

Dated 8 June 2009

- (1) The Secretary of State for Transport
- (2) Southern Railway Limited

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**SOUTH CENTRAL Franchise Agreement**  
incorporating by reference the National Rail Franchise Terms

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Third Edition

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**THIS AGREEMENT** is dated 8 June 2009

**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) **SOUTHERN RAILWAY LIMITED**, whose registered office is at 3rd Floor, 41-51 Grey Street, Newcastle upon Tyne NE1 6EE (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:

<b>Conditions Precedent Agreement</b>	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.
<b>Terms</b>	means the National Rail Franchise Terms (Fourth Edition) attached to this Agreement.

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

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

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

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

## 2. COMMENCEMENT

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

- (a) paragraph 5.3 of Schedule 1.4 (Passenger Facing Obligations);
- (b) paragraph 2 of Schedule 2.2 (Security of Access Agreements, Rolling Stock Leases, Station and Depot Leases);
- (c) paragraph 2 of Schedule 2.3 (Third Party Delivery of Passenger Services and Other Franchisees);
- (d) Schedule 3 (Priced Options);

- (e) Schedule 5.1 (Purpose, Structure and Construction);
- (f) Schedule 5.3 (Allocation of Fares to Fares Baskets);
- (g) Schedule 5.7 (Changes to Fares and Fares Regulation);
- (h) Schedule 9 (Changes);
- (i) Schedule 10 (Remedies, Termination and Expiry);
- (j) paragraphs 1 to 3 (inclusive) of Schedule 11 (Agreement Management Provisions);
- (k) paragraph 4 of Schedule 12 (Financial Obligations and Covenants);
- (l) paragraphs 1, 2, 5, 6, 7 and 8 of Schedule 13 (Information and Industry Initiatives);
- (m) Schedule 14.3 (Key Contracts);
- (n) Schedule 17 (Confidentiality);and
- (o) Schedule 19 (Other Provisions).

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

### **3. TERM**

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

### **4. GENERAL OBLIGATIONS**

4.1 The Franchisee shall perform its obligations under this Agreement in accordance with 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 March;
  - (b) the prescribed stations for the purpose of the definition of Commuter Fare are:
    - (i) London Stations; and
    - (ii) Suburban Stations;
  - (c) the Commuter Fares Document in the agreed terms is attached to this Agreement marked CFD;

- (d) the schemes for the purpose of the definition of Discount Fare Scheme are:
  - (i) ATOC Disabled Persons Railcard Scheme dated 23 July 1995 between the participants named therein;
  - (ii) ATOC Young Persons Railcard Scheme dated 23 July 1995 between the participants named therein; and
  - (iii) ATOC Senior Railcard Scheme dated 23 July 1995 between the participants named therein;
- (e) the prescribed period for the purpose of the definition of Evening Peak is the period between 1600 and 1859 (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) [Not Used];
- (g) the Financial Model in the agreed terms is attached to this Agreement marked "FM";
- (h) for the purposes of the definition of Franchise:
  - (i) the prescribed date is 3 November 2008; and
  - (ii) the prescribed places are London Bridge, London Victoria, London Charing Cross, Brighton, Hove, Horsham, Southampton, Gatwick Airport, Uckfield, East Grinstead, Tonbridge, Redhill, East and West Croydon, Sutton, Ashford amongst others and as may be varied from time to time in accordance with the Franchise Agreement;
- (i) the date for the purposes of the definition of Franchise Letting Process Agreement is 27 June 2008;
- (j) each Franchisee Year shall, subject to the terms of that definition, begin on 1 April and end on 31 March;
- (k) the Initial Business Plan in the agreed terms is attached to this Agreement marked IBP;



- (l) the time and date for the purpose of the definition of Initial Expiry Date is 0159 on 19th July 2014;
- (m) 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;
  - “(viii) the PAYG Scheme date 16 October 2009 between the participants listed therein”.**
- (n)<sup>1</sup> the prescribed stations for the purpose of the definition of Managed Station are London Victoria, London Bridge, London Charing Cross;**
- (o) the prescribed amount for the purpose of the definition of Minor Works’ Budget is £300,000 for each Franchisee Year;
- (p) 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;

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<sup>1</sup> Date of Change 30/01/2012

- (q) the Operational Models in the agreed terms are attached to this Agreement marked OM;
- (r) Parent means:
  - (i) in the context of Schedule 10.3 (Events of Default and Termination) of the Terms any of:
    - (a) Govia Limited registered in England under number 3278419 and whose registered office is at 3rd Floor, 41-51 Grey Street, Newcastle upon Tyne NE1 6EE ("**Govia**");
    - (b) Go-Ahead Group Plc registered in England under number 02100855 and whose registered address is at 3rd Floor, 41-51 Grey Street, Newcastle upon Tyne NE1 6EE; or
    - (c) Keolis S.A. (registered in France under number 552 111 809) whose registered address is at 9 rue Caumartin, 75009, Paris France;
    - (d) Keolis (UK) Limited registered in England under number 03292357 and whose registered address is at Northumberland House, 303-306 High Holborn London WC1V 7JZ; and
  - (ii) in all other contexts Govia;
- (s) the Passenger's Charter in the agreed terms is attached to this Agreement marked PC;
- (t) the Power of Attorney in the agreed terms is attached to this Agreement marked POA;
- (u) the Protected Fares Document in the agreed terms is attached to this Agreement marked PFD;

- (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 the Department for Transport;
- (y) the date for the purpose of paragraph (a) of the definition of Review Date is 3 August 2009;
- (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) the Service Level Commitments in the agreed terms are attached to this Agreement each respectively marked SLC1, SLC2A1, SLC2A2, SLC2B, SLC3A and SLC3B;
- (aa) the Service Quality Audit Programme in the agreed terms is attached to this Agreement marked SQAP;
- (ab) the Service Quality Management System in the agreed terms is attached to this Agreement marked SQMS;
- (ac) the Service Quality Standards in the agreed terms are attached to this Agreement marked SQS;
- (ad) the time and date for the purpose of paragraph (a) of the definition of Start Date is 0200 on 20 September 2009;
- (ae) the agreed amounts of "TR" for the purpose of the definition of Target Revenue are set out in Appendix 2 (Target Revenue (expressed in real terms));
- (af) for the purposes of the formula set out in the definition of Threshold Amount:
  - (i) the prescribed threshold amount for any Franchisee Year, referred to by the acronym "FAT" is 0.1% of the amounts specified in column 2 of the following table:

FRANCHISEE YEAR	TURNOVER (£) <sup>2</sup>
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 6 (up to Initial Expiry Date)	
Year 7	
Year 7 (up to first Expiry Date which is 25 July 2015)	
Year 8	
Year 9	

- (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 2009;
- (ag) the Train Plan in the agreed terms is attached to this Agreement marked TP;
- (ah) the Seasonally Adjusted Target Revenue Table in the agreed terms is attached to this Agreement marked SATRT; and

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<sup>2</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (ai) the prescribed date for the purpose of paragraph (b) of the definition of Pre Force Majeure Event Period and the definition of Year 0 is 1 April 2009.

## Changes to the Terms

### 5.2 The Terms shall be amended by:

- (a) [Not Used];
- (b) [Not Used];
- (c) the insertion in clause 3.1 thereof of the following definitions:

**(i)<sup>34</sup> “Accepted” or “Acceptance” shall have the meaning given to such term in the Electrostar Lot 10A MSA, the Electrostar Lot 10B MSA or the HLOS MSA (as the case may be)”;**

**“Acceptance Milestone Payment”<sup>5</sup>**

**(ii)<sup>6</sup>**

**(iii)<sup>7</sup>**

**(iv)<sup>8</sup>**

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<sup>3</sup> Date of Change 20/09/2009

<sup>4</sup> Date of change 26/01/2012

<sup>5</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>6</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>7</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

(v)<sup>9</sup>

- (vi) **“Agreed Capacity Requirements”** means the passenger carrying capacity requirements agreed by the Secretary of State and the Franchisee and set out in Appendix 16 of the Franchise Agreement (Capacity Metrics and Timings);

**“Certificate of Verification Milestone Payment”<sup>10</sup>** *has the meaning given to such term in paragraph 18.7 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;*

**“Contract Price”<sup>11</sup>** *has the meaning given to such term under the HLOS MSA;*

- (vii) **“Disputed Responsibilities”** *shall have the meaning given to the term in paragraph 16.4(c)(i) of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;*

(viii)<sup>12</sup>

- (ix) **“Electrostar Franchisee Liquidated Damages”** means:

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

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

<sup>10</sup> Date of new insertion 26/01/2012

<sup>11</sup> Date of new insertion 26/01/2012

<sup>12</sup> Where text has been omitted from the document this is because the Director 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) in respect of a unit comprised in the Electrostar Lot 10A Units that portion of the Delay LDs payable by the Manufacturer which is set out as being payable to the Franchisee in any Delay LD Notice issued to the Manufacturer by the Franchisee and/or the Financier for payment pursuant to clause 34.16.5 of the Electrostar Lot 10A MSA and, for the purposes of this definition, the expressions “**Delay LDs**”, “**Delay LD Notice**”, “**Financier**” and “**Manufacturer**” will all be defined so as to have the meanings attributed to them in the Electrostar Lot 10A MSA; and
- (b) in respect of a unit comprised in the Electrostar Lot 10B Units that portion of the Delay LDs payable by the Manufacturer which is set out as being payable to the Franchisee in any Delay LD Notice issued to the Manufacturer by the Franchisee and/or the Financier for payment pursuant to clause 34.16.5 of the Electrostar Lot 10B MSA and, for the purposes of this definition, the expressions “Delay LDs”, “Delay LD Notice”, “Financier” and “Manufacturer” will all be defined so as to have the meanings attributed to them in the Electrostar Lot 10B MSA;
- (x) “**Electrostar Lot 10A MSA**” means the manufacture and supply agreement dated 8 March 2002 and entered between the Manufacturer, Porterbrook Leasing Company Limited and New Southern Railway Limited as amended from time to time including by the Electrostar Supplemental Agreement No.4 dated 2 May 2007;

(xi) <sup>13</sup>

(xii) **“Electrostar Lot 10A Sub Lease”** means the sub lease entered into between New Southern Railway Limited and the FCC Franchisee in respect of the Electrostar Lot 10A Units being the document in agreed terms marked **“377A Sub Lease”**;

(xiii) <sup>14</sup>***“Electrostar Lot 10B FCC Lease” means the lease to be entered into between the Franchisee and the FCC Franchisee pursuant to paragraph 15.2(a) of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;***

(xiv) <sup>15</sup>

(xv) **“Electrostar Lot 10B MSA”** means the manufacture and supply agreement dated 5 March 2008 and entered between the Manufacturer and New Southern Railway Limited as amended from time to time;

(xvi) <sup>16</sup>

(xvii) <sup>17</sup>

(xviii) <sup>18</sup>

(xix) <sup>19</sup>

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<sup>13</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>14</sup> Date of Change 20/09/2009

<sup>15</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>16</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>17</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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



(xx)<sup>20</sup>

(xxi)<sup>21</sup>

(xxii)<sup>22</sup>

(xxiii) **“Electrostar Lot 10A Units”** means the 12 dual voltage electric multiple units as more particularly described in the Electrostar Lot 10A MSA as amended from time to time including by the Electrostar Supplemental Agreement No.4 dated 2 May 2007;

(xxiv) **“Electrostar Lot 10B Units”** means the 11 dual voltage electric multiple units as more particularly described in the Electrostar Lot 10B MSA;

**“Existing Franchise Agreement”**<sup>23</sup>

***means the Franchise Agreement in force prior to its amendment pursuant to the HLOS Deed of Amendment;***

(xxv) **“FCC Franchisee”** means the franchisee under the franchise agreement dated 12 December 2005 (as amended from time to time) and made between the Secretary of State and First Capital Connect Limited (Company Number 5281077) and where there are references to the successor operator to the FCC Franchisee that reference shall include any successor operator directly or indirectly of all or any part of the franchise services operated by the FCC Franchisee;

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

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

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

<sup>22</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>23</sup> Date of new insertion 26/01/2012

(xxv) <sup>24</sup> ***“Financier” is as defined in the Electrostar Lot 10B MSA;***

(xxvi) <sup>25</sup> ***“GSM-R Radio Equipment” means a digital radio system based on the GSM-R radio communication standard adapted for use on the European railways and which as a minimum meets all the mandatory requirements for an operational radio within the Control, Command and Signalling TSI (including Notified National Technical Rules) and which is to be used as a train radio (either fixed or transportable) within the meaning set out in the Railway Group Standard GE/RT 8080 Train Radio Systems for Voice and Related Messaging Communications issue 1, December 2003 (as amended from time to time);***

(xxviii) **“Greater London Stations”** means each of the stations within the City of London, City of Westminster, Royal Borough of Kensington and Chelsea, Royal Borough of Kingston upon Thames, and the following London boroughs:

(1) Barking and Dagenham, (2) Barnet, (3) Bexley, (4) Brent, (5) Bromley, (6) Camden, (7) Croydon, (8) Ealing, (9) Enfield, (10) Greenwich, (11) Hackney, (12) Hammersmith & Fulham, (13) Haringey, (14) Harrow, (15) Havering, (16) Hillingdon, (17) Hounslow, (18) Islington, (19) Lambeth, (20) Lewisham, (21) Merton, (22) Newham, (23) Redbridge, (24) Richmond, (25) Southwark, (26) Sutton, (27) Tower Hamlets, (28) Waltham Forest and (29) Wandsworth;

(xxix) **“GSM-R”** means the radio communication system known as the Global Standard for Mobile Communications- Railway;

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<sup>24</sup> Date of Change 20/09/2009

<sup>25</sup> Date of Change 29/07/2010

(xxx) **“Hand Back Schedule”** means the document set out in Annex 2 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement which specifies the dates for the redelivery of each of the Hand Back Units;

(xxxi) **“Hand Back Units”** means each of the Electrostar Lot 10A Units, the Electrostar Lot 10B Units and the 3 x 4 car dual voltage Class 377 units leased by the Franchisee to the FCC Franchisee under the terms of the Operating Hire Agreement;

**“HLOS Deed of Amendment”**<sup>26</sup>

***means the Deed of Amendment dated 23 December 2011 entitled “Deed of Amendment relating to the Southern Franchise Agreement – HLOS” made between the Secretary of State and the Franchisee;***

**“HLOS Financier”**<sup>27</sup>

***has the meaning given to such term in paragraph 21.1 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;***

**“ HLOS Franchise Payment Adjustment”**<sup>28</sup>

***means, the amount of any adjustment to a Franchise Payment determined in accordance with paragraphs 18.2, 20.3 and 23 of Appendix 13 (South Central Specific Provisions);***

**“HLOS Initial Payment”**<sup>29</sup>

***means an amount equal to £<sup>30</sup> being the initial payment to be made by the Franchisee to the Manufacturer in***

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<sup>26</sup> Date of new insertion 26/01/2012

<sup>27</sup> Date of new insertion 26/01/2012

<sup>28</sup> Date of new insertion 26/01/2012

***relation to the HLOS Units under the HLOS MSA;***

***“HLOS Liquidated Damages”<sup>31</sup>***

***means in respect of a vehicle comprised in the HLOS Units the Delay LDs payable by the Manufacturer to the Franchisee under the HLOS MSA in circumstances where any HLOS Unit fails to reach Acceptance on or before its Contractual Acceptance Date except that where the Franchisee is no longer the Financier under the HLOS MSA “HLOS Liquidated Damages” shall mean that portion of the Delay LDs payable to Southern by the Manufacturer under the HLOS MSA. For the purposes of this definition “Delay LDs”; “Acceptance”; “Contractual Acceptance Date”; “Financier” and “Southern” shall all be defined so as to have the meanings attributed to them in the HLOS MSA;***

***“HLOS MSA”<sup>32</sup>***

***means the manufacture and supply agreement entered into on or about the date of the HLOS Deed of Amendment between the Franchisee and the Manufacturer;***

***“HLOS Operating Lease”<sup>33</sup>***

***has the meaning given to such term in paragraph 21.1(b) of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;***

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<sup>29</sup> Date of new insertion 26/01/2012

<sup>30</sup> [Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.](#)

<sup>31</sup> Date of new insertion 26/01/2012

<sup>32</sup> Date of new insertion 26/01/2012

<sup>33</sup> Date of new insertion 26/01/2012

<b>“HLOS Procurement Process”<sup>34</sup></b>	<b><i>has the meaning given to such term in paragraph 21.1 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;</i></b>
<b>“HLOS Procurement Process Evaluation Milestone Payment”<sup>35</sup></b>	<b><i>has the meaning given to such term in paragraph 18.5 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;</i></b>
<b>“HLOS Procurement Process Strategy Milestone Payment”<sup>36</sup></b>	<b><i>has the meaning given to such term in paragraph 18.4 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;</i></b>
<b>“HLOS Purchased Equipment”<sup>37</sup></b>	<b><i>means the HLOS Units and the HLOS Spares and Special Tools;</i></b>
<b>“HLOS Spares Supply Agreement”<sup>38</sup></b>	<b><i>means the spares supply agreement entered into on or about the date of the HLOS Deed of Amendment between the Franchisee and the Manufacturer;</i></b>
<b>“HLOS Spares and Special Tools”<sup>39</sup></b>	<b><i>means the spares and special tools to be purchased by the Franchisee pursuant to the HLOS MSA as more particularly described in Schedule 16 of the HLOS MSA;</i></b>
<b>“HLOS Subsequent Payment”<sup>40</sup></b>	<b><i>means any payment, other than the HLOS Initial Payment, to be made by the Franchisee to the Manufacturer under the HLOS MSA in relation to the Contract Price (as such term is defined in the</i></b>

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<sup>34</sup> Date of new insertion 26/01/2012

<sup>35</sup> Date of new insertion 26/01/2012

<sup>36</sup> Date of new insertion 26/01/2012

<sup>37</sup> Date of new insertion 26/01/2012

<sup>38</sup> Date of new insertion 26/01/2012

<sup>39</sup> Date of new insertion 26/01/2012

**HLOS MSA);**

**“HLOS Units”<sup>41</sup>**

**means the 26 x 5 car class 377/6 units to be procured by the Franchisee under the HLOS MSA;**

**“HLOS Units Delivery Schedule”<sup>42</sup>**

**has the meaning given to such term in paragraph 17.4 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;**

(xxxi) **“ITSO Certified Smartmedia”** means the contactless smartcards, devices or other media 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;

(xxxii)<sup>43</sup> **“Lot 10B Sub Lease”** has the meaning given to such term in paragraph 16.2(g)(i)(5) of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;

(xxxiii)<sup>44</sup>

(xxxiv) **“Manufacturer”** means Bombardier Transportation UK Limited whose registered number is 02235994 and whose registered address is at Litchurch Lane Derby DE24 8AD;

(xxxv)<sup>45</sup>

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<sup>40</sup> Date of new insertion 26/01/2012

<sup>41</sup> Date of new insertion 26/01/2012

<sup>42</sup> Date of new insertion 26/01/2012

<sup>43</sup> Date of Change 20/09/2009

<sup>44</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (xxxvi) **“Operating Hire Agreement”** means the agreement to be entered into between the Franchisee and the FCC Franchisee pursuant to paragraph 2.1 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement and which is substantially in the same form as the document in agreed terms marked 377OHA;
- (xxxvii)<sup>46</sup> **“Previous Franchise Operator” means New Southern Railway Limited whose registered number is 03010919 and whose registered address is at 3rd Floor, 41-51 Grey Street, Newcastle Upon Tyne NE1 6EE; and**
- (xxxviii) **“Principal Change Date”** has the meaning given to that term in Part D of the Network Code;
- (xxxix) <sup>47</sup>
- (xl) <sup>48</sup>
- (xli) <sup>49</sup>
- (xlii) **“SLC1”** means the first Service Level Commitment in agreed terms applicable from the Start Date until the Subsidiary Change Date occurring in May 2010;
- (xlili) **“SLC2A1”** means the first part of the second Service Level Commitment in agreed terms applicable from the Subsidiary Change Date occurring in May 2010 until the Passenger Change Date occurring in December 2010;

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<sup>45</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>46</sup> Date of Change 20/09/2009

<sup>47</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>48</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>49</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (xliv) **“SLC2A2”** means the second part of the second Service Level Commitment in agreed terms applicable from the Passenger Change Date occurring in December 2010 until the Passenger Change Date occurring in December 2011;
- (xlv) **“SLC2B”** means the third Service Level Commitment in agreed terms applicable from the Passenger Change Date occurring in December 2011 until 14 October 2012;
- (xlvi) **“SLC3A”** means the fourth Service Level Commitment in agreed terms applicable from 14 October 2012 until the Passenger Change Date occurring in December 2013;
- (xlvii) **“SLC3B”** means the fifth Service Level Commitment in agreed terms applicable from the Passenger Change Date occurring in December 2013 until the end of the Franchise Term;

***“Spares Supply Milestone Payment”<sup>50</sup>*** ***has the meaning given to such term in paragraph 18.6 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement;***

***(xlviii)<sup>51</sup>***

- (xlix) **“Station Change”** has the meaning given to the term:

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<sup>50</sup> Date of insertion 26/01/2012

<sup>51</sup> **Where text has been omitted from the document this is because the Director 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) **“Railtrack Change Proposal”** in paragraph 3.4 of Condition C3 of the Franchise Station Access Conditions (where the applicable station is not a Managed Station); or
- (b) **“Development Change Proposal”** in Condition 12.4 of Part 3 of the Independent Station Access Conditions (where the applicable station is a Managed Station);
- (xix) **“Subsidiary Change Date”** has the meaning given to that term in Part D of the Network Code;
- (l) **“TfL”** means Transport for London the body corporate created pursuant to Section 154 of the Greater London Authority Act 1999;
- (li) **“Thameslink Programme”** means the scheme promoted by Network Rail formerly known as ‘Thameslink 2000’, as described in its 2005 Transport and Works Act 1992 application, 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;
- (lii)<sup>52</sup>
- (liii)<sup>53</sup>

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<sup>52</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>53</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

(d) the amendment to the following definitions in clause 3.1 thereof:

(i) the definition of Continuation Review Date shall be amended as follows:

delete the number “18” within that definition and replace with the number “23”;

(ii) paragraph (e) of the definition of Change shall be amended by the addition of the following words at the beginning:

“subject to clause 5.3(A) of the Franchise Agreement”;

**(iii)<sup>54</sup> the addition of new paragraphs (v), (w), (x), (y) and (z) to the definition of Change as follows and the renumbering of old paragraph (v) to new paragraph (aa):**

**“(v) the circumstances set out in paragraph 10.6(c) of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement; or**

**(w)<sup>55</sup> the circumstances set out in paragraph 19.4 or 19.6 of Appendix 13 (South Central Specific Provisions) to the Franchise Agreement; or**

**(x) the circumstances set out in paragraph 5.3 of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement; or**

(y) <sup>56</sup>

(z) <sup>57</sup>

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<sup>54</sup> Date of Change 20/09/2009

<sup>55</sup> Date of Change 26/01/2012

<sup>56</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>57</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

(iv)<sup>58</sup> **““Expiry Date” means the later of:**

**(a) 01:59 on 25 July 2015; or**

**(b) the time and date to which the Franchise Agreement is continued in accordance with paragraph 1.4 of Schedule 18 (Franchise Continuation Criteria);”**

(v) the definition **“Franchise Station Access Conditions”** shall be amended to read “has the meaning attributed to the term Station Access Conditions in the relevant Access Agreement to which it relates”; **and**<sup>59</sup>;

(vi)<sup>60</sup> **the definition of “Actual Operating Costs” shall be amended as follows:**

**the addition of a new (E) in paragraph (a) of that definition as follows:**

**“(E) any Electrostar Lot 10B Reimbursement, Electrostar Lot 10A/Lot10B Costs, any Specified Costs and any Electrostar Lot 10B Procurement Costs; and”;**

(vii)<sup>61</sup> **the definition of “Modified Revenue” shall be amended as follows:**

**the addition of the following words in brackets after the words “Secretary of State” in paragraph (a)(i)(A) of that definition:**

**“(excluding any Electrostar Lot 10B Receipts)”;**and

<sup>62</sup>**viii) paragraph (m) of the definition of Change shall be amended by the deletion of the words “clause 5.1(l)” and their replacement with clause “5.1(m)”.**

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<sup>58</sup> Date of Change 26/01/2012

<sup>59</sup> Date of change 26/01/2012

<sup>60</sup> Date of Change 20/09/2009

<sup>61</sup> Date of Change 20/09/2009

<sup>62</sup> Date of new insertion 26/01/2012

(e) the following provisions being added:

- (i) a new paragraph 4A shall be inserted into Schedule 11 after paragraph 4.6 as follows:

**4A TfL Performance Meeting**

- (i) (i)<sup>63</sup> ***In addition to the Franchise Performance Meeting, the Secretary of State, TfL and the Franchisee shall hold an operational review meeting at least once in every three Reporting Period, relating to:***

- (a) the Passenger Services operated by the Franchisee to and from the Greater London Stations; and

- (b) the operation of the Greater London Stations,

at a time and location notified to TfL and the Franchisee by the Secretary of State (“**TfL Performance Meeting**”).

- (ii) No later than the third business day prior to each TfL Performance Meeting, the Franchisee shall provide to the Secretary of State and TfL a report which includes the following information:

- (a) the Franchisee’s performance with respect to:

- (i) service delivery performance by the Franchisee by reference to the Benchmarks; and

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<sup>63</sup> Date of Change 09/12/2011

- (ii) service quality performance against Schedule 7.2 (Service Quality Management) and the Customer Satisfaction Benchmark (as defined in paragraph 4.7 of Appendix 13 (South Central Specific Provisions));
  - (b) information relating to passenger demand and revenue;
  - (c) information on the Franchisee's progress on the delivery of Committed Obligations;
  - (d) information on any plans by Network Rail in respect of Restriction of Use as notified to the Franchisee by Network Rail; and
  - (e) information on crime levels,
- but only to the extent that such information relates to (1) the Passenger Services operated by the Franchisee to and from the Greater London Stations or (2) the operation of the Greater London Stations. The Franchisee shall ensure that such reports are in accordance with any guidance the Secretary of State may issue to the Franchisee from time to time.
- (iii) The Franchisee's obligations under paragraph 4.5 are repeated in relation to the TfL Performance Meeting."
- (f) the following provisions being amended:
- (i) paragraph 1.2 of Schedule 1.1 (Service Development) shall be deleted and be replaced as follows:
- "The Service Level Commitments as at the date of the Franchise Agreement are in the agreed terms each marked SLC1, SLC2A1, SLC2A2, SLC2B, SLC3A and SLC3B respectively. For the purposes of this Schedule 1.1 each Service Level Commitment shall be applicable and remain in force for the period specified in each of

the definitions of SLC1, SLC2A1, SLC2A2, SLC2B, SLC3A and SLC3B unless and until amended or replaced pursuant to this Schedule 1.1.”;

- (ii)<sup>64</sup> **“2.3(a) In preparing any Train Plan the Franchisee shall do so:**
- (i) **by reference to the timetable that it envisages operating in order to comply with the Service Level Commitment; and**
- (ii) **in compliance with the Agreed Capacity Requirements.**
- (iii) **Not Used**<sup>65</sup>
- (iv) the formula in paragraph 2.2 of Schedule 5.5 (Regulation of Individual Fares) shall be amended by the deletion of the number “5” and its replacement with the number “2” so that the formula reads as follows:
- $$\frac{PII = (100 \times RPI) + k + 2}{100}$$
- (v) paragraphs 2.3 and 2.4 of Schedule 7.1 (Performance Benchmarks) shall be amended by the deletion of the phrases (1) "with less than the passenger carrying capacity specified for each such Passenger Service in the Train Plan" and (2) "with less passenger carrying capacity than the passenger carrying capacity specified for each such Passenger Service in the Train Plan" wherever such phrases appear and their replacement with the following:
- "with less than the number of vehicles specified for each such Passenger Service in the Train Plan";
- (vi) **Not Used**<sup>66</sup>

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<sup>64</sup> Date of Change 26/01/2012

<sup>65</sup> Date of Change 26/01/2012

- (vii) paragraph 2.5 of Schedule 7.1 (Performance Benchmarks) shall be amended by the deletion of the phrase “in excess of the passenger carrying capacity specified for that Passenger Service in the Train Plan” and its replacement as follows:

“in excess of the number of vehicles specified for that Passenger Service in the Train Plan”;

- (viii) <sup>67</sup>

- (ix) paragraph 6.4(c) of Schedule 8.1 (Franchise Payments) shall be amended by the addition of the following words after the words “(Changes in Numbers and Total Cost of Employees)”:

“and without prejudice to the Franchisee’s obligations under paragraphs 9.1(a) and 11.2, 11.5, 11.6, 11.8 and 11.13 of Appendix 11 (Committed Obligations) of the Franchise Agreement”;

- (x) the form of Supplemental Agreement set out in Appendix 2 to Schedule 15.4 shall be amended as follows:

- (A) the addition of the following provisions as new paragraph 7 of the Schedule to the Supplemental Agreement:

“7.

