Passenger Demand by using the Rolling Stock Units which it uses to extend or strengthen the Passenger Services referred to in paragraph 2 to extend or strengthen other Passenger

Services, the Franchisee may amend its Train Plan for that Saturday, Sunday or Bank Holiday accordingly. The Franchisee shall deliver to the Secretary of State, at the same time as providing the information relating to HLOS Capacity referred to in Appendix 3 (Operational Information) of Schedule 13 (Information and Industry Initiatives) of the Terms, a list of the amendments, if any, which the Franchisee made to its Train Plan in that Reporting Period pursuant to this paragraph 4.3. If the Secretary of State reasonably considers that any amended deployment of the relevant Rolling Stock Units by the Franchisee pursuant to this paragraph 4.3 does not better match the passenger carrying capacity of the Train Fleet to Target Passenger Demand the Secretary of State may, by giving not less than 28 days' notice to the Franchisee, suspend the Franchisee's right to amend its Train Plan pursuant to this paragraph 4.3.

- 4.4 *The parties acknowledge and agree that, in the exercise of his rights pursuant to paragraph 11 of Schedule 1.1 (Service Development) of the Terms, the Secretary of State may require the Franchisee to revise its Train Plan to cease any strengthening of Liverpool – Nottingham Saturdays and Sundays Passenger Services which has been implemented pursuant to paragraph 2.1 or 2.4 if, having allowed a reasonable period for the additional Actual Passenger Demand forecast for those strengthened Passenger Services in the Option 15 Proposal to materialise, the additional Actual Passenger Demand for those strengthened Passenger Services is materially lower. The Franchisee shall ensure that each Business Plan shall include an analysis of the additional Actual Passenger Demand for the strengthened Liverpool – Nottingham Saturdays and Sundays Passenger Services referred to in paragraph 2 compared to the additional Actual Passenger Demand forecast for those strengthened Passenger Services in the Option 15 Proposal. The Secretary of State shall give the Franchisee not less than 28 days' notice of any such revision to the Train Plan. If the Secretary of State requires the Franchisee to revise its Train Plan in the manner contemplated by this paragraph 4.4 it shall be a Change which shall automatically be a Qualifying Change irrespective of whether such Change meets the requirements of the definition of Qualifying Change.*

5 MODIFICATIONS TO AND REFRESH OF THE CASCADED NORTHERN UNITS

- 5.1 *Subject to paragraph 5 of Part 6 (On-Time/Late/Non-Completion of HLOS Committed Obligations) of this Appendix 11, the Franchisee shall invest the equivalent of £881,000 capital (including project management, procurement and design costs) on technical modifications to, and a refresh of, the Cascaded Northern Units as described below, such modifications and refresh to be completed by 31 October 2013 and having the principal aims of improving performance, reducing the number of Minutes Delay incurred and improving the appearance of such rolling stock for passengers.*

The technical modifications shall include (to the extent that the Cascaded Northern Units are not already so modified):

- fitment of sanders;*
- head and tail lights replaced with LED units;*
- gangway repairs;*

- *replacement of T12 lighting;*
- *renewal of life expired relays;*
- *fitment of TCA Aerial with combined tuner box;*
- *external door TDS modification; and*
- *installation of intermediate Door Key Switch.*

The refresh shall include:

- *exterior repainting;*
- *renewal, refinishing or refreshing of passenger accommodation;*
- *cleaning of tables and vestibules; and*
- *fitment of CCTV cameras.*

Part 5¹⁴²

Miscellaneous Provisions – HLOS Committed Obligations

1. Application

This Appendix sets out further terms which apply to the HLOS Committed Obligations set out in Part 4 (List of HLOS Committed Obligations) of this Appendix 11 and the references to HLOS Committed Obligations in Parts 4, 5 and 6 of this Appendix 11 are only to the HLOS Committed Obligations in Part 4.

2. Continuation of Availability

2.1 *Save as expressly provided in this Appendix 11, the Franchisee shall maintain the outputs established in accordance with its HLOS Committed Obligations throughout the remainder of the Franchise Term.*

2.2 *The Franchisee shall be treated as maintaining HLOS 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.*

3. Expenditure Commitments

Expenditure Commitments in real amounts

3.1 *All expenditure commitments set out in Part 4 (List of HLOS Committed Obligations) of this Appendix 11 are stated at 2007/08 prices and, to the extent they have not already been incurred by the Franchisee, 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.*

4. Nature of Commitment

4.1 *Any commitment in terms of Part 4 (List of HLOS Committed Obligations) of this Appendix 11 shall be in addition to any obligation of the Franchisee elsewhere in this Agreement and nothing in this Appendix 11 shall limit or restrict an obligation imposed on the Franchisee elsewhere in the Franchise Agreement.*

¹⁴² Date of Change 12/03/2010

4.2 Each commitment under Part 4 (List of HLOS Committed Obligations) of this Appendix 11 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 6 (On-Time/Late/Non-Completion of HLOS Committed Obligations) to this Appendix 11 but not yet paid.

5. Review of Compliance

5.1 Progress with HLOS 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.

5.2 No later than the third Weekday prior to each Franchise Performance Meeting, the Franchisee shall provide to the Secretary of State, in accordance with any guidance the Secretary of State may issue to the Franchisee from time to time, a report detailing the Franchisee's progress with respect to the delivery of the extended and strengthened Passenger Services required by paragraph 2 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11 and the additional passenger carrying capacity required by paragraph 3 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11. Such report may be provided as part of the report to be provided by the Franchisee pursuant to paragraph 4.4 of Schedule 11 (Agreement Management Provisions) of the Terms.

5.3 In addition to its obligations under paragraphs 5.1 and 5.2, the Franchisee shall from time to time promptly provide such other evidence of its compliance with any HLOS Committed Obligation as the Secretary of State may reasonably request.

5.4 Where in respect of any commitment in Part 4 (List of HLOS Committed Obligations) of this Appendix 11 the Franchisee is required to provide a plan to assist the Secretary of State in the monitoring of the Franchisee's compliance with such commitment the Franchisee shall provide regular updates at the Franchise Performance Meetings of:

- (a) any progress it has made in the implementation of such plan since the last Franchise Performance Meeting;**
- (b) any material change to such plan;**
- (c) the occurrence or non-occurrence (as the case may be) of any event or series of events which were anticipated or not anticipated (as the case may be) at the time such plan was being finalised; and**
- (d) its informed opinion as to any amendments to such plan that it considers would be required to enable it to fulfil its obligations in respect of such commitment.**

6. Transfer of Franchise Assets arising from HLOS Committed Obligations

Notwithstanding any provision to the contrary in any Supplemental Agreement, the Franchisee shall transfer to a Successor Operator for nil value any Franchise Asset arising from the delivery by the Franchisee of its HLOS Committed Obligations which is made the subject of a Transfer Scheme.

Part 6¹⁴³

On-Time/Late/Non Completion of HLOS Committed Obligations

1 Definitions and references to the Table

1.1 In this Part 6:

“Available” means, in respect of a Cascaded Northern Unit, that it was presented for acceptance by the Franchisee pursuant to the terms of the Rolling Stock Lease for the Cascaded Northern Units and there were no grounds pursuant to the terms of that Rolling Stock Lease on which the Franchisee was entitled to refuse to accept that Cascaded Northern Unit;

“Net Subsidy Amount” means, for any HLOS Committed Obligation, the amount specified as such for that HLOS Committed Obligation in column 4 of the Table.

1.2 In this Part 6 references to the Table are references to the Table entitled ‘HLOS Committed Obligations where HLOS Franchise Payment Adjustments apply’ set out in the Annex to this Part 6.

2 Milestone payment for bringing Cascaded Northern Units into service

2.1 If each Cascaded Northern Unit is deployed in the provision of the Passenger Services no later than the date which is the later of (1) the Passenger Change Date in May 2011; and (2) two weeks after the date on which it was Available to the Franchisee, the Secretary of State shall pay to the Franchisee a single milestone payment of £96,089 (ninety-six thousand and eighty-nine pounds), such payment to be paid in accordance with Schedule 8.1 (Franchise Payments) of the Terms on the next Payment Date after the date on which the last such Cascaded Northern Unit is deployed in the provision of the Passenger Services.

