

Dated 18th OCTOBER 2003

(1) THE STRATEGIC RAIL AUTHORITY

and

(2) ARRIVA TRAINS LIMITED

and

(3) ARRIVA TRAINS WALES/TRENAU ARRIVA CYMRU LIMITED

FRANCHISE AGREEMENT

relating to the services for the carriage of
passengers by railway to be provided by
ARRIVA TRAINS WALES /TRENAU ARRIVA CYMRU LIMITED

**Strategic Rail Authority
55 Victoria Street
London SW1H 0EU**

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Rolling Stock Capacities	- Agreed Form Document "RSC"
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Financial Model	- Agreed Form Document "FM"
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This Franchise Agreement is made the **18th** day of **OCTOBER** 2003 **between:**

- (1) **The Strategic Rail Authority** created under section 201 of the Transport Act 2000 (the “**Authority**”); and
- (2) **Arriva Trains Limited** whose registered number is 3166214 and registered office is at 1 Admiral Way, Doxford International Business Park, Sunderland, Tyne & Wear SR3 3XP (the “**Franchisee**”); and
- (3) **Arriva Trains Wales/Trenau Arriva Cymru Limited** whose registered number is 4337645 and registered office is at Haywood House North, Dumfries Place, Cardiff/Caerdydd CF10 3GA (the “**Franchise Operator**”).

Whereas:

- (A) The Franchisee made a proposal on 7 April 2003 to the Authority to replace the franchise relating to certain services for the carriage of passengers by railway which are currently operated by Cardiff Railway Company Limited (trading as Wales & Borders Trains) and certain additional services previously operated by North Western Trains Company Limited.
- (B) Pursuant to section 23(1) of the Railways Act 1993 the Authority designated on 5 February 2002 such services as eligible for provision under franchise agreements.
- (C) The Secretary of State issued a direction under section 26(1) of the Act on 24 January 2002 that the Franchisee who is to be the franchisee under the franchise agreement relating to such services did not need to be selected from among those who submit tenders in response to an invitation to tender.
- (D) The Franchisee has proposed that it will secure the provision of such services as are prescribed by this agreement by the Franchise Operator, which is a wholly owned subsidiary of the Franchisee and is a party to this agreement.
- (E) The parties wish to record their agreement regarding the provision of such services.

Now therefore it is hereby agreed as follows:

Part I — Preliminary

1 Definitions and Interpretation

1.1 Definitions

In this Franchise Agreement, except to the extent the context otherwise requires:

“Access Agreement”	has the meaning ascribed to the term “access agreement” in section 83(1) of the Act.
“Act”	means the Railways Act 1993 (for the avoidance of doubt, as modified, amended or replaced by the Transport Act) and any regulations or orders made under it.
“Action Plan”	means an action plan produced by the Franchise Operator in relation to the delivery of any outcome anticipated by its Annual Business Plan, in accordance with Clause 15.3.

“Actual Capacity”

means:

- (i) in relation to any train for which the capacity is specified in the Train Plan, the number of seats in Standard Class Accommodation (together with the amount of standing capacity where applicable as determined in accordance with the Rolling Stock Capacities) which is or are provided on any relevant train in accordance with the Train Plan at each relevant Capacity Monitoring Point (and not exceeding the Planned Capacity of any such train at such Capacity Monitoring Point) provided that, if the relevant Planned Capacity for such train is included in the Train Plan pursuant to Clause 5.1(a)(i) and not Clause 5.1(a)(ii) and such train fails to pass any relevant Capacity Monitoring Point, the Actual Capacity of such train at such Capacity Monitoring Point shall be deemed to be its Planned Capacity; and
- (ii) in relation to any train which is one of a group of trains in relation to which the Train Plan specifies an aggregate capacity, the aggregate of the number of seats in Standard Class Accommodation (together with the amount of standing capacity where applicable as determined in accordance with the Rolling Stock Capacities) which is or are provided on all of the trains in such group in accordance with the Train Plan at each relevant Capacity Monitoring Point (and not exceeding the Planned Capacity in respect of all of such trains at such Capacity Monitoring Point) provided that, if the relevant Planned Capacity for such group of trains is included in the Train Plan pursuant to Clause 5.1(a)(i) and not Clause 5.1(a)(ii) and any train in such group fails to pass any relevant Capacity Monitoring Point, the number of seats in Standard Class Accommodation (together with the amount of standing capacity where applicable as determined in accordance with the Rolling Stock Capacities) provided in relation to such train at such Capacity Monitoring Point shall be deemed to be as provided for that train in the diagram underlying the Train Plan.

“Actuary”

has the meaning ascribed to that term in the Pension Trust.

“Additional Service Commitment” and “ASC”

means the quantity and quality of, and other specifications and requirements for, the Passenger Services contained in Part 6 of Schedule 3, as the same

	may be varied in accordance with the terms of this Franchise Agreement.
“Adjustment Payment”	means a payment either by the Authority to the Franchise Operator or by the Franchise Operator to the Authority, as the case may be, which is determined in accordance with paragraph 3 of Part 2 of Schedule 6.
“Affiliate”	means, in respect of any person, any person by which that person is Controlled or which is Controlled by that person, or any person which is Controlled by any other Affiliate of that person.
“Agreed Capacity Plan”	<p>means (where applicable):</p> <ul style="list-style-type: none">(a) the railway passenger services and capacity to be included in the Timetable and Train Plan of the Franchise Operator pursuant to Clause 6.5(c) or an Implementation Plan under Clause 6.7 or as may be otherwise agreed between the Authority and the Franchise Operator; or(b) in respect of the period from the Franchise Commencement Date to the date a capacity plan is agreed under paragraph (a) following a programme of passenger counts under Clause 6.2, the relevant agreed capacity plan under the Previous Franchise Agreement; <p>in each case, subject to any relevant PSR/ASC Change.</p>
“Alphalines Brand Licence”	means the licence to be entered into by the Franchise Operator and the Authority in the agreed terms and marked “ABL”.
“Amended Timetable”	<p>means, in respect of any particular day, the passenger timetable which reflects the working timetable for the Passenger Services required to be drawn up by Network Rail in accordance with the Track Access Conditions, as at 2200 on the immediately preceding day, being the Timetable for that particular day, as amended from time to time (including to reflect the following:</p> <ul style="list-style-type: none">(a) any amendment to the working timetable for the Passenger Services under the applicable Rules of the Route or Rules of the Plan;(b) any amendment to the working timetable for the Passenger Services under Condition H of the Track Access Conditions; and(c) any amendment which is required to the Timetable to reflect the introduction, removal or alteration of a service by the Franchise Operator).
“Ancillary Services”	means the services and activities specified in Part 4 of

	Schedule 2.
“Annual Business Plan”	means the plan to be prepared under Clause 15.3.
“Annual Franchise Payment”	has the meaning ascribed to that term in Part 1 of Schedule 6.
“Applicable Timetable”	means, in respect of any particular day, the Timetable for such day or, if an Amended Timetable is in effect for such day, the Amended Timetable for such day.
“ATOC”	means the Association of Train Operating Companies, an unincorporated trade association.
“Average Earnings Index”¹	<i>means the seasonally adjusted average earnings index for Whole Economy (with ONS reference LNMQ: 2000=100) as published from time to time by the Office for National Statistics or, if such index shall cease to be published or if there is a material change in the basis of the index, such other average earnings index as the Authority may, after consultation with the Franchise Operator, determine to be appropriate in the circumstances and, for these purposes, the value of the index to be used shall be the first available published value, ignoring any provisional publication which is published. For reference, the January index is usually published in the following April of that calendar year and the July index is usually published in the following October of that calendar year (later amendments to the index being ignored except where the amendment is made to ,correct a known manifest error).</i>
“BAFO Proposal”	means the Best and Final Offer proposal submitted to the Authority by the Franchisee on 7 April 2003 (as revised in accordance with certain instructions issued by the Authority comprising changes to the basis and assumptions for such proposal and additional Options required, as set out in the commitment letter given by the Franchisee dated 25 June 2003 and the schedule headed “Summary of Changes to Assumptions and Options, Agreed Subsequent to June 25 th Letter of Agreement” in the agreed terms and marked “StA”).
“Bank”	means a bank authorised for the purposes of the Financial Services and Markets Act 2000 to carry on the specified activity of accepting deposits within the meaning of The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and reasonably acceptable from time to time to the Authority.
“Board”	means the British Railways Board.

¹ Date of change 20.2.2006

“Bond Provider”	means any person or persons who may provide or be an obligor under a Performance Bond from time to time and who shall, unless the Authority otherwise agrees, be a Bank.
“Brand Licence”	means a licence between the Authority or any company wholly owned by it and the Franchise Operator in respect of any registered or unregistered trade marks, including the licences set out in Part 6 of Schedule 1.
“Breach Threshold”	<p>means:</p> <ul style="list-style-type: none">(a) in relation to Cancellations, the percentage specified in Part 2 of Schedule 3 in relation to the relevant Business Unit for the applicable Reporting Period and, in relation to Total Cancellations, the percentage specified in Part 2 of Schedule 3 in relation to the relevant Business Unit for the applicable Reporting Period, in each case of trains which are scheduled to be provided under the Enforcement Timetable in the relevant Reporting Period;(b) in relation to Planned Capacity for the Valley Lines Business Unit, the percentage specified in Part 2 of Schedule 3 of the aggregate of the Planned Capacity of each relevant train in the relevant Reporting Period; and(c) in relation to the Public Performance Measure, the relevant percentage specified in Part 2 of Schedule 3 for each Business Unit of the aggregate of all trains which are scheduled to be provided under all Applicable Timetables in the relevant Reporting Year <p>as the same may be varied in accordance with the terms of this Agreement.</p>
“Business Units”	the Valley Lines Business Unit and the Wales & Borders Rural and Inter-Urban Business Unit.
“Call-in Threshold”	<p>means:</p> <ul style="list-style-type: none">(a) in relation to Cancellations, the percentage specified in Part 2 of Schedule 3 in relation to the relevant Business Unit for the applicable Reporting Period and, in relation to Total Cancellations, the percentage specified in Part 2 of Schedule 3 in relation to the relevant Business Unit for the applicable Reporting Period, in each case of trains which are scheduled to be provided under the Enforcement Timetable in the relevant Reporting Period;

- (b) in relation to the Planned Capacity for the Valley Lines Business Unit, the percentage specified in Part 2 of Schedule 3 of the aggregate of the Planned Capacity of each relevant train in the relevant Reporting Period

as the same may be varied in accordance with the terms of this Agreement.