- (a) each of the gates to be installed as part of the TfL Gating Scheme (as such term is defined in paragraph 4 of Appendix 1 (Secretary of State Risk

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<sup>66</sup> Date of Change 26/01/2012

<sup>67</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

Assumptions) of the Franchise Agreement) and as described in the agreement dated 28 January 2009 between the Secretary of State, Rail for London Limited and the franchisee under the Previous Franchise Agreement;

- (b) the single site spares storage facility located at Selhurst Depot; and
- (c) any Spares and Special Tools (as such terms are defined in the Electrostar Lot 10A Sub Lease) acquired by the FCC Franchisee pursuant to the Electrostar Lot 10A Sub Lease and in respect of which title vests in the Franchisee,

shall be valued at nil save in each case to the extent that the Franchisee is able to demonstrate to the reasonable satisfaction of the Secretary of State that it has incurred capital expenditure (for which it has not subsequently been reimbursed) on the acquisition of any such assets or the installation or enhancement of any such assets (as the case may be) ("Franchisee Funded Enhancements"), in which case the Franchisee Funded Enhancements shall be valued on a basis consistent with the principles set out in this Schedule."; and

- (B) the renumbering of the old paragraph 7 in the Schedule to the Supplemental Agreement as new paragraph 8.



**(xi)<sup>68 69</sup> paragraph 1.1 of Schedule 8.1 (Franchise Payments) shall be amended as follows:**

- (A) the component "[–] HLOS FPA + HLOS MP" shall be added to the formula after the component "+ E Lot MF";**
  - (B) the following words shall be added after the factor explaining "E Lot MF":**
    - (i) "HLOS FPA" means the aggregate of all HLOS Franchise Payment Adjustments to be made on that Reporting Period's Payment Date. It is acknowledged that the HLOS Franchise Payment Adjustments potentially include both amounts payable to the Secretary of State by the Franchisee and amounts payable to the Franchisee by the Secretary of State. Accordingly there shall be a calculation to determine the net aggregate payment which may be a payment to the Secretary of State (and shall be input into the formula as a negative number) or to the Franchisee (and shall be input into the formula as a positive number.)" and**
    - (ii)<sup>70</sup>**
  - (C) the punctuation of the list shall be corrected such that each paragraph ends with a semi-colon and the word "and" appears at the end of the penultimate paragraph after its semi-colon;**
  - (D) paragraph 1.3(a) shall be amended by deleting the words "and SCA" and replacing them with "HLOS FPA and SCA".**
- (xii)<sup>71 72</sup> paragraph 3 of Schedule 12 (Financial Obligations and Covenants) of the Terms shall be amended by the insertion of a new paragraph 3.4 as follows:**

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<sup>68</sup> Date of Change 20/09/2009

<sup>69</sup> Date of change 26/01/2012

<sup>70</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>71</sup> Date of Change 20/09/2009

<sup>72</sup> Date of Change 26/01/2012

**3.4 The Franchisee shall not be in contravention of the provisions of paragraph 2 and paragraph 3 shall not apply nor shall the Secretary of State be entitled to exercise his rights under clause 3.3 of the funding deed dated 8 June 2009 and entered into between the Parent, the Franchisee and the Secretary of State if in respect of any Reporting Period during the Franchise Period:**

- (a) the ratio of the Franchisee's Modified Revenue to its Actual Operating Costs during the preceding 13 Reporting Periods (or, if prior to the end of the thirteenth such Reporting Period, during all preceding Reporting Periods) is less than 1.05:1 or 1:07;**
- (b) the ratio of the Franchisee's Forecast Modified Revenue to its Forecast Operating Costs for the next 13 Reporting Periods (or, where there are less than 13 Reporting Periods remaining in the Franchise Period, for all such remaining Reporting Periods) is less than 1.05:1 or 1:07;**

**in each case, solely as a result of the Franchisee being required under the HLOS MSA to make any HLOS Subsequent Payment. For the purposes of determining whether the provisions of this paragraph 3.4 are applicable in any Reporting Period the Franchisee shall together with the financial information required pursuant to paragraphs 3.3, 3.4 and 3.9 of Schedule 13 (Information and Industry Initiatives) provide to the Secretary of State two versions (with and without any HLOS Subsequent Payments that have been made under the HLOS MSA in that Reporting Period) of the statement of calculation demonstrating compliance against each of the financial covenants in paragraph 2;" and**

**3.5 paragraphs 1.1 to 1.3 of Schedule 18 (Franchise Continuation Criteria) shall be deleted and replaced with "Not Used"**

<sup>73</sup>(xiii) *paragraph 1.1 of Schedule 8.1 (Franchise Payments) shall be amended as follows:*

- (A) *the component “- ORIFPA” shall be added to the formula after the component “HLOSMP”;*
- (B) *the following words shall be added after the factor explaining “HLOSMP”:*  
*“ORIFPA” means any Olympic Revenue Incentive Franchise Payment Adjustment to be paid on that Reporting Period’s Payment Date; and*
- (C) *the punctuation of the list shall be corrected such that each paragraph ends with a semi-colon and the word “and” appears at the end of the penultimate paragraph after its semi-colon.”*

#### **Schedule 1.1 (Service Development)**

5.3A The Secretary of State and the Franchisee agree that the Service Level Commitments for the purposes of the Franchise Agreement are SLC1, SLC2A1, SLC2A2, SLC2B, SCL3A and SLC3B (each a “Specified SLC”). The replacements of:

- (i) SLC1 by SLC2A1; or
- (ii) SLC2A1 by SLC2A2; or
- (iii) SLC2A2 by SLC2B; or
- (iv) SLC2B by SLC3A; or
- (v) SLC3A by SLC3B,

at the time and for the period specified in the definition of a **“Specified SLC”** shall not constitute a Change for the purposes of paragraph (e) of the definition of Change unless from the relevant date from which a Specified SLC is to apply the Secretary of State issues a Service Level Commitment which is different from such Specified SLC (**“Alternative SLC”**) in respect of some or all of the period during which such Specified SLC is intended to be

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<sup>73</sup> Date of new insertion 22/06/2012

applicable and in force as specified in the definition of that Specified SLC, in which case there shall be a Change and such Change shall only apply in respect of the differences between the Alternative SLC and such Specified SLC (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 <sup>74</sup>

5.4A <sup>75</sup>

5.4B By no later than 31 December 2010 the Franchisee shall establish a knowledge centre to manage and store loading data and convert such data into tangible usable information ("**Knowledge Centre**"). The Knowledge Centre shall as a minimum contain the following categories of information:

- (i) passenger load determination demand data broken down on a train by train basis;
- (ii) ticket transaction demand and origin destination analysis;
- (iii) trends and changes in demand patterns;
- (iv) the level of passenger services planned and the actual passenger services delivered;
- (v) systematic monitoring of the impact of service change; and
- (vi) storage of the impact of major events to assist the Franchisee in the planning and forecasting of similar events in the future.

5.4C The Franchisee shall with effect from the Start Date work with Bombardier Transportation Limited, Delta Rail and other relevant Train Operators to

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<sup>74</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>75</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

identify a technical solution to the current lack of functionality of the passenger load determination equipment on the Class 171 vehicles comprised in the Train Fleet as soon as reasonably practicable and shall ensure that such equipment is fully functional within 3 months of such solution being identified.

#### **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 of the Terms are as follows:

- (a) Selhurst Traincare Depot; and
- (b) Stewarts Lane Depot.

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

None.

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

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

#### **Schedule 2.1 (Asset Vesting and Transfer)**

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

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

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

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

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

None.

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

- (a) London Concessionary Fare Scheme;
- (b) Surrey Education Authority Season Ticket Scheme;
- (c) West Sussex Education Authority Season Ticket Scheme; and
- (d) Kent Educational Season Ticket Scheme.

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

- (a) *the Brighton Area PLUSBUS scheme (bound by and including the Stations located at Shoreham-by-Sea and Falmer) in conjunction with the Brighton and Hove Bus and Coach Company Limited; and***
- (b) *the Crawley and Gatwick area PLUSBUS scheme (between and including Stations located at Horley and Ifield) in conjunction with Metrobus Limited..***<sup>76</sup>

### **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).

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<sup>76</sup> Date of change 16/9/2009

### **Schedule 7.1 (Performance Benchmarks)**

- 5.15 The Cancellations Benchmarks for the purpose of paragraph 1.1 of Schedule 7.1 (Performance Benchmarks) of the Terms are set out in Appendix 5 (Cancellations Benchmark Table).
- 5.16 The Capacity Benchmarks for the purpose of paragraph 1.2 of Schedule 7.1 (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 <sup>77</sup>

5.19 <sup>78</sup>

### **Schedule 8.2 (Annual Franchise Payments)**

- 5.20 The agreed figures for the purposes of the definitions of “FXD”, “VCRPI”, “VCAEI”, “PRPI” and “TRRPI” in the formula set out in Schedule 8.2 (Annual Franchise Payments) of the Terms are shown in the table set out in Appendix 8 (Figures for Calculation of Annual Franchise Payments).
- 5.21 The prescribed month and the prescribed date for the purposes of the definitions of “RPI” and “AEI” in the formula set out in Schedule 8.2 of the Terms are, respectively, January and January 2009.

### **Schedule 9.3 (Runs of the Financial Model)**

- 5.22 The percentage agreed profit margin for the purpose of paragraphs 7.1(a) and (b)(i) of Schedule 9.3 (Runs of the Financial Model) of the Terms shall be determined by reference to the following table:<sup>79</sup>

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<sup>77</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>78</sup> Where text has been omitted from the document this is because the Director 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 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 Covenants) of the Terms are, respectively:

- (a) £<sup>80</sup>, being 5.5 per cent. of the Aggregate Forecast Operating Costs of the Franchisee for the period from the Start Date to the first anniversary of the Start Date, as forecast in the Initial Business Plan;
- (b) £<sup>81</sup>, being 5.5 per cent. of the Aggregate Forecast Operating Costs of the Franchisee for the year commencing on the first anniversary of the Start Date, as forecast in the Initial Business Plan;
- (c) £<sup>82</sup>, being 5.5 per cent. of the Aggregate Forecast Operating Costs of the Franchisee for the year commencing on the second anniversary of the Start Date, as forecast in the latest practicably available Business Plan; and
- (d) 5.5 per cent. of the Aggregate Forecast Operating Costs of the Franchisee for 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.

## Schedule 14.3 (Key Contracts)

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<sup>79</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>80</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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

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



- 5.24 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).

#### **Schedule 16 (Pensions)**

- 5.26 The relevant sections of the Railways Pension Scheme for the purpose of paragraph 1 of Schedule 16 (Pensions) of the Terms are:
- (a) the Gatwick Express Franchise Section; and
  - (b) the Southern Franchise Section.

#### **Schedule 18 (Franchise Continuation Criteria)**

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

#### **Schedule 19 (Other Provisions)**

- 5.28<sup>83</sup> 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
<b>Address:</b> <sup>84</sup>	<b>33 Horseferry Road, London SW1P 4DR</b>
Facsimile:	<b>020 7944 2446</b>
E-mail:	<b>Franchise.notices@dft.gsi.gov.uk</b>
Attention:	<b>Director, Rail Commercial Contracts</b>

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<sup>83</sup> Date of Change 05/05/2011

<sup>84</sup> Date of change 01/10/2011

Name: Southern Railway Limited  
Address: 3rd Floor, 41-51 Grey Street, Newcastle upon Tyne NE1 6EE  
Facsimile: 0191 211 3218  
E-mail: ***carolyn.sephton@go-ahead.com***  
Attention: ***Company Secretary***

## **6. COMMITTED OBLIGATIONS**

The Franchisee shall deliver the Committed Obligations that are set out in Appendix 11 (List of 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 (South Central 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. AGREED CAPACITY REQUIREMENTS**

The Agreed Capacity Requirements are specified in Appendix 16 (Capacity Metrics and Timings)

## **11. ENTIRE AGREEMENT**

- 11.1 This Agreement, the Conditions Precedent Agreement and the Terms contain the entire agreement between the parties in relation to the subject matter of this Agreement and supersede all prior agreements and arrangements between the parties other than any confidentiality agreements or

undertakings which the Franchisee may have entered into with the Secretary of State in connection with his proposal to secure the provision of the Passenger Services under this Agreement.

- 11.2 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 report provided by the Reporting Accountants in respect of :
    - (i) the South Central franchise dated 19 September 2008;  
and
    - (ii) the Gatwick Express franchise dated 31 July 2008.
- 11.3 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).
- 11.4 The Franchisee irrevocably and unconditionally waives any right which it may otherwise have to claim damages in respect of and/or to rescind this Agreement, the Conditions Precedent Agreement and the Terms on the basis of any warranty, representation (whether negligent or otherwise, and whether made prior to and/or in this Agreement, the Conditions Precedent Agreement and the Terms) or undertaking howsoever or to whomsoever made unless and to the extent that such warranty, representation or undertaking was made fraudulently.

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

**THE CORPORATE SEAL** of the )  
SECRETARY OF STATE FOR TRANSPORT )  
is hereunto affixed: )

Authenticated by authority of the  
Secretary of State for Transport

**SIGNED** for and on behalf of )  
SOUTHERN RAILWAY LIMITED )

Director:

Director/Secretary:

## APPENDIX 1

### Secretary of State Risk Assumptions (*Clause 5.1(y)*)<sup>85</sup>

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<sup>85</sup> Where text has been omitted from the document this is because the Director 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 2

**Target Revenue (expressed in real terms) (*Clause 5.1(ae)*)<sup>86</sup>**

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<sup>86</sup> Where text has been omitted from the document this is because the Director 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:

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

equal to the reliability, capability and quality of any original rolling stock vehicles that are, in the reasonable opinion of the Secretary of State, most similar to such additional rolling stock vehicles.

**Table 1 (existing vehicles)<sup>87</sup>**

**Table 2 (additional vehicles)<sup>88</sup>**

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<sup>87</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>88</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.



## APPENDIX 4

### List of Priced Options (Clause 5.14)

#### 1. **GSM-R<sup>89</sup>**

##### ***Description, objective and specification***

##### **1.1 This Priced Option relates to:**

- (a) the procurement, installation and maintenance of GSM-R radio units to the Train Fleet;***
- (b) the training of drivers (and other relevant Franchise Employees) 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.***

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

- 1.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option shall be the price set out in Tables 1A and 1B in Part 2 to this Appendix 4 and adjustments to Franchise Payments shall be made accordingly.**

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

- 1.3 The timescale for the implementation of this Priced Option will be no later than:**
- (a) 31 December 2011, in respect of any rolling stock vehicle comprised in the Train Fleet which as at the Start Date is equipped with “NRN” radio only; and***

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<sup>89</sup> Date of Change 27/07/2009

(b) ***for all other rolling stock vehicles comprised in the Train Fleet the earlier of:***

(i) ***30 June 2014; and***

(ii) ***the date which falls 18 months after the date on which Network Rail has provided the relevant infrastructure equipment (including the relevant trackside equipment, radio masts and base stations) across the whole of the network on which the Passengers Services operate.***

1.4 ***It is agreed that the timescale for completion of the fitment of GSM-R Radio Equipment to any rolling stock which is “dual fitted” with both “NRN” and “CSR” radio will be the date set out in paragraph 1.3(b) unless the “NRN” radio is required for the rolling stock to remain in passenger service after 31 December 2011 in which case the relevant timescale for completion shall be as set out in paragraph 1.3(a).***

***Other effects on the Franchise Agreement***

1.5 ***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):***

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

***[x1] “The Franchisee shall (including by working with Network Rail to agree and implement a GSM-R delivery and implementation programme pursuant to paragraph [x3]) use all reasonable endeavours to:***

***[(A1)] procure and install GSM-R Radio Equipment to the driving cabs of all rolling stock vehicles comprised in the Train Fleet; and***

***[(B1)] provide training to its train drivers and all other relevant Franchise Employees in the use of the GSM-R Radio Equipment so installed,***

***by dates which are earlier than the dates set out in paragraph [(A2)] and [(B2)] (as the case may be) and in any event shall complete such procurement, installation and training by no later than:***

***[(A2)] 31 December 2011, in respect of any rolling stock vehicles comprised in the Train Fleet which as at the Start Date are equipped with “NRN” radios only; and***

***[(B2)] the earlier of:***

***(i) 30 June 2014; and***

***(ii)<sup>90</sup>***

***[x2] The Franchisee shall keep a stock of operational spare GSM-R Radio Equipment equal to 10% of the number of GSM-R unit sets required to be fitted to the rolling stock vehicles comprised in the Train Fleet. In addition the Franchisee shall ensure that it has the equipment reasonably required to test the GSM-R installation prior to their entry into operational service and to maintain the GSM-R Equipment once in use.***

***[x3] The Franchisee will work with Network Rail to jointly agree a GSM-R delivery and***

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<sup>90</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

***implementation programme including a phased introduction in a manner similar to that set out in the document in agreed form marked “GSM-R implementation rollout” to reduce the risks to overall project delivery and with the aim of completing the fitment as early as reasonably practicable.***

***[x4] The Franchisee shall provide the Secretary of State with a progress update regarding the GSM-R roll out and fitment programme at least every three months until the fitment is completed.***

***[x5]*** <sup>91</sup>

***(i) not providing any relevant infrastructure equipment (including the relevant trackside equipment, radio masts and base stations) across the network on which the Passenger Services operate (“Infrastructure Equipment”) and such Infrastructure Equipment is essential to the successful introduction by the Franchisee of the GSM-R Radio Equipment;” and***

***(ii) not procuring the GSM-R Radio Equipment which it has undertaken to procure on behalf of (and, for the avoidance of doubt, at the cost of) the Franchisee and other Train Operators (as part of Stage 6 of the GSM-R project).***

***[x6] It is agreed by the Secretary of State and the Franchisee that the timescales for the completion of the fitment of GSM-R Radio Equipment to any rolling stock***

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<sup>91</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

***which is “dual fitted” with both “NRN” and “CSR” radio will be the date set out in paragraph [X1][B2] unless the “NRN” radio is required for the rolling stock to remain in passenger service after 31 December 2011 in which case the relevant timescale for completion shall be as set out in paragraph [X1][A2].***

- (b) ***the inclusion of a new definition in Clause 5.2 of this Franchise Agreement as follows:***

***“GSM-R Radio Equipment” means a digital radio system based on the GSM-R radio communication standard adapted for use on the European railways and which as a minimum meets all the mandatory requirements for an operational radio within the Control, Command and Signalling TSI (including Notified National Technical Rules) and which is to be used as a train radio (either fixed or transportable) within the meaning set out in the Railway Group Standard GE/RT 8080 Train Radio Systems for Voice and Related Messaging Communications issue 1, December 2003 (as amended from time to time)”;***

- (c) the addition of a new entry in the Table in Part 3 to Appendix 11 (List of Committed Obligations and Related Provisions) which reads:<sup>92</sup>

- (d) <sup>93</sup>

- (e) <sup>94</sup>

- (f) <sup>95</sup>

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<sup>92</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>93</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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

- (g) *the need to make such other consequential amendments to the rights and obligations of the parties including the Train Plan as are reasonably required to give effect to the implementation of this Priced Option. In the absence of such agreement, such consequential amendments shall be as reasonably determined by the Secretary of State.*

*The Secretary of State and the Franchisee agree that any amendments made by the Secretary of State pursuant to paragraphs 1.4 (a) to (f) in order to give effect to the implementation of this Priced Option in accordance with its terms shall not be a Change.*

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

- 1.5 *The latest date on which the Secretary of State may call this Priced Option in order to maintain the price quoted at paragraph 1.2 is [27 July 2009].*
- 1.6 *If the Secretary of State calls this Priced Option at any time later than the date specified in paragraph 1.5 then the provisions of paragraph (b) of the definition of Change shall apply.*

**Condition for the implementation of this Priced Option**

- 1.7 *The Franchisee shall only be required to implement this Priced Option in accordance with its terms if Network Rail has provided the relevant infrastructure equipment (including the relevant trackside equipment, radio masts and base stations) across the whole of the network on which the Passenger Services operate by 31 December 2012*
- 1.8 *For the avoidance of doubt, if the condition specified in paragraph 1.7 is not met then it shall be a Change under paragraph (b) of the definition of Change.*

## **2. East Coastway Timetable Recast**

**Description, objective and specification**

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<sup>95</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- 2.1 This Priced Option relates to the amendment of the Service Level Commitment to permit a revised service pattern for East Coastway passenger services by the introduction of certain Timetable changes with effect from the Passenger Change Date occurring in December 2010 and the redeployment of rolling stock to the London Bridge to Uckfield route in the Peak. The revised Timetable to be introduced pursuant to this Priced Option is described in the document in agreed terms marked “**RT-PO2**” subject to such reasonable amendments as may be proposed by the Franchisee to take account of the outcome of the stakeholder consultation exercise referred to at paragraph 22 of Part 1 of Appendix 11 (List of Committed Obligations and Related Provisions).
- 2.2 The objective of this Priced Option is to:
- (a) provide improved connections at Ashford International with high speed services to and from St Pancras International;
  - (b) provide additional capacity on Passenger Services operating between Brighton and Eastbourne and between Uckfield and London Bridge in the Peak; and
  - (c) provide improved Passenger Services at Three Oaks and Winchelsea.

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

- 2.3 Where this Priced Option is called in accordance with its terms, the price for this Priced Option 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.

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

- 2.4 The timescale for the implementation of this Priced Option will be no later than the Passenger Change Date occurring in December 2010.

**Other effects on the Franchise Agreement**

- 2.5 The effects on the Franchise Agreement will be as follows:

- (a) with effect from the Passenger Change Date in December 2010 the deletion of the Agreed Capacity Table in Appendix 16 (Capacity Metrics and Timings) and its replacement with the following table:



### Agreed Capacity Table

	London Victoria Services and South London Line Services into London Victoria				London Bridge Services and South London line services into London Bridge				Brighton (Coastway) Services only (peak hour only)	
Column 1	Column 2	Column 2A	Column 3	Column 3A	Column 4	Column 4A	Column 5	Column 5A	Column 6	Column 7
	AM Peak (Arrival – number of vehicles)	AM Peak (Arrival – number of vehicles)	PM Peak (Departures – number of vehicles)	PM Peak (Departures – number of vehicles)	AM Peak (Arrival – number of vehicles)	AM Peak (Arrival – number of vehicles)	PM Peak (Departures – number of vehicles)	PM Peak (Departures – number of vehicles)	AM Peak (Arrival – number of vehicles)	PM Peak (Departures – number of vehicles)
SLC1	585	24	632	12	488	24	418	12	34	34
SLC2A1 and SLC 2A2	595	24	634	12	508	24	420	12	35	35
SLC2B	619	24	654	12	544	24	464	12	41	39
SLC3A	623	N/A	658	N/A	536	N/A	478	N/A	41	39
SLC3B	687	N/A	728	N/A	580	N/A	520	N/A	43	43

(b) <sup>96</sup>

(c) the applicable Service Level Commitment shall be amended so as to ensure that the Franchisee will be able to deliver the Timetable as described in the document in agreed terms marked “RT-PO2” subject to such reasonable amendments as may be proposed by the Franchisee to take account of the outcome of the stakeholder consultation exercise referred to at paragraph 22 of Part 1 of Appendix 11 (List of Committed Obligations and Related Provisions); and

(d) the need to make such other consequential amendments to the rights and obligations of the parties including the Train Plan as are reasonably required to give effect to the implementation of this Priced Option. In the absence of such agreement, such consequential amendments shall be as reasonably determined by the Secretary of State.

The Secretary of State and the Franchisee agree that any amendments made by the Secretary of State pursuant to paragraphs 2.5(a) to (d) in order to give effect to the implementation of this Priced Option in accordance with its terms shall not be a Change.

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

2.6 The latest date on which the Secretary of State may call this Priced Option in order to maintain the price quoted at paragraph 2.2 is 28 February 2010.

### **2.7 Conditions to the calling of this Priced Option**

(a) The Secretary of State agrees only to call this Priced Option in accordance with its terms if he:

(i) is satisfied that the results of the stakeholder consultation exercise undertaken by the Franchisee in accordance with the Committed Obligation at paragraph 22 of Appendix 11 (List of Committed Obligations and

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<sup>96</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

Related Provisions) support the implementation of this Priced Option;

- (ii) reasonably determines that the Franchisee, if it complies with its obligations under paragraphs 8.1 to 8.3 (inclusive) of Schedule 1.1 (Service Development) of the Terms, will be able to obtain the relevant timetable development rights in order to secure a Timetable in the form described in paragraph 2.1; and

- (iii) <sup>97</sup>

### **3. Enhanced Station Improvements**

#### **Description, objective and specification**

- 3.1 This Priced Option relates to the implementation of an enhanced programme to improve facilities at the following 27 Stations:

Balcombe, Battersea Park, Burgess Hill, Carshalton, Caterham, Coulsdon South, Dorking, Earlswood, East Dulwich, Epsom, Horley, Horsham, Merstham, Preston Park, Purley, Purley Oaks, Salfords, Sanderstead, South Croydon, Streatham, Streatham Common, Sutton, Thornton Heath, Tulse Hill, Wallington, Wandsworth Common and Wivelsfield.

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

- 3.2 Where this Priced Option is called in accordance with its terms, the price for this Priced Option 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.

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

- 3.3 The timescale for the implementation of this Priced Option will be the date that is the later of 42 months after the date on which this Priced Option is called and 31 March 2013.