¹⁴³ Date of Change 12/03/2010

2.2 *The amount referred to in paragraph 2.1 is stated at 2007/08 prices and 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.*

3 *Late Completion or Non-Delivery of HLOS Committed Obligations – contravention of Franchise Agreement*

3.1 *Subject to paragraph 3.2, if the Franchisee fails to deliver any HLOS Committed Obligation in full in accordance with and by the date specified for its delivery in Part 4 (List of HLOS Committed Obligations) of Appendix 11 (COMMITTED OBLIGATIONS AND HLOS COMMITTED OBLIGATIONS AND RELATED PROVISIONS) such late, partial or non-delivery shall constitute a contravention of this Agreement.*

3.2 *A failure to deliver in full any HLOS Committed Obligation referred to in paragraph 3.1 shall not be a contravention of this Agreement if the Franchisee demonstrates to the Secretary of State's reasonable satisfaction that:*

- (a) in the case of a failure to deliver any part of any of the HLOS Committed Obligations in paragraphs 2.1, 2.4 and 3 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, such failure arose as a direct result of one or more of the Cascaded Northern Units not being Available to the Franchisee at least two weeks before the date specified for delivery of the relevant HLOS Committed Obligation; or*
- (b) in the case of a failure to deliver any part of the HLOS Committed Obligation in paragraph 5 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, such failure arose as a direct result of one or more of the Cascaded Northern Units not being Available to the Franchisee at least 78 weeks before the date specified for delivery of that HLOS Committed Obligation; or*
- (c) in the case of a failure to deliver any part of any of the HLOS Committed Obligations in paragraphs 2.1, 2.4 and 3 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, such failure arose as a direct result of the Franchisee, notwithstanding compliance by it with its obligations under paragraph 8 of Schedule 1.1 (Service Development) of the Terms, being unable to secure the necessary Train Slots required for the delivery of the relevant HLOS Committed Obligation,*

and this Appendix 11 shall be construed accordingly and for the purposes of this Agreement (including Schedule 7.1 (Performance Benchmarks) of the Terms) the Timetable and the Franchisee's Train Plan are deemed not to have incorporated, or be required to incorporate, the extended and/or strengthened services which are not operated as a result of the circumstances set out in paragraphs 3.2 (a) or 3.2 (c).

(4) Late Completion or Non-Delivery of HLOS Committed Obligations payment of HLOS Franchise Payment Adjustments and Net Subsidy Amounts

4.1 In addition to being a contravention of this Agreement where so provided by paragraph 3, if any part of any of the HLOS Committed Obligations in paragraphs 2.1 or 2.4 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11 is not delivered in full by the date specified for that HLOS Committed Obligation in column 3 of the Table, an HLOS Franchise Payment Adjustment of an amount determined in accordance with paragraph 4.2 shall be made for each complete Reporting Period, or pro rata according to the number of days for any part of a Reporting Period, for which that HLOS Committed Obligation remains undelivered in full.

4.2 The amount of the HLOS Franchise Payment Adjustment as referred to in paragraph 4.1 is:

(a) other than in the circumstances set out in paragraph 4.2(b) or 4.2(c) the amount stated in column 5 of the Table as the 'Standard' HLOS Franchise Payment Adjustment for the relevant HLOS Committed Obligation multiplied by:

(i) in the case of the HLOS Committed Obligation in paragraph 2.1 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, the number (up to a maximum of four) of Cascaded Northern Units which have not been deployed in Passenger Services as contemplated by that HLOS Committed Obligation; or

(ii) in the case of the HLOS Committed Obligation in paragraph 2.4 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, the number (up to a maximum of two) of the additional Rolling Stock Units which the Franchisee has failed to allocate to strengthen the Passenger Services which are the subject of that HLOS Committed Obligation; or

(b) in the case of a failure to deliver any part of either of the HLOS Committed Obligations in paragraphs 2.1 and 2.4 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11 which the Franchisee demonstrates to the Secretary of State's reasonable satisfaction arose as a direct result of one or more of the Cascaded Northern Units not being Available to the Franchisee at least two weeks before the date specified for delivery of the relevant HLOS Committed Obligation, the amount stated in column 5 of the Table as the 'Units unavailable' HLOS Franchise Payment Adjustment for the relevant HLOS Committed Obligation multiplied by:

(i) in the case of the HLOS Committed Obligation in paragraph 2.1 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, the number (up to a maximum of four) of Cascaded Northern Units not so Available; or

(ii) in the case of the HLOS Committed Obligation in paragraph 2.4 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, one; or

- (c) *a failure to deliver any part of any of the HLOS Committed Obligations in paragraphs 2.1 and 2.4 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11 which the Franchisee demonstrates to the Secretary of State's reasonable satisfaction arose as a direct result of the Franchisee, notwithstanding compliance by it with its obligations under paragraph 8 of Schedule 1.1 (Service Development) of the Terms, being unable to secure the necessary Train Slots required for the delivery of the relevant HLOS Committed Obligation, the amount stated in column 5 of the Table as the 'Slots unavailable' HLOS Franchise Payment Adjustment for the relevant HLOS Committed Obligation.*

4.3 *If any HLOS Committed Obligation referred to in the Table is not delivered in full by the last day of the Franchise Term the Franchisee shall pay to the Secretary of State a sum equal to the total proportion of the Net Subsidy Amount for that HLOS Committed Obligation already paid by the Secretary of State less:*

- (a) *any HLOS Franchise Payment Adjustments already paid by the Franchisee in respect of that HLOS Committed Obligation (and for this purpose any HLOS Franchise Payment Adjustments paid in the amounts provided for by paragraph 4.2(b) or 4.2(c) shall be deemed to have been paid in the amount provided for in respect of the relevant HLOS Committed Obligation by paragraph 4.2(a)) and any other payments referable to the recovery of subsidy which have been paid by the Franchisee to the Secretary of State in connection with its delay or failure in delivery of the relevant HLOS Committed Obligation;*
- (b) *such allowance as is fair and reasonable in all the circumstances in relation to any part of the output of the relevant HLOS Committed Obligation which has been delivered and which has value to the Franchise or to the rail industry; and*
- (c) *any costs and expenses which the Franchisee demonstrates to the reasonable satisfaction of the Secretary of State have been reasonably and properly incurred in order to deliver any part of the output of the relevant HLOS Committed Obligation which has not yet been delivered.*

4.4 *All Net Subsidy Amounts and HLOS Franchise Payment Adjustments set out in the Table are stated at 2007/08 prices and 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.*

4.5 *Any HLOS Franchise Payment Adjustment payable in accordance with this paragraph 4 shall be paid by the Franchisee in accordance with Schedule 8.1 (Franchise Payments) of the Terms on the Payment Date for the Reporting Period to which it relates.*

5 Adjustments to HLOS Franchise Payment Adjustments

- 5.1** *Where in relation to the HLOS Committed Obligation in paragraph 5 of Part 4 (List of HLOS Committed Obligations) of this Appendix 11, 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 HLOS Committed Obligation, whether because of cost savings or securing additional investment from third parties or for any other reason, the Franchisee may apply to the Secretary of State for the consent referred to in paragraph 5.2.*
- 5.2** *The Secretary of State's consent for the purposes of paragraph 5.1 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.*
- 5.3** *If the Secretary of State consents to an application pursuant to paragraph 5.1 in respect of the HLOS Committed Obligation referred to in that paragraph:*
- (a) Part 4 (List of HLOS Committed Obligations) of Appendix 11 (COMMITTED OBLIGATIONS AND HLOS COMMITTED OBLIGATIONS AND RELATED PROVISIONS) and this Part 6 shall be amended to reflect the terms of any new commitments; and*
 - (b) no HLOS Franchise Payment Adjustment shall be payable in respect of the unspent amount that relates to that HLOS Committed Obligation.*
- 5.4** *If the Secretary of State does not consent to an application pursuant to paragraph 5.1 in respect of the HLOS Committed Obligation referred to in that paragraph the Franchisee shall pay to the Secretary of State the relevant unspent amount on the next Payment Date or on such other date as the Secretary of State may specify and the HLOS Committed Obligation shall be deemed to have been delivered in full by the date specified for its delivery so that no HLOS Franchise Payment Adjustment shall be payable in respect of the unspent amount that relates to that HLOS Committed Obligation.*

6 Waiver of payments under this Part 6

- 6.1** *Subject to paragraph 6.2, the Secretary of State may at his reasonable discretion decide to waive his rights to receive any payments payable under this Part 6 in respect of a late, partial or non-delivery of any HLOS Committed Obligation.*
- 6.2** *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 of any HLOS Committed Obligation arose.*

Annex to Part 6 (On-Time/Late/Non Completion of HLOS Committed Obligations)
of Appendix 11 (COMMITTED OBLIGATION, HLOS COMMITTED OBLIGATIONS AND RELATED PROVISIONS)

Table : HLOS Committed Obligations where HLOS Franchise Payment Adjustments apply

Column 1	Column 2	Column 3	Column 4	Column 5
Reference in Part 4 (List of HLOS Committed Obligations) of Appendix 11 (COMMITTED OBLIGATIONS, HLOS COMMITTED OBLIGATIONS AND RELATED PROVISIONS) (paragraph)	Summary Description¹⁴⁴	Deadline	Net Subsidy Amount¹⁴⁵ (£k 2007/08 prices)	HLOS Franchise Payment Adjustment² (per Reporting Period) (£k 2007/08 prices)
2.1	Scheme 1 extended and strengthened Liverpool – Nottingham services	Passenger Change Date in May 2011 (except as otherwise specified in paragraph 2.1)	6,213	(Per Cascaded Northern Unit up to a maximum of 4) Standard: 31.1

¹⁴⁴ Column 2 (*Summary Description*) in the Table should be read in conjunction with the relevant HLOS Committed Obligation in Part 4 (*List of HLOS Committed Obligations*) of Appendix 11 (*COMMITTED OBLIGATIONS, HLOS COMMITTED OBLIGATIONS AND RELATED PROVISIONS*) set out at the paragraph specified in column 1 (*Reference in Part 4*).