“Cancellation”	means a Total Cancellation or an Other Cancellation.
“Capacity Change”	means a Capacity Increase or Capacity Reduction.
“Capacity Increase”	means an increase in the capacity required to be provided pursuant to an Implementation Plan from that required to be provided under the Agreed Capacity Plan immediately preceding such Implementation Plan.
“Capacity Monitoring Points”	means such points as the Authority may reasonably determine from time to time for the monitoring or measuring of the provision of capacity under this Franchise Agreement by the Franchise Operator, being on the Franchise Commencement Date the points, if any, specified in Part 2 of Schedule 3 and references to a relevant Capacity Monitoring Point are references to a Capacity Monitoring Point which a train is scheduled to pass under the Timetable.
“Capacity Reduction”	means a reduction in the capacity required to be provided pursuant to an Implementation Plan from that required to be provided under the Agreed Capacity Plan immediately preceding such Implementation Plan.
“Capacity Utilisation Strategy”	means the strategy for the utilisation of network capacity of the Authority from time to time.
“Certificate of Commencement”	means the certificate to be issued by the Authority pursuant to Clause 2.2.
“Change”	means a PSR/ASC Change or a Capacity Change or an Other Demand Management Action.
“Change Certificate”	means a certificate issued by the Authority under Clause 6.7 or Clause 11.5 which states: <ul style="list-style-type: none">(a) the relevant Change;(b) the date of issue of the certificate; and(c) the adjustments, if any, to be made to the provisions of this Franchise Agreement in respect of the relevant Change in accordance with the relevant Implementation Plan and Part 1 of Schedule 9.
“Change of Law”	means the coming into effect after the date of this Franchise Agreement of:

- (a) Legislation; or
- (b) any applicable judgement of a relevant court of law which changes a binding precedent

the terms of which apply only to the railway industry, a particular section of the railway industry or the provision of services to the railway industry and not to other transport modes or to industries other than the railway industry, and without limitation:-

- (x) excluding any changes in Taxation;
- (y) excluding any which were foreseeable at the date of this Franchise Agreement (and for this purpose, but without limitation, there shall be regarded as foreseeable any Legislation which on the date of this Franchise Agreement has been published:
 - (i) in a draft Bill as part of a Government Departmental Consultation Paper;
 - (ii) in a Bill;
 - (iii) in a draft statutory instrument; or
 - (iv) as a proposal in the Official Journal of the European Communities except to the extent that such proposal is intended to apply solely within member states other than the United Kingdom

to the extent that the same is subsequently enacted in substantially the same form as the form in which it was previously so published). For the avoidance of doubt, in relation to the application of this sub-paragraph (y), each TSI shall be considered separately.

Change of Law (1) includes any Legislation, which only applies to the railway industry, which is made under the Health and Safety at Work etc. Act 1974 and which is not excluded under (x) and (y) (a "Specifically Included Change of Law"); but (2) excludes any (other than a Specifically Included Change of Law) Legislation, which is made with the intention or effect of specifically applying to (or disapplying from) the railway industry, any other Legislation which does not apply only to the railway industry.

"Charter Service"

means a railway passenger service, whether operated on the same routes as the Passenger Services or not:

- (a) which is not reflected in the Timetable; or
- (b) which does not conform to the pattern of railway

passenger services normally provided by the Franchise Operator; or

- (c) for which the advance booking or booking arrangements for seats on the relevant service are materially different from those generally applicable to the railway passenger services normally provided by the Franchise Operator; or
- (d) for which tickets are available on a restricted basis or on terms and conditions materially different from those generally applicable to comparable railway passenger services provided by the Franchise Operator; or
- (e) for which the departure time, journey time and calling pattern are materially different from those of comparable railway passenger services provided by the Franchise Operator

and which, in the opinion of the Authority, is not a railway passenger service provided by the Franchise Operator as part of its regular scheduled service.

“Child Price”

means, in relation to any Fare, the amount charged or chargeable (including any applicable Value Added Tax) to a person under the age of 16 in respect of such Fare.

“Class 175 Hire Agreement”

means the hiring arrangement for the hire of Class 175 vehicles to FNW or any successor company to be entered into by the Franchise Operator in accordance with Clause 2.2(a)(iv)(y)(xx).

“Closure”

means a closure under Part I of the Act of any of the Passenger Services or of any network on which the Passenger Services may be operated or of any of the Stations or Depots or of any part of such network or Depot or Station.

“Collateral Agreement”

means an agreement which is required to be entered into by the Franchise Operator with Network Rail or any other Facility Owner as a condition of any Access Agreement of which the Franchise Operator may be the beneficiary.

“Connection”

means a connection (however described) between any of the Passenger Services provided by the Franchise Operator and any other railway passenger service provided by it or any other passenger train operator or any bus, ferry or shipping service.

“Connection Agreement”

means any agreement entered into by the Previous Franchise Operator or by FNW and Network Rail prior to the Franchise Commencement Date relating to the connection of a Depot to the relevant part of the network.

“Control”

means, in respect of a person by another, that that other (whether alone or with others and whether directly or

indirectly and whether by the ownership of share capital, the possession of voting power, contract or otherwise):

- (a) has the power to appoint and/or remove all or the majority of the members of the board of directors or other governing body of that person or of any other person which Controls that person; or
- (b) controls or has the power to control the affairs and policies of that person or of any other person which Controls that person; or
- (c) is the parent undertaking of that person or of any other person which Controls that person; or
- (d) possesses or is, or will be at a future date, entitled to acquire:
 - (i) 30 per cent. or more of the share capital or issued share capital of, or of the voting power in, that person or any other person which Controls that person; or
 - (ii) such part of the issued share capital of that person or any other person which Controls that person as would, if the whole of the income of such person were in fact distributed, entitle him to receive 30 per cent. or more of the amount so distributed; or
 - (iii) such rights as would, in the event of the winding-up of that person or any other person which Controls that person or in any other circumstances, entitle him to receive 30 per cent. or more of the assets of such person which would then be available for distribution

and, for these purposes, there shall be attributed to any person the rights or powers of any nominee of his and the rights and powers of any one or more persons which he, or he and associates of his, Controls and of any one or more associates of his (and for these purposes an associate of a person shall mean a relative of his (as defined in section 417(4) of the Income and Corporation Taxes Act 1988), a partner of his or a trustee of a settlement (as defined in section 660G of the Income and Corporation Taxes Act 1988 ("ICTA"), as inserted into ICTA by section 74 of Schedule 17 paragraph 1 of the Finance Act 1995) of which he is a beneficiary) and cognate expressions of Control shall be construed accordingly.

"Creating"

has the meaning ascribed to that term in the Ticketing

	and Settlement Agreement and cognate expressions shall be construed accordingly.
“Customer Satisfaction Target”	has the meaning ascribed to such term in Schedule 15.
“DDA”	means the Disability Discrimination Act 1995.
“DDA Requirements”	means the duties of the provider of services under Sections 21(2)(a), 21(2)(b) and 21(2)(c) of the DDA.
“Default Threshold”	<p>means:</p> <ul style="list-style-type: none">(a) in relation to Cancellations, the percentage specified in Part 2 of Schedule 3 in relation to the relevant Business Unit for the applicable Reporting Period and, in relation to Total Cancellations, the percentage specified in Part 2 of Schedule 3 in relation to the relevant Business Unit for the applicable Reporting Period, in each case of trains which are scheduled to be provided under the Enforcement Timetable in the relevant Reporting Period; and(b) in relation to Planned Capacity for the Valley Lines Business Unit, the percentage specified in Part 2 of Schedule 3 of the aggregate of the Planned Capacity of each relevant train in the relevant Reporting Period <p>as the same may be varied in accordance with the terms of this Franchise Agreement.</p>
“Depot”	means a light maintenance depot listed in Part 3 of Schedule 2.
“Depot Lease”	means a Property Lease set out in Part 4(b) of Schedule 1 and any successor lease to such lease as referred to in Clause 2.2(a)(iii)(x)(aa) and such other Property Leases in respect of Depots as the Franchise Operator may enter into from time to time.
“Designated Employer”	has the meaning ascribed to that term in the Pension Trust.
“Designated Spares Contract”	means any contract or arrangement to which the Franchise Operator may be a party which includes the supply to the Franchise Operator of any parts and components of rolling stock (including Spares) which are available for the purpose of carrying out any maintenance on rolling stock, except to the extent that the Authority may have otherwise determined, in accordance with the procedure in Clause 33.3, that the contract or arrangement is not at that time a Designated Spares Contract.

“Direct Agreement”	means any agreement made, or to be made, from time to time between the Authority and the counterparty of a Key Contract in relation to such Key Contract, including any such agreement as may be entered into by the Authority under Clause 27.1.
“Disabled Person”	shall have the meaning given in the DDA.
“Discount Card”	has the meaning ascribed to that term in the Ticketing and Settlement Agreement.
“Discount Fare Scheme”	<p>means:</p> <ul style="list-style-type: none">(a) a discount fare scheme set out in Part 3(b) of Schedule 1; or(b) any other discount fare scheme approved from time to time for the purposes of section 28 of the Act by the Authority <p>in each case until such time as it may cease to be approved by the Authority for the purposes of section 28 of the Act.</p>
“Dispute Resolution Rules”	means the procedures for the resolution of disputes known as “The Railway Industry Dispute Resolution Rules” as amended from time to time in accordance with the terms thereof.
“Disputes Secretary”	means the person appointed as Disputes Secretary from time to time in accordance with the Dispute Resolution Rules.
“Endemic Fault”	<p>means a defect in the design, construction or materials used in the manufacture or modification of rolling stock which is used in the provision of the Passenger Services which:</p> <ul style="list-style-type: none">(a) renders such rolling stock either unfit for such use or incapable of meeting the performance specifications for such rolling stock;(b) is not a defect which was known, or ought reasonably to have been known, by the person by whom the rolling stock was first accepted for delivery at the time the relevant rolling stock was first accepted for delivery by that person following any such manufacture or modification or was known, or ought reasonably to have been known by any person who subsequently accepts such rolling stock for delivery;(c) has not been caused by accidental damage to such rolling stock or as a result of the failure by the Franchise Operator to comply with its obligations under any relevant Rolling Stock Lease or any programme for the maintenance of

such rolling stock;

- (d) is not scheduled to be corrected under the terms of, or in the course of, any heavy or running maintenance programme for such rolling stock; and
- (e) affects in the same manner at least 10 per cent. of any rolling stock of the same class which is operated by any Train Operator

Provided always that the inclusion of any matter within the definition of “Accepted Fault” or the equivalent thereof for the purposes of any Rolling Stock Lease shall not of itself mean for the purpose of this definition that there is a defect in the design, construction or materials used in the manufacture or modification of the relevant rolling stock.