#### **Other effects on the Franchise Agreement**

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<sup>97</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

3.4 The effects on the Franchise Agreement will be:

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

“[x1] In addition to any other Committed Obligation (including those specified in paragraphs 3.15 to 3.19 and paragraph 9.2 of this Appendix 11) the Franchisee shall, on or before [insert date that is the later of 42 months from the date on which the Priced Option is called and 31 March 2013], improve facilities at the following 27 Stations and in so doing shall incur expenditure of not less than £<sup>98</sup>:

Balcombe, Battersea Park, Burgess Hill, Carshalton, Caterham, Coulsdon South, Dorking, Earlswood, East Dulwich, Epsom, Horley, Horsham, Merstham, Preston Park, Purley, Purley Oaks, Salfords, Sanderstead, South Croydon, Streatham, Streatham Common, Sutton, Thornton Heath, Tulse Hill, Wallington, Wandsworth Common and Wivelsfield.

The improvements to be made to facilities at such Stations shall be determined by the Franchisee (in consultation with Network Rail and other relevant stakeholders including the Secretary of State) and may include some or all of the following:

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<sup>98</sup> Where text has been omitted from the document this is because the Director 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) refurbishment of toilets and/or reopening of toilets which are not in passenger use as at the Start Date;
- (b) refurbishment of waiting room accommodation and/or reopening of waiting room accommodation which are not in passenger use as at the Start Date;
- (c) provision of new or additional platform seating;
- (d) provision of new or additional platform shelters;
- (e) provision of improved station signage;
- (f) introduction and/or improvement to customer information systems and passenger announcement systems in waiting rooms;
- (g) introduction of “white” lighting to improve visibility and security; and
- (h) general redecoration and improvements to station buildings.

[x2] In order to assist the Secretary of State in the monitoring of the Franchisee's compliance under paragraph [x1] the Franchisee shall on or before the end of the thirteenth Reporting Period following the later of [insert the date on which the Priced Option is called] and the Start Date provide to the Secretary of State a delivery plan which sets out the facilities that will be improved (and the date of completion of

such improvements) at each of the 27 Stations set out in paragraph [x1].”

- (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:<sup>99</sup>
- (c) from the date of commencement of the first National Passenger Survey to be conducted following the deadline for completion of all the enhanced station improvements, being 31 March 2013, the Customer Satisfaction Benchmark relating to the Customer Satisfaction Measure on Stations set out in each of the Customer Satisfaction Table 1 and Customer Satisfaction Table 2 (respectively) (as each such term is defined in paragraph 4.7 of Appendix 13 (South Central Specific Provisions)) shall be and shall be deemed amended by increasing each number shown in the third column headed “South London” of both tables by 1.

**Latest date for calling this Priced Option to maintain the price in paragraph 3.2**

- 3.5 The latest date on which the Secretary of State may call this Priced Option in order to maintain the price quoted at paragraph 3.2 is 20 September 2009.
- 3.6 If the Secretary of State calls this Priced Option at any time later than the date specified in paragraph 3.5 then the provisions of paragraph (b) of the definition of Change shall apply.

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<sup>99</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

## Part 2

### 1. GSM-R

#### **Table 1A: Target Revenue (expressed in real terms) (Clause 5.1(ae))<sup>100</sup>**

This table sets out the increment to the Target Revenue set out in Appendix 2 (Target Revenue (expressed in real terms)) to this Agreement where this Priced Option is to be implemented by 31 December 2011 in respect of any rolling stock vehicles comprised in the Train Fleet which as at the Start Date are equipped with “NRN” radios and 30 June 2013 in respect of all other rolling stock vehicles comprised in the Train Fleet:

#### **Table 1B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)<sup>101</sup>**

This table sets out the increment to the figures for calculation of the Annual Franchise Payments set out in Appendix 8 (Figures for Calculation of Annual Franchise Payments) to this Agreement where this Priced Option is to be implemented by 31 December 2011 in respect of any rolling stock vehicles comprised in the Train Fleet which as at the Start Date are equipped with “NRN” radios and 30 June 2013 in respect of all other rolling stock vehicles comprised in the Train Fleet:

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<sup>100</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>101</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

## EAST COASTWAY TIMETABLE RECAST

### **Table 2A: Target Revenue (expressed in real terms) (Clause 5.1(ae))<sup>102</sup>**

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

### **Table 2B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)<sup>103</sup>**

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

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<sup>102</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>103</sup> Where text has been omitted from the document this is because the Director 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. Enhanced Station Improvements

#### **Table 3A: Target Revenue (expressed in real terms) (Clause 5.1(ae))<sup>104</sup>**

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

#### **Table 3B: Figures for Calculation of Annual Franchise Payments (Clause 5.20)<sup>105</sup>**

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

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

<sup>105</sup> Where text has been omitted from the document this is because the Director 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<sup>106</sup>

### Cancellations Benchmark Table (*Clause 5.15*)

<b>Column 1</b>		<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Franchise Year/ Reporting Period</b>		<b>Target Performance Level (%)</b>	<b>Improvement Plan Performance Level (%)</b>	<b>Breach Performance Level (%)</b>	<b>Default Performance Level (%)</b>
<b>Year 1</b>	<b>Period 7</b>	0.62	0.67	0.71	0.74
	<b>Period 8</b>	0.62	0.67	0.71	0.74
	<b>Period 9</b>	0.62	0.67	0.71	0.74
	<b>Period 10</b>	0.62	0.67	0.71	0.74
	<b>Period 11</b>	0.62	0.66	0.71	0.74
	<b>Period 12</b>	0.62	0.66	0.71	0.74
	<b>Period 13</b>	0.62	0.66	0.71	0.74
<b>Year 2</b>	<b>Period 1</b>	0.62	0.66	0.71	0.74
	<b>Period 2</b>	0.62	0.66	0.71	0.74
	<b>Period 3</b>	0.62	0.66	0.71	0.74
	<b>Period 4</b>	0.62	0.66	0.71	0.74
	<b>Period 5</b>	0.62	0.66	0.71	0.74
	<b>Period 6</b>	0.62	0.66	0.71	0.74
	<b>Period 7</b>	0.62	0.66	0.71	0.74
	<b>Period 8</b>	0.61	0.66	0.71	0.74
	<b>Period 9</b>	0.61	0.66	0.71	0.74
	<b>Period 10</b>	0.61	0.66	0.71	0.74
	<b>Period 11</b>	0.61	0.66	0.71	0.74
	<b>Period 12</b>	0.61	0.66	0.71	0.74
	<b>Period 13</b>	0.61	0.66	0.70	0.74
<b>Year 3</b>	<b>Period 1</b>	0.61	0.66	0.70	0.74
	<b>Period 2</b>	0.61	0.66	0.70	0.73
	<b>Period 3</b>	0.61	0.66	0.70	0.73
	<b>Period 4</b>	0.61	0.66	0.70	0.73
	<b>Period 5</b>	0.61	0.66	0.70	0.73
	<b>Period 6</b>	0.61	0.66	0.70	0.73
	<b>Period 7</b>	0.61	0.66	0.70	0.73
	<b>Period 8</b>	0.61	0.66	0.70	0.73
	<b>Period 9</b>	0.61	0.66	0.70	0.73
	<b>Period 10</b>	0.61	0.65	0.70	0.73
	<b>Period 11</b>	0.61	0.65	0.70	0.73
	<b>Period 12</b>	0.61	0.65	0.70	0.73
	<b>Period 13</b>	0.61	0.65	0.70	0.73
<b>Year 4</b>	<b>Period 1</b>	0.61	0.65	0.70	0.73
	<b>Period 2</b>	0.61	0.65	0.70	0.73
	<b>Period 3</b>	0.61	0.65	0.70	0.73
	<b>Period 4</b>	0.61	0.65	0.70	0.73
	<b>Period 5</b>	0.61	0.65	0.70	0.73
	<b>Period 6</b>	0.61	0.65	0.70	0.73

<sup>106</sup> Date of Change 16/12/2010

	<i>Period 7</i>	<i>0.61</i>	<i>0.65</i>	<i>0.70</i>	<i>0.73</i>
	<i>Period 8</i>	<i>0.61</i>	<i>0.65</i>	<i>0.70</i>	<i>0.73</i>
	<i>Period 9</i>	<i>0.60</i>	<i>0.65</i>	<i>0.70</i>	<i>0.73</i>
	<i>Period 10</i>	<i>0.60</i>	<i>0.65</i>	<i>0.70</i>	<i>0.73</i>
	<i>Period 11</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 12</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 13</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
<b>Year 5</b>	<i>Period 1</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 2</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 3</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 4</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 5</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 6</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 7</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 8</i>	<i>0.60</i>	<i>0.65</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 9</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 10</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 11</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 12</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 13</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
<b>Year 6</b>	<i>Period 1</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 2</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 3</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 4</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 5</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 6</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.72</i>
	<i>Period 7</i>	<i>0.60</i>	<i>0.64</i>	<i>0.69</i>	<i>0.71</i>
	<i>Period 8</i>	<i>0.60</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 9</i>	<i>0.60</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 10</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 11</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 12</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 13</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
<b>Year 7</b>	<i>Period 1</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 2</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 3</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
	<i>Period 4</i>	<i>0.59</i>	<i>0.64</i>	<i>0.68</i>	<i>0.71</i>
<b>Until end of Franchise Term</b>					

## 1. Start of the Franchise

The Reporting Period in the cells entitled “Year 1 Period 7” shall be the first Reporting Period of the Franchise Term.

## APPENDIX 6<sup>107</sup>

### Capacity Benchmark Table (Clause 5.16)

Column 1		Column 2	Column 3	Column 4	Column 5
Franchise Year/ Reporting Period		Target Performance Level (%)	Improvement Plan Performance Level (%)	Breach Performance Level (%)	Default Performance Level (%)
Year 1	Period 7	1.25	1.34	1.44	1.50
	Period 8	1.25	1.34	1.44	1.50
	Period 9	1.25	1.34	1.44	1.50
	Period 10	1.25	1.34	1.43	1.50
	Period 11	1.25	1.34	1.43	1.50
	Period 12	1.25	1.34	1.43	1.50
	Period 13	1.25	1.34	1.43	1.49
Year 2	Period 1	1.24	1.34	1.43	1.49
	Period 2	1.24	1.34	1.43	1.49
	Period 3	1.24	1.34	1.43	1.49
	Period 4	1.24	1.34	1.43	1.49
	Period 5	1.24	1.33	1.43	1.49
	Period 6	1.24	1.33	1.43	1.49
	Period 7	1.24	1.33	1.43	1.49
	Period 8	1.24	1.33	1.43	1.49
	Period 9	1.24	1.33	1.42	1.49
	Period 10	1.24	1.33	1.42	1.49
	Period 11	1.24	1.33	1.42	1.48
	Period 12	1.24	1.33	1.42	1.48
	Period 13	1.24	1.33	1.42	1.48
Year 3	Period 1	1.24	1.33	1.42	1.48
	Period 2	1.23	1.33	1.42	1.48
	Period 3	1.23	1.33	1.42	1.48
	Period 4	1.23	1.33	1.42	1.48
	Period 5	1.23	1.32	1.42	1.48
	Period 6	1.23	1.32	1.42	1.48
	Period 7	1.23	1.32	1.42	1.48
	Period 8	1.23	1.32	1.41	1.48
	Period 9	1.23	1.32	1.41	1.47
	Period 10	1.23	1.32	1.41	1.47
	Period 11	1.23	1.32	1.41	1.47
	Period 12	1.23	1.32	1.41	1.47
	Period 13	1.23	1.32	1.41	1.47
Year 4	Period 1	1.23	1.32	1.41	1.47
	Period 2	1.22	1.32	1.41	1.47
	Period 3	1.22	1.32	1.41	1.47
	Period 4	1.22	1.31	1.41	1.47
	Period 5	1.22	1.31	1.41	1.47
	Period 6	1.22	1.31	1.40	1.47

<sup>107</sup> Date of Change 16/12/2010

	<i>Period 7</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 8</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 9</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 10</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 11</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 12</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 13</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
<b>Year 5</b>	<i>Period 1</i>	<b>1.22</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 2</i>	<b>1.21</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 3</i>	<b>1.21</b>	<b>1.31</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 4</i>	<b>1.21</b>	<b>1.30</b>	<b>1.40</b>	<b>1.46</b>
	<i>Period 5</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.46</b>
	<i>Period 6</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 7</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 8</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 9</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 10</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 11</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 12</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 13</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
<b>Year 6</b>	<i>Period 1</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 2</i>	<b>1.21</b>	<b>1.30</b>	<b>1.39</b>	<b>1.45</b>
	<i>Period 3</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.45</b>
	<i>Period 4</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 5</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 6</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 7</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 8</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 9</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 10</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 11</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 12</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 13</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
<b>Year 7</b>	<i>Period 1</i>	<b>1.20</b>	<b>1.29</b>	<b>1.38</b>	<b>1.44</b>
	<i>Period 2</i>	<b>1.20</b>	<b>1.28</b>	<b>1.37</b>	<b>1.43</b>
	<i>Period 3</i>	<b>1.19</b>	<b>1.28</b>	<b>1.37</b>	<b>1.43</b>
	<i>Period 4</i>	<b>1.19</b>	<b>1.28</b>	<b>1.37</b>	<b>1.43</b>
<b>Until end of Franchise Term</b>					

## 1. Start of the Franchise

The Reporting Period in the cells entitled “Year 1 Period 7” shall be the first Reporting Period of the Franchise Term.

## APPENDIX 7<sup>108 109 110 111 112</sup>

### Service Delivery Benchmark Table (*Clause 5.17*)

Column 1		Column 2	Column 3	Column 4	Column 5
Franchise Year/Reporting Period			Target Performance Level	Improvement Plan Performance Level	Breach Performance Level
<b>Year 1</b>	Period 7	23,990	25,790	27,590	28,790
	Period 8	23,980	25,770	27,570	28,770
	Period 9	23,960	25,760	27,560	28,750
	Period 10	23,950	25,740	27,540	28,740
	Period 11	23,930	25,730	27,520	28,720
	Period 12	23,920	25,710	27,510	28,700
<b>Year 2</b>	Period 13	23,900	25,700	27,490	28,690
	Period 1	23,890	25,680	27,470	28,670
	Period 2	23,880	25,670	27,460	28,650
	Period 3	23,880	25,670	27,460	28,660
	Period 4	23,870	25,660	27,440	28,650
	Period 5	23,850	25,640	27,430	28,630
	Period 6	23,840	25,620	27,410	28,610
	Period 7	23,820	25,610	27,390	28,590
	Period 8	23,810	25,590	27,380	28,580
	Period 9	23,800	25,580	27,360	28,560
	Period 10	24,550	26,390	28,230	29,460
	Period 11	24,540	26,380	28,220	29,450
	Period 12	24,520	26,360	28,200	29,430
<b>Year 3</b>	Period 13	24,510	26,350	28,190	29,410
	Period 1	24,490	26,330	28,170	29,390
	Period 2	24,480	26,320	28,150	29,380
	Period 3	24,640	26,490	28,340	29,570
	Period 4	24,620	26,470	28,320	29,550
	Period 5	24,610	26,460	28,300	29,530
	Period 6	24,590	26,440	28,290	29,520
	Period 7	24,580	26,430	28,270	29,500
	Period 8	24,560	26,400	28,250	29,470
	Period 9	24,550	26,390	28,240	29,460
	Period 10	24,310	26,140	27,970	29,180
	Period 11	24,300	26,130	27,950	29,160

<sup>108</sup> Date of Change 16/12/2010

<sup>109</sup> Date of second Change wef 04/03/11

<sup>110</sup> Date of Change 02/09/2011

<sup>111</sup> Date of Change 10/05/2012

<sup>112</sup> Date of change 15/08/2012

	Period 12	24,280	26,110	27,940	29,140
	Period 13	24,270	26,100	27,910	29,130
<b>Year 4</b>	Period 1	24,260	26,080	27,890	29,110
	Period 2	24,240	26,060	27,880	29,090
	Period 3	24,330	26,150	27,970	29,180
	Period 4	24,300	26,130	27,950	29,170
	Period 5	24,290	26,120	27,940	29,150
	Period 6	24,270	26,100	27,920	29,130
	Period 7	24,260	26,090	27,900	29,120
	Period 8	24,250	26,070	27,890	29,100
	Period 9	24,230	26,050	27,870	29,080
	Period 10	24,220	26,030	27,850	29,060
	Period 11	24,200	26,010	27,840	29,050
	Period 12	24,190	26,000	27,820	29,030
	Period 13	24,170	25,980	27,790	29,010
<b>Year 5</b>	Period 1	24,160	25,970	27,780	28,990
	Period 2	24,140	25,950	27,760	28,980
	Period 3	24,130	25,940	27,750	28,950
	Period 4	24,120	25,920	27,730	28,930
	Period 5	24,100	25,910	27,710	28,920
	Period 6	24,090	25,890	27,700	28,900
	Period 7	24,070	25,880	27,680	28,880
	Period 8	24,060	25,860	27,660	28,860
	Period 9	24,040	25,840	27,650	28,850
	Period 10	24,030	25,830	27,630	28,830
	Period 11	24,000	25,810	27,610	28,810
	Period 12	23,990	25,800	27,600	28,790
	Period 13	23,980	25,780	27,580	28,780
<b>Year 6</b>	Period 1	23,960	25,760	27,560	28,760
	Period 2	23,950	25,740	27,550	28,740
	Period 3	23,930	25,730	27,530	28,730
	Period 4	23,920	25,710	27,500	28,710
	Period 5	23,900	25,700	27,490	28,690
	Period 6	23,890	25,680	27,470	28,660
	Period 7	23,880	25,660	27,450	28,650
	Period 8	23,860	25,650	27,440	28,630
	Period 9	23,850	25,630	27,420	28,610
	Period 10	23,830	25,620	27,400	28,590
	Period 11	23,820	25,600	27,390	28,580
	Period 12	23,800	25,590	27,370	28,560
	Period 13	23,790	25,570	27,350	28,540
<b>Year 7</b>	Period 1	23,770	25,560	27,340	28,530
	Period 2	23,760	25,540	27,320	28,510
	Period 3	23,750	25,530	27,300	28,490
	Period 4	23,720	25,510	27,290	28,470

1. **Start of the Franchise**

The Reporting Period in the cells entitled “Year 1 Period 7” shall be the first Reporting Period of the Franchise Term.



## APPENDIX 8

### Figures for Calculation of Annual Franchise Payments (*Clause 5.20*)<sup>113</sup>

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<sup>113</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

## **APPENDIX 9**

### **List of Key Contracts (*Clause 5.24*)**

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

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

8. Any contract or arrangement for the supply of spare parts or Spares.
9. Any contract or arrangement for the maintenance of track and other related infrastructure.
10. Any licences of Marks to the Franchisee.
11. Any licence of any CRM System or Yield Management System.
12. The Agreement for the supply and maintenance of a self service ticket issuing system between New Southern Railway Limited and Shere Limited.

## APPENDIX 10

### List of Primary Franchise Assets (*Clause 5.25*) <sup>114</sup>

Description of Primary Franchise Asset	Commitment not to de designate?
The Master Rental Agreement between Barclays Mercantile Business Finance Limited and New Southern Railway Limited dated 31 July 2006 (including the Individual Leases).	N
The Spares Storage Facility situated at Selhurst Depot	N
<b><i>The Electrostar Lot 10B MSA.</i></b>	<b><i>N</i></b>

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<sup>114</sup> Date of Change 20/09/2009

## **APPENDIX 11**

### **List of Committed Obligations and Related Provisions (Clause 6)**

#### **Part 1 to Appendix 11**

#### **List of Committed Obligations**

##### **1. Secure Station Accreditation**

1.1 On or before 31 October 2010 the Franchisee shall achieve "Secure Station Scheme" status (in accordance with the guidelines published by the Department for Transport on 24 March 2005 (as modified on 22 May 2006) for each of the 95% Stations. For the purposes of this paragraph 1.1 the 95% Stations are:

- (a) such Stations as the Franchisee may specify and:
  - (i) which account for 95% of the 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 British Transport Police at the Start Date as high risk locations; and
- (b) each of the Greater London Stations other than the Stations located at Belmont, Birkbeck, Clapham High Street and Wandsworth Road; and
- (c) each of the following Stations: Angmering, Bognor Regis, Earlswood, East Worthing, Emsworth, Goring-by-Sea and Southwick.

1.2 Without prejudice to the rights of the Secretary of State under this Agreement, where at any time during the Franchise Term a Station ceases to have the "Secured Station Scheme" status achieved in respect of that Station pursuant to paragraph 1.1 the Franchisee shall ensure that, within 6 months from the date on which such status ceases to apply in respect of that Station, such status is achieved again in respect of that Station.

## **2. ITSO Smartmedia Ticketing**

2.1 Subject to paragraph 2.4 the Franchisee shall on or before 31 January 2012 introduce and operate an ITSO-Certified Smartmedia ticketing system throughout the area in which the Passenger Services are provided by:

- (a) providing, purchasing and installing such ITSO-Certified Smartmedia product retailing equipment, cards, readers and validators at the ITSO Stations and at such other stations as the Franchisee deems appropriate in order to operate an optimal ITSO-based scheme across the area in which the Passenger Services are provided;
- (b) providing and installing ITSO-Certified Smartmedia functionality on any automated gates which are fitted at any of the ITSO Stations;
- (c) providing portable ITSO-Certified Smartmedia handheld checkers to substantially all of its revenue protection staff when on duty;
- (d) negotiating and supporting effective maintenance, communications, power and other operating arrangements for the ITSO-based scheme; and
- (e) developing and supporting, or procuring the development and support of, an ITSO-Certified Smartmedia back office.

2.2 The Franchisee shall co-operate and actively engage with ATOC, other Train Operators, RSP and TfL as appropriate in:

- (a) developing an approach to the provision of information regarding the use of ITSO-Certified Smartmedia 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 this paragraph 2.

2.3 The Franchisee shall use all reasonable endeavours to:

- (a) participate in any ATOC approved Smartmedia related ticketing scheme; and

- (b) co-operate with other Train Operators who either have or will have a certified ITSO Smartmedia functionality, to ensure reciprocal operation of ITSO-Certified Smartmedia cards.
- 2.4 The Franchisee shall not be in breach of the provisions of paragraph 2.1 if its failure to introduce and operate an ITSO-Certified Smartmedia ticketing system by the specified date is caused by delay in fitting or converting any Oyster validation equipment scheduled to be fitted or converted at any ITSO Station which is a Greater London Station where this was caused solely by TfL (or its contractors or agents) not carrying out such fitting or converting works in accordance with the planned timescales.

## **OYSTER PAYG**

- 2.5 The Franchisee will co-operate with TfL in collective industry discussions about an agreement under which the Franchisee will agree to accept Oyster PAYG fares in respect of the Passenger Services as soon as is reasonably practicable. In the event that a railway industry agreement to accept Oyster PAYG fares on franchised passenger rail services is reached, the Franchisee agrees to enter into a consequent appropriate legal agreement with TfL under which Oyster PAYG fares will be accepted by the Franchisee for the remainder of the Franchise Term. Should an industry agreement not be reached by 30 April 2010, the Franchisee will continue cooperating with TfL to introduce Oyster PAYG fares in respect of the Passenger Services as soon as reasonably practicable provided that the Franchisee and the Secretary of State agree that the terms of such introduction are not detrimental to the overall commercial position of the franchise.
- 2.6 During the Franchise Term, the Franchisee agrees to provide "Oyster Top Ups" from ticket vending machines which are in place at Greater London Stations at the Start Date (subject to the Secretary of State funding the upgrade of these machines as part of the Oyster PAYG roll out.).
- 2.7 The Franchisee agrees that the introduction of Oyster PAYG will not be a Change nor otherwise entitle the Franchisee to receive any compensation payment from the Secretary of State pursuant to the terms of the Franchise Agreement, save as specified in paragraph 2.6.

2.8 For the purposes of this paragraph 2 the ITSO Stations are:

(a) **Outside London (26 stations)**

Bexhill, Bognor Regis, Brighton, Burgess Hill, Chichester, Crawley, Dorking, Eastbourne, East Grinstead, Epsom, Gatwick Airport, Haywards Heath, Horsham, Hove, Hurst Green, Lewes, Leatherhead, Littlehampton, Oxted, Redhill, Reigate, Seaford, Shoreham By Sea, Three Bridges, Uckfield, Worthing; and

(b) **In London (18 stations)**

Balham, Carshalton, Coulsdon South, Mitcham Eastfields, East Croydon, East Dulwich, Gipsy Hill, London Victoria, Norbury, Peckham Rye, Purley, Streatham, Streatham Common, Streatham Hill, Sutton, Thornton Heath, Tulse Hill and Wallington.

3. **Improvements at Stations**

**Ticket Vending Machines**

3.1 The Franchisee shall:

- (a) <sup>i</sup> on or before 31 December 2010 install 30 ticket vending machines at Stations to be determined by the Franchisee, such ticket vending machines to be additional to those which existed at such Stations as at the Start Date; and
- (b) <sup>115</sup> ***on or before 31 January 2012 install at least a further 126 ticket vending machines (in addition to those referred to in paragraph 3.1(a)) at Stations to be determined by the Franchisee and in so doing shall incur expenditure of not less than £<sup>116</sup>. All such ticket vending machines shall be equipped with car park retailing functionality for the sale of permits to use the car park at Stations. The Franchisee shall be permitted to propose to the Secretary of State an alternative automated retail solution for the sale of tickets at any Station and if the Secretary of State in his unfettered discretion agrees to such a proposal (whether because it represents better value to passengers and/or would minimise costs thereby allowing for***

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<sup>115</sup> Date of Change 06/04/2011

<sup>116</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.



***additional outputs to be acquired from the committed expenditure or otherwise) then the Franchisee will implement such an alternative automated retail solution at that Station instead of installing the ticket vending machines as originally contemplated. The Franchisee's obligations under this paragraph 3.1(b) shall be in addition to its obligations under paragraphs 2 and 3.4.***

- 3.2 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under paragraphs 3.1(a) and 3.1(b) the Franchisee shall on or before the end of the sixth Reporting Period following the Start Date provide to the Secretary of State a delivery plan which sets out:
- (a) the Stations where the ticket vending machines or such alternative automated retail facilities as may be agreed pursuant to paragraph 3.1(b) will be installed (giving details of the numbers and type of machines to be installed at each such Station);
  - (b) the dates of completion of such installation at each such Station; and
  - (c) a brief explanation as to the reasons why the Franchisee has opted to install the ticket vending machines (or such alternative automated retail facilities as may be agreed pursuant to paragraph 3.1(b)) at such Stations.
- 3.3 On or before the date that is 3 months after the Start Date the Franchisee shall ensure that all the ticket vending machines located at the Stations as at the Start Date provide "Ticket on Departure" facilities.
- 3.4 On or before 31 December 2010 the Franchisee shall ensure that the functionality and ease of use of the ticket vending machines already located at the Stations as at the Start Date are improved by the inclusion of some or all of the following features and in so doing shall incur expenditure of not less than £<sup>117</sup>:

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<sup>117</sup> Where text has been omitted from the document this is because the Director 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) availability of zone extensions in the London area and season ticket options which are additional to those which existed as at the Start Date;
- (b) improved screen layouts and screen navigation;
- (c) wider credit card and cash acceptance;
- (d) improved processor speeds and intelligence; and
- (e) any other improvements that may be agreed with the Secretary of State.