¹⁴⁵ All Net Subsidy Amounts and HLOS Franchise Payment Adjustments are stated at 2007/08 prices and shall be indexed in the same way as variable costs are indexed in Schedule 8.2 (Annual Franchise Payments) of the Terms.

				Units unavailable: 9.9 Slots unavailable: 0
2.4	Scheme 2 strengthened Liverpool – Nottingham services	Passenger Change Date in December 2012	1,623	(Per additional Rolling Stock Unit not allocated to strengthen the Passenger Services up to a maximum of 2) Standard: 27.0 Units unavailable: 0 Slots unavailable: 0
5.1	Modifications to and refresh of Cascaded Northern Units	31 October 2013	881	Not applicable

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

East Midlands Specific Provisions (Clause 7.2)

1. Definitions

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“Depot Notice” means a notice served by the Secretary of State pursuant to paragraph 7.1;

“Heavy Maintenance Agreement” means an agreement for the provision of heavy maintenance services in respect of the HST Rolling Stock of the same scope and quantity as the Franchisee or its relevant maintenance contractor provided in respect of the HST Rolling Stock prior to the Franchisee ceasing to be the depot facility owner pursuant to paragraph 7.1, which is on reasonable commercial terms in accordance with standard industry practice taking into account usual heavy maintenance cycles;

“HST Rolling Stock” means the HST rolling stock in the Train Fleet as set out in Appendix 3 (The Train Fleet);

“Inter City East Coast Franchisee” means the franchisee of the Inter City East Coast Franchise (or any successor operator or franchisee of any franchise which replaces the Inter City East Coast Franchise);

“inter city-railways limited” means the company incorporated in England and Wales with company number 05092403 whose registered office is at 120 Campden Hill Road, London W8 7AR;

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“PC1” means the Passenger’s Charter in the agreed terms marked PC1 applicable from the Start Date until 31 March 2009 as amended or replaced from time to time with the prior written consent of the Secretary of State in accordance with paragraph 4 of Schedule 1.4 (Passenger Facing Obligations) of the Terms; and

“PC2” means the Passenger’s Charter in the agreed terms marked PC2 applicable from 1 April 2009 as amended or replaced from time to time with the

¹⁴⁶ 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.

¹⁴⁷ 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.

prior written consent of the Secretary of State in accordance with paragraph 4 of Schedule 1.4 (Passenger Facing Obligations) of the Terms.

2. Train Crew Trading Arrangements

2.1 The Franchisee shall seek to agree on or before 11 September 2007 and enter into on or before the Start Date:

- (a) a train crew hire agreement with the NCC Franchisee substantially in the form of the document in agreed terms marked TCHA ("the Train Crew Hire Agreement") which provides for the Franchisee to trade at least the numbers of train crew for the diagrams and days and at the rates prescribed in Annex A to this Appendix 13 with the NCC Franchisee ("New Cross Country Train Crew Trading Agreement"); and
- (b) a train crew hire agreement with the West Midlands Franchisee substantially in the form of the Train Crew Hire Agreement which provides for the Franchisee to trade at least the numbers of train crew for the diagrams and days and at the rates prescribed in Annex A to this Appendix 13 ("West Midlands Train Crew Trading Agreement"),

such agreements to commence on the Start Date and continue until the Passenger Change Date in December 2008 or such later date as the respective parties to such agreements may agree.

2.2 If the Franchisee has not agreed all of the terms of either or both of the New Cross Country Train Crew Trading Agreement or the West Midlands Train Crew Trading Agreement on or before 11 September 2007, the Secretary of State may reasonably determine (by reference to the principles set out in paragraphs 2.1(a) and 2.1(b)) any terms that have not then been agreed (or at his option may appoint an industry expert to make such determination).

2.3 The Franchisee shall then promptly execute the New Cross Country Train Crew Trading Agreement and the West Midlands Train Crew Trading Agreement as agreed or determined.

3. Rolling Stock Costs¹⁴⁸

4. Electronic Advertising Media

4.1 Subject to paragraph 4.3, the Franchisee shall not, without the prior written consent of the Secretary of State (such consent not to be unreasonably withheld), install or procure the installation of electronic advertising media

¹⁴⁸ 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.

(including video or audio broadcast systems) on any rolling stock vehicle within the Train Fleet which as at the Start Date did not have any such electronic advertising media installed.

4.2 Subject to paragraph 4.3, in seeking the Secretary of State's consent to the installation of such electronic advertising media, the Franchisee shall provide to the Secretary of State;

- (a) the results of representative surveys carried out on no less than two separate occasions that demonstrate that the users of the Passenger Services are in favour of the installation and proposed content of such electronic advertising media; and
- (b) a detailed report of its proposals, explaining, amongst other things:
 - (i) the impact on the passenger environment of the relevant rolling stock vehicles within the Train Fleet; and
 - (ii) the forecast net financial benefit to the Franchisee of installing such media.

4.3 The Franchisee shall not need to obtain the Secretary of State's consent in accordance with paragraphs 4.1 and 4.2 in relation to the installation of WI-FI on certain rolling stock vehicles pursuant to paragraph 12.14 of Appendix 11 (List of Committed Obligations and Related Provisions).

5. **ITSO Smartcard Ticketing**

5.1 The Franchisee shall ensure that by no later than the commencement of the Reporting Period ending on ¹⁴⁹ passengers travelling on some (but not necessarily all) of its Passenger Services can purchase and use ITSO Certified Smartcards.

5.2 The Franchisee shall use reasonable endeavours to ensure that:

- (a) in the thirteen Reporting Periods ending on ¹⁵⁰ at least ¹⁵¹ percent in aggregate of Passenger Journeys; and

¹⁴⁹ 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.

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 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) in the thirteen Reporting Periods ending on ¹⁵² at least ¹⁵³ percent in aggregate of Passenger Journeys,

are made using ITSO Certified Smartcards.

- 5.3 In the event that the target referred to in paragraph 5.2(a) is not achieved the Franchisee will spend the 2012 ITSO Amount and in the event that the target referred to in paragraph 5.2(b) is not achieved the Franchisee will, subject to paragraph 5.6, spend the 2014 ITSO Amount in both cases on the marketing and promotion of ITSO Certified Smartcards.
- 5.4 Any such expenditure shall be additional to the amounts the Franchisee would in any event spend on the marketing and promotion of ITSO Certified Smartcards as identified in the Financial Model.
- 5.5 The 2012 ITSO Amount shall be expended within 12 months of and the 2014 ITSO Amount shall be expended within 12 months of¹⁵⁴. Any expenditure shall be made in accordance with an expenditure plan to be submitted to the Secretary of State for approval within twenty days of:
- (a) ¹⁵⁵if the Franchisee is obliged to spend the 2012 ITSO Amount; or
- (b) ¹⁵⁶if the Franchisee is obliged to spend the 2014 ITSO Amount.
- 5.6 Any expenditure of the 2012 ITSO Amount or the 2014 ITSO Amount shall be made with the intention of rectifying the relevant shortfall in Passenger Journeys using ITSO Certified Smartcards as soon as reasonably practicable on a long term and sustainable basis. The Franchisee acting as a skilled and experienced Train Operator of the Franchise will use all reasonable endeavours to obtain

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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 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.

¹⁵⁵ 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.

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.

value for money from the expenditure of the 2012 ITSO Amount or the 2014 ITSO Amount as the case may be.

- 5.7 The Secretary of State will not unreasonably withhold or delay approval of any expenditure plan. It is agreed that it will be appropriate for the Secretary of State to withhold consent if any proposed expenditure plan does not comply with the provisions of paragraph 5.6 and it is further agreed that in such circumstances the Secretary of State shall be permitted to approve the expenditure plan with such amendments as he may reasonably propose and the Franchisee shall be obliged to comply with such amended expenditure plan.