“Enforcement Timetable”

means the Applicable Timetable excluding, where the Applicable Timetable is an Amended Timetable, any amendment to the Timetable to reflect the introduction, removal or alteration of a service:

- (a) by the Franchise Operator; or
- (b) with the agreement of the Franchise Operator in breach of its obligations under Clause 5.2 of this Agreement.

“Evening Peak”

has, if applicable, the meaning ascribed to that term in Part 1 of Schedule 3.

“Event of Default”

means any of the events described as such in Clause 21.

“Facility Owner”

has the meaning ascribed to the term “facility owner” in section 17(6) of the Act.

“Fare”

means the right, exercisable against one or more passenger train operators, subject to any applicable rights or restrictions and the payment of the relevant price, to make one or more journeys on the network or to carry on such a journey an item of luggage or an animal (where this right does not arise under the relevant conditions of carriage except on the payment of a fee) and, where applicable, to obtain goods or services from a person.

“Fare Year”

means the period from 1 January in any year to 31 December in the same year.

“Feasibility Study”

means a feasibility study prepared in relation to a Change by or on behalf of the Franchise Operator or the Authority, as provided for under this Franchise Agreement, which study shall be subject to the provisions of Part 2 of Schedule 9.

“Financial Year”

means the period from 1 April in any year to 31 March in

	the following year.
“Fixed Franchise Payment”	has the meaning ascribed to that term in Part 1 of Schedule 6.
“FNW”	means North Western Trains Company Limited, company number 3007946.
“Force Majeure Event”	means any of the events described as such in Clause 5.4(c).
“Forecast Demand”	means, where applicable, the number of passengers reasonably expected to travel in Standard Class Accommodation on the Passenger Services provided by the Franchise Operator for the remainder of the Franchise Term, having regard to the level of demand for the Passenger Services at the relevant time (the relevant time being, for this purpose, the time at which the Forecast Demand is being, or is due to be, forecast following the relevant passenger counts under this Franchise Agreement) and any information available as to the likely future level of demand including such information as the Authority may indicate to the Franchise Operator from time to time.
“Franchise Agreement”	means this agreement, as amended from time to time.
“Franchise Assets”	means the property, rights and liabilities designated as such pursuant to Clause 32.1 but excluding such property, rights or liabilities as may, in accordance with the terms of, or by an amendment made to, this Franchise Agreement, cease to be so designated.
“Franchise Commencement Date”	means the date and, where relevant, the time stated in the Certificate of Commencement.
“Franchise Default Milestone”	means any event designated as such under the Franchise Plan from time to time
“Franchise Employees”	means (i) the employees of the Franchise Operator from time to time and (ii) any other person employed by the Franchisee or any of its Affiliates or any subcontractor or delegate of any of the Franchise Services whose contract of employment may be transferred to a Successor Operator following the expiry of the Franchise Period by virtue of the operation of Law (including the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended, replaced or substituted from time to time)) or in respect of whom liabilities arising from a contract of employment or employment relationship may be transferred as described above.
“Franchise Operator Year”	means any period of 12 months during the Franchise Period beginning on 1 April in any year, subject to amendment in accordance with Clause 15.13, except that the first and last Franchise Operator Years may be for a

period of less than 12 months and the first such Franchise Operator Year shall begin on the Franchise Commencement Date and end on 31st March 2004 and the last such Franchise Operator Year shall end on the date of expiry of the Franchise Period.

“Franchise Payment”	means a payment either by the Authority to the Franchise Operator or by the Franchise Operator to the Authority, as the case may be, which is determined, subject to adjustment in accordance with the other terms of this Franchise Agreement, in accordance with paragraph 1 of Part 2 of Schedule 6.
“Franchise Period”	means the period commencing on the Franchise Commencement Date and ending on the date of expiry of the Franchise Term or, if earlier, the date of termination of this Franchise Agreement pursuant to Clause 22.
“Franchise Plan”	means the Franchisee’s plan for improvement and investment in the Franchise Services, as set out in Schedule 13 (as amended from time to time).
“Franchise Section”	has the meaning ascribed to it in Clause 13.1.
“Franchise Services”	means such of the Passenger Services, the Light Maintenance Services, the Station Services and the Ancillary Services as the Franchise Operator may provide or operate from time to time, including such of such services as the Franchise Operator may delegate or subcontract or otherwise secure through any other person from time to time under this Franchise Agreement.
“Franchise Term”	means the period commencing on the Franchise Commencement Date and expiring in accordance with Clause 20.
“GAAP”	means the normal accounting requirements for companies in the United Kingdom, including the statements of standard accounting practice and financial reporting standards of the Accounting Standards Board as applying for the accounting reference period then in force.
“Implementation Plan”	means, in relation to any Change, the plan for the implementation of such Change, which plan shall be subject to, and determined in accordance with, the provisions of Part 2 of Schedule 9.
“Incentive Payment”	means a payment to be made subject to and in accordance with the provisions of Clause 17 and Schedule 7 either by the Authority to the Franchise Operator or by the Franchise Operator to the Authority, as the case may be.
“Incremental Output Statement”	any project included as part of a programme of incremental outputs issued from time to time by the

Authority, as amended and updated from time to time and, for the purposes of this Franchise Agreement, as defined in the project output requirements issued by the Authority, as amended and updated from time to time, in respect of each such output (and such other statements as the Authority may issue from time to time in respect of incremental improvements to the network and which it may designate as an Incremental Output Statement for the purposes of this Franchise Agreement).

“Initial Business Plan”

means the first Annual Business Plan, to be provided to the Authority prior to the Franchise Commencement Date pursuant to Clause 2.2(a)(xiv).

“Initial Flexing Rights”

means the Flexing Rights of Network Rail to the extent they entitle Network Rail to vary a bid of the Franchise Operator for train slots in any way within and consistent with:-

- (a) subject to paragraph (b), the Franchise Operator's Firm Contractual Rights under the Initial Track Access Agreement; or
- (b) any new or amended Track Access Agreement in respect of which the Authority's consent or approval is required and has been requested by the Franchise Operator and given pursuant to Clause 12.3 and/or 12.7 of this Franchise Agreement.

For the purposes of this definition, Flexing Rights and Firm Contractual Rights have the meaning assigned to those terms in Part D of the Track Access Conditions.

“Initial Number of Vehicles”

means the number of Vehicles specified in Part 5 of Schedule 3, as the same may be varied in accordance with the terms of this Franchise Agreement.

“Initial Track Access Agreement”

means the agreement specified in Part 2(a) of Schedule 1.

“Intellectual Property”

means all legal and/or equitable interests in registered or unregistered trade marks, patents, registered and unregistered designs, applications for any of the foregoing, trading names, get-up, copyrights (including computer software), topographies of semi-conductor products, inventions, confidential information and any other similar intellectual property.

“Inter-Operator Schemes”

means:

- (a) the schemes, agreements and/or contracts set out in Part 3(a) of Schedule 1 which have been approved by the Authority and which relate to

arrangements between the Franchise Operator and other participants in the railway industry for the provision of railway services;

- (b) any other scheme, agreement and/or contract of a similar or equivalent nature as may from time to time during the Franchise Period amend, replace or substitute, in whole or in part, any of such schemes, agreements and/or contracts; and
- (c) any Discount Fare Scheme.

“Interest Rate”

means a rate equivalent to 2 per cent. per annum above the base lending rate published by National Westminster Bank Plc (or such other bank as the Authority may, after consultation with the Franchise Operator, determine from time to time) during any period in which an amount payable under this Franchise Agreement remains unpaid.

“Key Contract”

means:

- (a) the agreements and contracts listed in Part 3 of Schedule 11 as at the date of this Franchise Agreement; and
- (b) any other agreement, contract, licence or other arrangement (whether in written, oral or other form) to which the Franchise Operator may be party or under which the Franchise Operator may be the beneficiary from time to time which is designated as such pursuant to Clause 27.3

excepting any such agreement, contract, licence or other arrangement as may, in accordance with the terms of, or by an amendment to, this Franchise Agreement, cease to be designated as a Key Contract.

“Law”

includes any enactment, subordinate legislation, rule, regulation, order, directive or other provision, including those of the European Community, and any judicial or administrative interpretation or application thereof, which has, in each case, the force of law in the United Kingdom or any part of it (including the Act and the Transport Act).

“Legislation”

means any enactment or subordinate legislation, rule, regulation, order, directive or other provision including those of the European Community, which has, in each case, the force of law in any part of the United Kingdom, but excluding:

- (a) any order under Section 1 of the Transport and Works Act 1992; and
- (b) any objectives, instructions, directions or guidance given from time to time to the Authority.