### **Automatic Ticket Gates**

3.5 Subject to obtaining the approval of HM Railway Inspectorate, any planning or listed building consents and any other consents that may be required under the relevant Station Leases and/or Access Agreements (“**Relevant Consent**”) the Franchisee shall:

- (a)<sup>118</sup> ***Install automatic ticket gates at the Stations specified in the first column of the following table at the entrances specified in the second column by the date in the third column:***

<b>Stations</b>	<b>Entrances</b>	<b>Date</b>
Angmering	Main entrance and secondary entrance	31 July 2010
Ashtead	Main entrance and secondary entrance	31 December 2010
Bognor Regis	Entrance to the platforms	31 May 2010
Burgess Hill	Main entrance; car park entrance to Platform 1; and car park entrance to Platform 2.	31 December 2010
Crawley	Main entrance and secondary entrance	31 August 2010

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<sup>118</sup> Date of change 16/6/2010

Dorking	Sole station entrance	30 April 2010
East Grinstead	Sole station entrance	30 April 2011
Falmer	Main entrance and secondary entrance	30 September 2010
Hassocks	Main entrance and secondary entrance	30 September 2010
Haywards Heath	Main entrance and secondary entrance	31 December 2010
Leatherhead	Main entrance and secondary entrance	31 December 2010
Polegate	Main entrance and secondary entrance	31 December 2010
<b><i>Littlehampton<sup>119</sup></i></b>	<b><i>Main entrance</i></b>	<b><i>30 September 2011</i></b>

Shoreham-by-Sea	Main entrance; disabled entrance to Platform 1; and disabled entrance to Platform 2.	30 September 2010
Three Bridges	Entrance to the platforms	30 June 2010

- (b) on or before 31 March 2011 install automatic ticket gates at the Stations specified in the first column of the following table and at the entrances specified in the second column:

<b>Stations</b>	<b>Entrances</b>
Coulsdon South	Main entrance and secondary entrance
Horley	Main entrance and secondary entrance
Merstham	Main entrance and secondary entrance

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<sup>119</sup> Date of Change 22/12/2010

Oxted	Main entrance
Reigate	Main entrance and secondary entrance

(c) on or before 31 December 2011 install automatic ticket gates at:

- (i) the main entrance to Gatwick Airport Station; and
- (ii) the following locations at London Victoria Station:
  - (A) the concourse entrance to platforms 13 and 14;
  - (B) the approach to the passenger lift which gives access from the upper level of the Station to platforms 13 and 14; and
  - (C) such location which gives access to platforms 13 and 14 from the upper level of the Station. This location is to conform with the operators view of the most practical site for facilitating passenger flows.

and prior to such installation of automatic ticket gates the Franchisee shall install 2 additional ticket vending machines at Gatwick Airport and 10 additional ticket vending machines at London Victoria the location of which shall ensure ease of access to ticket vending facilities for passengers using platforms 13 and 14.<sup>120</sup>

3.6 The Franchisee shall immediately notify the Secretary of State where it has not been able to obtain a Relevant Consent in respect of any Station referred to in paragraphs 3.5(a), (b) or (c) ("**Original Station**"), and shall as soon as reasonably practicable thereafter, provide the Secretary of State with a written proposal ("**Proposal**") identifying one or more alternative

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<sup>120</sup> Date of Change 28/04/2011

Stations at which it considers it may be appropriate to install automatic ticket gates (an “**Alternative Location**”). Such Proposal shall:-

- (a) provide an explanation as to why the Franchisee considers each such Alternative Location to be an appropriate location for the installation of automatic ticket gates, specifying the passenger footfall, known levels of fare evasion and any specific security issues at each such Alternative Location; and
- (b) identify the cost of installing automatic ticket gates at each such Alternative Location.

- 3.7 Without prejudice to the provisions of paragraph 6 of Part 2 (Miscellaneous Provisions) of this Appendix 11, based on the Proposal, the Franchisee and the Secretary of State shall agree (or in the absence of agreement the Secretary of State shall reasonably determine) the Alternative Location at which the Franchisee shall be required, in the same way as specified in paragraphs 3.5(a), (b) or (c) (as the case may be), to install automatic ticket gates in place of the Original Station, provided that the cost to the Franchisee of installing ticket gates at the Alternative Location shall not exceed the cost which would have been incurred by the Franchisee in installing automatic ticket gates at the Original Station.
- 3.8 For the avoidance of doubt, in circumstances where paragraph 3.6 applies, a Committed Obligation Payment Adjustment shall be made pursuant to paragraph 2 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11 in respect of any Reporting Period in which the Franchisee fails to install automatic ticket gates at any Alternative Location.
- 3.9 The Franchisee shall ensure (at its own cost) that all the gates which form part of the TfL Gating Schemes (as such term is defined in paragraph 4 of Appendix 1 (Secretary of State Risk Assumptions)) once installed and operational continue to be made available and effectively maintained for the remainder of the Franchise Term. For the avoidance of doubt, the provisions of paragraph 2.2 of Part 2 (Miscellaneous Provisions) to this Appendix 11 shall apply in respect of the Franchisee’s obligations under this paragraph 3.9.
- 3.10 The Franchisee shall ensure that the automatic ticket gates to be installed by it at the Stations referred to in paragraphs 3.5(a) to (c) together with those to be installed by the Franchisee to replace the existing obsolete automatic

ticket gates at Epsom Station shall (unless otherwise agreed by the Secretary of State) consist of at least 76 standard gates and 46 gates of a wider dimension to permit passengers carrying luggage to pass without undue inhibition. At least 6 such gates of a wider dimension will be installed at the station specified in paragraph 3.5(c)(i) and at least 4 gates of a wider dimension at the station specified in paragraph 3.5(c)(ii).

- 3.11 Within 6 months of the installation of automatic ticket gates at the Station referred to in paragraph 3.5 (c)(i), the Franchisee shall provide to the Secretary of State a report (in a form to be agreed with the Secretary of State before the Start Date) detailing the level of Peak and Off Peak ticket office queuing times and adherence to the 5 minute peak and 3 minute off peak queuing standard contained in the Ticketing and Settlement Agreement.

### **Station Car Parks**

- 3.12 The Franchisee shall:

- (a) on or before 31 March 2013:-

- (i) provide no less than 1000 car parking spaces at Stations; and
- (ii) subject to obtaining all necessary planning and other consents, provide at least a further 122 car parking spaces at Stations,

in each case in addition to those which exist on the Start Date and with the location of such car parking spaces to be determined by the Franchisee;

- (b) ***on or before 30 April 2011 install car park retailing functionality onto all ticket vending machines which existed at Stations as at the Start Date and the 30 ticket vending machines installed in accordance with paragraph 3.1 (a), for the sale of permits to use the car park at Stations;***<sup>121</sup>

- (c) on or before the date that is one year from the Start Date install displays showing real time train departure information (in addition to

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<sup>121</sup> Date of Change 06/04/2011

those which exist on the Start Date) at 10 Station car parks to be determined by the Franchisee;

- (d) within the first 12 months of the Franchise Term undertake a trial of automatic number plate technology at Brighton Station car park for season ticket and car park permit holders enabling vehicle recognition and automatic entrance and exit from the car park and if, in the reasonable opinion of the Franchisee, the technology works in practice, proves to be cost effective and is welcomed by passengers (the Franchisee having conducted a survey of a reasonable sample of those passengers involved in the trial to establish whether or not this is the case), extend the automatic number plate recognition technology to a further nine Station car parks by no later than 31 March 2013 at locations to be determined by the Franchisee.

3.13 In order to assist the Secretary of State in the monitoring of the Franchisee's compliance with its obligations under:

- (a) paragraph 3.12(a) the Franchisee shall on or before the end of the thirteenth Reporting Period following the Start Date provide to the Secretary of State a delivery plan which sets out:
  - (i) the Stations at which the additional car parking spaces will be provided with a plan showing the location and the number of additional car parking spaces that will be provided at each such Station;
  - (ii) the dates by which the additional car parking spaces will be provided at each such Station; and
  - (iii) a brief explanation as to the reasons why the Franchisee has opted to provide the additional car parking spaces at the relevant Stations;

**(b) not used**<sup>122</sup>

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<sup>122</sup> Date of Change 06/04/2011

- (c) paragraph 3.12(c) the Franchisee shall on or before the end of the sixth Reporting Period following the Start Date provide to the Secretary of State a delivery plan which sets out:
- (i) the Station car parks at which the Franchisee will install the real time train departure information displays;
  - (ii) the dates by which the real time train departure information displays will be installed at each such Station car park; and
  - (iii) a brief explanation as to the reasons why the Franchisee has opted to install the real time train departure information displays at each such Station car park.

3.14 The Franchisee shall co-operate and actively engage with Network Rail in developing an approach to the provision of additional car parking spaces at the Stations located at Redhill and Three Bridges and at other Stations (to the extent appropriate).

### Station Environment

3.15<sup>ii</sup> On or before 30 September 2010 the Franchisee shall carry out a deep clean and minor fault rectification works at all Stations which are Greater London Stations and in doing so shall incur expenditure of not less than £<sup>123</sup>. The deep clean and minor fault rectification works shall be carried out in such a way as to achieve the outputs specified in the specification of works set out in the document in agreed terms marked “**GLA Deep Clean Specification**” and the quality of the works undertaken by the Franchisee pursuant to this paragraph 3.15 shall be assessed as specified in the GLA Deep Clean Specification. The Franchisee shall notify the Secretary of State and TfL as soon as the deep clean and minor fault rectification works have been completed at any such Greater London Station.

3.16 On or before 31 March 2011 the Franchisee shall carry out a deep clean and minor fault rectification works at all Stations other than the Greater London

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<sup>123</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.



Stations and in doing so shall incur expenditure of not less than £<sup>124</sup>. The deep clean and minor fault rectification works shall be carried out in such a way as to achieve the outputs specified in a specification to be prepared by the Franchisee and approved by the Secretary of State by the Start Date (the “**Non-GLA Deep Clean Specification**”) and the quality of the works undertaken by the Franchisee pursuant to this paragraph 3.16 shall be assessed as specified in the Non-GLA Deep Clean Specification. The Franchisee shall notify the Secretary of State as soon as the deep clean and minor fault rectification works have been completed at any such Station.

3.17 On or before **31 October 2012**<sup>125</sup> the Franchisee shall improve the facilities at those Stations known as Brighton, Haywards Heath, Hove, Lewes, Redhill, Three Bridges and Worthing and in so doing shall procure expenditure of not less than £<sup>126</sup>. The improvements to be made to facilities at such Stations shall be determined by the Franchisee (in consultation with Network Rail and other relevant Stakeholders including the Secretary of State) and may include some or all of the following:

- (a) refurbishment of waiting accommodation and toilets;
- (b) introduction of and/or improvement to customer information systems and passenger announcement systems in waiting rooms;
- (c) introduction of “white” lighting to improve visibility and security; and
- (d) general redecoration.

3.18 In addition to its obligations in paragraph 3.17 the Franchisee shall on or before 31 May 2011 improve customer information systems at Stations and in doing so shall incur expenditure of not less than £<sup>127</sup>. The improvements to be made to the customer information systems will include:

- (a) customer information systems coverage at all Stations;

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<sup>124</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>125</sup> Date of Change 29/10/2010

<sup>126</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>127</sup> Where text has been omitted from the document this is because the Director 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) installation of fastest train A-Z boards at the Stations located at Brighton, East Croydon, Epsom<sup>iiiiv</sup>, Gatwick Airport, Purley, Redhill, Sutton (Surrey), Three Bridges and Worthing;
  - (c) reliability enhancements; and
  - (d) other general enhancements as necessary.
- 3.19 By no later than 31 December 2009, the Franchisee shall introduce designated meeting points at not less than 16 Stations including London Victoria, East Croydon, Brighton and London Bridge to assist groups of passengers to meet and travel together and disabled passengers to meet their station host.
- 3.20 In order to improve the provision of information to passengers, by no later than 31 December 2009, the Franchisee shall complete a zoning exercise at all Stations to identify some or all of the following:
- (a) Welcome Zone – containing station facility and community information;
  - (b) Ticket Zone – containing ticket purchasing and real time passenger service information;
  - (c) Train Zone – containing penalty fare and timetable information; and
  - (d) Onward Journey Zone – containing multi-modal travel information.
- 3.21 By no later than 31 December 2010, the Franchisee shall ensure that passenger information at all Stations is relocated in accordance with the zoning exercise referred to in paragraph 3.20.
- 3.22 On or before 31 May 2011 the Franchisee shall install two benches at Polegate Station.**<sup>128</sup>
- 3.23 On or before 30 June 2012, the Franchisee shall install two benches at Leatherhead Station.**<sup>129</sup>

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<sup>128</sup> Insert new text wef 16/03/11

<sup>129</sup> Insert new text wef 09/02/12

## 4. Rolling Stock and Depots

### Rolling Stock

4.1 <sup>130</sup>

4.2 <sup>131</sup>

4.3 <sup>132</sup>

4.4 <sup>133</sup>

4.5 From 31 December 2011 the Franchisee shall use all reasonable endeavours to ensure that, so far as is reasonably practicable without causing unreasonable delay or Cancellation to any Passenger Service:

- (a) the availability of functional train toilets assessed on a Reporting Period by Reporting Period basis across all of the Class 171, Class 377 and Class 442 rolling stock vehicles comprised in the Train Fleet is greater than or equal to 95% in respect of all such rolling stock vehicles in passenger revenue earning service in the operation of the Passenger Services; and
- (b) working air conditioning functionality assessed on a Reporting Period by Reporting Period basis across all of the Class 171, Class 377 and Class 442 rolling stock vehicles comprised in the Train Fleet is greater than or equal to 98% in respect of all such rolling stock vehicles in passenger revenue earning service in the operation of the Passenger Services.

4.6 The Franchisee shall, as part of its reporting arrangements pursuant to paragraph 4.1 of Schedule 7.2 (Service Quality Management) of the Terms,

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<sup>130</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>131</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>132</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>133</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

provide a report to the Secretary of State which demonstrates its performance in respect of its obligations under paragraph 4.5.

4.7 <sup>134</sup>

4.8 <sup>135</sup>

4.9 <sup>136</sup>

4.10 <sup>137</sup>

4.11 <sup>138</sup>

4.12 Any references to SLC2B or SLC3B in paragraphs 4.10 and 4.11 shall be construed as references to SLC2B or SLC3B (as the case may be) or any Alternative SLC (as such term is defined in Clause 5.3A of this Agreement) having substantially the same effect as SLC2B or SLC3B.

4.13 As soon as reasonably practicable after the Start Date and in any event by no later than one year from the Start Date, the Franchisee shall, if implementation has not been completed prior to the Start Date, complete the implementation of the solution to delays between train arrival and door opening at London Victoria Station associated with GPS signal problems. The Franchisee shall maintain and operate such solution, or enhanced solutions should they become available, for the remainder of the Franchise Term.

**4.13A<sup>139</sup> On or before 31<sup>st</sup> December 2010 the franchisee shall procure an interactive train fault and failure diagnostic toolkit that will help identify**

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<sup>134</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>135</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>136</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>137</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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

<sup>139</sup> Date of Change 15/11/2010

***in-service faults on each unit type employed by Southern and provide clear instruction on how to manage the failure to minimise service disruption. The Franchisee agrees to:***

- (a) Implement the system in its Operational Control Centre by 31 March 2011***
- (b) Share the methodology behind the system with other Train Operators***

**4.14<sup>140</sup>** ***The franchisee is to run a passenger service from 09 December 2012 until the end of the franchise which will depart from Uckfield and arrive at London Bridge Monday to Friday on or before 0630, the calling pattern of this service will be Buxted, Crowborough, Eridge, Cowden, Edenbridge Town, Oxted, East Croydon.***

#### **Depots**

**4.15** <sup>141</sup> ***On or before 31 December 2011 the Franchisee shall procure that the Depots located at Brighton, Eastbourne, Selhurst and Stewarts Lane shall be subjected to an enhancement programme and in so doing shall incur expenditure of not less than £<sup>142</sup>. The enhancement programme must include:***

- (a) by 30 November 2011, modifications to extend the permanent way on yard siding 1 at Selhurst Depot to create 10 car length (200m) capacity on that road;***
- (b) by 30 December 2010 Design and construct a side pitted road at Stewarts Lane depot to provide for the effective maintenance of Class 442 units;***

***and may include some or all of the following:***

- (c) enhancement of the spares storage facilities at Brighton Depot; and***

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<sup>140</sup> Date of new insertion 12/09/2012

<sup>141</sup> Date of change 30/4/2010

<sup>142</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

- (d) ***enhancements to the repair shed including the installation of traction power (shore supply) systems at Selhurst Depot.***
- (e) ***enhancements to controlled emission toilet discharge facilities at each or any of the Depots located at Eastbourne, Brighton, Stewarts Lane, Selhurst, or at any other locations to be selected by the Franchisee.***

## 5. Accessibility

5.1 On or before 31 December 2013 the Franchisee shall develop at least 30 station travel plans and incur expenditure of not less than £<sup>143</sup> in the implementation of the recommendations of such station travel plans. Of the station travel plans to be developed in accordance with this paragraph 5.1, at least 10 shall be developed at Stations which are Greater London Stations, at least 10 shall be developed at Stations other than the Greater London Stations and a station travel plan shall be developed in respect of each Station where the Franchisee proposes to provide over 100 additional car parking spaces. Each station travel plan shall, at the time of its development, be consistent with the following requirements:

- (a) examine ways in which overall access to the relevant Station can be improved whilst focusing on the access and egress at the relevant Station for all modes including on foot;
- (b) draw on the experiences and results of the station travel plans which are being piloted by ATOC as at the date of this Agreement; and
- (c) be developed in conjunction with the affected local authorities, other transport operators, Network Rail and local user representatives and include the “TfL Strategic Urban Realm Planning Study programme” in respect of the station travel plans to be developed for the Stations which are Greater London Stations.

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<sup>143</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

**5.2<sup>144</sup> On or before the 31 December 2013, or such later date as ITSO on Prestige is delivered , the Franchisee shall introduce multi modal “Pay As You Go” ITSO-Certified Smartmedia ticketing:**

- (a) in the Brighton area (bounded by and including the Stations located at Shoreham-by-Sea, Preston Park and Falmer) in conjunction with the Brighton and Hove Bus and Coach Company Limited; and**
- (b) in the Crawley and Gatwick area (between and including Stations located at Horley and Ifield) in conjunction with Metrobus Limited.**

**5.2A On or before the date that is three years from the Start Date the Franchisee shall introduce Plusbus on ITSO-Certified Smartmedia ticketing:**

- (a) in the Brighton area (bounded by and including the Stations located at Shoreham-by-Sea, Preston Park and Falmer) in conjunction with the Brighton and Hove Bus and Coach Company Limited; and**
- (b) in the Crawley and Gatwick area (between and including Stations located at Horley and Ifield) in conjunction with Metrobus Limited.**

**5.2B On of before the 31 December 2013, or such later date as ITSO on Prestige is delivered but no later than the 1 June 2015, the Franchisee shall contribute £<sup>145</sup> to the Secretary of State for the development of Smartmedia systems/ticketing.**

**5.3 On or before:**

- (a) 31 January 2011 the Franchisee shall provide no less than 750 bicycle parking facilities (in addition to those which exist at the Start Date) at Stations to be determined by the Franchisee including by**

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<sup>144</sup> Date of Change 02/04/2012

<sup>145</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

reference to the existing capacity and passenger demand for such facilities at the relevant Station; and

- (b) 31 December 2013 the Franchisee shall provide no less than a further 750 bicycle parking facilities at Stations to be determined by the Franchisee including by reference to the outcome of the 30 station travel plans to be developed and implemented by the Franchisee pursuant to paragraph 5.1 and the existing capacity and passenger demand for such facilities at the relevant Station.

Any bicycle parking facilities provided by the Franchisee pursuant to this paragraph 5.3 shall comply with the TRANSEC security instructions as set out in the DfT Bike and Rail Policy document published on the 27th October 2006.

- 5.4 On or before the date that is two years from the Start Date the Franchisee shall install “real time” multimodal information screens at:

- (a) the Stations known as Aldrington, Brighton, Crawley, Falmer, Fishersgate, Gatwick Airport, Haywards Heath, Horley, Hove, Ifield, Lewes, London Road (Brighton), Moulsecoomb, Preston Park, Portslade, Shoreham-by-Sea, Southwick and Worthing; and
- (b) a further 17 Stations to be determined by the Franchisee,

and in doing so shall incur expenditure of not less than £<sup>146</sup>.

- 5.5 <sup>v</sup>Within 12 months of the Start Date, the Franchisee shall ensure that all disabled bays provided at car parks at Stations meet the requirements of BS 8300:2001, Design of buildings and their approaches to meet the needs of disabled people, code of practice.

- 5.6 The Franchisee shall:

- (a) with effect from the first anniversary of the Start Date, achieve and maintain a success rate in respect of its Assisted Passenger Reservation Service (“APRS”) of not less than 97% (assessed on a moving annual average basis). In order to establish the success

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<sup>146</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.



rate for the purposes of this paragraph 5.6(a), the Franchisee shall at the end of each Reporting Period contact not less than 20% of the total number of passengers who made reservations through the APRS in that Reporting Period and record those incidences where assistance was provided in accordance with such reservations and those incidences where no such assistance was provided; and

- (b) ensure that calls to the telephone help line number in respect of the APRS shall be provided free of charge.

- 5.7 The Franchisee shall within 12 months from the Start Date produce and make available to passengers a step free guide in respect of each Station identifying whether there is step free access at each Station (and if so, where it is) and advising on alternative provision where step free access is not available (the “**Step Free Guide**”). The Step Free Guide shall be consistent with the guide provided by TfL in respect of its passenger services and include information on the platform-train stepping distances. The Franchisee shall conduct an annual review of the Step Free Guide and, where considered appropriate following such review, update the Step Free Guide.

## 6. **Innovative Tickets and Payments**

- 6.1 On or before 31 December 2012, the Franchisee shall introduce on a trial basis three innovative season ticket types using ITSO-Certified Smartmedia technology on the Arun Valley to London Victoria route. Such trial shall be conducted by the Franchisee for at least one year. The season ticket types to be trialled shall be as follows (or such other types as may be agreed between the Franchisee and the Secretary of State):

- (a) cash back season tickets;
- (b) early bird flexible season tickets; and
- (c) three day season tickets.

- 6.2 No later than three months following conclusion of the trial referred to in paragraph 6.1 the Franchisee shall provide to the Secretary of State a feasibility report detailing the costs and benefits of introducing such innovative season ticket types throughout the Franchise. Where such feasibility report shows that there is a good business case for the introduction of any innovative season ticket type across the Franchise, the Franchisee

shall introduce such innovative season ticket type throughout the Franchise in accordance with the terms of the proposals set out in the feasibility report.

6.3 Subject to obtaining all necessary consents including where necessary amendment to the Ticketing and Settlement Agreement the Franchisee shall, on or before 31 December 2010, use all reasonable endeavours to introduce a facility ("Direct Debit Facility") whereby purchasers of season tickets are able to make payments in instalments to the Franchisee in respect of such tickets by way of direct debit. Once introduced the Franchisee shall make the Direct Debit Facility available to passengers.

6.4 The Franchisee shall donate £1 to a charity for each Annual Season Ticket that it sells online, such charity to be determined by the Franchisee.

## **7. Investors in People**

7.1 The Franchisee shall use all reasonable endeavours to achieve "Investors in People" accreditation within two years of the Start Date.

## **8. Environment**

8.1 Subject to obtaining the approval of Network Rail and the lessor under the relevant Rolling Stock Lease the Franchisee shall:

- (a) on or before 31 July 2010 and for the duration of the Franchise Term ensure that all of the Class 377 rolling stock vehicles comprised in the Train Fleet as at the Start Date have full regenerative braking capability across all Routes operated by such rolling stock vehicles; and
- (b) on or before 31 December 2012 install on board metering equipment on:
  - (i) 18 Class 377 rolling stock units comprised in the Train Fleet;
  - (ii) 6 Class 455 or Class 456 rolling stock units comprised in the Train Fleet;
  - (iii) 2 Class 442 rolling stock units comprised in the Train Fleet; and

- (iv) 2 Class 313 rolling stock units comprised in the Train Fleet.

- 8.2 On or before the date that is four years from the Start Date the Franchisee shall reduce non traction electricity consumption by 25% in comparison to the quantified baseline performance data established for year end 2008/09 (which in all circumstances shall exclude third party non traction electricity consumption). The Franchisee shall ensure that such reduction in non traction electricity consumption is maintained until the end of the Franchise Term.
- 8.3 On or before 31 July 2011 the Franchisee shall increase the recycling rate of mixed inert waste from the non hazardous solid waste stream by 60% in comparison with the quantified baseline performance data established for year end 2009/10. The Franchisee shall ensure that such recycling rate of mixed inert waste from the non hazardous solid waste stream is maintained until the end of the Franchise Term<sup>147</sup>
- 8.4 The Franchisee shall:
- (a) ensure that it maintains any ISO14001 accreditation already achieved as at the Start Date at any location across the Franchise; and
  - (b) within two years of the Start Date use all reasonable endeavours to achieve ISO14001 accreditation across the Franchise.
- 8.5 <sup>148</sup>
- 8.6 Within 3 months of the Start Date, the Franchisee shall prepare and submit to the Secretary of State an Environmental Management Plan. The Franchisee shall implement the Environmental Management Plan in accordance with its terms. The Environmental Management Plan will be updated on at least an annual basis and will include:
- (a) an assessment of franchise environmental performance prior to the Start Date for the purpose of compiling quantified performance

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<sup>147</sup> Date of change 14/04/2011

<sup>148</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

benchmarks against which to measure improvement during the Franchise Term; and

- (b) improvement targets across all areas of environmental performance including:
  - (i) reduction in traction energy consumption;
  - (ii) reduction in diesel consumption of not less than 2% over the Franchise Term;
  - (iii) reduction in non traction electricity consumption in accordance with paragraph 8.2;
  - (iv) increased usage of renewable power and consequential impact on CO2 emissions;
  - (v) reduction in gas usage of not less than 8% over the Franchise Term;
  - (vi) reduction in water usage; and
  - (vii) increased recycling in accordance with paragraph 8.3.

8.7 Prior to conducting the assessment contemplated under paragraph 8.6(a) the Franchisee shall provide to the Secretary of State for comments the details of how such an assessment would be carried out (including the underlying data that will inform the quantified performance benchmarks against which the Franchisee's performance will be measured during the Franchise Term). In compiling such quantified performance benchmarks the Franchisee shall take into account any comments received from the Secretary of State pursuant to this paragraph 8.7.

8.8 The Franchisee shall ensure that its Franchise Employees who are drivers undertake regular driving style energy efficiency training using upgraded driving simulators. For these purposes the Franchisee shall by no later than 30 September 2010 invest not less than £<sup>149</sup> on the upgrade of its driving simulators.