Monitoring Requirements

- 5.8 Commencing with the Reporting Period ending on ¹⁵⁷ the Franchisee shall within 10 days of the end of each Reporting Period report to the Secretary of State the number of Passenger Journeys made using ITSO Certified Smartcards.
- 5.9 For the purposes of monitoring compliance with the provisions of paragraphs 5.1 to 5.7 (inclusive), the Secretary of State shall within 10 days of receipt from the Franchisee of information provided pursuant to paragraph 5.8 in respect of the Reporting Periods ending on ¹⁵⁸ and ¹⁵⁹ reasonably determine the percentage number of Passenger Journeys made using ITSO Certified Smartcards in accordance with the following formula:

$$\frac{Y}{Z} \times 100$$

where:

Y is the total number of Passenger Journeys made in the preceding 13 Reporting Periods using ITSO Certified Smartcards;

Z is the total number of Passenger Journeys made in the preceding 13 Reporting Periods.

- 5.10 The Franchisee shall co-operate and liaise with ATOC, other Train Operators and RSP as appropriate in:

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¹⁵⁸ 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.

¹⁵⁹ 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) developing an approach to the provision of information regarding the use of ITSO Certified Smartcards to facilitate use of more sophisticated ticket types and demand management over time; and
- (b) establishing processes, business rules and necessary system changes in order to achieve the effective delivery of its obligations under paragraphs 5.1 to 5.7.

6. Minimum and Maximum Numbers of Calls at First Capital Connect Stations During Peak Hours

6.1 The Franchisee's obligation in paragraph 8.2 of Schedule 1.1 (Service Development) of the Terms shall include an obligation to ensure that the number of London St. Pancras Passenger Services scheduled to call at each of the stations listed in the first column of the following Tables 1 and 2 set out below in the hours set out below is not less than the number specified in the second column of such tables and does not exceed the number specified in the third column of such tables:

Table 1 : Minimum and maximum calls for services arriving at London St. Pancras before 0959 on Weekdays¹⁶⁰

Station	Minimum number of calls	Maximum number of calls
Bedford		
Luton		
Luton Airport Parkway		

Table 2¹⁶¹ : Minimum and maximum calls for services departing London St. Pancras between 1600 and 1859 on Weekdays

Station	Minimum number of calls	Maximum number of calls
Bedford	6	6
Luton	5	5
Luton Airport Parkway	2	3

¹⁶⁰ 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.

¹⁶¹ Date of Change 01/04/2010

For the purposes of this paragraph 6.1, London St. Pancras Passenger Services means any Passenger Service listed in Route M of the documents in agreed terms marked SLC1 or SLC2 and scheduled to operate on a Weekday and arriving at London St. Pancras before 0959 or departing from London St. Pancras between 1600 and 1859 (inclusive).

- 6.2 Subject to paragraphs 6.4 and 6.5, the Franchisee shall not without the prior consent of the Secretary of State seek to operate or operate any railway passenger service which is scheduled to call at any of the stations listed in the first column of Tables 1 and 2 in paragraph 6.1 above over and above the maximum number of calls specified in the third column of such tables.
- 6.3 Subject to paragraphs 6.1, 6.2, 6.4 and 6.5, the Franchisee shall not seek to operate or operate any railway passenger service which is scheduled to call at any of the stations between Bedford and Kentish Town (including Kentish Town) other than Bedford, Luton and Luton Airport Parkway.
- 6.4 The Franchisee shall not be in contravention of any of paragraphs 6.1 to 6.3 to the extent that it exceeds the maximum number of calls at any of the stations specified in Tables 1 and 2 in paragraph 6.1 and/or operates any railway passenger service that calls at any station between Bedford and Kentish Town (including Kentish Town) as a result of the Franchisee complying with any plan established under Part H of the Network Code or any Railway Operational Code (as defined in Part H of the Network Code).
- 6.5 The Secretary of State shall ensure that any Service Level Commitment which he requires the Franchisee to operate pursuant to Schedule 1.1 (Service Development) of the Terms is consistent with the Franchisee's obligations under this paragraph 6.

7. ¹⁶²

8. **Depot Trading Arrangements at Tyseley**

- 8.1 The Franchisee agrees, subject to the approval of the ORR, to enter into a depot access agreement with the West Midlands Franchisee (or such other person as shall be the depot facility owner as at the Start Date) in relation to the depot at Tyseley ("the Tyseley Depot Access Agreement").
- 8.2 The Tyseley Depot Access Agreement shall, subject to the approval of the ORR (which the Franchisee shall use all reasonable endeavours to obtain), commence on the Start Date and continue until the Passenger Change Date in December

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2008 or such later date as the parties to it may agree. It shall, subject to the approval of the ORR, provide for the Franchisee to purchase at least the following volumes of Light Maintenance Services at the rates prescribed in the Maintrain Agreement:

	Diagram sets	Total sets	West Midlands at Tyseley (Mandatory for SLC1 period) ¹⁶³				
			Overnight servicing	A exam	B exam	Underframe cleaning	Tyre turning
East Midlands			(sets)	(sets)	(sets)	(sets)	(sets)
November 07 to March 08 (5 4-weekly periods)							
153	10	14					
156	10	11					
158 2 car	14	19					
158 3 car	4	5					
	38	49					
April 08 to December 08 (9 4-weekly periods)							
153	10	14					
156	10	11					
158 2 car	14	19					
158 3 car	4	5					
	38	49					
Overnight servicing is defined for diagram sets, other activities for total sets							
Overnight servicing includes fuel, wash, clean and reactive repairs							

8.3 If the Franchisee has not agreed all of the other terms of the draft Tyseley Depot Access Agreement to be submitted to the ORR for approval on or before 11 September 2007, the Secretary of State may reasonably determine, for the purposes of such submission, any terms that have not then been agreed (or at his option may appoint an industry expert to make such determination). The Franchisee shall then promptly, upon approval by the ORR of the agreed or determined terms (which the Franchisee shall use all reasonable endeavours to obtain), enter into the form of Tyseley Depot Access Agreement approved by the ORR.

8.4 If the form of the Tyseley Depot Access Agreement approved by the ORR specifies rates which are different from the rates prescribed in the Maintrain

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Agreement in consequence of a decision of the ORR, there shall be a one-off adjustment to the Franchise Payment for the second Reporting Period starting after the date of the ORR's approval ("Specified Reporting Period") of an amount equal to the difference between:

- (a) the amount which the Secretary of State reasonably determines (on the basis of the form of the Tyseley Depot Access Agreement approved by the ORR) as the aggregate amount which will be payable by the Franchisee under the Tyseley Depot Access Agreement in respect of the receipt by it of the Light Maintenance Services during the whole of the period from the Start Date until the Passenger Change Date in December 2008 (the "Relevant Period"); and
- (b) the amount which the Secretary of State reasonably determines as the aggregate amount which would have been payable by the Franchisee under the Tyseley Depot Access Agreement in respect of the receipt by it of the Light Maintenance Services during the whole of the Relevant Period had the form of Tyseley Depot Access Agreement approved by the ORR not contained rates different to the rates prescribed in the Maintrain Agreement,

in each case on the assumption that the volume of Light Maintenance Services received by the Franchisee under the Tyseley Depot Access Agreement during the Relevant Period is as set out in the table above.

For the avoidance of doubt, any such adjustment shall be by way of a reduction of the Franchise Payment in the Specified Reporting Period where the amount referred to in paragraph (b) exceeds the amount referred to in paragraph (a) and an increase in the Franchise Payment in the Specified Reporting Period where the amount referred to in paragraph (a) exceeds the amount in paragraph (b).

9. Passenger's Charter

- 9.1 The Secretary of State and the Franchisee agree that PC1 will be replaced by PC2 with effect from 1st April 2009 so that passengers have rights under PC2 with effect from that date.
- 9.2 With effect from the date that PC2 is introduced pursuant to paragraph 9.1 above the definition of Revenue in the Terms shall be amended by deleting the words "(without any deduction for operating costs or charges except for commission charged to revenue in the normal course of business)" and replacing them with "(without any deduction for operating costs or charges except for: (i) commission charged to revenue in the normal course of business; and (ii) for the purposes of Schedule 8.1, Delay Repay Costs.)"

“Delay Repay Costs” in this paragraph 9 means the cost of compensation actually and properly paid to passengers by the Franchisee as compensation for delay to their journeys pursuant to the provisions of PC2 and which the Franchisee is required to pay to passengers (excluding, for the avoidance of doubt, discretionary payments).