“Letters of Representation”	means the letters of representation from the Reporting Accountants to the Franchisee delivered to the Franchisee prior to signature of the Franchise Agreement, dated 27 August 2003.
“Licences”	means such licences granted under section 8 of the Act as the Franchise Operator may be required from time to time to hold under the Act in order to provide or operate the Franchise Services.
“Light Maintenance Services”	means the services at the Depots and Stations specified in Part 3 of Schedule 2.
“Load Factor Specifications”	means the load factor and other specifications, if any, for the Passenger Services which are set out in Part 3 of Schedule 3, as the same may be varied in accordance with the terms of this Franchise Agreement.
“Local Authority”	<p>means:</p> <ul style="list-style-type: none">(a) in England, a county council, a district council, a unitary authority, a passenger transport executive, a London borough council, the Common council of the City of London, or a council which is established under the Local Government Act 1992 and which is either an authority responsible for expenditure on public passenger transport services within the meaning of section 88 of the Transport Act 1985 or a local authority for the purposes of section 93 of the Transport Act 1985;(b) in Wales, a county council, a district council or a council which is established under the Local Government Act 1972 or the Local Government (Wales) Act 1994;(c) in Scotland, the Strathclyde Passenger Transport Executive, or a district council or a unitary authority which is established under the Local Government (Scotland) Act 1973 or the Local Government, Etc. (Scotland) Act 1994;(d) in London, the Mayor of London and the Greater London Authority established under the Greater London Authority Act 1999;(e) any other body or council replacing any of the above from time to time; and(f) any other body or instrument of local or regional government specified by the Authority from time to time.
“Local Authority Schemes”	<p>means:</p> <ul style="list-style-type: none">(a) any concessionary travel schemes described in Part 7 of Schedule 1 and any other concessionary

	travel schemes in which the Franchise Operator shall participate pursuant to Clause 9.4(a); and
	(b) any multi-modal schemes described in Part 7 of Schedule 1 and any other multi-modal schemes in which the Franchise Operator shall participate pursuant to Clause 9.5(a).
“Long Stop Date”	means 31 st January 2004 or such other date: (a) on or before 31 st January 2004 as may be determined by the Authority and notified to the Franchisee if any one or more of the conditions precedent set out in Clause 2.2(a) are not satisfied by 31 st January 2004; or (b) as is agreed between the Franchisee and the Authority in any circumstances other than those specified in (a).
“Maintenance Contract”	means any contract or arrangement to which the Franchise Operator may be a party which includes the carrying out for the Franchise Operator of any maintenance work (including light maintenance services) or service provision in respect of rolling stock used by the Franchise Operator in the provision of the Passenger Services or for the enforcement of warranties or other rights against a manufacturer in respect of any rolling stock.
“Major Project”	has the meaning ascribed to that term in Clause 12.14.
“Mandatory Modification”	means a modification or addition to rolling stock which is required to be made under any applicable Law or any directive of Network Rail or any government authority.
“Marks”	means such trade marks as the Franchise Operator may apply to any Primary Franchise Assets or other assets used by it under a Key Contract, which are so applied on the expiry of the Franchise Period and are not the subject of a Brand Licence.
“Maximum Capacity Limit”	means (if applicable) the amount of capacity (determined in accordance with the Rolling Stock Capacities) on the relevant Passenger Services in either (1) the Morning Peak or (2) the Evening Peak (whenever the level of passenger demand is greater) that the Franchise Operator considers that it will need to satisfy the Passenger Demand Limit without exceeding the Load Factor Specifications, such capacity being that required for the number of passengers in Standard Class Accommodation specified in Part 4(c) of Schedule 3, as the same may be varied in accordance with the terms of this Franchise Agreement.

“Morning Peak”

has, if applicable, the meaning ascribed to that term in Part 1 of Schedule 3.

“Net Loss” or “Net Gain”

means the net financial loss or the net financial gain, as the case may be, which it is reasonably considered would be suffered or made by the Franchise Operator (as determined in each case in accordance with, and subject to, Part 1 of Schedule 9) as a result of:

- (a) a Change;
- (b) participation in a Local Authority Scheme;
- (c) the amendment of a Discount Fare Scheme, the introduction of a new Discount Fare Scheme or any Discount Fare Scheme ceasing to be approved by the Authority for the purposes of section 28 of the Act (as provided in Clause 9.6(a));
- (d) an amendment to an existing Inter-Operator Scheme (as provided in Clause 9.7(a));
- (e) an increase or reduction in the rate of Value Added Tax on the provision of Passenger Services (as provided in Clause 9.8);
- (f) actions taken under Clause 12.14(c) in respect of a Major Project (as provided in Clause 12.14(d));
- (g) actions taken by the Authority under Clause 12.15(d) in respect of specification of further incremental outputs (as provided in Clause 12.15(d));
- (h) actions taken in relation to certain integrated transport schemes under Clause 12.17(b);
- (i) an adjustment under Clause 18.1;
- (j) the occurrence of any of the events specified in Clause 18.3;
- (k) an adjustment under Clause 18.6;
- (l) an adjustment under Clause 18.7;
- (m) a reorganisation of the Franchise Services under Clause 25.3(b);
- (n) an alteration to the obligations of the Franchise Operator under Schedule 5 which is made pursuant to paragraph 25 of Part 2 of Schedule 5; or
- (o) a Change of Law;
- (p) an alteration to the passenger services required to be operated by another franchise operator which is directed by the Authority and which has a

demonstrable effect on the Franchise Operator's Revenue, excluding any alteration to another operator's passenger services which is substantially in accordance with the assumptions about alterations to those services set out in Clause 18.3(d) and, for the avoidance of doubt, excluding any changes to the timetable operated by Great Western Trains Company Limited or any successor operator which are introduced on or before the Passenger Change Date in December 2004 to the extent provided for pursuant to Clause 18.6.

"An alteration to the passenger services required to be operated by another franchise operator which is directed by the Authority" shall for these purposes also be deemed to occur, on the expiry or termination of another franchise operator's franchise agreement, if and to the extent of any difference between:

- (a) the passenger services which the original operator was directed to provide or (if the Authority, for the purpose of this provision, elects) was actually operating immediately prior to the expiry or termination of its franchise agreement; and
- (b) the passenger services which the successor operator operates at the Authority's direction;
- (q) an inability to operate the same number of Passenger Services under a replacement Track Access Agreement as under the Initial Track Access Agreement (as and to the extent provided in Clause 5.1(d);
- (r) actions taken under Clause 12.18(a) in respect of the implementation of the Capacity Utilisation Strategy (as provided in Clause 12.18(c));
- (s) a change to the terms of this Franchise Agreement proposed by the Authority or the Franchise Operator in accordance with paragraph 11 of Part 1 of Schedule 9; or
- (t) any other instance under this Franchise Agreement where the No Net Loss No Net Gain Regime is expressed to apply

together with, where applicable, any other adjustment to the terms of this Franchise Agreement which may be made in connection therewith.

“Network Change”	has the meaning assigned to that term in the Track Access Conditions.
“Network Rail”	means Network Rail Infrastructure Limited, a private company limited by shares with registered number 2904587 and having its registered office at ² King Place, 90 York Way, London, N1 9AG and any successor in title to the network or any relevant railway facility or, as the case may be, the owner (if different) of any new sections of network or any relevant new railway facilities
“No Net Loss No Net Gain Regime”	means the regime provided for in Part 1 of Schedule 9.
“NPS” or “National Passenger Survey”	means a customer satisfaction survey to be carried out by or on behalf of the Authority as described in Clause 8.4.
“NPS Benchmarks”	<p>means:</p> <ul style="list-style-type: none">(a) in relation to the aspects of the Franchise Services contained in the document in the agreed terms marked “NPS”, the levels of customer satisfaction set out therein; and(b) in relation to any new aspects of the Franchise Services which may be included within the National Passenger Survey from time to time, the level of satisfaction ratings determined in accordance with Clause 8.4(g) <p>in each case as may be revised from time to time in accordance with Clause 8.4(h).</p>
“Operational Performance Target”	has the meaning ascribed to that term in Schedule 15.
“Operational Performance Target Milestones”	has the meaning ascribed to that term in Schedule 15.
“Option”	has the meaning ascribed to that term in the Franchise Plan.
“Option Related Contract”	means, except to the extent the Authority otherwise indicates or agrees, any contract or other arrangement from time to time between the Franchise Operator and any other party relating to any of the obligations of the Franchise Operator under or arising out of Part 2 of Schedule 14 or any Option including without limitation any Property Leases, Access Agreements, Rolling Stock Related Contracts or other usage contracts which the Franchise Operator may enter into in relation to such obligations (provided that the fact that any Property Lease, Access Agreement or Rolling Stock Related

² Date of Change 24/02/2011

Contract is an Option Related Contract shall not prevent the other provisions of this Franchise Agreement which relate to such agreements applying to it).

“Other Demand Management Actions”

means actions (other than the actions to provide or facilitate the provision of additional or reduced railway passenger services or capacity, however provided) directed at the management or control of demand for the Passenger Services and may include changes to the pricing of Fares for, or the marketing of, the Passenger Services (subject always to and consistent with the Franchise Operator’s other obligations under this Franchise Agreement).

“Other Cancellation”

means a train which is scheduled to be provided under the Enforcement Timetable and which:

- (a) begins its journey after its scheduled departure point in the Enforcement Timetable or terminates its journey before its scheduled destination point in the Enforcement Timetable; or
- (b) does not call at any station at which it is scheduled to call in the Enforcement Timetable (or fails to call at a relevant Request Stop Station which it passes but at which a passenger or intending passenger has indicated he wishes to join or leave such train); or
- (c) arrives at its final destination scheduled in the Enforcement Timetable more than 120 minutes late.

“Parent”

means any person (other than the Franchisee) which Controls the Franchise Operator.

“Participating Employer”

has the meaning ascribed to that term in the Pension Trust.

“Passenger Change Date”

means a date upon which significant changes may be made to the Timetable in accordance with or by virtue of the Track Access Conditions.

“Passenger Demand Limit”

means (if applicable) the maximum number of passengers that the Franchise Operator may be required to plan to carry:

- (a) on the relevant Passenger Services in either (1) the Morning Peak or (2) the Evening Peak (whenever the level of passenger demand is greater);
- (b) in Standard Class Accommodation;
- (c) without exceeding the Load Factor Specifications; and

- (d) without an adjustment to the terms of this Franchise Agreement (if appropriate) in accordance with Schedule 9 (including, without limitation, any adjustment to the Franchise Payments)

such number of passengers being as specified in Part 4(a) of Schedule 3, as the same may be varied in accordance with the terms of this Franchise Agreement

“Passenger’s Charter”

means the Franchise Operator’s service commitments to its passengers in the agreed terms and marked **“PC”**, as amended or replaced from time to time in accordance with Clause 8.1.

“Passenger’s Charter Guidelines”

means the document of the same name issued by or on behalf of the Authority containing the methodology for compiling performance statistics and Passenger’s Charter compensation as amended or replaced from time to time by the Authority after consultation with the Franchise Operator and with other franchise operators whose franchise agreements contain a similar or equivalent obligation for consultation.

“Passenger’s Charter Statistics”

means the record of performance against Passenger’s Charter standards for each Reporting Period to be compiled and published pursuant to Clauses 8.1(j) and 8.1(k).

“Passenger Services”

means the railway passenger services specified in Part 1 of Schedule 2 and, unless the context otherwise requires, as provided by the Franchise Operator from time to time, including such of such services as the Franchise Operator may delegate or subcontract or otherwise secure through any other person from time to time under this Franchise Agreement.