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<sup>149</sup> Where text has been omitted from the document this is because the Director 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. **Security**

9.1 On or before 31 March 2010 the Franchisee shall:

- (a) introduce a “Safer Travel Team” with an establishment of no less than 38 personnel consisting of 32 British Transport Police accredited Rail Enforcement Officers, four British Transport Police officers seconded to the Franchisee pursuant to paragraph 9.1(b) and two team managers as a permanently expanded security presence deployed on the network to apprehend criminals and deter criminality and other anti social behaviour; and
- (b) use all reasonable endeavours to agree with British Transport Police the secondment to the Franchisee at the Franchisee’s expense of three further British Transport Police officers at Sergeant level (in addition to the one such secondee in place at the Start Date) to bring police expertise and leadership skills to the Franchise,

and for the avoidance of doubt the provisions of paragraph 2.3(a) of Part 2 to this Appendix 11 shall apply to the Franchisee’s obligations in this paragraph 9.1.

9.2 On or before 31 March 2011 the Franchisee shall:

- (a) install two way help points with induction loops on each of the platforms at the following Stations:  
  
Angmering, Bexhill, Billingshurst, Durrington, East Worthing, Emsworth, Goring by Sea, Hampden Park, Hurst Green, Lancing, Lingfield, London Road (Brighton), Merstham, Moulsecoomb, Pulborough, Rye, Seaford, Upper Warlingham, West Worthing and Wivelsfield; and
- (b) install two way help points with induction loops at a further 20 Stations to be determined by the Franchisee such that the total number of help points installed pursuant to paragraph 9.2(a) and 9.2(b) shall not be less than 80.

9.3 In order to assist the Secretary of State in the monitoring of the Franchisee’s compliance with its obligations under paragraph 9.2(b) the Franchisee shall

on or before the end of the sixth Reporting Period following the Start Date provide to the Secretary of State a delivery plan which sets out:

- (a) the Stations where the help points will be installed;
- (b) the dates of completion of such installation at each such Station; and
- (c) a brief explanation as to the reasons why the Franchisee has opted to install the help points at such Stations.

## **10. Station Security**

10.1 The Franchisee shall ensure that on or before 31 March 2011 all Stations have centrally monitored CCTV facilities including by:

- (a) the installation of at least 176 CCTV cameras at the 22 Stations which do not have CCTV cameras as at the Start Date; and
- (b) ensuring that all of the CCTV cameras at all of the Stations are connected to the Franchisee's integrated security control centre and are regularly monitored by staff at all times when the Stations are open to passengers.

10.2 The Franchisee shall:

- (a) ensure that the "Park Mark" accreditation already achieved at the 24 Car Parks as at the Start Date is maintained for the duration of the Franchise Term; and
- (b) on or before 31 December 2011 secure the "Park Mark" accreditation for a further 17 car parks.

10.3 For the purposes of paragraph 10.2 the 24 Car Parks are: Angmering, Arundel, Ashtead, Balcombe, Billingshurst, Brighton, Buxted, Cheam, Christ's Hospital, Crowborough, Hassocks, Horsham, Hove, Lancing, Lewes, Lingfield, Merstham (x 2), Polegate, Pulborough (x 2), Whyteleafe, Woldingham and Worthing.

10.4 Subject to paragraph 10.5, the Franchisee shall normally remove graffiti:

- (a) from Stations, within twenty-four hours of it being reported either by a Franchise Employee or a passenger; and

- (b) from rolling stock vehicles, within twenty-four hours or if later prior to such rolling stock entering into Passenger Service (so far as is reasonably practicable without causing unreasonable delay or Cancellation to such Passenger Service);

and subject to paragraph 10.5 shall in any event do so within 14 days in accordance with the procedure for the removal of graffiti, such procedure having been commenced within twenty-four hours of it being reported either by a Franchise Employee or a passenger.

- 10.5 In circumstances where the removal of such graffiti requires a Restriction of Use, a risk assessment or specialist attention or is outside the area of the Station Lease of the affected Station or cannot be rectified at the reported location or appears on out-berthed stock or requires specialist chemicals or parts or involves window etching (or such other exceptional circumstances as may be agreed by the Secretary of State) the Franchisee shall remove such graffiti as soon as reasonably practicable having commenced the procedure for such removal within seven days of it being reported either by a Franchise Employee or a passenger. For the purposes of this paragraph 10.5, "out-berthed stock" means rolling stock that is not returned to one of the following locations overnight: Brighton, Selhurst and Stewarts Lane Depots.

## 11. **Staffing**

### 11.1 The Franchisee shall:

- (a) within 6 months of the Start Date appoint an individual whose duties will include acting as Olympic Games Champion with a job description appropriate to such a role and maintain such appointment until at least 31 December 2012. Such individual shall represent the Franchisee at all key meetings concerning the 2012 Olympic and Paralympic Games (the "**Games**") and co-ordinate the Franchisee's preparation for the Games; and
- (b) by the first anniversary of the Start Date, the Franchisee shall appoint a Thameslink Champion from the Duty Station Managers based at London Bridge Station, who will have specific responsibility for:
  - (i) attending meetings on the planning of works at London Bridge Station as appropriate;

- (ii) ensuring Franchise Employees based at London Bridge Station are fully aware of the changes taking place arising from the Thameslink Programme; and
- (iii) ensuring appropriate information about the Thameslink Programme is provided to passengers,

and for the avoidance of doubt the provisions of paragraph 2.3(a) of Part 2 to this Appendix 11 shall apply to the Franchisee's obligations in this paragraph 11.1.

### **Staffing of Gates At Stations**

11.2 Subject to paragraph 11.3, the Franchisee shall ensure that from the earlier of the date on which the automatic ticket gates installed at the Stations listed in the second column of the following table (headed "Table to paragraph 11.2") (the "**Gatelines**") become operational and the date specified in the first column of such table until the end of the Franchise Term, the Gatelines are managed and in operational use each day:

- (a) in respect of any Station at which Gatelines are installed at the Start Date ("**Pre-Start Date Gated Station**"), during the Relevant Period (as defined in paragraph 11.3 below) for at least the rostered hours applicable to such Station at the Start Date; and
- (b) in respect of any Station which is not a Pre-Start Date Gated Station and in respect of any Pre-Start Date Gated Station after the expiry of the Relevant Period, by at least one Franchise Employee for the hours indicated in respect of that Station in the third column of the following table headed "Hours per Day".

11.3 For the purposes of paragraph 11.2, Relevant Period means in respect of a Pre-Start Date Gated Station which is a Greater London Station, the period of 6 months from the Start Date and in respect of a Pre-Start Date Gated Station which is not a Greater London Station, the period of 3 months from the Start Date.

11.4 Notwithstanding the provisions of paragraph 1 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11, the Franchisee shall not be regarded as being in breach of paragraph 11.2 unless in any 3 consecutive Reporting Periods the level of staffing provided in aggregate



across all of the Gatelines is less than 95% of the total number of hours during which such Gatelines are required to be managed and in operational use pursuant to paragraph 11.2 during any such Reporting Period (the “**Gateline Minimum Staffing Level**”), provided that a Committed Obligation Payment Adjustment shall be made pursuant to paragraph 2 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11 in respect of any Reporting Period in which the Gateline Minimum Staffing Level is not achieved.

**Table to paragraph 11.2<sup>150</sup>**

<b><i>Date for commencement of staffing arrangements</i></b>	<b><i>Station</i></b>	<b><i>Hours per day</i></b>		
		<b><i>Monday to Friday</i></b>	<b><i>Saturday</i></b>	<b><i>Sunday</i></b>
<b><i>31 December 2010</i></b>	<b><i>Angmering</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>
<b><i>31 December 2010</i></b>	<b><i>Ashtead</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>
<b><i>30 April 2010</i></b>	<b><i>Balham</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Battersea Park</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 December 2010</i></b>	<b><i>Bognor Regis</i></b>	<b><i>0700 - 1430</i></b>	<b><i>0700 - 2100</i></b>	<b><i>0700 - 2100</i></b>
<b><i>20 December 2009</i></b>	<b><i>Brighton</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>
<b><i>31 December 2010</i></b>	<b><i>Burgess Hill</i></b>	<b><i>0600 - 1330 and 1600 -</i></b>	<b><i>0600 - 1330 and 1600 -</i></b>	<b><i>0600 - 1330 and 1600 -</i></b>

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<sup>150</sup> Insert new text wef 08/02/11

<b><i>Date for commencement of staffing arrangements</i></b>	<b><i>Station</i></b>	<b><i>Hours per day</i></b>		
		<b><i>Monday to Friday</i></b>	<b><i>Saturday</i></b>	<b><i>Sunday</i></b>
		<b><i>0030</i></b>	<b><i>0030</i></b>	<b><i>0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Carshalton</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 August 2010<sup>151</sup></i></b>	<b><i>Carshalton Beeches</i></b>	<b><i>0700 - 2200</i></b>	<b><i>0900 - 1900</i></b>	<b><i>1000 - 1600</i></b>
<b><i>20 December 2009</i></b>	<b><i>Chichester</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 March 2011</i></b>	<b><i>Coulsdon South</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 December 2010</i></b>	<b><i>Crawley</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>
<b><i>31 December 2010</i></b>	<b><i>Dorking</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>
<b><i>20 December 2009</i></b>	<b><i>East Croydon</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>
<b><i>30 June 2012</i></b>	<b><i>East Grinstead</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>	<b><i>0600 - 2000</i></b>
<b><i>20 December 2009</i></b>	<b><i>Eastbourne</i></b>	<b><i>0545 - 2315</i></b>	<b><i>0545 - 2315</i></b>	<b><i>0630 - 0000</i></b>
<b><i>20 December 2009</i></b>	<b><i>Epsom</i></b>	<b><i>0600 - 1330 and 1600 - 0030</i></b>	<b><i>0600 - 1330 and 1600 - 0030</i></b>	<b><i>0600 - 1330 and 1600 - 0030</i></b>
<b><i>31 December</i></b>	<b><i>Falmer</i></b>	<b><i>0600 -</i></b>	<b><i>N/A</i></b>	<b><i>N/A</i></b>

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<sup>151</sup> Date of change 14/05/2010

<b><i>Date for commencement of staffing arrangements</i></b>	<b><i>Station</i></b>	<b><i>Hours per day</i></b>		
		<b><i>Monday to Friday</i></b>	<b><i>Saturday</i></b>	<b><i>Sunday</i></b>
<b><i>2010</i></b>		<b><i>2000</i></b>		
<b><i>31 December 2011</i></b>	<b><i>Gatwick Airport</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>
<b><i>30 April 2010</i></b>	<b><i>Gipsy Hill</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 December 2010</i></b>	<b><i>Hassocks</i></b>	<b><i>0630 - 1400</i></b>	<b><i>N/A</i></b>	<b><i>N/A</i></b>
<b><i>31 December 2010</i></b>	<b><i>Haywards Heath</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 March 2011</i></b>	<b><i>Horley</i></b>	<b><i>0600 - 1330 and 1600 - 0030</i></b>	<b><i>0600 - 1330 and 1600 - 0030</i></b>	<b><i>0600 - 1330 and 1600 - 0030</i></b>
<b><i>20 December 2009</i></b>	<b><i>Horsham</i></b>	<b><i>0550 - 2320</i></b>	<b><i>0550 - 2320</i></b>	<b><i>0600 - 2200</i></b>
<b><i>20 December 2009</i></b>	<b><i>Hove</i></b>	<b><i>0530 - 2245</i></b>	<b><i>0530 - 2245</i></b>	<b><i>0700 - 2300</i></b>
<sup>152</sup> <b><i>31 December 2010</i></b>	<b><i>Leatherhead</i></b>	<b><i>0600 – 23.30</i></b>	<b><i>0600 – 23.30</i></b>	<b><i>0600 – 23.30</i></b>
<b><i>20 December 2009</i></b>	<b><i>Lewes</i></b>	<b><i>0600 - 2330</i></b>	<b><i>0600 - 2330</i></b>	<b><i>0700 - 2300</i></b>
<b><i>20 December 2009</i></b>	<b><i>London Bridge</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 March 2012</i></b>	<b><i>Merstham</i></b>	<b><i>0600 -</i></b>	<b><i>0600 -</i></b>	<b><i>0600 -</i></b>

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<sup>152</sup> Date of Change 10/10/2011

<b>Date for commencement of staffing arrangements</b>	<b>Station</b>	<b>Hours per day</b>		
		<b>Monday to Friday</b>	<b>Saturday</b>	<b>Sunday</b>
		<b>2000</b>	<b>1330 and 1600 - 0030</b>	<b>2000</b>
<b>30 April 2010</b>	<b>Norbury</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>
<b>31 March 2011</b>	<b>Oxted</b>	<b>0600 - 1330 and 1600 - 0030</b>	<b>0600 - 1330 and 1600 - 0030</b>	<b>0600 - 1330 and 1600 - 0030</b>
<b>30 April 2010</b>	<b>Peckham Rye</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>
<b>31 December 2010</b>	<b>Polegate</b>	<b>0600 - 2000</b>	<b>0600 - 2000</b>	<b>0600 - 2000</b>
<b>30 September 153 2011</b>	<b>Littlehampton</b>	<b>0635 - 2013</b>	<b>0635 - 2013</b>	<b>0635 - 2013</b>
<b>30 April 2010</b>	<b>Purley</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>
<b>20 December 2009</b>	<b>Redhill</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>	<b>0530 - 0030</b>
<b>31 March 2011</b>	<b>Reigate</b>	<b>0600 - 2000</b>	<b>N/A</b>	<b>N/A</b>
<b>31 May 2010<sup>154</sup></b>	<b>Selhurst</b>	<b>0530 – 0030</b>	<b>0600 – 0030</b>	<b>0700 - 0030</b>
<b>31 December 2010</b>	<b>Shoreham-by-Sea</b>	<b>0600 - 2000</b>	<b>0600 - 2000</b>	<b>0600 - 2000</b>

<sup>153</sup> Date of Change 22/12/2010

<sup>154</sup> Date of change 14/5/2010

<b><i>Date for commencement of staffing arrangements</i></b>	<b><i>Station</i></b>	<b><i>Hours per day</i></b>		
		<b><i>Monday to Friday</i></b>	<b><i>Saturday</i></b>	<b><i>Sunday</i></b>
<b><i>30 April 2010</i></b>	<b><i>South Croydon</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Streatham</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Streatham Common</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Streatham Hill</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>20 December 2009</i></b>	<b><i>Sutton</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Thornton Heath</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>31 December 2010</i></b>	<b><i>Three Bridges</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>30 April 2010</i></b>	<b><i>Tulse Hill</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>20 December 2009</i></b>	<b><i>London Victoria (excluding Platforms 13 and 14)</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>
<b><i>31 December 2011</i></b>	<b><i>Platforms 13 and 14 at London Victoria</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>	<b><i>First to last train staffing</i></b>
<b><i>30 April 2010</i></b>	<b><i>Wallington</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>

<b><i>Date for commencement of staffing arrangements</i></b>	<b><i>Station</i></b>	<b><i>Hours per day</i></b>		
		<b><i>Monday to Friday</i></b>	<b><i>Saturday</i></b>	<b><i>Sunday</i></b>
<b><i>30 April 2010</i></b>	<b><i>West Norwood</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>
<b><i>20 December 2009</i></b>	<b><i>Worthing</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>	<b><i>0530 - 0030</i></b>

### **Staffing of the Greater London Stations**

11.5 The Franchisee shall ensure that with effect from 30 April 2010 until the end of the Franchise Term at least one Franchise Employee (which for the avoidance of doubt may be the same Franchise Employee as is managing a Gateline in operational use at the relevant Station pursuant to paragraph 11.2) is present at each of the Stations which are Greater London Stations or which are Managed Stations (excluding Belmont, Birkbeck, Clapham High Street and Wandsworth Road) ("GLA Staffed Stations") each day (excluding Boxing Day) between the period commencing from five minutes prior to first timetabled departure of a passenger service from the Station until five minutes after the time of actual departure of the last timetabled passenger service. Notwithstanding the provisions of paragraph 1 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11 (but without prejudice to the provisions of paragraph 11.7), the Franchisee shall not be regarded as being in breach of this provision unless in each of any 3 consecutive Reporting Periods such level of staffing is provided:

- (a) in aggregate across all of the GLA Staffed Stations for less than 95% of the total number of hours during which such GLA Staffed Stations are required to be staffed pursuant to this paragraph 11.5 during any such Reporting Period; or
- (b) in respect of any individual GLA Staffed Station for less than 90% of the number of hours during which such GLA Staffed Station is required to be staffed pursuant to this paragraph 11.5 during any such Reporting Period.

- 11.6 The Franchisee shall ensure that with effect from 30 April 2010 until (i) the end of the Franchise Term in respect of Belmont and Birkbeck Stations; and (ii) the commencement of SLC3A in respect of Clapham High Street and Wandsworth Road Stations (together, the “GLA Other Stations”) at least one Franchise Employee is present at the Stations listed in the first column of the following table (headed “Table to paragraph 11.6”) on those days on which Passenger Services call at each such Station for the hours indicated in respect of that Station in the second column of such table headed “Hours per Day”. Notwithstanding the provisions of paragraph 1 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11 (but without prejudice to the provisions of paragraph 11.7), the Franchisee shall not be regarded as being in breach of this provision unless in each of any 3 consecutive Reporting Periods such level of staffing is provided:
- (a) in aggregate across all GLA Other Stations for less than 95% of the total number of hours during which such GLA Other Stations are required to be staffed pursuant to this paragraph 11.6 during any such Reporting Period; or
  - (b) in respect of any individual GLA Other Station for less than 90% of the number of hours during which such GLA Other Station is required to be staffed pursuant to this paragraph 11.6 during any such Reporting Period.

**Table to paragraph 11.6**

<b>Station</b>	<b>Hours per day</b>		
	<b>Monday to Friday</b>	<b>Saturday</b>	<b>Sunday</b>
Belmont	3 hours	3 hours	3 hours
Birkbeck	3 hours	3 hours	3 hours
Clapham High Street	3 hours	3 hours	3 hours
Wandsworth Road	3 hours	3 hours	3 hours

- 11.7 A Committed Obligation Payment Adjustment shall only be made pursuant to paragraph 2 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11 in respect of any Reporting Period in which the level of staffing

provided in aggregate across all GLA Staffed Stations and GLA Other Stations is less than 95% of the total number of hours during which such Stations are required to be staffed pursuant to paragraphs 11.5 and 11.6 respectively during such Reporting Period.

11.8 The Franchisee shall ensure that with effect from the Start Date until the end of the Franchise Term at least one Franchise Employee (which for the avoidance of doubt may be the same Franchise Employee as is managing a Gateline in operational use at the relevant Station pursuant to paragraph 11.2) is present at the Stations ("**Non-GLA Staffed Stations**") listed in the first column of the table headed "Table to paragraph 11.8" below:

- (a) in respect of each Non-GLA Staffed Stations marked with an \* in such table:
  - (i) from the Start Date until the date specified in respect of such Station in the first column of the table headed "Table to paragraph 11.2" above, for not less than the rostered hours applicable to such Station at the Start Date; and
  - (ii) from the date specified in respect of such Station in the first column of the table headed "Table to paragraph 11.2" above until the end of the Franchise Term, for the hours indicated in respect of that Non-GLA Staffed Station in the second column headed "Hours per Day" of the table headed "Table to paragraph 11.8" below; and
- (b) in respect of all other Non-GLA Staffed Stations, for the hours indicated in respect of that Non-GLA Staffed Station in the second column of the table headed "Table to paragraph 11.8" below.

11.9 Notwithstanding the provisions of paragraph 1 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11, the Franchisee shall not be regarded as being in breach of the provisions of paragraph 11.8 unless in any 3 consecutive Reporting Periods such level of staffing is provided:

- (a) in aggregate across all Non-GLA Staffed Stations for less than 95% of the total number of hours during which such Non-GLA Staffed



Stations are required to be staffed pursuant to paragraph 11.8 during such Reporting Period (the “**Aggregate Non-GLA Minimum Staffing Level**”); or

- (b) in respect of any individual Non-GLA Staffed Station for less than 90% of the number of hours during which such Non-GLA Staffed Station is required to be staffed pursuant to paragraph 11.8 during such Reporting Period,

provided that a Committed Obligation Payment Adjustment shall only be made pursuant to paragraph 2 of Part 3 (Late/Non Completion of Committed Obligations) to this Appendix 11 in respect of any Reporting Period in which the Aggregate Non-GLA Minimum Staffing Level is not achieved.

**Table to paragraph 11.8**

Station	Hours per day		
	Monday to Friday	Saturday	Sunday
Angmering*	0600 - 2000	0600 - 2000	0600 - 2000
Arundel	0600 - 1925	0810 - 1445	0810 – 1645
Ashtead*	0600 - 2000	0600 - 2000	0600 - 2000
Balcombe	0700 - 0900		
Barnham	First to Last train staffing	First to Last train staffing	First to Last train staffing
Berwick	0610 - 1145		
Bexhill	0610 - 1935	0610 - 1935	0810 - 1545
Billingshurst	0600 - 1925	0710 - 1345	0810 – 1645
Bognor Regis	First to Last train staffing	First to Last train staffing	First to Last train staffing
Bosham	0610 - 1025		
Brighton	First to Last train staffing	First to Last train staffing	First to Last train staffing
Burgess Hill*	0600 - 0030	0600 - 0030	0600 - 0030

Station	Hours per day		
	Monday to Friday	Saturday	Sunday
Buxted	0600 - 0830		
Caterham	0530 – 0100	0530 – 0100	0710 – 0100
Chichester	First to Last train staffing	First to Last train staffing	First to Last train staffing
Chipstead	0610 - 1040		
Christs Hospital	0610 - 1040		
Clapham Junction (platforms 13-17)	First to Last train staffing	First to Last train staffing	First to Last train staffing
Cooden Beach	0630 - 1300		
Crawley*	0500 - 2230	0500 - 2230	0600 – 2300
Crowborough	0600 - 1235	0630 - 1305	
Dorking	0530 - 0100	0530 - 0100	0600 – 0100
Dormans	0630 - 1015		
Durrington-on-Sea	0610 - 1935	0710 - 1345	0810 – 1545
Earlswood	0630 - 1035		
East Grinstead	0545 - 0040	0545 - 0040	0735 - 2340
Eastbourne	First to Last train staffing	First to Last train staffing	First to Last train staffing
Edenbridge Town	0630 - 1305	0700 - 1335	
Emsworth	0640 - 1315	0640 - 1315	
Epsom	First to Last train staffing	First to Last train staffing	First to Last train staffing
Eridge	0600 - 1235	0645 - 1320	
Ewell East	0630 - 1305	0810 – 1445	
Falmer*	0600 - 2000	0625 - 1950	0910 – 1645
Ford	0630 - 1305	0630 – 1305	

Station	Hours per day		
	Monday to Friday	Saturday	Sunday
Gatwick Airport	First to Last train staffing	First to Last train staffing	First to Last train staffing
Goring-by-Sea	0620 - 1255	0620 - 1255	<b>0810 - 1545<sup>155</sup></b>
Ham Street	0555 – 1230	0555 – 1230	
Hampden Park	0610 - 1935	0610 - 1245	0650 – 1425
Hassocks	0610 - 1935	0640 - 2005	0910 – 1645
Haywards Heath	First to Last train staffing	First to Last train staffing	First to Last train staffing
Horley*	0600 - 0030	0600 - 0030	0600 - 0030
Horsham	First to Last train staffing	First to Last train staffing	First to Last train staffing
Hove	First to Last train staffing	First to Last train staffing	First to Last train staffing
Hurst Green	0550 - 1905	0645 - 1320	0755 – 1610
Ifield	0600 - 1235	0700 - 1335	
Kingswood	0600 - 0930		
Lancing	0610 - 1935	0630 - 1955	0810 – 1545
Leatherhead*	0600 - 0030	0600 - 0030	0600 - 0030
Lewes	First to Last train staffing	First to Last train staffing	First to Last train staffing
Lingfield	0620 - 1935	0730 - 1405	0810 - 1625
Littlehampton	First to Last train staffing	First to Last train staffing	First to Last train staffing
Littlehaven	0700 – 0900		
London Bridge	First to Last train	First to Last train	First to Last

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<sup>155</sup> Date of change 16/9/2009

Station	Hours per day		
	Monday to Friday	Saturday	Sunday
	staffing	staffing	train staffing
London Road (Brighton)	0655 - 1330	0655 - 1330	
London Victoria	First to Last train staffing	First to Last train staffing	First to Last train staffing
Merstham*	0600 - 2000	0600 - 0030	0600 - 2000
Moulsecoomb	0650 - 1330	0650 - 1400	
Newhaven Town	0615 - 1250	0615 - 1250	
Oxted*	0530 - 0045	0530 - 0045	0600 - 0030
Pevensey & Westham	0630 - 1040	0700 - 1040	
Plumpton	0555 – 1030		
Polegate*	0600 - 2000	0600 - 2000	0600 - 2000
Portslade*	0555 - 2000	0555 - 2000	0600 - 2000
Preston Park	0600 - 1910	0600 - 1910	0910 - 1645
Pulborough	0600 - 1925	0710 - 1345	
Redhill	First to Last train staffing	First to Last train staffing	First to Last train staffing
Reigate*	0600 - 2000	0710 - 1345	
Rye	0540 - 1905	0540 - 1905	0910 - 1645
Salfords	0630 – 1035		
Seaford	0610 - 1935	0610 - 1935	0825 – 1600
Shoreham-by-Sea*	0540 - 2000	0600 - 2000	0600 - 2000
Southbourne	0635 - 1310	0635 - 1310	
Southwick	0640 - 1315	0640 - 1315	0810 – 1545
Tadworth	0600 – 1030		

Station	Hours per day		
	Monday to Friday	Saturday	Sunday
Tattenham Corner	0610 - 1328	0910 - 1628	
Three Bridges	First to Last train staffing	First to Last train staffing	First to Last train staffing
Uckfield	0550 - 1225	0625 - 1300	
Upper Warlingham	0635 - 1955	0725 - 1400	0810 – 1545
Warblington	0755 - 0915		
West Worthing	0620 - 1945	0640 - 2005	0810 – 1545
Whyteleafe	0555 - 1230	0620 – 1225	
Whyteleafe South	0645 - 1015		
Wivelsfield	0610 - 1935	0610 - 1935	0730 - 1430
Woldingham	0610 – 0930		
Worthing	First to Last train staffing	First to Last train staffing	First to Last train staffing

11.10 It is agreed by the Secretary of State and the Franchisee that the provisions of paragraph 2.3(a) of Part 2 to this Appendix 11 shall not apply to any of the obligations of the Franchisee in paragraphs 11.2, 11.5, 11.6 and 11.8.

11.11 The Franchisee shall:

- (a) provide a report to the Secretary of State by no later than 14 days after the end of each Reporting Period, such report to self certify the extent of the Franchisee's compliance with its obligations in paragraphs 11.2, 11.5, 11.6 and 11.8 including compliance with its obligation to ensure that each individual Station is staffed for at least 90% of the number of hours applicable in respect of such individual Station; and
- (b) ensure that it has appropriate systems in place for the collation of the information necessary for the purposes of the provision to the

Secretary of State of the information required pursuant to paragraph 11.11(a).

Without prejudice to any other audit rights the Secretary of State may have under the Franchise Agreement, the Secretary of State, his employees and agents on his behalf shall have the right to carry out audits of the extent to which the Franchisee carries out its obligations set out in paragraphs 11.2, 11.5, 11.6 and 11.8.