10. CRM Data and Yield Management Data

- 10.1 The parties acknowledge that the Franchisee is obliged under paragraph 3.1(a) of Schedule 1.5 (Information about Passengers) of the Terms to ensure that CRM Data obtained by it or on its behalf is on terms such that the Franchisee shall be the Data Controller of such data. The Secretary of State agrees that the Franchisee will be deemed to have satisfied that obligation where the Data Controller is ATOC Limited.
- 10.2 The Secretary of State and the Franchisee agree that the Supplemental Agreement shall be amended from that contained at Appendix 2 to Schedule 15.4 of the Terms by deleting from the Schedule headed “Net Asset Statement” the words: “CRM Data and Yield Management Data shall be valued at nil.” and replacing them with: “CRM Data and Yield Management Data shall be valued at an amount which shall not exceed the amount paid by the Franchisee in respect of equivalent data from the Train Operator under the Previous Franchise Agreement but otherwise shall be valued on the basis described in this Supplemental Agreement.”

11. Implementation of Business Action Plans

- 11.1 The Secretary of State agrees that, in relation to any Business Action Plan produced by the Franchisee under paragraph 2 of Schedule 13 (Information and Industry Initiatives) of the Terms, the Franchisee shall not be obliged to implement any proposal in a Business Action Plan except to the extent that:
- (a) the Franchisee is obliged to take the relevant steps pursuant to another provision of the Franchise Agreement; or
 - (b) the Franchisee otherwise agrees.

Annex A

Table of Rates and Volumes for Train Crew Trading (paragraph 2)

Rates ¹⁶⁴	2007/2008	2008/2009
Drivers		
Conductors		

Rate per driver/conductor diagram supplied per Reporting Period

Volumes¹⁶⁵

NCC Franchisee to supply Franchisee

Cambridge:

Drivers

Conductors

Leicester:

Drivers

Conductors

Franchisee to supply NCC Franchisee

Nottingham:

Drivers

Conductors

West Midlands Franchisee to supply Franchisee

Crewe:

Drivers

Conductors

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¹⁶⁵ 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.

For the avoidance of doubt, the payments in respect of train crew trading at each depot will be calculated by multiplying the number of sx diagrams by the rates above for the number of Reporting Periods during which train crew trading applies.

Annex B

Table of Risk Premium Increment of Figures for PRPI (paragraph 7.4)

This table sets out the risk premium increment of the figures for PRPI for the purposes of paragraph 7.4(c):

Franchise Year	PRPI (£k) ¹⁶⁶
Year 4	
Year 5	
Year 6	
Year 7	
Year 7 (up to first expiry period)	
Year 7 (up to 7 reporting period extension) Year 7 (part year) Year 8 (part year)	
Year 8	
Year 9 (up to 7 reporting period extension)	

For the avoidance of doubt, if the risk premium becomes payable in Year 4 the amount payable to the Franchisee in respect of each Reporting Period will be 1/13th of £¹⁶⁷ and accordingly the maximum amount (subject to indexation in accordance with the principles set out in Schedule 8.2 (Annual Franchise Payments) of the Terms) payable in Year 4 is £¹⁶⁸.

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 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.

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.

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 in accordance with the definitions of Cancellation and Partial Cancellation during the Performance Measurement Period, where a cancellation satisfying the definition of Cancellation shall count as 1 and a cancellation satisfying the definition of Partial Cancellation shall count as 0.5;
- (b) dividing the sum of that total 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 total number of Previous Passenger Services that were scheduled to be operated during the last Reporting Period prior to the Start Date.

2. Capacity Benchmarks

The Capacity Benchmarks specified in the Capacity Benchmark Table will not be subject to recalibration in accordance with this Appendix 14.

3. Service Delivery 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 all Subsequent Reporting Periods**

The relevant Target Performance Level for the first Reporting Period of the Franchise Term, as determined pursuant to each of paragraphs 1 and 3, shall then be used to determine the relevant Target Performance Level for each Reporting Period during the remainder of the Franchise Term by calculating:

- (a) the relevant Target Performance Level for Reporting Period 8 of Reporting Year 7 in accordance with the following formula:

$$\frac{(100 - 11.3)}{100} \times \text{TPL}$$

where:

TPL equals the relevant Target Performance Level for the first Reporting Period of the Franchise Term as determined pursuant to paragraph 1 or 3 (as appropriate); and

- (b) the relevant Target Performance Levels for each intervening Reporting Period between the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7, 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 Reporting Period 8 of Reporting Year 7

provided that:

- (i) subject to paragraph (ii) below, in respect of Target Performance Levels for each Reporting Period after Reporting Period 8 of Reporting Year 7 for the remainder of the Franchise Term, the relevant Target Performance Levels shall be the same as the Target Performance Level calculated in respect of Reporting Period 8 of Reporting Year 7 in accordance with paragraph (a) above; and
- (ii) in respect of Service Delivery Benchmarks applicable from Period 4 of Year 5 onwards, where the Franchisee has committed to a lower Target Performance Level (being a lower level of Delay Minutes) for a Reporting Period in respect of Service Delivery Benchmarks in Appendix 7 (Service Delivery Benchmark Table), such lower Benchmark shall be recalibrated by increasing or decreasing the number of Delay Minutes in a

corresponding manner to the effect of the recalibration under paragraphs (a), (b) and (i) of this paragraph 4.

5. **Improvement Plan Performance Levels for each Benchmark for all Reporting Periods**

The Target Performance Levels for each Benchmark shall then be used to determine the relevant Improvement Plan Performance Level for each Reporting Period of the Franchise Term by calculating:

- (a) the relevant Improvement Plan Performance Level for each of the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7 in accordance with the following formula:

$$\frac{(100+7.5)}{100} \times \text{TPL}$$

where:

TPL equals the relevant Target Performance Level for the first Reporting Period of the Franchise Term or Reporting Period 8 of Year 7 (as appropriate) as determined pursuant to this Appendix 14; and

- (b) the relevant Improvement Plan Performance Levels for each intervening Reporting Period between the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7, 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 Reporting Period 8 of Reporting Year 7

provided that:

- (i) subject to paragraph (ii) below, in respect of Improvement Plan Performance Levels for each Reporting Period after Reporting Period 8 of Reporting Year 7 for the remainder of the Franchise Term, the relevant Improvement Plan Performance Levels shall be the same as the Improvement Plan Performance Level calculated in respect of Reporting Period 8 of Reporting Year 7 in accordance with paragraph (a) above; and
- (ii) in respect of Service Delivery Benchmarks applicable from Period 4 of Year 5 onwards, where the Franchisee has committed to a lower Improvement Plan Performance Level (being a lower level of Delay Minutes) for a Reporting Period in respect of Service Delivery Benchmarks in Appendix 7 (Service Delivery Benchmark Table), such lower Benchmark shall be recalibrated by increasing or decreasing the

number of Delay Minutes in a corresponding manner to the effect of the recalibration under paragraphs (a), (b) and (i) of this paragraph 5.

6. **Breach Performance Levels for each Benchmark for all Reporting Periods**

The Target Performance Levels for each Benchmark shall then be used to determine the relevant Breach Performance Level for each Reporting Period of the Franchise Term by calculating:

- (a) the relevant Breach Performance Level for each of the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7 in accordance with the following formula:

$$\frac{(100 + 15)}{100} \times \text{TPL}$$

where:

TPL equals the relevant Target Performance Level for the first Reporting Period of the Franchise Term or Reporting Period 8 of Year 7 (as appropriate) as determined pursuant to this Appendix 14; and

- (b) the relevant Breach Performance Levels for each intervening Reporting Period between the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7, 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 Reporting Period 8 of Reporting Year 7

provided that:

- (i) subject to paragraph (ii) below, in respect of Breach Performance Levels for each Reporting Period after Reporting Period 8 of Reporting Year 7 for the remainder of the Franchise Term, the relevant Breach Performance Levels shall be the same as the Breach Performance Level calculated in respect of Reporting Period 8 of Reporting Year 7 in accordance with paragraph (a) above; and
- (ii) in respect of Service Delivery Benchmarks applicable from Period 4 of Year 5 onwards, where the Franchisee has committed to a lower Breach Performance Level (being a lower level of Delay Minutes) for a Reporting Period in respect of Service Delivery Benchmarks in Appendix 7 (Service Delivery Benchmark Table), such lower Benchmark shall be recalibrated by increasing or decreasing the number of Delay Minutes in a corresponding manner to the effect of the recalibration under paragraphs (a), (b) and (i) of this paragraph 6.