“Passenger Service Requirement”

means the quantity and quality of, and other specifications and requirements for, the Passenger Services contained in Parts 1 and, where applicable, 3 of Schedule 3, as the same may be varied in accordance with the terms of this Franchise Agreement.

“Pension Deed”

means the deed to be entered into by the Franchise Operator, FNW and the Authority in the agreed terms and marked **“PD”**.

“Pension Trust”

means the pension trust governing the Railways Pension Scheme.

“Performance Bond”

means the performance bond to be provided to the Authority in the agreed terms and marked **“PB”**, as replaced or amended from time to time.

“Performance Review Date”

has the meaning ascribed to such term in Schedule 15.

“Performance Review Period”	has the meaning ascribed to such term in Schedule 15.
“Phases”	<p>means the periods between:</p> <ul style="list-style-type: none">(i) the Franchise Commencement Date up to and including the first Phase End Date;(ii) the day following the first Phase End Date and up to and including the second Phase End Date; and(iii) the day following the second Phase End Date and the end of the Franchise Term <p>and “Phase” shall be construed accordingly.</p>
“Phase End Dates”	<p>means each of:</p> <ul style="list-style-type: none">(i) 12 October 2008; and(ii) 12 October 2013.
“Planned Capacity”	<p>means:</p> <ul style="list-style-type: none">(i) in relation to any train for which the capacity is specified in the Train Plan, the number of seats in Standard Class Accommodation (together with the amount of standing capacity where applicable as determined in accordance with the Rolling Stock Capacities) which is or are planned in accordance with the Train Plan to be provided on such train in the Train Plan at each relevant Capacity Monitoring Point; and(ii) in relation to any train which is one of a group of trains in relation to which the Train Plan specifies an aggregate capacity, the aggregate of the number of seats in Standard Class Accommodation (together with the amount of standing capacity where applicable as determined in accordance with the Rolling Stock Capacities) which is planned in accordance with the Train Plan to be provided on all of the trains in such group in the Train Plan at each relevant Capacity Monitoring Point.
“Power of Attorney”	means the power of attorney of the Franchise Operator in the agreed terms and marked “POA” .
“Previous Franchise Agreement”	means the franchise agreement dated 14 October 2001 between (1) the Authority (2) National Express Group plc and (3) Cardiff Railway Company Limited and any variations thereto.
“Previous Franchise Operator”	means the franchise operator under the Previous Franchise Agreement.

“Price”	means, in respect of any Fare, the price of such Fare, including any applicable Value Added Tax but before the deduction of any applicable discount to which a purchaser may be entitled, as notified to RSP in accordance with Schedule 5 of the Ticketing and Settlement Agreement.
“Primary Franchise Assets”	means the property, rights and liabilities designated as such pursuant to Clause 32.2 but excluding such property, rights or liabilities as may, in accordance with the terms of, or by an amendment made to, this Franchise Agreement, cease to be so designated.
“Profit” or “Loss”	means, subject to the other provisions of this Franchise Agreement, profit or loss before corporation tax determined in accordance with GAAP.
“Property Leases”	means the leases set out in Part 4 of Schedule 1, any successor lease to such lease as referred to in Clause 2.2(a)(iii)(x)(aa) and any agreement or lease of a similar or equivalent nature which the Franchise Operator may enter into with a person who has an interest in a network or a railway facility which is to be used for or in connection with the provision or operation of the Franchise Services.
“PSR/ASC Change”	means a variation of, or amendment to, either or both of the Passenger Service Requirement and the Additional Service Commitment under Clause 11 (whether of the quality, quantity or other specification thereof and whether by increase, decrease, introduction or removal of any Passenger Service or any such specification or otherwise and whether or not involving a Closure) (including for the avoidance of doubt any change to Part 1 or Part 3 of Schedule 3).
“Public Performance Measure”	<p>means the measure of the number of trains (expressed as a percentage of the number of trains which are scheduled to be provided under the Applicable Timetable) which arrive punctually at their final scheduled destination in the Applicable Timetable measured on the basis that:</p> <ul style="list-style-type: none">(i) for this purpose, “punctually” means within 4 minutes 59 seconds of the scheduled arrival time as shown in the Applicable Timetable;(ii) any train which is a Cancellation (or would have been a Cancellation if Cancellations were measured by reference to the Applicable Timetable rather than the Enforcement Timetable) will be regarded as not arriving punctually;(iii) where any train is scheduled to depart from its point of origin on one day and arrive at its destination point on the following day, any failure to arrive punctually will be treated as occurring on the day on which the train was scheduled to

depart from its point of origin (and for this purpose “day” shall have the meaning given in Schedule 7),

as produced and/or published by the Authority from time to time.

“Public Sector Operator”	means any person (other than a franchise operator in relation to the services provided or operated under its franchise agreement) who provides railway passenger services or operates any station or light maintenance depot pursuant to or under section 30 of the Act or sections 211 or 213 of the Transport Act.
“Rail Passengers’ Committee”	means a passengers’ committee established under section 2 of the Act.
“Railways Pension Scheme”	means the pension scheme established by the Railways Pension Scheme Order 1994 (No. 1433).
“Relevant IOS Outputs”	in relation to any Specified IOS Project, means the outputs contained in the Incremental Output Statement which such Specified IOS Project is intended to deliver, and “Relevant IOS Output” means any of them.
“Reporting Accountants”	means PKF.
“Reporting Period”	means a period of 28 days, provided that: <ul style="list-style-type: none">(a) the first such period during the Franchise Period shall exclude any days up to but excluding the Franchise Commencement Date;(b) the first and last such period in any Reporting Year may be varied by up to 7 days by notice from the Authority to the Franchise Operator;(c) each such period shall start on the day following the last day of the preceding such period; and(d) the last such period during the Franchise Period shall end on the expiry of the Franchise Period.
“Reporting Year”	means a period normally commencing on 1 April in each calendar year, comprising 13 consecutive Reporting Periods.
“Request Stop Station”	means, in relation to any particular train or Passenger Service, a station at which such train or service need only call when a passenger or intending passenger wishes to join such train or service or leave such train or service at such station.
“Retail Prices Index”	means the retail prices index for all items as published from time to time by the Office for National Statistics or, if such index shall cease to be published or there is a material change in the basis of the index or if, at any relevant time, there is a delay in the publication of the

index, such other retail prices index as the Authority may, after consultation with the Franchise Operator, determine to be appropriate in the circumstances.

“Rolling Stock Capacities”

means, where applicable:

- (a) in relation to the rolling stock and configurations of rolling stock used in the provision of the Passenger Services on the date of this Franchise Agreement, the deemed capacities of such rolling stock and configurations as contained in the document in the agreed terms marked “RSC”, which capacities shall be deemed, for the purposes of Clause 6.8(b), to have been notified to the Franchise Operator on the Franchise Commencement Date; and
- (b) in relation to any other rolling stock or configurations of rolling stock used in the provision of the Passenger Services, the deemed capacities thereof as determined by the Authority and notified to the Franchise Operator from time to time under Clause 6.8.

“Rolling Stock Leases”

means such agreements for the leasing of rolling stock (including, for the avoidance of doubt, any agreements or arrangements for the subleasing, hiring, licensing or other use of rolling stock) as the Franchise Operator may be party to from time to time during the Franchise Period.

“Rolling Stock Related Contract”

means any Rolling Stock Lease, Maintenance Contract or Designated Spares Contract.

“Rolling Stock Unit”

means the smallest number of rolling stock vehicles which are normally comprised in a train used by the Franchise Operator in the provision of the Passenger Services.

“Route Utilisation Strategy”

means a strategy for the utilisation of capacity on a particular part of the railway network developed by the Authority as part of its Capacity Utilisation Strategy.

“RSP”

means Rail Settlement Plan Limited.

“Rules of the Plan”

has the meaning assigned to that term in the Track Access Conditions.

“Rules of the Route”

has the meaning assigned to that term in the Track Access Conditions.

“Safety Case”

means the statement of procedures, standards and internal regulations designed to achieve the safe provision or operation of the Franchise Services prepared by the Franchise Operator and accepted by Network Rail (or any successor thereto) under The Railways (Safety Case) Regulations 1994 or by the Health and Safety Executive (or any successor thereto) under the Railways (Safety

	Case) Regulations 2000 as amended by the Railway Safety (miscellaneous Amendments) Regulations 2001.
“Season Ticket Fare”	means, other than in Schedule 5, a Fare which entitles the purchaser to make an unlimited number of journeys in any direction during the period for which, and between the stations and/or the zones for which, such Fare is valid.
“Security Interest”	means any mortgage, pledge, lien, hypothecation, security interest or other charge or encumbrance or any other agreement or arrangement having substantially the same economic effect and includes any security as defined in section 248(b) of the Insolvency Act 1986.
“Spares”	means parts and components of rolling stock which are available for the purpose of carrying out maintenance services on rolling stock.
“Specified Franchise Assets”	means the Primary Franchise Assets designated as such pursuant to Clause 32.8 but excluding such Primary Franchise Assets as may, in accordance with the terms of, or by an amendment made to, this Franchise Agreement, cease to be designated as either Primary Franchise Assets or Specified Franchise Assets.
“Specified IOS Project”	means a project of Network Rail (or any other relevant person) to deliver one or more outputs contained in the Incremental Output Statement, and listed as a Specified IOS Project in Part 9 of Schedule 1 as that list may be amended or deemed to be amended from time to time.
“Standard Class Accommodation”	means, in respect of any train or service, accommodation which is available to the purchasers of any Fare which, taking into account any rights or restrictions relating to that Fare (other than restrictions relating to accommodation on that train or service), entitles such purchasers to make a journey on that train or service (provided that any accommodation on such train which may have been reserved by such purchasers shall be deemed to have been made so available if, had it not been so reserved, it would have been available for use by such purchasers).
“Station”	means a station listed in Part 2 of Schedule 2.
“Station Lease”	means a Property Lease set out in Part 4(a) of Schedule 1, any successor lease to such lease as referred to in Clause 2.2(a)(iii)(x)(aa) and such other Property Leases in respect of Stations as the Franchise Operator may enter into from time to time.
“Station Services”	means the services at the Stations specified in Part 2 of Schedule 2.
“Station Sublease”	means a lease or sub-lease of premises comprising part or parts of a Station exclusively occupied by another Train Operator.