- 11.12 Within 6 months of the Start Date, the Franchisee shall ensure that each customer facing Franchise Employee who does not have immediate access to fixed line facilities (excluding drivers) shall have access to on-demand real time information in relation to the Passenger Services when on duty, including by making available to such Franchise Employees Blackberry devices or other Personal Digital Assistants.

## **Revenue Protection Officers**

11.13 <sup>156</sup>

## **12. Renaming of Smitham Station**

- 12.1 The Franchisee shall co-operate with Croydon Council and undertake a joint public consultation in relation to the renaming of Smitham Station. The Franchisee shall as soon as reasonably practicable thereafter submit the results of the joint public consultation to the Secretary of State and in conjunction with Croydon Council shall make recommendations to the Secretary of State in respect of the new name of Smitham Station. At the direction of the Secretary of State and at the expense of the Franchisee, the Franchisee shall use reasonable endeavours to implement the new name in its signage, maps, timetables and other associated systems (including passenger information systems) by no later than the Subsidiary Change Date in May 2011 or any other subsequent Passenger Change Date proposed by Croydon Council and notified to the Franchisee provided that the new name is confirmed to the Franchisee not less than six months prior to the proposed date of implementation.

## **13. Stakeholder Interfaces/Consultation**

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

13.1 Within four weeks after the Start Date in respect of the first Franchisee Year and as soon as reasonably practicable prior to the commencement of each Franchisee Year thereafter the Franchisee shall deliver to the Secretary of State a Stakeholder Management Plan. The Franchisee will implement the Stakeholder Management Plan in accordance with its terms. For the purposes of this paragraph 13.1 the Stakeholder Management Plan is a plan to be developed by the Franchisee and which amongst others sets out the relevant stakeholders, establishes targets which measure the effectiveness of the plan and maps out the Franchisee's strategy for engagement with such stakeholders (including the method, frequency and objectives of such engagement).

13.2 The Franchisee shall:

- (a) create a "Station Partnership Scheme" in conjunction with Sussex Community Rail Partnership which encourages adoption of Stations located in East and West Sussex by local groups for the purpose of improving the care and condition of such Stations;
- (b) use all reasonable endeavours to ensure that within 12 months from the Start Date at least 12 such Stations are signed up to the scheme; and
- (c) invest at least £25,000 to support the implementation of any initiatives developed by the scheme.

13.3 The Franchisee shall:

- (a) continue to be a member of the Sussex Community Rail Partnership and shall every Franchisee Year invest £40,000 on projects, payment of the salary for the partnership officer and other administrative costs. Any money not invested at the end of each Franchisee Year shall be required to be invested in the following Franchisee Year and any outstanding uninvested sum by the end of the Franchise Term; and
- (b) in partnership with the relevant local authorities and the Train Operator for the South West Trains franchise (or any successor franchisee from time to time) seek to establish and contribute to the funding of a new non-designated Community Rail Partnership between Bedhampton and Chichester.

13.4 Every Reporting Period for the whole of the Franchise Term the Franchisee shall hold a meeting session at least at one Station and on at least one train across the Franchise whereby at least one local manager and one senior manager or a Director of the Franchisee shall meet with passengers (**“Meet the Manager Sessions”**). The Franchisee shall at least one week in advance publish the dates of each Meet the Manager Session on its website, in its passenger magazine and announce such dates at Stations and on trains. The Franchisee shall procure that any feedback received from passengers during each Meet the Manager Session is followed up and where necessary a response is provided to the passenger in a manner to be determined by the Franchisee. The comments received during each Meet the Manager Session shall be published by the Franchisee on its website.

13.5 The Franchisee shall:

- (a) continue to operate the Stakeholder Advisory Board with meetings held at least every 6 months. The Stakeholder Advisory Board shall include at least 7 representatives who are passengers and shall be formally constituted to provide advice and recommendations to the Franchisee on strategic and policy issues; and
- (b) within the first 12 months after the Start Date create a new web-based passenger panel which will be comprised of at least 1000 passengers who regularly use the Passenger Services. The passenger panel shall provide a forum for consultation with and feed back from passengers.

#### 14. **Major Projects**

14.1 Unless otherwise agreed by the parties, within 10 weeks from the Start Date and every month thereafter the Franchisee shall attend a meeting with employees of the Secretary of State on his behalf to discuss progress (including measures to mitigate any risk associated with such major projects) in respect of the major projects specified in paragraphs 7.1(a), 7.1(b) and 7.1(d) of Appendix 13 (South Central Specific Provisions).

14.2 With effect from the Start Date, the Franchisee shall have in place a Franchise Improvement Director whose role will be to manage major change initiatives on behalf of the Franchisee and whose responsibilities will include:



- (a) acting as a single point of focus for external partners including the Secretary of State, Network Rail and other stakeholders involved in major change initiatives;
- (b) managing negotiations with the Secretary of State in respect of any Change;
- (c) managing a Franchise Improvement Directorate which will be responsible for:
  - (i) developing the Franchisee's input into major change initiatives;
  - (ii) co-ordinating the delivery of franchise commitments; and
  - (iii) stakeholder management.

14.3 For the avoidance of doubt, the provisions of paragraph 2.3(a) of Part 2 to this Appendix 11 shall apply to the Franchisee's obligations under paragraph 14.2.

## 15. **Rail Replacement Bus Services**

15.1 In addition to its obligations in paragraph 8 of Schedule 1.2 of the Terms the Franchisee shall within 12 months of the Start Date implement the following measures to improve the customer experience during times of planned disruption:

- (a) provide clear signage to guide passengers between trains and replacement bus services at every Station served by a replacement bus;
- (b) ensure rail replacement bus service timetables are integrated with timetables for Passenger Services and that the scheduled departure times and calling patterns of the rail replacement bus services are displayed on the customer information systems at each Station served by a rail replacement bus;
- (c) use all reasonable endeavours to ensure that rail replacement buses are no more than 6 years old on 95% of rail replacement bus services; and

- (d) work with TfL and other local authorities to maximise the use of existing public transport modes for the provision of rail replacement services,

and the Franchisee shall monitor its fulfilment of the above obligations, including where appropriate in accordance with the provisions of paragraph 4 of Schedule 7.2 (Service Quality Management) of the Terms, and report the extent of its compliance with such obligations to the Secretary of State.

- 15.2 The Franchisee shall use all reasonable endeavours to provide the measures specified at paragraph 15.1 during times of unplanned disruption to the Passenger Services.

## 16. **Gatwick Express Services**

- 16.1 The Franchisee shall as a minimum:

- (a) retain the use of the name “Gatwick Express” in respect of the Gatwick Express Services and ensure that from the Start Date the name “Gatwick Express” is displayed on all departure screens and boards in respect of relevant Passenger Services;
- (b) from the Start Date produce and make available to passengers a dedicated pocket timetable for all of the Gatwick Express Services;
- (c) ***provide on-board catering services:***<sup>157</sup>

***(i) on all Gatwick Express Services commencing their journey from London Victoria or Gatwick between the hours of 0650 to 2015, Mondays to Fridays; 0705 to 2015 on Saturdays and 0650 – 1715 on Sundays; and***

***(ii) on all Gatwick Express Services commencing their journeys in Brighton (“ extended Gatwick Express Services”) on Mondays to Fridays.***

***The Franchisee shall not be regarded as being in breach of this provision (and for the avoidance of doubt no Committed Obligation Payment Adjustment shall be made) unless in any Reporting Period the Franchisee provides on-board catering***

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<sup>157</sup> Date of change 17/9/2009

***services on less than 95% of the total number of such services operating during that Reporting Period;***

- (d) within 3 months of the Start Date ensure that the location of any first class accommodation on board each rolling stock vehicle used for the provision of the Gatwick Express Services is displayed on customer information systems located at Gatwick Airport Station;
  - (e) ensure that any rolling stock vehicle used for the provision of the Gatwick Express Services includes luggage carrying facilities reasonably appropriate for Passenger Services carrying a high volume of airline passengers; and
  - (f) ensure that appropriate multi lingual announcements are made on the Gatwick Express Services in English, French, German, Spanish and Italian.
- 16.2 For the purposes of paragraph 16.1 Gatwick Express Services means any of the Passenger Services operating between London Victoria and Gatwick Airport which are not scheduled to call at intermediate stations.

## **17. Ticketless Travel Surveys**

- 17.1 In addition to its obligations in paragraph 1 of Schedule 1.3 (Ticket Collection and Ticketing) of the Terms and from the first Franchisee Year until the end of the Franchise Term the Franchisee shall carry out bi-annual surveys of ticketless travel in such form and in a manner to be determined by the Franchisee and approved by the Secretary of State. The outcome of the surveys carried out by the Franchisee under this paragraph will:
- (a) assess all forms of ticketless travel including overriding and possession of invalid tickets; and
  - (b) be used by the Franchisee to prioritise the deployment of the Revenue Protection Officers as well as identifying further opportunities for gating and installation of ticket issuing equipment.

## **18. Information about Passengers**

- 18.1 In addition to its obligations in paragraph 1.1 of Schedule 1.5 of the Terms the Franchisee shall on the date that is 3 months from the Start Date and every quarter thereafter provide to the Secretary of State (and TfL but only in

respect of the Passenger Services operated to and from the Greater London Stations) a crowding report (including all the underlying data) which will be in a form to be agreed with the Secretary of State by the Start Date.

- 18.2 The Franchisee shall undertake a review of the passenger demand levels and the long term financial viability of the following Passenger Services and submit a report to the Secretary of State:
- (a) by 25 December 2012 in respect of the Ashford to Rye peak shuttle;
  - (b) by 25 December 2011 in respect of the:
    - (i) Watford to Milton Keynes Passenger Services;
    - (ii) Purley to Tattenham Corner off peak shuttle; and
    - (iii) Tonbridge to Redhill to London Bridge Off Peak Passenger Services.

The report will be prepared in a professional and competent manner providing the information reasonably necessary to make decisions about these Passenger Services.

## 19. **Performance**

- 19.1 The Franchisee shall work with London Overground Rail Operations Limited (or any successor operator of the passenger services provided by London Overground Rail Operations Limited) ("**LOROL**") to maximise performance of the services of both the Franchisee and LOROL following the introduction of East London Line services to Crystal Palace and West Croydon and shall reflect the outcome of this joint approach within their respective joint performance improvement plans.

## 20. **Plusbus Schemes and Multi Modal Announcements**

### **Plusbus Schemes**

- 20.1 The Franchisee shall:
- (a) continue to participate in the "Plusbus" schemes operated across the Franchise as at the Start Date; and

- (b) use all reasonable endeavours to introduce a new “Plusbus” scheme to Horsham in partnership with Arriva by the first anniversary of the Start Date.

## **Multi Modal Announcements**

20.2 The Franchisee shall:

- (a) within 6 months of the Start Date commission surveys of passengers and stakeholders (including TfL, Passenger Focus and London Travelwatch) in relation to the scope and frequency of multi-modal travel announcements to be made on trains and at Stations. The surveys will specifically address (but not be limited to):
  - (i) announcements at Greater London Stations detailing planned or unplanned disruption to London Underground, DLR, Tramlink and other National Rail operator services;
  - (ii) announcements at Stations outside the London area detailing planned or unplanned disruption to other principal public transport modes;
  - (iii) announcements at Stations regarding planned service disruptions on the relevant route / service group; and
  - (iv) announcements on-train regarding principal interchange locations.
- (b) taking account of the results of these surveys, introduce changes to the scope and frequency of such announcements by 31 December 2010;
- (c) ensure that the scope, frequency and accuracy of such announcements is regularly reviewed through the passenger panel described in paragraph 13.5 (b) and through consultation with other relevant stakeholders; and
- (d) work with the Secretary of State and TfL to improve the provision of information regarding all public transport modes in the London area, so as to better integrate National Rail and TfL services. This will

include displaying at relevant Stations and on trains a Rail Services in London map (“RSL Map”) which is being developed by TfL and will be provided by TfL to the Franchisee along with relevant updates (together with display cases to display such maps). The location for the RSL Map at each Station will be identified through the information zoning exercise described in paragraph 3.19.

## 21. **Previous Franchise Plan Commitments/Investments**

21.1 The Franchisee shall ensure that for the duration of the Franchise Term the Previous Franchise Plan Improvements are properly maintained (allowing for reasonable wear and tear) and continue to be operational and effective in providing a service to passengers to the greatest extent reasonably practicable. **“Previous Franchise Plan Improvements”** means:

- (a) the passenger lounges, easy access lifts and family waiting areas at Sutton Station; and
- (b) the customer information systems specified in Annex 1 of this Appendix 11.

21.2 For the avoidance of doubt, it shall not be a contravention of the Committed Obligation in paragraph 21.1 if the Franchisee:

- (a) upgrades, improves or replaces facilities provided under any Previous Franchise Plan Improvements in accordance with the terms of any other Committed Obligation (including those contained in paragraphs 3.12(c), 3.17(b), 3.18, 3.20, 3.21, 5.1, 5.4, 15.1(b), 16.1(a) and (d) and 20.2 and any Committed Obligation which becomes applicable following the exercise of a Priced Option); or
- (b) otherwise undertakes works which have the effect of enhancing the quality and/or functionality of facilities provided under any Previous Franchise Plan Improvements.

21.3 The Franchisee shall continue to procure the provision of car parking spaces reserved for and suitable for use of disabled persons at car parks leased to the Franchisee as follows:

- (a) at hard surfaced car parks containing 25 parking spaces or less overall at least 1 reserved space shall be provided;

- (b) at least 2 reserved spaces shall be provided at Eridge, Ewell East, Leatherhead, Purley Oaks and Three Bridges;
- (c) except with regard to the station car parks listed at paragraph (d), at hard surfaced car parks containing 26 or more spaces overall at least 2 reserved spaces shall be provided; and
- (d) at the following car parks the following number of reserved spaces shall be provided:

Bognor Regis	4	Eastbourne	4
Brighton	8	Haywards Heath	4
Chichester	4	Lewes	4
Dorking	5	Rye	6

## 22. **East Coastway Consultation Exercise**

22.1 The Franchisee shall commence the following consultation exercise in respect of the proposal to introduce a revised pattern of service for the East Coast services as described in paragraph 2.1 of Appendix 4 (Priced Options) ("**East Coastway Revised Services**"):

- (a) by no later than 31 October 2009, commence discussions and consultation with the Rail Passengers' Council in relation to the East Coastway Revised Services;
- (b) by no later than 30 November 2009, communicate its proposals in respect of the East Coastway Revised Services to passengers and other key stakeholders (including South East England Development Agency, relevant local authorities, local user groups and representatives and Sussex Community Rail Partnership) and establish an appropriate forum for the discussion of such proposals with such passenger and stakeholders; and
- (c) by no later than 31 January 2010 submit the findings of the consultation and discussions described in paragraphs 22.1(a) and 22.1(b) to the Secretary of State and make final recommendations

to the Secretary of State in respect of the East Coastway Revised Services.

**23 GSM-R<sup>158</sup>**

**23.1 The Franchisee shall (including by working with Network Rail to agree and implement a GSM-R delivery and implementation programme pursuant to paragraph 23.3) use all reasonable endeavours to:**

**(a) procure and install GSM-R Radio Equipment to the driving cabs of all rolling stock vehicles comprised in the Train Fleet; and**

**(b) provide training to its train drivers and all other relevant Franchise Employees in the use of the GSM-R Radio Equipment so installed,**

**by dates which are earlier than the dates set out in paragraph 23.1(i) and 23.1(ii) (as the case may be) and in any event shall complete such procurement, installation and training by no later than:**

**(i) 31 December 2011, in respect of any rolling stock vehicles comprised in the Train Fleet which as at the Start Date are equipped with “NRN” radios only; and**

**(ii) the earlier of:**

**(1) 30 June 2014; and**

**(2)<sup>159</sup>**

**23.2 The Franchisee shall keep a stock of operational spare GSM-R Radio Equipment equal to 10% of the number of GSM-R unit sets required to be fitted to the rolling stock vehicles comprised in the Train Fleet. In addition the Franchisee shall ensure that it has the equipment reasonably required to test the GSM-R installation**

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<sup>158</sup> Date of Change 29/07/2010

<sup>159</sup> Where text has been omitted from the document this is because the Director 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 to their entry into operational service and to maintain the GSM-R Equipment once in use.*

**23.3** *The Franchisee will work with Network Rail to jointly agree a GSM-R delivery and implementation programme including a phased introduction in a manner similar to that set out in the document in agreed form marked “GSM-R implementation rollout” to reduce the risks to overall project delivery and with the aim of completing the fitment as early as reasonably practicable.*

**23.4** *The Franchisee shall provide the Secretary of State with a progress update regarding the GSM-R roll out and fitment programme at least every three months until the fitment is completed.*

**23.5**<sup>160</sup>

**23.6** *It is agreed by the Secretary of State and the Franchisee that the timescales for the completion of the fitment of GSM-R Radio Equipment to any rolling stock which is “dual fitted” with both “NRN” and “CSR” radio will be the date set out in paragraph 23.1(ii) unless the “NRN” radio is required for the rolling stock to remain in passenger service after 31 December 2011 in which case the relevant timescale for completion shall be as set out in paragraph 23.1(i).*

## **24 Enhanced Station Improvements**

**24.1** *In addition to any other Committed Obligation (including those specified in paragraphs 3.15 to 3.19 and paragraph 9.2 of this Appendix 11) the Franchisee shall, on or before 31 October 2012<sup>161</sup>, improve facilities at the following 27 Stations and in so doing shall incur expenditure of not less than<sup>162</sup>:*

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<sup>160</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

<sup>161</sup> Date of Change 29/10/2010

<sup>162</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

***Balcombe, Battersea Park, Burgess Hill, Carshalton, Caterham, Coulsdon South, Dorking, Earlswood, East Dulwich, Epsom, Horley, Horsham, Merstham, Preston Park, Purley, Purley Oaks, Salfords, Sanderstead, South Croydon, Streatham, Streatham Common, Sutton, Thornton Heath, Tulse Hill, Wallington, Wandsworth Common and Wivelsfield.***

***The improvements to be made to facilities at such Stations shall be determined by the Franchisee (in consultation with Network Rail and other relevant stakeholders including the Secretary of State) and may include some or all of the following:***

- (a) refurbishment of toilets and/or reopening of toilets which are not in passenger use as at the Start Date;***
- (b) refurbishment of waiting room accommodation and/or reopening of waiting room accommodation which are not in passenger use as at the Start Date;***
- (c) provision of new or additional platform seating;***
- (d) provision of new or additional platform shelters;***
- (e) provision of improved station signage;***
- (f) introduction and/or improvement to customer information systems and passenger announcement systems in waiting rooms;***
- (g) introduction of “white” lighting to improve visibility and security; and***
- (h) general redecoration and improvements to station buildings.***

***24.2 In order to assist the Secretary of State in the monitoring of the Franchisee’s compliance under paragraph 24.1 the Franchisee shall on or before the end of the thirteenth Reporting Period following the Start Date provide to the Secretary of State a delivery plan which sets out the facilities that will be improved (and the date of completion of such improvements) at each of the 27 Stations set out in paragraph 24.1.***



## **Part 2 to Appendix 11**

### **Miscellaneous Provisions**

#### **1. 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 each Part 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 in full operational order 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; and
  - (b) the Franchisee's rights and obligations 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) to the Terms).

#### **Expenditure by Network Rail**

3.3 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.

### **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. Third Party Consents, Agreement and Conditions**

- 6.1 Where, in Part 1 to this Appendix 11, any commitment of the Franchisee is expressed to be conditional upon the satisfaction of any condition (including the occurrence of any event or the obtaining of any third party consents, approvals and/or entering into any agreement or arrangement with a third party) the Franchisee shall use all reasonable endeavours to procure that such condition is satisfied within such timescales (if any) as are set out in Part 1 to this Appendix 11 in relation to such obligations.
- 6.2 Without limiting paragraph 6.1 or any other commitment of the Franchisee if any commitment of the Franchisee set out in Part 1 of this Appendix 11 is expressly subject to the satisfaction of any condition (including the occurrence of any event or the obtaining of any third party consents, approvals and/or entering into any agreement or arrangement with a third party) and the Franchisee is unable to satisfy such condition within the timescales set out in Part 1 of this Appendix 11 then paragraph 6.3 shall apply.
- 6.3 The Franchisee shall:
  - (a) as soon as reasonably practicable notify the Secretary of State if it is unable to procure the satisfaction of any condition (including the occurrence of any event or the obtaining of any third party consents, approvals and/or entering into any agreement or arrangement with a third party) relating to any commitment set out in Part 1 to this Appendix 11 despite having complied with its obligations in paragraph 6.1; and

- (b) to the extent required by the Secretary of State (and at his absolute discretion) ensure that any amount that cannot be spent due to the non-fulfilment of any such condition is either expended as soon as reasonably practicable on such other improvements to enhance the quality of the Passenger Services and/or Station Services as are approved by the Secretary of State or paid by the Franchisee to the Secretary of State at the next Payment Date or such other date as the Secretary of State may specify.

## **7. Review of Compliance**

- 7.1 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.
- 7.2 In addition to its obligation under paragraph 7.1, 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.
- 7.3 Where in respect of any commitment in Part 1 to 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:
  - (a) provide regular updates at the Franchise Performance Meetings of:
    - (i) any progress it has made in the implementation of such plan since the last Franchise Performance Meeting;
    - (ii) any material change to such plan;
    - (iii) 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
    - (iv) 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; and

- (b) unless as may otherwise be agreed by the Secretary of State, implement such plan in accordance with its terms.



## **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 from such date; 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<sup>163</sup>.**

### 3. Waiver of Payments under this Part 3

- 3.1 The Secretary of State may at his reasonable discretion decide to waive his 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.

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<sup>163</sup> Where text has been omitted from the document this is because the Director 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 1**

### **Customer Information Systems provided under the Previous Franchise Agreement**

1. All Stations except Marshlink and Warnham, Fishersgate, Normans Bay and Southease are fitted with real time automated public address systems. This includes functionality for long line live PA and manually recorded announcements;
2. All manned Stations except Rye and Appledore have local microphones for emergency use;
3. All Stations served by more than two trains per hour off peak in each direction have visual displays on the platform;
4. All Stations fitted with visual displays are capable of displaying up to 60 minutes worth of train running information;
5. Middle and large stations have additional visual information concentrating on departure summaries, popular destination summaries, general information text displays. Booking halls and staff areas are also covered;
6. All Stations fitted with PA are capable of selective zoning with high and low volume settings;
7. All Stations fitted with PA are capable of announcement inhibits by means of announcement type;
8. All Stations fitted with PA are capable of delivering up to 3 announcements per train. Stations categorised by Network Rail as category A Stations are unlimited;
9. All Stations in noise sensitive areas are fitted with information points activated on demand; and
10. The system control centre is open 364 days a year, 24 hours and 7 days a week.

## **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, TfL, 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.

#### 6 <sup>164</sup> **OLYMPIC REVENUE INCENTIVE**

***6.1 As soon as reasonably practicable after 9 September 2012, the parties shall agree the Olympic Revenue Incentive Franchise Payment Adjustment that shall be made in accordance with paragraph 6.2.***

***6.2 The Olympic Revenue Incentive Franchise Payment Adjustment shall be determined in accordance with the following formula:<sup>165</sup>***

***where:***

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<sup>164</sup> Date of new insertion 22/06/2012

<sup>165</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

***GFR means the amount of revenue directly attributable to any Fare allocated to the Franchisee for the purpose of travel on the Franchise Services in Reporting Period 5 of the Franchisee Year beginning on 1 April 2012,***

***and shall not be less than zero.***

***6.3 The Olympic Revenue Incentive Franchise Payment Adjustment (if any) payable pursuant to this paragraph 6 shall:***

- (c) be payable by the Franchisee to the Secretary of State and shall be made on the first Payment Date falling after determination of the Olympic Revenue Incentive Franchise Payment Adjustment pursuant to paragraphs 6.1 and 6.2; and***
- (d) be repaid by the Secretary of State to the Franchisee if and to the extent that any Revenue Share Adjustment is payable by the Franchisee in respect of the Franchisee Year beginning on 1 April 2012.”***



## APPENDIX 13

### South Central Specific Provisions (Clause 7.2)

1. **Thameslink Trading Arrangements**<sup>166</sup>
2. **Thameslink Key Output 1 (Daily Hire of Rolling Stock)**<sup>167</sup>
3. **Electrostar Lot 10b**<sup>168</sup>
4. **Customer Satisfaction Benchmarks**
  - 4.1 It is agreed by the Franchisee that:
    - (a) the National Passenger Surveys conducted by the Rail Passengers' Council pursuant to paragraph 2 of Schedule 1.5 (Information about Passengers) of the Terms shall be an Actionable National Passenger Survey for the purposes of this paragraph 4; and
    - (b) the methodology to be adopted by the Rail Passengers' Council in conducting any such National Passenger Survey shall be as described in the document in agreed terms marked "**CSM**" (the "**Passenger Survey Methodology**"),  
  
provided that:
      - (i) the first Actionable National Passenger Survey shall be the National Passenger Survey conducted by the Rail Passengers' Council in or around Spring 2010;
      - (ii) the Franchisee's performance against each Customer Satisfaction Benchmark will be measured in respect of each Service Group based on an average of the results of the two National Passenger Surveys conducted by

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

<sup>167</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>168</sup> Where text has been omitted from the document this is because the Director 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 Rail Passengers' Council in any one calendar year in respect of each such Service Group except that:

- (A) where the last Franchisee Year is scheduled to end at a point in the calendar year where only the first of the two National Passenger Surveys due to be carried out in that calendar year is available the Franchisee's performance against each Customer Satisfaction Benchmark will be measured in respect of each Service Group on the basis of such first National Passenger Survey conducted by the Rail Passengers' Council in that Franchisee Year ("**relevant Actionable National Passenger Survey**"); and
  - (B) where the last Franchisee Year is scheduled to end at a point in the calendar year where none of the National Passenger Surveys due to be carried out in that calendar year is available the provisions of paragraphs 4.3 to 4.5 shall have no further application.
- (iii) if the Rail Passengers' Council ceases to undertake National Passenger Surveys then the Actionable National Passenger Survey for the purposes of this paragraph 4 shall be such other passenger survey as the Secretary of State may, after consultation with the Franchisee, reasonably determine to be appropriate in the circumstances.

4.2 If:

- (a) at any time during the Franchise Term the methodology adopted in conducting any National Passenger Survey (or replacement survey pursuant to paragraph 4.1(b)(iii)) which is an Actionable Passenger Survey pursuant to this paragraph 4 is materially inconsistent with the Passenger Survey Methodology; and
- (b) the Secretary of State reasonably determines that in consequence a revision to the Customer Satisfaction Benchmark is required in

order to hold constant the risk of the Franchisee failing to satisfy the requirements of the Customer Satisfaction Benchmark,

then the Secretary of State shall make such revisions to such Customer Satisfaction Benchmark (and any other relevant provision of this paragraph 4) as he reasonably considers appropriate to hold constant such risk.