7. **Default Performance Levels for each Benchmark for all Reporting Periods**

The Target Performance Levels for each Benchmark (other than the Sunday Cancellations Benchmark) shall then be used to determine the relevant Default Performance Level for each Reporting Period of the Franchise Term by calculating:

- (a) the relevant Default Performance Level for each of the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7 in accordance with the following formula:

$$\frac{(100+20)}{100} \times \text{TPL}$$

where:

TPL equals the relevant Target Performance Level for the first Reporting Period of the Franchise Term or Reporting Period 8 of Year 7 (as appropriate) as determined pursuant to this Appendix 14; and

- (b) the relevant Default Performance Levels for each intervening Reporting Period between the first Reporting Period of the Franchise Term and Reporting Period 8 of Reporting Year 7, 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 Reporting Period 8 of Reporting Year 7

provided that:

- (i) subject to paragraph (ii) below, in respect of Default Performance Levels for each Reporting Period after Reporting Period 8 of Reporting Year 7 for the remainder of the Franchise Term, the relevant Default Performance Levels shall be the same as the Default Performance Level calculated in respect of Reporting Period 8 of Reporting Year 7 in accordance with paragraph (a) above; and
- (ii) in respect of Service Delivery Benchmarks applicable from Period 4 of Year 5 onwards, where the Franchisee has committed to a lower Default Performance Level (being a lower level of Delay Minutes) for a Reporting Period in respect of Service Delivery Benchmarks in Appendix 7 (Service Delivery Benchmark Table), such lower Benchmark shall be recalibrated by increasing or decreasing the number of Delay Minutes in a corresponding manner to the effect of the recalibration under paragraphs (a), (b) and (i) of this paragraph 7.

8. **Roundings**

- 8.1 The Cancellations Benchmark percentages recalibrated pursuant to paragraphs 1 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).

9. **Definitions**

For the purpose of this Appendix 14:

- 9.1 Previous Passenger Services means:
- (a) any railway passenger service operated under a 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; or
 - (b) if no such railway passenger service is found under paragraph (a), such other railway passenger service operated under a Previous Franchise Agreement which is similar in terms of departure and arrival times and stopping patterns to the Passenger Services as the Secretary of State may reasonably determine.

APPENDIX 15

List of Documents in the Agreed Terms (Clause 9)

<i>DL</i>	Depot Lease
<i>FM</i>	Financial Model
<i>IBP</i>	Initial Business Plan
<i>JNRSL</i>	Joint Network Rail Support Letter
<i>MA</i>	Maintrain Agreement
<i>NCN</i>	Network Change Notice for East Midlands Signalling Renewals
<i>OM</i>	Operational Model
<i>OOA</i>	Olympic Option Agreement
<i>PC1</i>	Passenger's Charter 1
<i>PC2</i>	Passenger's Charter 2
<i>POA</i>	Power of Attorney
<i>PO1ATT</i>	PO1A Timetable
<i>PO1BTT</i>	PO1B Timetable
<i>ROA</i>	Record of Assumptions
<i>SATRT</i>	Seasonally Adjusted Target Revenue Table
<i>SLC1</i>	Service Level Commitment 1
<i>SLC2</i>	Service Level Commitment 2
<i>SL</i>	Station Lease
<i>SQAP</i>	Service Quality Audit Programme
<i>SQMS</i>	Service Quality Management System
<i>SQS</i>	Service Quality Standards
<i>TCHA</i>	Train Crew Hire Agreement
<i>TP</i>	Train Plan

APPENDIX 16

Pensions

1. Franchise Section

1.1 The Secretary of State shall use his reasonable endeavours to procure that, with effect from the Start Date, the following liabilities (and assets relating to those liabilities calculated in accordance with paragraph 1.4 below) are transferred from the Central Trains Section of the Railways Pension Scheme to the Midland Mainline Section (with effect from the Start Date to be renamed the East Midlands Franchise Section) (the **Franchise Section**):

(a) those relating to employees who are active members of the Central Trains Section and whose employment transfers to the Franchisee on the Start Date;

(b) those relating to any person who: -

(i) was an active member of the Central Trains Section as at 31 May 2007 but becomes a deferred or pensioner member of that section on or prior to the Start Date; or

(ii) became a member of the Central Trains Section after 31 May 2007 and becomes a deferred or pensioner member of that section on or prior to the Start Date

to the extent that the Secretary of State reasonably determines that such person is a person who would otherwise have fallen within paragraph (a);

(c) those relating to a specific number of active members of the Central Trains section immediately before the Start Date: -

(i) who the Secretary of State reasonably determines to be persons whose employment will not automatically transfer on the Start Date to any of the Franchisee, the West Midlands Franchisee, the NCC Franchisee or any other person; and

(ii) which the Secretary of State notifies the Franchisee are to transfer to the Franchise Section under this paragraph 1.1(c) at that date;

(d) subject to paragraph 1.3, a percentage ("A") of those relating to deferred and pensioner members of the Central Trains Section as at 31 May 2007, where A is calculated in accordance with the formula in paragraph 1.2 below.

1.2 The formula referred to in paragraph 1.1(d) is:

$$A = B/C \times 100$$

Where:

A is defined in paragraph 1.1(d) above;

B = the ongoing value of the liabilities relating to the total number of active employees who the Secretary of State has reasonably determined as at 31 May 2007 are to be transferred to the Franchise Section; and

C = the ongoing value of the liabilities relating to the total number of active members of the Central Trains section as at 31 May 2007.

Provided that where it is not possible to transfer the precise percentage calculated in accordance with the formula in this paragraph 1.2, the percentage shall reflect the result of that formula to the closest practicable extent.

1.3 The identity of the deferred and pensioner members of the Central Trains section who will transfer to the Franchise Section to satisfy the requirements of paragraph 1.1(d) (**Transferring Members**) shall be reasonably determined by the Secretary of State by reference to the following principles:

- (a) the Secretary of State shall be deemed to have reasonably determined the identity of the Transferring Members where it agrees to another party's identification of them, on the condition that the identification process must still comply with the principles set out in this paragraph 1.3;
- (b) the deferred and pensioner members' service records shall be examined with a view to these members' liabilities transferring to one of the Franchise Section, or the section of the Railways Pension Scheme relating to the West Midlands Franchisee or the NCC Franchisee, in any case by reference to the section each such member would have transferred to had the member been an active member. Those members who are to transfer to the Franchise Section on this basis shall be Transferring Members; and
- (c) if there are deferred or pensioner members who would not transfer to any one of these sections of the Railways Pension Scheme on the basis described in paragraph 1.3(b) (**Unallocated Members**), some of them may then be identified as Transferring Members by the Secretary of State if he reasonably determines this to be appropriate to ensure that the amount of the liabilities transferred to the Franchise Section under paragraph 1 complies with the requirements of paragraph 1.2 above. If

more than one method of identifying Unallocated Members as Transferring Members results in the requirements of paragraph 1.2 above equally being met, the method chosen shall be that which results in the Transferring Members' liability profile being closest to the liability profile of all the deferred and pensioner members of the Central Trains Section as at 31 May 2007.

- 1.4 The asset transfer amount payable in respect of a transfer of liabilities under this paragraph 1 shall be calculated on a share of fund basis, or any other basis that the trustee of the Central Trains Section determines from time to time, and it shall be paid by way of a share of the assets of the Central Trains Section as determined by the trustee. The Secretary of State shall reasonably determine the ongoing value of the liabilities referred to in paragraph 1.2.
- 1.5 The Franchisee shall be the Designated Employer in relation to the Franchise Section for the duration of the Franchise Term.
- 1.6 The Franchisee shall pay to the Franchise Section as soon as practicable after the start of the Franchise Term an amount equal to:
 - (a) the amount required under article 7(4) of the Railway Pensions (Protection and Designation of Schemes) Order 1994 (**article 7(4)**) in respect of the transfer to the Franchise Section from the Central Trains Section of Protected Persons; plus
 - (b) the amount that would have been required under article 7(4) in respect of the transfer to the Franchise Section from the Central Trains Section of Non Protected Persons had article 7(4) applied to Non Protected Persons in the same way as it applies to Protected Persons.

and for the purposes of this paragraph 1.6: -

"Protected Persons" has the same meaning as in the Railways Act 1993;

"Non Protected Persons" are members who are not Protected Persons and whose liabilities transfer under paragraph 1.1.

- 1.7 Paragraph 4.2 shall not apply to the initial transfer to the Franchise Section from the Central Trains Section but shall otherwise apply to the Franchise Section and to the liabilities in the Franchise Section relating to the former members of the Central Trains Section.
- 1.8 Subject to paragraphs 2 and 3.2(d), membership of a Franchise Section will be offered to each employee of the Franchisee only.

1.9 The Secretary of State shall use its reasonable endeavours to procure that those active, deferred or pensioner members in respect of whom the liabilities mentioned in paragraph 1.1 relate are transferred to the Franchise Section.

1.10 The Franchisee shall do such things and execute such documents as are necessary and within its control and as may be reasonably required by the Secretary of State to ensure that the transfer of assets and liabilities set out in paragraph 1 occurs and shall not take any action which could prevent this transfer from happening.