“Successor Operator”	means a Train Operator succeeding the Franchise Operator in the provision or operation of all or any of the Franchise Services including, where the context so admits, the Franchise Operator where the franchise operator is to remain the same following termination of this Franchise Agreement but there is a change in Control of the Franchise Operator within the terms of Clause 21.2 of this Franchise Agreement.
“Supplemental Agreement”	means the supplemental agreement between the Franchise Operator and a Successor Operator to be entered into pursuant to a Transfer Scheme, being substantially in the form of the agreement in the agreed terms and marked “SA” but subject to such amendments as the Authority may reasonably make thereto as a result of any Change of Law or other change of circumstances between the date of this Franchise Agreement and the date the relevant Transfer Scheme is made and subject further to Clause 35.2.
“Taxation”	means any kind of tax, duty, levy or other charge whether or not similar to any in force at the date of the Franchise Agreement and whether imposed by a local, governmental or other competent Authority in the United Kingdom or elsewhere.
“Ticketing and Settlement Agreement”	means the Ticketing and Settlement Agreement dated 23 July 1995 between RSP and such other Train Operators as were and/or have subsequently become party to that agreement.
“Timetable”	<p>means the passenger timetable of the Franchise Operator in respect of the Passenger Services provided by it under this Franchise Agreement, as in force from the Passenger Change Date immediately preceding the Franchise Commencement Date and as subsequently amended, updated or renewed either:</p> <ul style="list-style-type: none">(a) on each subsequent Passenger Change Date during the Franchise Term following receipt from Network Rail of the Working Timetable for the period between any two consecutive Passenger Change Dates (excluding, for the avoidance of doubt, such minor or emergency amendments as may be made or imposed between such dates; or(b) to reflect a PSR/ASC Change (if such PSR/ASC Change is not implemented on a Passenger Change Date), <p>each such amended, updated or renewed Timetable constituting a new Timetable for the purpose of Clause 7.1.</p>

“Threshold”	means a Call In Threshold, a Breach Threshold or a Default Threshold, as the case may be.
“Total Cancellation”	means a train which is scheduled to be provided under the Enforcement Timetable and which is cancelled or does not otherwise operate for more than half its scheduled mileage under the Enforcement Timetable.
“Track Access Agreement”	means any Access Agreement(s) between Network Rail and the Franchise Operator which permits the Franchise Operator to provide the Passenger Services on track owned by Network Rail, being, on the Franchise Commencement Date, the Initial Track Access Agreement.
“Track Access Conditions”	means the Network Rail Track Access Conditions 1995 (as replaced or amended from time to time) as incorporated into any Track Access Agreement.
“Train Mileage”	means, in relation to any period, the aggregate train mileage covered or scheduled to be covered under the Timetable during such period by each train used by the Franchise Operator in the provision of the Passenger Services (excluding, for the avoidance of doubt, any train mileage covered as a result of positioning or other movements of rolling stock outside the Timetable).
“Train Operator”	means a franchise operator or a Public Sector Operator.
“Train Plan”	means the plan and/or diagram of the Franchise Operator for the operation of trains and train formations under the Timetable, to the extent (if any) such plan and/or diagram relates to capacity which is required to be included in such plan and/or diagram pursuant to Clause 5.1 of this Franchise Agreement, each such plan or diagram to be in the form (if any) specified by the Authority from time to time and in any event to comply with the requirements of Clause 5.2.
“Transfer Scheme”	means a transfer scheme made by the Authority under Schedule 21 of the Transport Act (or equivalent statutory provision) pursuant to Clause 35.1 being substantially in the form of the scheme in the agreed terms and marked “TS” but subject to such amendments as the Authority may make thereto as a result of any change of Law or other change of circumstances between the date of this Franchise Agreement and the date such scheme is made.
“Transport Act”	means the Transport Act 2000.
“TSI”	means any Technical Standard for Interoperability which the Franchise Operator is required to comply with pursuant to Directives EU 96/48 and EU 2001/16 and related legislation.
“Turnover”	means, in relation to any period, the aggregate revenue (excluding any applicable Value Added Tax) accruing to

	the Franchise Operator from the sale of Fares and the receipt of Franchise Payments during such period.
“Valley Lines Business Unit”	the business unit which the Franchise Operator is required to maintain for the purpose of performance reporting as described in Part 1 of Schedule 2.
“Value Added Tax”	means value added tax as provided for in the Value Added Tax Act 1994.
“Variation”	means each of the matters set out in paragraphs (a)-(t) in the definition of Net Loss and Net Gain in this Clause 1.1.
“Vehicle”	means an item of rolling stock used in the provision of the Passenger Services which is designed principally for the carriage of passengers (including any rolling stock which provides seating accommodation and catering facilities but excluding any rolling stock which is designed principally for passengers to sleep in).
“Wales & Borders Assumptions”	the assumptions relating to the operation of the franchise specified in Clause 18.3.
“Wales & Borders Rural and Inter-Urban Business Unit”	the business unit, which the Franchise Operator is required to maintain for the purpose of performance reporting as described in Part 1 of Schedule 2.
“Working Timetable”	means, in relation to the period between any two Passenger Change Dates, the working timetable in respect of the Passenger Services for such period as notified by Network Rail to the Franchise Operator under the Track Access Conditions in advance of such period (being, on the date of this Franchise Agreement, under Condition D1.5.3 of the Track Access Conditions).
“Young Person’s Railcard”	means a Discount Card issued under the Discount Fare Scheme referred to in Part 3(b)(ii) of Schedule 1.

1.2 Construction and Interpretation

In this Franchise Agreement, except to the extent the context otherwise requires:

- (a) words and expressions defined in Part I of the Act shall have the same meaning in this Franchise Agreement provided that, except to the extent expressly stated, “railway” shall not have the wider meaning attributed by section 81(2) of the Act;
- (b) words and expressions defined in the Interpretation Act 1978 shall have the same meaning in this Franchise Agreement;
- (c) the words “include” and “including” are to be construed without limitation;
- (d) the words “subsidiary”, “holding company”, “wholly owned subsidiary” and “parent undertaking” shall have the same meaning in this Franchise Agreement as in sections 258 and 736 of the Companies Act 1985;
- (e) references to documents “in the agreed terms” are references to documents initialled by or on behalf of the Authority, the Franchisee and the Franchise Operator;

- (f) references to Recitals, Clauses, Parts, paragraphs, Schedules and Parts of Schedules are to Recitals, Clauses, Parts, paragraphs, Schedules and Parts of Schedules of this Franchise Agreement, unless expressly specified to the contrary, and the Schedules form part of this Franchise Agreement;
- (g) headings and references to headings shall be disregarded in construing this Franchise Agreement;
- (h) references to any enactment include any subordinate legislation made from time to time under it and are to be construed as references to that enactment as for the time being amended or modified or to any enactment for the time being replacing or amending it and references to any subordinate legislation are to be construed as references to that legislation as for the time being amended or modified or to any legislation for the time being replacing or amending it;
- (i) references to an agreement or any other document shall be construed as referring to that agreement or document as from time to time supplemented, varied or amended;
- (j) words importing the masculine gender include the feminine and vice-versa, and words in the singular include the plural and vice-versa;
- (k) wherever provision is made for the giving or issuing of any notice, consent, approval, certificate or determination by any person, unless otherwise specified, such notice, endorsement, consent, approval, certificate or determination shall be in writing and the words “notify”, “consent”, “approval”, “certify” or “determine” and other cognate expressions shall be construed accordingly;
- (l) references to materials, information, data and other records shall be to materials, information, data and other records whether stored in electronic, written or other form;
- (m) references to the period of validity of any Fare are references to its period of validity excluding any rights of any purchasers thereof to extend such period under the Passenger’s Charter, any equivalent document, or the terms and conditions attaching to such Fare (including any applicable conditions of carriage) in the event of the cancellation or delay of any of the railway passenger services for which such Fare is valid;
- (n) references to stations at which any train calls include stations at which such train commences or terminates its journey;
- (o) references to “railway passenger services” are to be construed subject to section 214 of the Transport Act;
- (p) references to the provision of railway passenger services include the organisation of the relevant train movements and making the necessary arrangements with Network Rail or any other relevant infrastructure controller;
- (q) references in lower case letters to terms defined under Clause 1.1 of this Franchise Agreement shall be construed, where relevant, as being the terms defined as such in the franchise agreement or relevant agreement made under section 30 of the Act or section 211 or 213 of the Transport Act with any other relevant Train Operator;
- (r) references to amendments or variations of contracts or arrangements include assignments, novations or other transfers of rights or obligations (in whole or in part) under such contracts or arrangements; and

- (s) references in this Franchise Agreement to sums of money being expended by the Franchise Operator shall be to such sums exclusive of Value Added Tax.

2 Conditions Precedent

2.1 Entry into Effect

The provisions of Parts I and VI and of Clauses 5.1(c), 12.3(a) and 12.6 and paragraphs 2.12 and 12.12.1 of Schedule 13 of this Franchise Agreement shall take effect and be binding upon the Authority and the Franchisee immediately upon signature of this Franchise Agreement. The provisions of Parts II, III, IV and V of this Franchise Agreement shall enter into effect and become binding upon such parties and the Franchise Operator on the Franchise Commencement Date.

2.2 Conditions Precedent

- (a) Following signature of this Franchise Agreement, the Franchisee and the Franchise Operator shall each procure the satisfaction of the following conditions precedent (subject to Clauses 2.2(c) and 2.2(d)) as soon as reasonably practicable and so far as within its control, and further that the Authority receives evidence, satisfactory to it in form and substance, that the conditions precedent will continue to be satisfied before the proposed commencement of the Franchise Term (including under such escrow arrangements as the Authority may consider appropriate for the purpose):-

- (i) receipt by the Authority of a notice from the Regulator in a form satisfactory to the Authority, that:-
 - (x) confirms that the Franchise Operator has been granted or will be granted the necessary Licences which are or may be required in order to operate all of the Franchise Services from the Franchise Commencement Date;
 - (y) the Licences will take effect no later than the Franchise Commencement Date; and
 - (z) states that he is not aware of any reason why any of the Licences should be revoked.