4.3 If in respect of the circumstances:

- (a) where the Franchisee's performance is to be measured in respect of each Service Group based on an average of the results of the two National Passenger Surveys conducted by Rail Passengers' Council in any one calendar year, the average results of the two Actionable National Passenger Surveys referred to in paragraph 4.1; or
- (b) set out in paragraph 4.1(b)(ii)(A), the results of the relevant Actionable Passenger Survey,

show that the level of customer satisfaction in respect of a Customer Satisfaction Measure is below the relevant Customer Satisfaction Benchmark relating to such Customer Satisfaction Measure the Franchisee shall, unless the Secretary of State shall otherwise direct, incur additional expenditure in order to secure the required improvements.

4.4 Without limiting paragraph 4.3, on each occasion that the Franchisee becomes obliged to incur additional expenditure to secure a required improvement, the Franchisee shall produce an action plan which is consistent with its obligations under paragraph 4.3 and in compliance with the following provisions:

- (a) the Franchisee shall (1) produce, (2) obtain the Secretary of State's approval of, and (3) commence the implementation of the action plan within 3 months after the date on which the results of such Actionable National Passenger Survey which triggered the requirement for the required improvement were published or otherwise made available to the Franchisee;
- (b) the action plan will contain specific tangible action points and indicate in the case of each action point:

- (i) how that action will contribute to meeting the Customer Satisfaction Measure;
  - (ii) where the action is to be implemented;
  - (iii) when the action is to be commenced and by when it is to be implemented provided always that where any action is expressed to be ongoing the plan shall include specific review dates; and
  - (iv) how performance of the action is to be measured;
- (c) the action plan will identify the additional expenditure associated with each action; and
- (d) for the purposes of satisfying its obligations under paragraph 4.3, the Franchisee shall not be required to incur additional expenditure of more than the capped expenditure in a Franchisee Year.

4.5 The Franchisee shall, as soon as reasonably practicable after such information is made available to the Franchisee, publicise its performance against the Customer Satisfaction Benchmarks by displaying such information at all of the Stations categorised by Network Rail as category A, B and C stations and on its website.

4.6 Upon the termination of this Franchise Agreement the Franchisee shall pay to the Secretary of State, by way of adjustment to Franchise Payments, an amount equivalent to the amount of any additional expenditure that the Franchisee is committed to incur pursuant to paragraph 4.3 and which it has not incurred at the end of the Franchise Term.

4.7 For the purposes of this paragraph 4:

**“additional expenditure”** means, in respect of a single Customer Satisfaction Measure, £100,000 (One Hundred Thousand Pounds), such expenditure being additional to:

- (i) any sums provided for expenditure in respect of the same or similar commitments in the Business Plan for the Franchisee Year (the **“First Franchisee Year”**) in which the obligation to incur additional expenditure under paragraph 4.3 first arises (the **“Existing Expenditure”**), and in any subsequent Franchisee Year, shall be in

addition to the amount of the Existing Expenditure as increased by an amount equivalent to any increase in the Retail Prices Index between the beginning of the First Franchisee Year of the expenditure and the beginning of that subsequent Franchisee Year; and

- (ii) without limiting the preceding paragraph 4.7(i), any expenditure made or to be made by the Franchisee for the purposes of complying with the provisions of Schedule 1 (Passenger Service Obligations), Schedule 4 (Persons with Disabilities and Disability Discrimination), Schedule 7 (Performance Benchmarks/Service Quality Management) of the Terms and Appendix 11 (List of Committed Obligations and Related Provisions) of this Franchise Agreement;

**“capped expenditure”** means £500,000 (Five Hundred Thousand Pounds);

**“Customer Satisfaction Benchmark”** means:

- (a) in respect of the circumstances where the Franchisee’s performance is to be measured in respect of each Service Group based on an average of the results of the two National Passenger Surveys conducted by Rail Passengers’ Council in any one calendar year, each of the customer satisfaction benchmarks relating to each Customer Satisfaction Measure as set out in the second, third and fourth columns of the Customer Satisfaction Table 1; or
- (b) in respect of the circumstances set out in paragraph 4.1(b)(ii)(A), each of the customer satisfaction benchmarks relating to each Customer Satisfaction Measure as set out in the second, third and fourth columns of the Customer Satisfaction Table 2;

**“Customer Satisfaction Measure”** means the factors set out in the Passenger Survey Methodology and described as “Stations”, “Trains” and “Customer Services”;

**“Customer Satisfaction Table 1”** means the table below headed “Combined Benchmarks”:

## COMBINED BENCHMARKS<sup>169</sup>

“**Customer Satisfaction Table 2**” means the table below headed “Spring Only Benchmarks”

## SPRING ONLY BENCHMARKS<sup>170</sup>

“**required improvement**” means an improvement in the level of customer satisfaction for the relevant Customer Satisfaction Measure as measured by a National Passenger Survey so that such level is equal to or higher than the related Customer Satisfaction Benchmark; and

“**Service Group**” means each of :

- (i) Sussex & Coast being Brighton Main Line, East Coastway, West Coastway and Arun Valley, Horsham and Arun Valley, Watford Junction to Clapham Junction and Gatwick Airport and Redhill and Tonbridge services and Uckfield and Oxted services;
- (ii) South London being Sutton and Mole Valley London services, Cheam and Sutton London services, Dorking and Epsom London services, Purley and East Croydon London services and Caterham & Tattenham Corner lines; and.
- (iii) Gatwick Express being all the Passenger Services that are specifically branded as “Gatwick Express” services and call, without stopping at intermediate stations, from London Victoria to Gatwick Airport.

## 5. Rolling Stock Costs

5.1 The Franchisee shall co-operate with the reasonable requirements of the Secretary of State in implementing any proposals he may have to:

- (a) reduce, taking into account any change in the allocation of risk between the parties, the aggregate net costs relating to the leasing and/or maintenance arrangements in respect of relevant rolling

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<sup>169</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>170</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

stock vehicles under the Rolling Stock Related Contracts without any corresponding reduction in the performance and/or other output related requirements, and/or the specification or quantum of associated services that are available for those rolling stock vehicles under any Rolling Stock Related Contract; and

- (b) enable the Secretary of State to realise any consequent savings that arise in accordance with paragraph 5.3.

5.2 Without limiting paragraph 5.1, the Franchisee shall:

- (a) upon reasonable notice, attend meetings with the Secretary of State and any or all of the rolling stock leasing companies to discuss those proposals;
- (b) provide the Franchisee's opinion on those proposals and such opinion and any supporting information provided by the Franchisee shall be subject to paragraph 1 of Schedule 17 (Confidentiality) of the Terms. The Secretary of State acknowledges and agrees that:
  - (i) he shall not be entitled to disclose any information provided by the Franchisee pursuant to this paragraph 5.2(b) under paragraph 4.1 or 4.2 of Schedule 17 (Confidentiality) of the Terms; and
  - (ii) disclosure of any information provided by the Franchisee pursuant to this paragraph 5.2(b) pursuant to a request made in accordance of the Freedom of Information Act 2000 may prejudice the commercial interests of the Franchisee and that he shall have due regard to any representations made by the Franchisee in this regard.
- (c) review and comment on implementation timetables and programmes for any reductions in costs relating to the operation of rolling stock vehicles;
- (d) agree, and where required use all reasonable endeavours to achieve, any amendments to any Rolling Stock Related Contract which the Secretary of State considers to be necessary or

desirable, and in such form as he may specify, in order to facilitate the implementation of those proposals and use all reasonable endeavours to maximise the reductions referred to in paragraph 5.1(a);

- (e) where and to the extent that the Secretary of State considers it requisite for the purpose of implementing or facilitating the implementation of those proposals, to exercise any or all of the Franchisee's rights under any Rolling Stock Related Contract or any related rights which the Franchisee may have, in each case as the Secretary of State may specify. The Franchisee's obligations under this paragraph 5.2 include, where the Secretary of State so requires, the pursuit of any disputed issue by litigation or other form of dispute resolution provided for by the relevant Rolling Stock Related Contract. The Franchisee shall comply with the requirements of the Secretary of State in respect of the prosecution and resolution or determination of any such disputed issue. The Secretary of State shall indemnify the Franchisee against all direct losses, costs and expenses (including, without limitation, reasonable legal fees) relating to or arising out of the Franchisee's performance of its obligations under this paragraph 5.2(e). The Franchisee shall, to the extent reasonably practicable and without prejudice to the foregoing provisions of this paragraph 5.2(e), give prior notice of the nature and likely extent of such losses, costs and expenses and shall be under an obligation to mitigate such direct losses, costs and expenses to the extent reasonably practicable; and
- (f) make available to the Secretary of State on an open book basis as and when reasonably requested, full information and explanation as to the extent of the costs that may be saved by the implementation of any such proposals.

5.3 The parties hereby agree that to the extent that the Franchisee is required to take any action under paragraph 5.1 or 5.2 and/or that the aggregate net costs relating to rolling stock vehicle leasing and/or maintenance arrangements payable by the Franchisee under any Rolling Stock Related Contract are reduced, taking into account any change in the allocation of risk between the parties, as a consequence of:



- (a) the implementation of any or all of the Secretary of State's proposals referred to in paragraph 5.1 including:
  - (i) the entering into of any agreement between the counterparty to any Rolling Stock Related Contract and the Secretary of State or any other government instrumentality under which it has been agreed to alter amounts payable under the relevant contract;
  - (ii) any revision (with the agreement of the ORR, where applicable) of any existing code of practice which the counterparty has in place, or the creation of a new code of practice, where the effect of the revision or new code is to change, directly or indirectly, the basis upon which rentals or other payments are fixed, determined, set or agreed under rolling stock leases or other Rolling Stock Related Contracts whether entered into before or after the coming into effect of the revised or new code of practice; and/or
  - (iii) the giving by the counterparty of any undertaking to any competition authority whether voluntarily or as required by law in respect of its participation in the rolling stock leasing and/or maintenance market in Great Britain; and/or
- (b) the determination, finding, decision or requirements of any competition authority,

then a Change shall occur and that Change shall be deemed to be a Qualifying Change whether or not such Change meets the requirements of the definition of Qualifying Change.

#### 5.4 For the purposes of paragraph 5.3:

- (a) the reference to a Rolling Stock Related Contract includes any such contract which is in place at the Start Date and also any further replacement or additional such contract to which the Franchisee is a party at any time during the Franchise Term;

- (b) the additional assumptions which the parties shall agree or the Secretary of State shall reasonably determine pursuant to paragraph 5.2 of Schedule 9.3 (Runs of the Financial Model) of the Terms shall include (where relevant) those necessary in order to ascertain the extent of the reduction in costs payable under any Rolling Stock Related Contract:
  - (i) to which the Franchisee is not a party as at the date of this Franchise Agreement; and
  - (ii) in respect of which no relevant assumption has been included in the Record of Assumptions;
- (c) the reference to aggregate net costs payable by the Franchisee under the Rolling Stock Related Contracts shall be deemed to include any introduction of or increase in amounts paid by any party to the Franchisee the effect of which, taken together with the costs payable by the Franchisee under the relevant contracts and any change in the allocation of risk between the parties, is to produce a net reduction in costs incurred by the Franchisee in relation to those Rolling Stock Related Contracts; and
- (d) in determining any Revised Inputs the Secretary of State shall have due regard to the rolling stock assumptions and proposals made by the Franchisee which are included in the Financial Model, the Operational Model and/or the Record of Assumptions, (which shall constitute the basis on which any reduction in aggregate net costs shall be assessed) and to any other effects of the proposals on the other costs and risks of the Franchisee in connection with the leasing, operation and maintenance of the relevant rolling stock vehicles, including (without limitation) external costs.

## **6. Electronic Advertising Media**

- 6.1 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 (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.

- 6.2 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.

## **7. Major Projects**

- 7.1 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) the scheme known as the "East London Line Extension";
  - (c) London 2012 Olympic and Paralympic Games;
  - (d) any enhancement scheme which Network Rail is required to deliver in Control Period 4 pursuant to ORR's "Periodic Review 2008"; and
  - (e) the National Stations Improvement Programme.
- 7.2 In fulfilling its obligations to co-operate and liaise pursuant to paragraph 7.1, 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.

## **8. Co-Operation with Transport for London**

8.1 The Franchisee shall on or before the Start Date agree and enter into an agreement with TfL (or its nominee) for the provision (at a fair and reasonable cost) of monitoring services for CCTV and help point equipment at the following stations which are to transfer from New Southern Railway Limited to TfL or its nominee prior to the Start Date:

- (a) Anerley;
- (b) Brockley;
- (c) Crystal Palace;
- (d) Forest Hill;
- (e) Honor Oak Park;
- (f) New Cross Gate;
- (g) Norwood Junction;
- (h) Penge;
- (i) Sydenham; and
- (j) West Croydon

(together the “Lorol Stations”).

8.2 At the request of the Secretary of State the Franchisee shall co-operate to the extent reasonably required with TfL such co-operation to include consulting with TfL in relation to bids in respect of the Passengers Services operated to and from the Greater London Stations and which the Franchisee proposes to make to Network Rail under the Track Access Agreement for Train Slots in relation to a Timetable which will come into force on a Passenger Change Date and providing information reasonably required by TfL for budget planning purposes.

8.3 The Franchisee agrees with the Secretary of State that:

- (a) it shall upon reasonable notice grant TfL (or its representatives and agents) reasonable access to the Greater London Stations for the purposes of carrying out passenger surveys or conducting research in respect of matters relevant to its statutory functions;
- (b) the Franchisee shall co-operate with TfL (in such manner as TfL may reasonably request or as the Secretary of State may reasonably direct) in order to enable TfL to carry out such passenger surveys or conduct such research.

8.4 <sup>171</sup>

## 9. **New Year Eve Services**

Between 0105 and 0505 on 1 January in each Franchisee Year, the Franchisee shall provide a “free to use” Passenger Service of three trains per hour from London Victoria to East Croydon, departing at approximately twenty minute intervals and calling at Battersea Park, Clapham Junction, Wandsworth Common, Balham, Streatham Common, Norbury, Thornton Heath and Selhurst.

## 10. **South Central Depots**

### 10.1 **Contractual Documents**

- (a) The Franchisee (other than with the Secretary of State’s prior written consent or approval (not to be unreasonably withheld or delayed)) shall:
  - (i) in material respects comply with its obligations and enforce its rights; and
  - (ii) not waive or purport to waive any material obligation of any other party,

in each case under the Depot Sub Leases to which the Franchisee may be a party from time to time.

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<sup>171</sup> Where text has been omitted from the document this is because the Director 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) The Franchisee shall not, without the Secretary of State's prior written consent or approval (not to be unreasonably withheld or delayed):
  - (i) vary or purport to vary or agree to any variation of the terms and conditions of any Depot Sub Leases;
  - (ii) take any steps to terminate any of the Depot Sub Leases.

## 10.2 Assignment of the Depot Works Agreements

- (a) At any time when under either the DepCo Direct Agreement or the Section 54 Undertaking the Secretary of State is obliged or entitled to require that any of the Depot Works Agreements (including the whole of any such agreement or agreements or only insofar as any such agreements relate to any of the Depot Sub Leases) are assigned to the Secretary of State or as he may direct, the Franchisee shall, to the extent so requested by the Secretary of State:
  - (i) assign its interest under such of the Depot Works Agreements and the Section 54 Undertaking (or such parts thereof) as the Secretary of State may require to the Secretary of State or as he may direct; and/or
  - (ii) unconditionally consent to the assignment by any other person of such person's interest under such of the Depot Works Agreements and the Section 54 Undertaking (or such parts thereof) as the Secretary of State may require, to the Secretary of State or as he may require.
- (b) Any assignment in accordance with paragraph 10.2(a) shall be on such terms as the Secretary of State may reasonably require, including the following:
  - (i) that the Franchisee shall not be released from any accrued but unperformed obligation, the consequences of any antecedent breach of a covenant or obligation in any of the Depot Works Agreements or any liability in

respect of any act or omission under or in relation to any of the Depot Works Agreements prior to, or as at the date of, any such assignment (except to the extent that the Secretary of State or its nominee agreed to assume and be responsible for such unperformed obligation, such liability or the consequences of such breach in connection with the relevant assignment); and

- (ii) that neither the Secretary of State nor his nominee shall be obliged, in connection with the assignment, to agree to assume and be responsible for any unperformed obligation, liability or consequences of breach referred to in paragraph 10.2(b)(i) and the Franchisee shall indemnify the Secretary of State or his nominee, as the case may be, on an after tax basis against any cost, losses, liabilities or expenses suffered or incurred in relation thereto.
- (c) Notwithstanding paragraphs 10.2(a) and 10.2(b) upon any expiry of this Franchise Agreement the Secretary of State shall, if he exercises his rights under paragraphs 10.2(a) and 10.2(b), not require the Franchisee to assign its interest under the Depot Works Agreements or the Section 54 Undertaking other than to a person to whom the same can be assigned in accordance with the Section 54 Undertaking.

### **10.3 Superior Lease Rent**

- (a) The Franchisee shall exercise its rights in relation to any rent review under each Superior Lease in good faith.
- (b) The Franchisee shall forward to the Secretary of State a copy of each Review Notice received by the Franchisee. As soon as reasonably practicable thereafter (and in any event by no later than 1 month after the date upon which the Review Notice was received by the Franchisee) the Franchisee shall notify the Secretary of State of how it proposes to respond to the Review Notice, including whether the Franchisee recommends that the Revised Rent proposed in the Review Notice should be accepted, together with the Franchisee's reasons for that recommendation and such

supporting documentation as the Secretary of State may reasonably require.

- (c) The Franchisee shall not agree the Revised Rent payable under Superior Lease without the Secretary of State's prior written consent. If the Secretary of State fails to notify the Franchisee that he disagrees with the Revised Rent within 2 weeks of receipt of all matters to be provided by the Franchisee to the Secretary of State under paragraph (b), the Secretary of State shall be deemed to have consented for the purpose of this paragraph (c).
- (d) If the Secretary of State disagrees with the amount of any Revised Rent which the Franchisee has notified the Secretary of State it recommends is accepted, the Secretary of State may by notice in writing require the Franchisee to require the Revised Rent to be determined by a valuer in accordance with paragraph 2.2 of Part 1 of Schedule 4 of the Superior Lease. As part of such determination process the Franchisee shall, in submitting any oral or written representations to such valuer, have due regard to any representations made by the Secretary of State.
- (e) If the Secretary of State serves notice on the Franchisee under paragraph (d) then, provided that the level of the Revised Rent determined by the valuer in accordance with paragraph 2.2 of Part 1 of Schedule 4 of the Superior Lease is not lower than the Revised Rent which the Franchisee recommended was agreed, the Secretary of State shall reimburse the Franchisee with the reasonable costs incurred by the Franchisee in participating in the determination of the Revised Rent under paragraph 2.2 of Part 1 of Schedule 4 (which shall include the amount of any costs which the person appointed to determine the Revised Rent may award against the Franchisee).

#### **10.4 Alterations and Change of User**

The Franchisee shall not, without the Secretary of State's prior written consent, make any alteration or addition to any of the Enhanced Depots nor use any of the Enhanced Depots (or any part thereof) other than for the purposes of light maintenance depot to the extent that to do either of the same would result in an increase in the Improvement Rent payable under the



relevant Depot Sub Lease without the Secretary of State's prior written consent.

#### 10.5 **Cashflow Agreement**

The Franchisee shall, in circumstances when it is entitled to do so, unless otherwise agreed by the Secretary of State (such agreement not to be unreasonably withheld) require DepCo to produce a Cashflow Report in accordance with clause 4.1 or 5.1 of the Cashflow Agreement.

#### 10.6 **Insurance**

- (a) The Franchisee shall, in respect of each Enhanced Depot, maintain an insurance policy (and shall not do or omit to do anything which is likely to result in such insurance being or becoming void, voidable or unenforceable) in such amount as is sufficient to cover its obligation to pay any Improvement Rent in respect of such Enhanced Depot during any period whilst the Rent payable by DepCo under the relevant Superior Lease is suspended pursuant to Depot Access Condition E8. Such insurance shall be with an insurer and in a form satisfactory to the Secretary of State and shall be capable of being transferred to a Successor Operator.
- (b) In relation to any insurance policy maintained by the Franchisee from time to time pursuant to its obligations under paragraph 10.6(a) the Franchisee shall not agree to increase the Excess (as defined in the Depot Access Conditions which shall itself have the meaning specified in the Superior Lease) to £100,000 or above without the Secretary of State's prior written consent.
- (c) There shall be a Change if at any time there is an Uninsured Event (as defined in paragraph 10B of the Depot Letting Conditions (as defined in the relevant Superior Lease)) provided that in respect of such Change the only Revised Input shall be the amount of the difference between the cost to the Franchisee of obtaining alternative light maintenance facilities to replace those affected by the Uninsured Event and the amount of the rent payable (excluding any amount which ceases (including temporarily) to be payable as a result of such Uninsured Event) by the Franchisee under the relevant Depot Sub Lease(s) (in the case of any increase up to a

maximum adjustment of the amount of the Improvement Rent payable in respect of such Enhanced Depot).

#### 10.7 Maintenance of the Enhanced Depots

- (a) The Franchisee shall ensure that each Enhanced Depot is maintained to the standard required in the relevant Depot Sub Lease.
- (b) As soon as reasonably practicable after the end of the Franchise Period but by no later than 28 days after the end of the Franchise Period the Secretary of State (or his nominee) and the Franchisee shall use all reasonable endeavours to agree:
  - (i) how far (if at all) the state of repair and/or condition of each of the Enhanced Depots falls short of the standard required in the relevant Depot Sub Lease ("**Required State**"); and
  - (ii) the proper costs (excluding VAT) (the "**Cost**") of bringing each such Enhanced Depot(s) up to the Required State.
- (c) If the Secretary of State (or his nominee) and the Franchisee are unable to agree on any matter referred to in paragraph 10.7(b), such matter shall be determined in accordance with the Dispute Resolution Rules.
- (d) If pursuant to paragraphs 10.7(b) or 10.7(c) it is agreed or determined that works are required to bring any Enhanced Depot up to the Required State (the "Works") the Franchisee shall procure that the Works are carried out and completed as soon as reasonably practicable but by no later than 6 months from the date of such agreement or determination. The Franchisee shall procure that the Works are carried out and completed:
  - (i) with that degree of skill, diligence, prudence and foresight which would be exercised by a skilled and experienced contractor carrying out works that are similar to the Works;

- (ii) in compliance with all applicable Laws and requirements of any competent authority; and
  - (iii) so as to cause as little inconvenience or interference as possible with the use of such Enhanced Depot by the Successor Operator.
- (e) Any failure by the Franchisee to comply with its obligations under this paragraph 10.7 shall be deemed to be a contravention of the Franchise Agreement and the Secretary of State shall be entitled to recover the costs of carrying out the Works from the Performance Bond.

10.8 For the purposes of this paragraph 10:

**“Cashflow Agreement”** has the meaning ascribed to that term in each Depot Sub Lease;

**“DepCo”** means Lombard Corporate Finance (September 1) Limited (registered number 2392930) whose registered office is at The Quadrangle The Promenade Cheltenham GL50 1PX;

**“DepCo Direct Agreement”** means the direct agreement dated 13 June 2003 between (1) The Strategic Rail Authority and (2) DepCo;

**“Depot Sub Lease”** means, in relation to any Enhanced Depot, the sub lease of that depot between (1) DepCo and (2) New Southern Railway Limited as transferred to the Franchisee pursuant to the Start Date Transfer Scheme;

**“Depot Works Agreements”** means:

- (i) the Agreement for Works dated 13 June 2003 and made between New Southern Railway Limited and DepCo;
- (ii) the Cashflow Agreement;
- (iii) the Licence for Alterations (as that term is defined in each Depot Sub Lease);
- (iv) each licence to Underlet between (1) Network Rail, (2) DepCo and (3) New Southern Railway Limited;
- (v) the Side Agreement (as defined in each Depot Sub Lease); and

- (vi) the Reimbursement Letter dated 13 June 2003 from DepCo to New Southern Railway Limited under which DepCo will reimburse New Southern Railway Limited with certain sums incurred by New Southern Railway Limited,

as each such document has been transferred to the Franchisee pursuant to the Start Date Transfer Scheme;

**“Enhanced Depot”** means each of the light maintenance depots at Selhurst, Brighton, Eastbourne, Littlehampton and Streatham Hill and the depot at Bognor Regis;

**“Improvement Rent”** has the meaning specified in each Depot Sub Lease;

**“Rent”** means the aggregate of the Rent and Equipment Rent (each as defined in and payable under each Superior Lease) from time to time;

**“Review Date”** has the meaning specified in paragraph 1.1 of Part 1 of Schedule 4 of each Superior Lease;

**“Review Notice”** has the meaning specified in paragraph 2.1 of Part 1 of Schedule 4 of each Superior Lease;

**“Revised Rent”** has the meaning specified in paragraph 1.2.2 of Part 1 of Schedule 4 of each Superior Lease;

**“Section 54 Undertaking”** means the Section 54 Undertaking dated 13 June 2003 between (1) The Secretary of State (2) New Southern Railway Limited and (3) DepCo as transferred to the Franchisee pursuant to the Start Date Transfer Scheme; and

**“Superior Lease”** means, in relation to any Enhancement Depot, the lease of that depot made between (1) Network Rail and (2) DepCo.

11. <sup>172</sup>**Not Used**

12. **London Bridge Station Works - Compensation from Network Rail**<sup>173</sup>

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<sup>172</sup> Date of Change 26/01/2012

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

13. **Class 377 Enhancements**<sup>174</sup>

14. **Fares Policy for January 2010 Fares Setting Round**

14.1 For the Fares Setting Round which ends in January 2010 until the Fares Setting Round which ends in January 2011 ("**2010 Fare Year**") the provisions set out in paragraph 14.2 shall apply in place of the relevant provisions set out in paragraph 2 of Schedule 5.5 of the Terms.

14.2 The Regulated Price or Regulated Child Price (as the case may be) for any Fare in the 2010 Fare Year shall be an amount equal to the Preceding Year Ticket Price x PII provided that the Regulated Price or Regulated Child Price (as the case may be) may, if it is not a whole multiple of 10p, and without prejudice to Schedule 5.4 of the Terms, be rounded up to the nearest whole multiple of 10p.