2. **Closed Schemes**

2.1 Subject to any requirements of Her Majesty's Revenue and Customs, the Franchisee shall take any necessary steps (including entering into any relevant deed of participation) to allow Closed Scheme Employees to continue in membership of the British Railways Superannuation Fund or the BR (1974) Pension Fund in accordance with their terms during the Franchise Period.

2.2 For the purposes of this paragraph 2, **Closed Scheme Employees** means such of the employees of the Franchisee who were, immediately prior to the commencement of their employment with the Franchisee, members of either of the British Railways Superannuation Fund or the BR (1974) Pension Fund.

3. **Variations in Benefits and Contributions; Investment**

3.1 If the Franchisee is considering making a proposal that it considers would fall within the scope of paragraphs 3.2(a) to (f) inclusive, it shall promptly consult with the Secretary of State in relation to that proposal prior to putting such a proposal to the Pensions Committee of the Franchise Section, the Trustee of the Railways Pension Scheme ("the Trustee"), or to any trade union. The Franchisee must otherwise consult in good time with the Secretary of State in relation to any proposal it considers would fall within the scope of paragraphs 3.2(a) to (f) inclusive.

3.2 The Franchisee shall not, without the prior written consent of the Secretary of State (which may be given on such terms and subject to such conditions as the Secretary of State thinks fit):

- (a) restructure or change the composition of the earnings of employees of the Franchisee in such a way as to increase the part of those earnings which qualifies as pensionable earnings under the Rules applicable to the Franchise Section or take any action (or consent to the taking of any action) which could detrimentally affect the funding of the Franchise Section, including varying or providing different or additional benefits under the Franchise Section or promising to do so, unless this change:

- (i) is required by Law; or
 - (ii) only affects benefits payable in respect of past service of members of the Franchise Section and on or prior to the effective date of the change the Franchisee pays an additional cash payment to the Trustee which, in the opinion of the Actuary, meets in full the additional funding cost imposed on the Franchise Section; or
 - (iii) would not lead to substantial changes in the funding of the Franchise Section and is the result of the normal application of the Franchise Section's Rules in the ordinary day to day running of the business of the Franchise, for example, where individual employees are, from time to time promoted or transferred to higher paid or different employment which has a different composition of earnings;
- (b) make or consent to any proposal to change any of the provisions of the Pension Trust in respect of the Franchise Section unless the change is required by Law;
 - (c) provide retirement, death or life assurance benefits in respect of any of its employees other than under the Franchise Section or as provided in paragraph 2;
 - (d) omit to provide the above-mentioned benefits in respect of its employees save that, without prejudice to any rights which any such employee may otherwise have, the Franchisee shall not under this Schedule 16 be obliged for the purposes of the Franchise Agreement to offer such benefits to any employee employed on a fixed term contract of 12 months or less;
 - (e) take any action (or consent to the taking of any action) which could affect the contributions payable by Participating Employers under the Franchise Section, including exercising any discretion allowed to the Franchisee as Designated Employer arising out of any actuarial valuation of the Franchise Section, and varying or providing different or additional benefits under the Franchise Section in respect of future service, unless such action is required by Law;
 - (f) close the Franchise Section to new members; or
 - (g) take (or omit to take) any action which could result in the Franchise Section being wound up, in whole or in part.

- 3.3 The Franchisee shall consult with the Secretary of State on:
- (a) any proposal made by the Trustee to change the statement of investment principles applicable to the Franchise Section; and
 - (b) any proposal to alter the rate of contributions payable by the Franchisee or its employees under a new schedule of contributions for the Franchise Section.
- 3.4 The Franchisee shall also consult with the Trustee on the basis of any response it receives from the Secretary of State in relation to any such proposal.

4. Funding Liabilities

- 4.1 The Franchisee shall pay the employer contributions required under the schedule of contributions applicable to the Franchise Section or either of the British Railways Superannuation Fund or the BR (1974) Pension Fund in which it participates in respect of the Franchise Term subject to the provisions of paragraph 4.2 below.
- 4.2 Where, during the Franchise Term, Franchise Services are aggregated or disaggregated by the Secretary of State (for example, as a result of remapping) and, as a consequence, the Franchise Section is required to accept a transfer in or to make a transfer out of members, the Secretary of State shall ensure that the Franchisee has no liability for any resulting deterioration immediately arising in the funding level of the Franchise Section measured in accordance with the Franchise Section's technical provisions in Part 3 of the Pensions Act 2004, or for any amount arising under article 7(4) of the Railway Pensions (Protection and Designation of Schemes) Order 1994. Notwithstanding the above the Secretary of State shall have no liability for any future deterioration in the funding levels of the Franchise Section linked to such transfer in or out of members.

5. Discharge of Obligations

- 5.1 The Secretary of State may at any time during the Franchise Term seek information from the Trustee with a view to satisfying himself that the Franchisee and the other Participating Employers (if any) have fully discharged their respective obligations under the Railways Pension Scheme, including their obligations in respect of the payment of contributions to the Franchise Section.
- 5.2 The Franchisee shall, at its expense, promptly provide such information in relation to the Franchise Section, including actuarial advice and information, as the Secretary of State may from time to time request and shall authorise and consent to the Trustee doing so.

5.3 The Franchisee shall, in respect of the Franchise Term, use all reasonable endeavours to provide to the Secretary of State:

- (a) within one month of the expiry of each Franchisee Year; and
- (b) at other times as soon as practicable following a request by the Secretary of State.

a certificate signed by the Trustee in relation to the Franchise Section stating either that the Franchisee has fully complied with its obligations under the Railways Pensions Scheme, including its obligation to contribute to the Franchise Section or, if it has not so complied, stating the extent to which it has not done so. Where the certificate is given pursuant to paragraph 5.3(a), it shall cover the relevant Franchisee Year; where the certificate has been given pursuant to paragraph 5.3(b), it shall cover such period as the Secretary of State shall specify.

5.4 If the Trustee does not certify under paragraph 5.3 in relation to the Franchise Section that the Franchisee has fully complied with its obligations under the Railways Pension Scheme or if the Secretary of State otherwise reasonably considers that the Franchisee has not complied with such obligations, the Secretary of State may withhold from any Franchise Payments payable by him under Schedule 8 (Payments) an amount which is, in his opinion, no greater than the amount of any contribution that the Franchisee has thereby failed to make or avoided making.

5.5 The Secretary of State may, under paragraph 5.4, withhold such amount until such time as he reasonably determines that the relevant contributions have been made in full by the Franchisee. Following that determination, the amount withheld shall become payable (without interest) on the next day on which a Franchise Payment becomes payable under Schedule 8, being a day which falls no less than seven days after such determination or, if there is no such day, 14 days after the date of such determination. To the extent that the Secretary of State has not so determined within four weeks after the expiry of the Franchise Period, the Franchisee's right to receive the amount so withheld under the Franchise Agreement shall lapse and the Secretary of State shall not be obliged to pay such amount.

6. **Termination of Franchise**

The Secretary of State shall at the end of the Franchise Term ensure that the Franchisee has no liability for any deficit in the Franchise Section (other than for contributions due and payable by the Franchisee to the Franchise Section for any period prior to the end of the Franchise Term) and shall have no right to benefit from any surplus which may exist in the Franchise Section. For the avoidance of

doubt, this paragraph 6 shall apply where the Franchise Services are either aggregated or disaggregated (for example, as a result of remapping).

7. Definitions

Unless otherwise defined in the Franchise Agreement, terms used in this Schedule 16 shall have the meanings given to them in the Railways Pension Scheme.