The Authority shall, in addition, where the Licences are not in existence at the date of signature of this Franchise Agreement, require to be satisfied that the Licences are not subject to any conditions which, if they had been known to the Authority before the signature of this Franchise Agreement, would, in its reasonable opinion, have resulted in it not entering into this Franchise Agreement, or in it entering into this Franchise Agreement on materially different terms;

- (ii) receipt by the Authority, in a form satisfactory to the Authority, of confirmation from the Health and Safety Executive that the Safety Case of the Franchise Operator has been accepted and that the Health and Safety Executive has not directed any review or revision of the Safety Case and no such review or revision will be required, as a result of this Franchise Agreement having been entered into or the commencement of the Franchise Services;

- (iii) except to the extent that Clause 2.2(a)(xvi) applies, receipt by the Authority of evidence satisfactory to it in form and substance:-
 - (x) that the property, rights and liabilities of the Previous Franchise Operator under and in respect of the following will be vested in the Franchise Operator on the Franchise Commencement Date free of all Security Interests:-
 - (aa) the Property Leases listed in Part 4 of Schedule 1 and any successor lease to any of such Property Leases entered into prior to the Franchise Commencement Date;
 - (bb) the Access Agreements listed in Part 2 of Schedule 1 and any other Access Agreements to which the Previous Franchise Operator is a party immediately prior to the Franchise Commencement Date;
 - (cc) the Collateral Agreements to which the Previous Franchise Operator is a party immediately prior to the Franchise Commencement Date;
 - (dd) any other Key Contract listed in Part 3 of Schedule 11;
 - (ee) the Connection Agreements to which the Previous Franchise Operator is a party immediately prior to the Franchise Commencement Date; and
 - (ff) the Brand Licences listed in Schedule 1
- but provided that:-
 - (1) there is no requirement for the “Excluded Liabilities” to be so vested. For this purpose, the “Excluded Liabilities” means (i) any accrued but unperformed obligation, (ii) the consequences of any breach of any of the above agreements or leases and (iii) any other liability in respect of any act or omission under or in relation to such agreements or leases, in each case prior to, or as at the date of such vesting; and
 - (2) in the case of Key Contracts listed in Part 3 of Schedule 11, there shall be excluded from this Clause 2.2(a)(iii) any Key Contract if the Franchise Operator has entered into alternative arrangements to provide and operate the Franchise Services satisfactory to the Authority in place of such Key Contract;
- (y) that:-
 - (aa) the Franchise Operator has received from the counterparty to each of the agreements, leases and contracts referred to in Clause 2.2(a)(iii)(x) a written waiver of; or

- (bb) the relevant agreements, leases and contracts will, prior to the making of any scheme pursuant to Clause 2.2(d), have been amended so as to avoid

any and all applicable events of default, rights of re-entry and other rights of termination and any associated rights under all such leases and agreements which arise in connection with the termination of the Previous Franchise Agreement;

- (iv) receipt by the Authority of evidence satisfactory to it in form and substance:-

- (x) that the property, rights and liabilities of the Previous Franchise Operator under and in respect of the Rolling Stock Leases listed in Part 5 of Schedule 1 will have been novated in favour of and be vested in the Franchise Operator on and with effect from the Franchise Commencement Date free of all Security Interests but provided that there is no requirement for the "Excluded Liabilities" to be so novated. For this purpose, the "Excluded Liabilities" means (i) any accrued but unperformed obligation, (ii) the consequences of any breach of any of the above leases and (iii) any other liability in respect of any act or omission under or in relation to such leases, in each case prior to, or as at the date of such novation;

- (y) the Franchise Operator will at the Franchise Commencement Date be party to:-

- (i) a hire agreement with FNW in respect of 10 or 11 Class 175 Vehicles in similar terms to the hire agreement dated 28 September 2003 between the Previous Franchise Operator and FNW ("the Initial Hire Agreement") to continue for the period to 31st March 2004 (inclusive) or until the agreements set out in (ii) below take effect, whichever is the earlier; and

- (ii) agreements to enter into:-

- (xx) a Rolling Stock Lease in respect of 27 Class 175 Vehicles ("the Class 175 Rolling Stock Lease");

- (yy) all agreements ancillary or supplemental to the Class 175 Rolling Stock Lease that are necessary to provide interim arrangements relating to such Vehicles or the temporary replacement of such Vehicles as are in existence as at the date of this Franchise Agreement and which are not available as a result of the programme of mandatory modifications applying to such fleet; and

- (zz) the Class 175 Hire Agreement; and

- (aaa) an operations agreement with Alstom Train Services Limited in relation to the maintenance and servicing of the Vehicles included in the Class 175 Rolling Stock Lease

that are conditional if at all only upon the Franchise Operator obtaining a revised Safety Case allowing it to enter into and operate the Class 175 Rolling Stock Lease and that are effective from either the expiry of the Initial Hire Agreement or the date the revised Safety Case is obtained if earlier; and

- (z) that the terms of the novation of each of the leases referred to in Clause 2.2(a)(iv)(x) are such that no events of default, rights of re-entry or other rights of termination or associated rights under such leases arise in connection with the termination of the Previous Franchise Agreement; and
- (aa) the Franchise Operator will at the Franchise Commencement Date have complied with its obligations under Clause 12.6 of this Franchise Agreement in respect of the leases and agreements referred to in this Clause 2.2(a)(iv).
- (v) the execution and delivery of the Power of Attorney by the Franchise Operator;
- (vi) receipt by the Authority of evidence, satisfactory to it in form and substance, that the Franchise Operator is a wholly owned subsidiary of the Franchisee and will be so on the Franchise Commencement Date;
- (vii) receipt by the Authority of the Performance Bond duly executed and delivered by the relevant Bond Providers;
- (viii) receipt by the Authority of the Pension Deed duly executed and delivered by the parties thereto;
- (ix) the Authority being satisfied that no event or matter has occurred or arisen which is or ought to be notified to the Authority under Clause 3.2(b) and which, if it had been known to the Authority before the signature of this Franchise Agreement, would, in its reasonable opinion, have resulted in it not entering into this Franchise Agreement with the Franchisee and the Franchise Operator or in it entering into this Franchise Agreement on materially different terms (including, for the avoidance of doubt, a change in the identity of any one person, or two or more persons acting by agreement, who may Control the Franchisee between the date of this Franchise Agreement and the Franchise Commencement Date other than as agreed with the Authority prior to the date of this Franchise Agreement);
- (x) receipt by the Authority of evidence, satisfactory to it in form and substance, that the Franchise Operator is a party to the Inter-Operator Schemes listed in Part 3(a) of Schedule 1;
- (xi) receipt by the Authority of evidence, satisfactory to it in form and substance, that the Franchise Operator and the Franchisee will comply with their obligations in Part 1 of Schedule 10 on and from the Franchise Commencement Date;

- (xii) the Authority being satisfied that there will not be an Event of Default under Clause 21.9 after the Franchise Commencement Date as a result of the termination of the Previous Franchise Agreement;
 - (xiii) confirmation by the Authority that the counterparty of any contract which will, as at the Franchise Commencement Date, be a Key Contract (including any such contract to which the Franchise Operator is required under this Clause 2.2 to be a party or have vested in it as at the Franchise Commencement Date) has entered into a Direct Agreement with the Authority in respect of such Key Contract in terms acceptable to the Authority;
 - (xiv) receipt by the Authority of the Initial Business Plan (together with any supporting action plans) in a form acceptable to it and consistent with the BAFO Proposal incorporating the following:-
 - (x) profit and loss, balance sheet and cash flow projections and supporting revenue cost and resource analyses in no less detail than set out in the BAFO Proposal;
 - (y) an underlying Financial Model in the form agreed between the parties and placed into escrow under and for the purposes of Schedule 9 on the date of this Franchise Agreement; and
 - (z) Forecast EBDIT (as defined in and for the purpose of Schedule 6) derived from the Financial Model referred to in Clause 2.2(a)(xiv)(y) in the agreed terms and marked “FE”;
 - (xv) receipt by the Authority of evidence that the Franchise Operator has entered into deeds of participation or adherence with the trustees of the Railways Pension Scheme, the Great Western Railway Supplemental Pensions Reserve Fund, the BR (1974) Pension Fund, the NFC Retirement Plan and the British Railways Superannuation Fund and taken such other steps as are required to secure compliance with the terms of Clauses 13.1, 13.2 and 13.3 of this Franchise Agreement (such compliance to be as and from the Franchise Commencement Date);
 - (xvi) receipt by the Authority of evidence satisfactory to it in form and substance that, insofar as the Franchise Operator’s interest in any of the leases, agreements, contracts or licences described in Clauses 2.2(a)(iii)(x)(aa) – (ff) (inclusive) (each a “Required Contract”) is not to be or will not be vested in the Franchise Operator as required by those Clauses, the Franchise Operator will at the Franchise Commencement Date be a party to a replacement lease, agreement, contract or licence (as the case may be) in respect of such Required Contract with the relevant counterparty, in a form approved by the Authority in advance for the purpose of this Clause 2.2(a)(xvi); and
 - (xvii) the execution and delivery of the Alphalines Brand Licence by the Franchise Operator and the Authority.
- (b) Subject to Clause 2.2(c), as soon as the Authority is satisfied that each of the conditions precedent in Clauses 2.2(a)(i) to (xvii) have been satisfied (except to the extent waived by the Authority itself, provided that the Authority shall not be able to

waive the condition precedent in Clause 2.2(a)(viii) without the Franchise Operator's agreement) it shall issue to the Franchisee and the Franchise Operator a Certificate of Commencement, which shall state the Franchise Commencement Date. If any such conditions precedent have not been so satisfied before the issue of the Certificate of Commencement, the Franchisee and the Franchise Operator shall each procure their satisfaction immediately thereafter.

- (c) The Authority may take such actions or steps as it considers appropriate to ensure that the issue of the Certificate of Commencement and/or the Franchise Commencement Date occurs on such day as may, in its opinion, be convenient or desirable bearing in mind the interests of the Authority, the Franchisee, the Franchise Operator and other persons likely to be affected by the day on which that occurs (including on a day which falls at the end of a Reporting Period). The Authority may accordingly permit the Franchisee and the Franchise Operator to delay satisfaction of conditions precedent or compliance with any obligation under this Clause 2.2 until such day as the Authority may notify the Franchisee and the Franchise Operator and shall only be obliged to give notification under Clause 2.2(b) on such day.
- (d) The Authority acknowledges that, subject to Clause 2.2(a)(xvi), satisfaction of Clause 2.2(a)(iii)(x) will be satisfied in whole or in part by the making by the Authority of a transfer scheme from the Previous Franchise Operator in favour of the Franchise Operator. Subject to the Authority being satisfied that:-
 - (i) all the other conditions precedent (or parts of any condition precedent) are satisfied (or have been waived) and will remain satisfied as at the Franchise Commencement Date; and
 - (ii) the condition precedent in Clause 2.2(a)(iii)(x) will be satisfied immediately following the making of such scheme

(or being prepared to waive either or both of these requirements in whole or in part) the Authority will make the transfer scheme in favour of the Franchise Operator. Without limiting any other obligation it may have, the Franchise Operator agrees to enter into the supplemental agreement with the Previous Franchise Operator required under the Previous Franchise Agreement.