14.3 For the purposes of this paragraph 14:

the terms "**Preceding Year Ticket Price**", "**RPI**" and "**K**" each have the meanings given to such terms in paragraph 2.1 of Schedule 5.5 of the Terms; and

PII is the Permitted Individual Increase for the 2010 Fare Year which is determined as follows:

$$\text{PII} = \frac{(100 \times \text{RPI}) + k}{100}$$

15.<sup>175</sup> **ELECTROSTAR LOT 10B (FRANCHISEE AS OWNER)**

15.1 **Financing Arrangements**<sup>176</sup>

15.2 **Leasing Arrangements**<sup>177</sup>

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

<sup>175</sup> Date of Change 20/09/2009

<sup>176</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>177</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

### **15.3 Reporting Arrangements**

- (a) The Franchisee shall provide to the Secretary of State on a monthly basis a report (including any regular or periodic reports provided to the Franchisee by the Manufacturer) which sets out the progress made towards achieving Acceptance by the dates specified in the Electrostar Lot 10B MSA and any potential threats to future progress towards achieving such dates.**
- (b) The Franchisee shall notify the Secretary of State of any contract review meetings to be held by the Franchisee with the Manufacturer in respect of the Electrostar Lot 10B Units and in addition shall seek to convene such meetings if reasonably requested by the Secretary of State. The Secretary of State reserves the right to attend (as an observer) any such contract review meetings and shall nominate up to two persons (such persons to be employees of the Secretary of State and notified in advance to the Franchisee) who shall attend such meetings (as observer(s)) on his behalf.**
- (c) If the Electrostar Lot 10B Units are still at that time owned by the Franchisee, the Secretary of State and the Franchisee shall one year after the Start Date meet for the purposes of discussing the future of the Electrostar Lot 10B Units including options for procuring a sale of the Electrostar Lot 10B Units. At such meeting, the Franchisee shall be entitled to request that the Secretary of State specifies a date on which the Secretary of State shall purchase the Electrostar Lot 10B Units from the Franchisee (the “SoS Purchase Date”). Nothing in this paragraph 15.3(c) shall be construed or implied as an obligation on the Secretary of State to specify the SoS Purchase Date, and whether or not the Secretary of State specifies such SoS Purchase Date shall be at his absolute discretion. For the avoidance of doubt the Secretary of State, as at Start Date, has no intention of specifying such SoS Purchase Date.**

**16.<sup>178</sup> ELECTROSTAR LOT 10B UNITS (FRANCHISEE AS LESSEE)**

**16.1 The Secretary of State and the Franchisee acknowledge that the Previous Franchise Operator commenced a competitive process for the financing of the Electrostar Lot 10B Units (the “Lot 10B Procurement Process”) on terms specified under the Previous Franchise Agreement. The Franchisee hereby agrees to continue and complete the Lot 10B Procurement Process in accordance with relevant law and with a view to securing a willing purchaser for the Electrostar Lot 10B Units (the “Lot 10B Purchaser”). If the Lot 10B Procurement Process does not result in the Franchisee securing a Lot 10B Purchaser the Secretary of State may require the Franchisee to undertake further procurement processes on the same basis (or such other basis as may be agreed by the Secretary of State and the Franchisee) as that required in respect of the Lot 10B Procurement Process until such a time as a Lot 10B Purchaser is secured provided that:**

- (a) the total number of such procurement processes (including the Lot 10B Procurement Process) that the Franchisee can be required to undertake before the Expiry Date shall not exceed four; and**
- (b) in any Franchisee Year the Franchisee cannot be required to undertake more than one procurement process.**

**16.2** <sup>179</sup>

**16.3** <sup>180</sup>

**16.4** <sup>181</sup>

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<sup>178</sup> Date of Change 20/09/2009

<sup>179</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>180</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>181</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

**16.5**<sup>182</sup>

**16.6**<sup>183</sup>

**17.**<sup>184</sup> **HLOS CAPACITY RELIEF**

**17.1** *The Franchisee shall use reasonable endeavours to introduce the HLOS Units into passenger revenue earning service by the Principal Change Date in December 2013.*

**17.2** *The Franchisee shall observe and comply with all the conditions and obligations on its part under the HLOS MSA.*

**17.3** *The Franchisee shall not:*

*(a) exercise any option (including any option pursuant to clause 6.3 (subsequent order) of the HLOS MSA) or other discretion under the HLOS MSA (or exercise any right or carry out any of its obligations under the HLOS MSA in a manner) that would result in increased payments or delay in the Acceptance of any of the HLOS Units or which may impact on the ability of the Franchisee to comply with the terms of the Franchise Agreement; or*

*(b) amend or waive any of the terms of the HLOS MSA;*

*without, in each case, the prior written consent of the Secretary of State (not to be unreasonably withheld or delayed) and the Franchisee shall immediately supply a copy of all draft and executed agreements amending the HLOS MSA (including any variation thereunder) to the Secretary of State.*

**17.4** *The contractual acceptance dates in relation to each HLOS Unit are set out in the table in Annex 3 to this Appendix 13 (the “HLOS Units Delivery Schedule”).*

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<sup>182</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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

<sup>184</sup> Date of new insertion 26/01/2012



**17.5 The Franchisee shall use reasonable endeavours to ensure that the actual delivery date of each HLOS Unit is the same as the contractual acceptance date as specified in respect of that HLOS Unit in the HLOS Units Delivery Schedule. The Franchisee's obligations under this paragraph 17.5 include an obligation to use reasonable endeavours to minimise the impacts of the actual delivery date in relation to any HLOS Unit not being the same as the contractual acceptance date as specified in respect of that HLOS Unit in the HLOS Units Delivery Schedule.**

**17.6 Reporting Arrangements**

**(a) The Franchisee shall provide to the Secretary of State on a monthly basis a report (including any regular or periodic reports provided to the Franchisee by the Manufacturer) which sets out the progress made towards achieving Acceptance by the dates specified in the HLOS Units Delivery Schedule and any potential threats to future progress towards achieving such dates (including any steps which the Manufacturer or the Franchisee has taken or is proposing to take in order to minimise the impact of any potential threats to achieving such dates).**

**(b) The Franchisee shall notify the Secretary of State of any contract review meetings to be held by the Franchisee with the Manufacturer in respect of the HLOS Units and in addition shall seek to convene such meetings if reasonably requested by the Secretary of State. The Secretary of State reserves the right to attend (as an observer) any such contract review meetings and shall nominate up to two persons (such persons to be employees of the Secretary of State and notified in advance to the Franchisee) who shall attend such meetings (as observer(s)) on his behalf.**

**<sup>185</sup> 18. ADJUSTMENTS TO FRANCHISE PAYMENTS FOLLOWING ACCEPTANCE OF ANY HLOS UNIT**

**18.1 An HLOS Franchise Payment Adjustment shall be made in accordance with paragraphs 18.2 and 18.3 in respect of any Reporting Period in which an HLOS Unit is Accepted.**

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<sup>185</sup> Date of new insertion 26/01/2012

**18.2 Each HLOS Franchise Payment Adjustment under this paragraph 18 shall be determined in accordance with the following formula:**

$$\text{HLOS FPA} = \text{ALP}$$

**where:**

**ALP is the amounts payable in that Reporting Period under the HLOS Operating Lease in respect of each HLOS Unit that is Accepted in that Reporting Period provided that ALP shall be zero in respect of any Reporting Period in which there is no HLOS Operating Lease in existence.**

**18.3 Each HLOS Franchise Payment Adjustment pursuant to this paragraph 18 in respect of any Reporting Period shall be payable by the Secretary of State to the Franchisee and shall be made on the first Payment Date falling no less than seven days after any determination of a HLOS Franchise Payment Adjustment pursuant to paragraph 18.2. Where subsequent to the date of the HLOS Deed of Amendment, the amounts of the lease payments funded or to be funded by the HLOS Franchise Payment Adjustment pursuant to this paragraph 18.3 are affected by a Qualifying Change, then the consequences of that change on such amounts shall be taken into account in the Financial Model in accordance with Schedule 9 (Changes) of the Terms (so that the effect of the change on such amounts, but not the underlying costs before the change, is included in any Estimated Revision or Run of the Financial Model in respect of that Qualifying Change).**

**18.4** <sup>186</sup>

**18.5** <sup>187</sup>

**18.6** <sup>188</sup>

**18.7** <sup>189</sup>

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

<sup>187</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>188</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

**18.8** <sup>190</sup>

**19** <sup>191</sup>

**20** <sup>192</sup>

**21** <sup>193</sup>

**22<sup>194</sup> FRANCHISEE STILL A PARTY TO THE HLOS MSA AS FINANCIER AT THE END OF THE FRANCHISE PERIOD**

**22.1 The Secretary of State hereby undertakes to the Franchisee that at the end of the Franchise Period in circumstances where the Franchisee remains a party to the HLOS MSA as Financier (as that term is defined in the HLOS MSA) he shall:**

- (a) exercise his option under paragraph 3.1(b) of Schedule 15.4 (Provisions Applying on and after Termination) to require that all of the of the relevant rights, future liabilities and future obligations of the Franchisee under the HLOS MSA, the HLOS Spares Supply Agreement and in respect of any HLOS Units and HLOS Spares and Special Tools are designated as Primary Franchise Assets and transferred to a Successor Operator pursuant to the Transfer Scheme and in these circumstances the form of Supplemental Agreement shall be and shall be deemed amended so that the amount payable by the Successor Operator to the Franchisee under such Supplemental Agreement in respect of the transfer of all such relevant rights and future obligations and future liabilities shall be:**

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<sup>189</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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

<sup>191</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

<sup>192</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

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

<sup>194</sup> Date of new insertion 26/01/2012

- (i) *where the Franchisee has not paid any HLOS Subsequent Payments to the Manufacturer under the HLOS MSA as at that date, nil; or*
- (ii) *where the Franchisee has paid any HLOS Subsequent Payments to the Manufacturer under the HLOS MSA as at that date pursuant to paragraph 20.2(a) but not 20.2(b) an amount that is equal to the aggregate of any HLOS Subsequent Payments that have actually been paid by the Franchisee to the Manufacturer under the HLOS MSA as that date.*

**22.2** *The Secretary of State and the Franchisee hereby agree that at the end of the Franchise Period and in circumstances where the Franchisee remains a party to the HLOS MSA as Financier (as that term is defined in the HLOS MSA) the rights of the Franchisee in respect of any HLOS Units and HLOS Spares and Special Tools any rights and future obligations and future liabilities of the Franchisee under the HLOS MSA and the HLOS Spares Supply Agreement shall be and shall be deemed to be designated as Primary Franchise Assets pursuant to paragraph 3 of Schedule 14.4 (Designation of Franchise Assets) of the Terms.*

## **23<sup>195</sup> ONE OFF COSTS ACTIVITIES**

*It is acknowledged by the Secretary of State and the Franchisee that the Franchisee in complying with its obligations introduced by the HLOS Deed of Amendment will need or be required to undertake activities, some of which are specified in Annex 4 to this Appendix 13, which would result in it incurring one off costs which have not been accounted for in the increments to the figures for the calculation of Annual Franchise Payments set out in Appendix 8 of the HLOS Deed of Amendment (the "One Off Costs Activities"). Accordingly an HLOS Franchise Payment Adjustment shall be paid by the Secretary of State to the Franchisee on the next Payment Date in February 2012, such HLOS Franchise Payment Adjustment to be an amount that is equal to £<sup>196</sup>. It is agreed by the Franchisee that the HLOS Franchise Payment*

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<sup>195</sup> Date of new insertion 26/01/2012

<sup>196</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

***Adjustment to be made pursuant to this paragraph 23 fully compensates the Franchisee for the performance of the One Off Costs Activities and in no circumstance shall the Secretary of State be obliged to fund the Franchisee for undertaking any One Off Costs Activities regardless of whether or not these are specifically listed in Annex 3 to this Appendix 13.***

**24<sup>197</sup> RECALIBRATION OF THE BENCHMARKS**

- 24.1** *The Secretary of State and the Franchisee each acknowledge and agree that the Benchmarks have been calculated on the basis that the Franchisee would be operating the Hand Back Units in Passenger Service from the Principal Change Date in December 2013 and not the HLOS Units, accordingly the Benchmarks applicable as at the date of the HLOS Deed of Amendment do not account for the performance impacts of introducing new build rolling stock into passenger service as opposed to mid-life rolling stock.*
- 24.2** *The Franchisee shall use reasonable endeavours to produce and submit to the Secretary of State for approval by 31 March 2012 recalibrated Benchmark Tables (“Recalibrated Benchmark Tables”) which reflect the Franchisee’s forecast impact that the introduction into passenger revenue earning service of the HLOS Units would have on the Franchisee’s operational performance.*
- 24.3** *In producing the Recalibrated Benchmark Tables the following assumptions will be made by the Franchisee:*
- (a)** *that the growth reliability curve for the HLOS Units in the two years following their introduction into passenger revenue earning service will be better than the performance of the Electrostar Lot 10A Units and the Electrostar Lot 10B Units over the first two years following their introduction into passenger revenue earning service; and*
  - (b)** *the Benchmarks contained in such Recalibrated Benchmark Tables shall take account of the performance of comparable*

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<sup>197</sup> Date of new insertion 26/01/2012

*rolling stock upon the introduction into passenger revenue service as evidenced by MTIN (as such term is defined HLOS MSA).*

**24.4** *Within two Reporting Periods from the date of receipt of the Recalibrated Benchmark Tables, the Secretary of State shall either:*

- (a) confirm his approval of the Recalibrated Benchmark Tables, in which case such Recalibrated Benchmark Tables shall be deemed to be in final form and shall replace the tables set out in Appendices 5 to 7 of the Franchise Agreement with the effect from the date that the Secretary of State confirms his approval; or*
- (b) notify the Franchisee of any changes which he considers should be made to the Recalibrated Benchmark Tables (together with the reasons for such change), in which case the Franchisee and the Secretary of State shall use their respective reasonable endeavours to agree (or, in the absence of such agreement, the Secretary of State shall reasonable determine) the final form of the Recalibrated Benchmark Tables as soon as reasonably practicable and, in any event, by no later than 30 September 2012 and such Recalibrated Benchmark Tables shall replace the tables set out in Appendices 5 to 7 of the Franchise Agreement with effect from the date it is so agreed or determined.*

**24.5** *The Franchisee shall use all reasonable endeavours to mitigate any adverse performance impacts that the introduction of any HLOS Unit may have on its ability to achieve the levels of performance (on a moving annual average basis) equal to or better than the Target Performance Level for each Benchmark as set out in the Benchmark Tables.*

## **ANNEX 1<sup>198</sup>**

### ***Annex 1 to Appendix 13 Increments to Target Revenue and figures for calculating Annual Franchise Payments***

***Table 1: Increment to Target Revenue (applicable, if appropriate, from Principal Change Date in December 2013):***

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<sup>198</sup> Where text has been omitted from the document this is because the Director 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 2: Increments to Figures for Calculating Annual Franchise Payments  
(applicable, if appropriate, from Principal Change Date in December 2013)<sup>199</sup>***

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<sup>199</sup> Where text has been omitted from the document this is because the Director 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 3: Increment to Target Revenue (applicable, if appropriate, from  
Subsidiary Change Date in May 2014)<sup>200</sup>**

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<sup>200</sup> Where text has been omitted from the document this is because the Director 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 4: *Increments to Figures for Calculating Annual Franchise Payments***  
***(applicable, if appropriate, from Subsidiary Change Date in May 2014)***<sup>201</sup>

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<sup>201</sup> Where text has been omitted from the document this is because the Director 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 5: Increments to Target Revenue (applicable, if appropriate, from Principal Change Date in December 2014)<sup>202</sup>***

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<sup>202</sup> Where text has been omitted from the document this is because the Director 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 6: Increments to Figures for Calculating Annual Franchise Payments  
(applicable, if appropriate, from Principal Change Date in December 2014)<sup>203</sup>***

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<sup>203</sup> Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.

## ANNEX 2

### Hand Back Schedule

<b>Date</b>	<b>Number of 4 car Class 377 units to be returned by relevant date</b>
the Reporting Period end date occurring in September 2013	5 units including the three Class 377/2 units hired under the provisions of the Operating Hire Agreement
the Reporting Period end date occurring in October 2013	7 units
the Reporting Period end date occurring in November 2013	7 units
the Passenger Change Date occurring in December 2013	7 units

<sup>204</sup>**Annex 3**

**HLOS Units Delivery Schedule**

<b>Unit no</b>	<b>Scheduled Provisional Acceptance Dates</b>
1	13 December 2013
2	29 November 2013
3	22 November 2013
4	1 November 2013
5	18 October 2013
6	15 November 2013
7	8 November 2013
8	20 September 2013
9	20 September 2013
10	27 September 2013
11	27 September 2013
12	4 October 2013
13	4 October 2013
14	11 October 2013
15	11 October 2013
16	18 October 2013
17	25 October 2013
18	25 October 2013

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<sup>204</sup> Date of new Insertion 26/01/2012

19	1 November 2013
20	8 November 2013
21	15 November 2013
22	22 November 2013
23	29 November 2013
24	6 December 2013
25	6 December 2013
26	13 December 2013

***Annex 4 to Appendix 13 (One Off Cost Activities)<sup>205</sup>***

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<sup>205</sup> Where text has been omitted from the document this is because the Director 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 Target Performance Level for First Reporting Period

In respect of the Capacity Benchmark Table, the Target Performance Level specified therein for the first Reporting Period of the Franchise Term shall be recalibrated by:

(a) taking the number of instances where a Previous Passenger Service operated in the period equivalent to the Peak was short formed in accordance with the definition of Short Formation during the Performance Measurement Period; and

(b)<sup>206</sup> ***[Not used]***

(c)<sup>207</sup> ***calculating a percentage in respect of that number in accordance with the following:***

$$\frac{A}{B} \times 100$$

***where:***

***A equals the number determined in accordance with paragraph 2(a);***

***B equals the total number of Previous Passenger Services operated in the period equivalent to the Peak in the Performance Measurement Period prior to the Start Date;***

### **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**

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<sup>206</sup> Date of Change 16/12/2010

<sup>207</sup> Date of Change 16/12/2010

The relevant Target Performance Level for the first Reporting Period of the Franchise Term, as determined pursuant to each of paragraphs 1 to 3 (inclusive), 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 the last scheduled Reporting Period of the Franchise Term in accordance with the following formula:

$$\frac{(100 - (0.5 \times 9))}{100} \times \text{TPL}$$

where:

TPL equals the relevant Target Performance Level for the first Reporting Period of the Franchise Term as determined pursuant to paragraph 1, 2 or 3 (as appropriate); and

- (b) the relevant Target Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the last Reporting Period of the Franchise Term.

## 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 and the last scheduled Reporting Period of the Franchise Term 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 or the last scheduled Reporting Period

(as appropriate) as determined pursuant to this Appendix 14; and

- (b) the relevant Improvement Plan Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the last Reporting Period of the Franchise Term.

## **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 and the last scheduled Reporting Period of the Franchise Term 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 or the last scheduled Reporting Period (as appropriate) as determined pursuant to this Appendix 14; and

- (b) the relevant Breach Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the last Reporting Period of the Franchise Term.

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

The Target Performance Levels for each 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 and the last scheduled Reporting Period of the Franchise Term 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 or the last scheduled Reporting Period (as appropriate) as determined pursuant to this Appendix 14; and

- (b) the relevant Default Performance Levels for each intervening Reporting Period in the Franchise Term, by decreasing each such level on a straight-line basis from the level set for the first Reporting Period of the Franchise Term to the level set for the last Reporting Period of the Franchise Term.

## 8. Roundings

### 8.1 The:

- (a) Cancellations Benchmark percentages recalibrated pursuant to paragraphs 1 and 4 to 7 (inclusive); and
- (b) Capacity Benchmarks percentages recalibrated pursuant to paragraphs 2 and 4 to 7 (inclusive),

shall be rounded to two decimal places, with the midpoint (that is, 2.835) rounded upwards (that is, 2.84).

- 8.2 The Service Delivery Benchmarks recalibrated pursuant to paragraphs 3 to 7 (inclusive) shall be rounded to the nearest ten minutes of delay, with the midpoint (that is, 5,005) rounded upwards (that is, 5,010).

## 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.

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

9.2<sup>208</sup> ***For the purpose of this Appendix 14, Paragraph 2 specifically Previous Passenger Services for Short Formations 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 in the Morning and Evening Peak as specified in Appendix 16 Paragraph 1.1(b); 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.***

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<sup>208</sup> Date of Change 16/12/2010

## APPENDIX 15

### List of Documents in the Agreed Terms (Clause 9)

<b>377OHA</b>	Operating Hire Agreement
<b>377A Sub Lease</b>	Electrostar Lot 10A Sub Lease
<b>CFD</b>	Commuter Fares Document
<b>CSM</b>	Passenger Survey Methodology
<b><i>Electrostar Lot 10B FCC Lease<sup>209</sup></i></b>	<b><i>means the lease to be entered into between the Franchisee and the FCC Franchisee pursuant to paragraph 15.2(a) of Appendix 13 (South Central Specific Provisions) of the Franchise Agreement</i></b>
<b><i>GLA Deep Clean Specification</i></b>	GLA Deep Clean Document
<b><i>GSM-R Implementation Roll-out<sup>210</sup></i></b>	
<b>DL</b>	Depot Lease
<b>FM</b>	Financial Model
<b>IBP</b>	Initial Business Plan
<b>OM</b>	Operational Model
<b>OOA</b>	Olympic Option Agreement
<b>PC</b>	Passenger's Charter
<b>PFD</b>	Protected Fares Document
<b>POA</b>	Power of Attorney
<b>ROA</b>	Record of Assumptions
<b>RTPO2</b>	East Coastway Timetable
<b>SATRT</b>	Seasonally Adjusted Target Revenue Table
<b>SLC 1; SLC2A1;</b>	Service Level Commitment

<sup>209</sup> Date of Change 20/09/2009

<sup>210</sup> Date of Change 29/07/2010

<b>SLC2A2;</b> <b>SLC2B;</b> <b>SLC3A;and</b> <b>SLC3B.</b>	
<b><i>SL</i></b>	Station Lease
<b><i>SQAP</i></b>	Service Quality Audit Programme
<b><i>SQMS</i></b>	Service Quality Management System
<b><i>SQS</i></b>	Service Quality Standards
<b><i>TP</i></b>	Train Plan



## APPENDIX 16

### Capacity Metrics and Timings (Clause 10)

#### Agreed Capacity Requirements.

1.1 The Agreed Capacity Requirements are as set out below:

- (a) In respect of each Service Level Commitment set out in Column 1 of the following table (the “**Agreed Capacity Table**”) and for the entire period for which such Service Level Commitment applies, the Franchisee shall include (as a minimum) in its Train Plan:
  - (i) in respect of the London Victoria Services arriving at London Victoria Station in the AM Peak, the number of vehicles specified in Column 2 of the Agreed Capacity Table;
  - (ii) in respect of the South London Line Services arriving at London Victoria Station in the AM Peak, the number of vehicles specified in Column 2A of the Agreed Capacity Table;
  - (iii) in respect of the London Victoria Services departing from London Victoria Station in the PM Peak, the number of vehicles specified in Column 3 of the Agreed Capacity Table;
  - (iv) in respect of the South London Line Services departing from London Victoria Station in the PM Peak, the number of vehicles specified in Column 3A of the Agreed Capacity Table;
  - (v) in respect of the Passenger Services arriving at London Bridge Station in the AM Peak, the number of vehicles specified in Column 4 of the Agreed Capacity Table;
  - (vi) in respect of the South London Line Services arriving at London Bridge Station in the AM Peak, the number of

vehicles specified in Column 4A of the Agreed Capacity Table;

- (vii) in respect of the Passenger Services departing from London Bridge Station in the PM Peak, the number of vehicles specified in Column 5 of the Agreed Capacity Table;
- (viii) in respect of the South London Line Services departing from London Bridge Station in the PM Peak, the number of vehicles specified in Column 5A of the Agreed Capacity Table;
- (ix) in respect of the Coastway Services arriving at Brighton in the AM Peak, the number of vehicles specified in Column 6 of the Agreed Capacity Table; and
- (x) in respect of the Coastway Services departing from Brighton in the PM Peak, the number of vehicles specified in Column 7 of the Agreed Capacity Table.

(b) For the purposes of this Appendix 16:

**“AM Peak”** means a Passenger Service operated on a Weekday and which arrives at:

- (i) a Relevant Station between 0700 and 0959; or
- (ii) Brighton between 0800 and 0859.

**“Coastway Services”** means the Passenger Services operated on the routes between:

- (1) Brighton and Lewes;
- (2) Brighton and Lewes and other places to the east of Lewes,
- (3) Brighton and Hove; and
- (4) Brighton and Hove and other places to the west of Hove;

**“London Victoria Services”** means the Passenger Services arriving or departing from London Victoria station excluding any such Passenger Services which commence from or terminate at Gatwick Airport with no intermediate stops;

**“PM Peak”** means a Passenger Service operated on a Weekday and which departs from:

- (i) a Relevant Station between 1600 and 1859; or
- (ii) Brighton between 1700 and 1759;

**“Relevant Station”** means London Victoria or London Bridge Stations; and

**“South London Line Services”** means the Passenger Services operated to and from London Bridge or London Victoria via Peckham Rye.

## Agreed Capacity Table <sup>211</sup>

	London Victoria Services and South London Line Services into London Victoria				London Bridge Services and South London line services into London Bridge				Brighton (Coastway) Services only (peak hour only)	
Column 1	Column 2	Column 2A	Column 3	Column 3A	Column 4	Column 4A	Column 5	Column 5A	Column 6	Column 7
	AM Peak (Arrival – number of vehicles)	AM Peak (Arrival – number of vehicles)	PM Peak (Departures – number of vehicles)	PM Peak (Departures – number of vehicles)	AM Peak (Arrival – number of vehicles)	AM Peak (Arrival – number of vehicles)	PM Peak (Departures – number of vehicles)	PM Peak (Departures – number of vehicles)	AM Peak (Arrival – number of vehicles)	PM Peak (Departures – number of vehicles)
SLC1	585	24	632	12	488	24	418	12	34	34
SLC2A1 and SLC 2A2	595	24	634	12	506	24	418	12	34	34
SLC2B	624	24	656	12	550	24	459	12	40	38
SLC3A	623	N/A	658	N/A	534	N/A	476	N/A	40	38
SLC3B	687	N/A	728	N/A	578	N/A	518	N/A	42	42

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<sup>211</sup> Date of Change 14/09/2011

## **APPENDIX 17<sup>212</sup>**

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<sup>212</sup> Where text has been omitted from the document this is because the Director 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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~~<sup>i</sup> By virtue of a derogation the Secretary of State for Transport has granted the Franchise Operator an extension for the installation of 3 of the 30 committed Ticket vending machines which are due to be installed at London Victoria on or before 31<sup>st</sup> December 2010~~

~~Start Date : 10/12/2010 ————— End Date: 28/02/2011~~

#### DEROGATIONS PAGE

<sup>ii</sup> By virtue of a derogation the Secretary of State for Transport has granted the Franchise Operator an extension to the obligation; Southern provided evidence that two of the GLA stations, Balham and Norbury, are NSIP stations and that the works will not be completed by September 2010. For avoidance of doubt, this derogation commences on 17<sup>th</sup> September 2010 and will expire on 23<sup>rd</sup> September 2011 for Balham and 25<sup>th</sup> November 2011 for Norbury.

Start Date :17/09/2010                      End Date:25/11/11

<sup>iii</sup> By virtue of a derogation the Secretary of State for Transport has granted the Franchise Operator the following: In respect of the Fastest Train A-Z Boards at Epsom Station only, further time to allow for the completion of major redevelopment work at that station until February 2012.

Start Date: 16/03/11   End Date 28/02/12

<sup>iv</sup> By virtue of a derogation the Secretary of State for Transport has granted the Franchise Operator the following: In respect of the Fastest Train A-Z Boards at Epsom Station only, further time to allow for the completion of major redevelopment work at that station until June 2012.

Start Date: 28/02/12   End Date 30/06/12

#### DEROGATIONS PAGE

~~<sup>v</sup> By virtue of a derogation the Secretary of State for Transport has granted the Franchise Operator an extension to the obligation; Southern provided evidence that the planned delivery of this obligation at Mitcham Station has been superseded by an Access for All development which will deliver more spaces than the initial Southern Plan. For avoidance of doubt, this derogation commences on 17<sup>th</sup> September 2010 and will expire on 30<sup>th</sup> October 2010.~~

~~Start Date :17/09/2010 ————— End Date:30/10/2010~~