APPENDIX 17

Table of Financial Model and Record of Assumptions References

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
1.	Appendix 1 para 1	Assumed Access Charge	Input	Schedule 8 Supplemental	BC	1760	7.3.5
		Supplement for Passenger's Charter Arrangements	Output	Schedule 8 Supplemental	NR Costs	69	
2.	Appendix 1 para 1	Assumed Access Charge	Input	Schedule 4 Main services	BC	1763	7.3.6
		Supplement for Restrictions of Use	Input	Schedule 4 Supplemental	BC	1764	7.3.7
			Output	Schedule 4 Main services	NR Costs	73	
			Output	Schedule 4 Supplemental	NR Costs	74	
3.	Appendix 1 para 1	Assumed BTP Charges	Input	British Transport Police	BC	973	5.2.1
			Output	British Transport Police	Other Operating Costs	47	
4.	Appendix 1 para 1	Assumed CC Term	Input	Capacity Charge offset	BC	1726	7.2.3
			Output	Capacity Charge offset	NR Costs	29	
5.	Appendix 1 para 1	Assumed Fixed Track Charges	Input	Fixed Track Access Charges	BC	1724	7.2.1
			Output	Fixed Track Access Charges	NR Costs	27	
6.	Appendix 1 para 9.1	St Pancras Fixed Charges	Input	Rents & Rates	BC	1045	5.5.6
			Input	Secondary Station Access LTC	BC	1717	7.1.1

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
			Input	Secondary Station Access QE	BC	1718	7.1.2
			Output	Rents & Rates	Other Operating Costs	130	
			Output	Secondary Station Access	NR Costs	19	
			Output	Secondary Station Access	NR Costs	20	
7.	Appendix 1 para 10.2 (cont.)	East Midlands Parkway costs and revenues	Input	SG1 MML Fast	BC	394-445	7.2.6*
			Input	SG2 MML Stopping	BC	395-446	
			Input	LENNON Car Parking	BC	464	
			Input	Property Letting	BC	660	
			Input	Staff numbers - FTE (Average)	BC	705-727	
			Input	Basic Salary, Overtime & Other per FTE	BC	735-757	
			Input	Pensions Costs per FTE	BC	765-787	
			Input	National Insurance (Employer) Costs per FTE	BC	795-817	
			Input	Total Costs per FTE	BC	825-847	
			Input	Total Costs	BC	855-877	
			Input	Employee Expenses	BC	951	
			Input	Bonuses	BC	952	
			Input	Uniforms & Protective Clothing	BC	957	
	Appendix 1 para 10.2 (cont.)		Input	Telephones	BC	1040	

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
			Input	Heat & Light/Station Utilities	BC	978	
			Input	SFO Repairs & Maintenance	BC	980	
			Input	Station Cleaning	BC	982	
			Input	Marketing and Advertising	BC	1054	
			Input	SFO Long Term Charges	BC	1739	
			Input	Capex: TVMs	BC	2070	
	Appendix 1 para 10.2 (cont.)	East Midlands Parkway costs and revenues (continued)	Input	Capex: Station CCTV equipment	BC	2072	
			Input	Capex: CIS equipment	BC	2079	
			Input	Capex: Signage/totems	BC	2083	
			Output	SG1 MML Fast	Passenger Revenue	20-62	
			Output	SG2 MML Stopping	Passenger Revenue	21-63	
			Output	LENNON Car Parking	Passenger Revenue	92	
			Output	Property Letting	Other Revenue	19	
			Output	Staff numbers - FTE (Average)	Staff Costs	22-44	
			Output	Basic Salary, Overtime & Other per FTE	Staff Costs	55-77	
			Output	Pensions Costs per FTE	Staff Costs	86-108	
			Output	National Insurance (Employer) Costs per FTE	Staff Costs	117-139	
			Output	Total Costs per FTE	Staff Costs	148-170	
			Output	Total Costs	Staff Costs	179-201	

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
			Output	Employee Expenses	Other Operating Costs	21	
			Output	Bonuses	Other Operating Costs	22	
			Output	Uniforms & Protective Clothing	Other Operating Costs	27	
			Output	Telephones	Other Operating Costs	125	
	Appendix 1 para 10.2 (cont.)	East Midlands Parkway costs and revenues (continued)	Output	Heat & Light/Station Utilities	Other Operating Costs	52	
			Output	SFO Repairs & Maintenance	Other Operating Costs	54	
			Output	Station Cleaning	Other Operating Costs	56	
			Output	Marketing and Advertising	Other Operating Costs	139	
			Output	SFO Long Term Charges	NR Costs	43	
			Output	Depreciation – Plant & Machinery	Other Operating Costs	156	
			Output	Plant & Machinery	TOC Capex	43	
			Input	Excess Fares**	BC	462	
			Input	Refunds**	BC	463	
			Input	Rail Staff Travel**	BC	465	
			Input	Settlements with other TOCs**	BC	466	
			Input	Other Capri/Lennon (railcard sales)**	BC	467	

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
			Input	Other Capri/Lennon (non railcard sales)**	BC	469	
	Appendix 1 para 10.2 (cont.)	East Midlands Parkway costs and revenues (continued)	Input	Metropolitan Police**	BC	470	
			Input	Retail Commission**	BC	659	
			Input	Commissions Payable**	BC	1018	
			Output	Excess Fares**	Passenger Revenue	90	
			Output	Refunds**	Passenger Revenue	91	
			Output	Rail Staff Travel**	Passenger Revenue	93	
			Output	Settlements with other TOCs**	Passenger Revenue	94	
			Output	Other Capri/Lennon (railcard sales)**	Passenger Revenue	95	
			Output	Other Capri/Lennon (non railcard sales)**	Passenger Revenue	97	
			Output	Metropolitan Police**	Passenger Revenue	98	
			Output	Retail Commission**	Other Revenue	18	
			Output	Commissions Payable**	Other Operating Costs	99	
8.	Appendix 1 para 10.3	East Midlands Parkway NR charges	Input	SFO Long Term Charges	BC	1739	7.2.6
			Output	SFO Long Term Charges	NR Costs	43	
9.	Appendix 1 para 13.2	ITSO costs payable to RSP or as a result of RSP specification	Input	Other Station Related Costs	BC	990	5.2.18

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
			Output	Other Station Related Costs	Other Operating costs	64	
10.	Appendix 1 para 18.3	Pension top-up	Input	Amortisation of Intangible assets	BC	2219	9.6
			Input	Intangible assets	BC	2237	
			Output	Amortisation	Other Operating costs	153	5.6.1
11.	Appendix 4 para 1A.2(c)	Corby Shuttle Priced Option: access charges payable	Input	Fixed Track Access Charges	O7	1724	17.7.2
			Input	Capacity Charge	O7	1725	
			Input	Capacity Charge offset	O7	1726	
			Input	Variable Track Access	O7	1727	
			Input	Supplemental Charge	O7	1728	
			Input	Schedule 8 Supplemental	O7	1760	
			Input	Schedule 4 Main services	O7	1763	
			Input	Schedule 4 Supplemental	O7	1764	
12.	Appendix 4 para 1B.2(c)	London-Corby Priced Option: access charges payable	Input	Fixed Track Access Charges	O8	1724	17.8.2
			Input	Capacity Charge	O8	1725	
			Input	Capacity Charge offset	O8	1726	
			Input	Variable Track Access	O8	1727	
			Input	Supplemental Charge	O8	1728	

Row	Section	Description	Model reference	Row description	Worksheet	Row number(s)	RoA section
			Input	Schedule 8 Supplemental	O8	1760	
			Input	Schedule 4 Main services	O8	1763	
			Input	Schedule 4 Supplemental	O8	1764	
13.	Appendix 4 para 3.2(b)	Additional Mansfield Sunday Services Priced Option: access charges payable	Input	Fixed Track Access Charges	O3	1724	17.3.2
			Input	Capacity Charge	O3	1725	
			Input	Capacity Charge offset	O3	1726	
			Input	Variable Track Access	O3	1727	
			Input	Supplemental Charge	O3	1728	
			Input	Schedule 8 Supplemental	O3	1760	
			Input	Schedule 4 Main services	O3	1763	
			Input	Schedule 4 Supplemental	O3	1764	
14.	Appendix 11 para 13.2	Etches Park Depot: Committed Depot Works	Input	Depot Charges – Lease	BC	1747	7.2.10
			Output	Depot Charges - Lease	NR Costs	53	
15.	Appendix 11 para 13.3	Etches Park Depot: Assumed CDW Depot Rental Charge	Input	Depot Charges – Lease	BC	1747	7.2.10
			Input	WIP LTC Depot	BC	2062	9.2
			Output	Depot Charges - Lease	NR Costs	53	

* Note that this reference to the RoA is a summary table for EMP. The RoA then further references other impacted sections of the RoA

** These line items do not have specific references to EMP but should the EMP assumptions change these line items would show small consequential changes

Table of References to Demand Model

Row	Section	Description	Model reference	Row description	Worksheet
16.	Appendix 1 para 10.2	East Midlands Parkway costs and revenues	Input	E Mids Parkway	INPT; Overlays
			Output	Passenger Revenue	OUTP; EMF Tem

DEROGATION PAGE

ⁱ By virtue of a derogation the Secretary of State has granted the Franchise Operator the following: the provision as cited in Clause 5.3 to appoint a Project Manager Linespeeds and RE-Signalling within twelve months of the Start Date. This derogation changes the obligation from within twelve months of the Start Date to by 30 April 2009.
Start Date 27.November.2008 End Date 30 March 2009

ⁱⁱ By virtue of derogation the Secretary of State has granted the Franchise Operator the following; Due to planned enhancement works a deferral to the deadline to replace car park equipment at Loughborough and Nottingham Stations from 31st March 2011 to no later than 31st October 2011.

Start Date : 31/03/2011 End Date: 31/10/2011