For the avoidance of doubt, in respect of the requirement in Clause 2.2(d)(i), where the Franchise Operator is required to enter into any agreement in satisfaction of these conditions precedent which contains a condition precedent requiring this Franchise Agreement to be unconditional, if all other conditions precedent in such agreement have been satisfied, the relevant condition precedent referring to this Franchise Agreement will be deemed to be satisfied.

- (e) Where agreements or deeds are required to be entered into or executed and delivered or any steps required to be taken under this Clause 2.2 by the Franchisee, the Franchise Operator (under Clause 2.2(a) only) or the Bond Providers, the Authority may require, to the extent appropriate and as an additional condition precedent, such evidence (including a legal opinion) of the power and authorisation of the relevant person to enter into, execute or deliver any such agreement or deed or take any such steps and the Franchisee shall supply such additional evidence.

2.3 Consequences of non-fulfilment

- (a) The Authority will give notice to the Franchisee terminating this Franchise Agreement if the Certificate of Commencement has not been issued on or before the Long Stop Date or if the Authority reasonably considers that any relevant condition precedent in Clause 2.2 will not be satisfied before the Long Stop Date. If such notice is given, this Franchise Agreement shall terminate, subject to Clause 39.1, on the Long Stop Date.
- (b) On termination of this Franchise Agreement under this Clause 2.3, no party shall have any liability to any of the other parties to this Franchise Agreement save only in respect of its obligations under Clause 39 and any antecedent breach of its obligations hereunder.

3 Warranty

3.1 Franchise replacement process

The Franchisee represents and warrants to the Authority, subject only to any matter fully and fairly disclosed to the Authority in writing (and accepted by it) or expressly referred to in the audited accounts of the Franchisee or expressly provided for under the terms of this Franchise Agreement:

- (a) that it has not acted in breach of any of the terms of the Franchise Replacement Process Agreement signed by it as part of its proposal to secure the provision and operation of the Franchise Services; and
- (b) that all of the information, representations and other matters of fact communicated in writing to the Authority and/or its advisers by the Franchisee, its directors, officers, employees, servants or agents in connection with or arising out of the BAFO Proposal were (at the dates submitted to the Authority) and remain, in all material respects, true, accurate and not misleading.

3.2 Updating of warranty

The Franchisee further undertakes to the Authority, subject to Clause 3.3, that:

- (a) subject as provided in Clause 3.1, the representations and warranties contained in Clause 3.1 will be fulfilled down to, and will be true and accurate in all material respects and not misleading in any material respect at, the Franchise Commencement Date as if they had been entered into afresh at the Franchise Commencement Date; and
- (b) if after the signing of this Franchise Agreement and before the Franchise Commencement Date any event shall occur or matter arise which results or may result in any of the warranties in Clause 3.1 being unfulfilled, untrue, misleading or incorrect in any material respect at the Franchise Commencement Date, the Franchisee shall immediately notify the Authority in writing thereof and the Franchisee shall provide such information concerning the event or matter as the Authority may require.

3.3 Exceptions

Without prejudice to Clause 2.2, no right to damages or compensation shall arise in favour of the Authority under Clause 3.2 in consequence only of an event occurring or matter arising after the signing of this Franchise Agreement but before the Franchise

Commencement Date which constitutes a breach or non-fulfilment of any of the warranties in Clause 3.1 (whether or not this Franchise Agreement is terminated in consequence thereof) if:

- (a) the event or matter could not reasonably have been avoided or prevented by the Franchisee; and
- (b) the event or matter was duly notified to the Authority in accordance with Clause 3.2.

Part II — Operation of the Franchise

4 The Franchisee

The Franchisee undertakes to secure that the Franchise Operator provides the Passenger Services subject to and in accordance with the terms and conditions of this Franchise Agreement and otherwise complies with its obligations, duties and undertakings under this Franchise Agreement (as amended from time to time in accordance with this Franchise Agreement or by agreement between the Franchise Operator and the Authority).

5 Passenger Service Requirement

5.1 Preparation of Timetable and Train Plan

- (a) The Franchise Operator shall procure that the Passenger Services contained in the Timetable and the Train Plan include and provide at all times during the Franchise Term at least:
 - (i) the railway passenger services, the Connections and the capacity (if any) on such services specified in the Passenger Service Requirement in Part 1 of Schedule 3;
 - (ii) where applicable, such railway passenger services and such capacity as the Franchise Operator may be required to include from time to time in the Timetable and the Train Plan under an Agreed Capacity Plan; and
 - (iii) where applicable, the railway passenger services, the capacity and the Train Mileage specified in the Additional Service Commitment in Part 6 of Schedule 3.
- (b) Subject to the Franchise Operator taking all reasonable steps to ensure that it will be able to comply with its obligations under this Clause 5.1 (including application in accordance with the requirements of Clause 5.1(c) to Network Rail for a new Track Access Agreement to replace the Initial Track Access Agreement or any subsequent Track Access Agreement on its expiry and the notification or declaration of the intention to exercise any rights, and the making of bids for relevant train slots, in each case before any relevant priority dates provided for in the Track Access Conditions) and otherwise complying with its obligations under Clause 5.2, it shall not be responsible for any failure to perform its obligations hereunder (and shall be deemed not to be in breach hereof) to the extent that such failure is caused by:
 - (i) the rights of the Train Operator under a replacement Track Access Agreement entered into in accordance with Clause 5.1(c) being insufficient in quantity or nature to enable the Franchise Operator to comply with such obligations; or
 - (ii) the exercise by Network Rail of its Initial Flexing Rights; or
 - (iii) the exercise by Network Rail of such rights as it may have from time to time under the Track Access Conditions in respect of any applicable Rules of the Route or Rules of the Plan or Network Change.
- (c) The Franchise Operator will:-

- (i) without limiting Clause 5.1(c)(ii), use all reasonable endeavours to negotiate with Network Rail to obtain, with effect from the expiry of the Initial Track Access Agreement or any subsequent Track Access Agreement, a replacement Track Access Agreement containing the quantity and quality of rights:-
 - (x) necessary to comply with its obligations under Clause 5.1(a); or
 - (y) where the Authority (acting reasonably) accepts that it will not be possible for the Franchise Operator to obtain the rights in (x) above, such alternative rights as the Authority may agree or direct as being those which enable the Franchise Operator to comply as closely as possible with its obligations under Clause 5.1(a); and
- (ii) if required by the Authority, apply to the Regulator for a direction under Section 17 of the Act in respect of the rights to which Clause 5.1(c)(i) refers.

For the purposes of this Clause 5.1(c), to “use all reasonable endeavours to negotiate with Network Rail” shall be construed to mean making a genuine, reasonably persistent and determined effort to negotiate with Network Rail with the objective of securing all the rights required by this Clause 5.1(c).

- (d) If and to the extent that:-
 - (i) the Franchise Operator has complied with its obligations under Clause 5.1(c); and
 - (ii) the number of Passenger Services which the Franchise Operator is able to operate under any replacement Track Access Agreement entered into consistent with its obligations in Clause 5.1(c) is less than the number of Passenger Services it was entitled to operate and actually operated under the Initial Track Access Agreement (taking into account all Network Rail’s rights, including flexing rights, under the Initial Track Access Agreement) and the Franchise Operator is thereby unable to comply with its obligations under Clause 5.1(a)

then the No Net Loss No Net Gain Regime shall apply.

- (e) The Franchise Operator shall ensure that, for each period between two consecutive Passenger Change Dates during the Franchise Term, the Timetable for such period is not materially different from the relevant Working Timetable.
- (f) The Franchise Operator shall not be responsible for any failure to perform its obligations under Clause 5.1(a) or any equivalent obligation under the Franchise Plan (and shall not be deemed to be in breach of this Franchise Agreement by reason thereof) to the extent:-
 - (i) such obligations relate to a Timetable for which the timetable development period (as defined in the Track Access Conditions) concluded prior to the Franchise Commencement Date; and
 - (ii) such Timetable cannot reasonably be amended or it would be unreasonable to require it to be amended.

5.2 Notification to Authority

- (a) Before making any notification or declaration to Network Rail under the Track Access Conditions of the extent of the Franchise Operator's intention to exercise its rights to make bids for train slots which relate to a Timetable which is to come into effect on a Passenger Change Date, the Franchise Operator shall provide the Authority with:
 - (i) a summary (in such form as the Authority may reasonably require) of any significant differences from its then current Timetable and Train Plan which would result; and
 - (ii) details of any instances where the Franchise Operator would not be able to comply with its obligations under Clause 5.1(a)

if those intentions were reflected in the Timetable and Train Plan coming into effect on that Passenger Change Date. The Franchise Operator and the Authority shall discuss the contents of such notification in order to consider the extent to which any derogation from the Franchise Operator's obligations under Clause 5.1(a) would be necessary if those intentions were so reflected and the extent to which the Authority may (in its absolute discretion) be prepared to grant such a derogation.

- (b) Before making any bid to Network Rail under the Track Access Conditions for train slots which relate to a Timetable which is to come into effect on a Passenger Change Date, the Franchise Operator shall notify the Authority of the proposed Timetable and Train Plan which it will be able to provide and operate if such bid is accepted by Network Rail. Such notification shall be accompanied by a certificate addressed to the Authority to the effect that such proposed Timetable and Train Plan will enable it to comply with its obligations under Clause 5.1 or, if and to the extent relevant, the derogation from such obligations agreed under Clause 5.2(a)). To the extent that the Franchise Operator cannot so certify, it shall provide reasonable details thereof to the Authority, including such detail as the Authority may require from time to time of the reasons for the inability to comply with the Franchise Operator's obligations under Clause 5.1. For the avoidance of doubt, the proposed Train Plan which the Franchise Operator is required to supply to the Authority under this Clause 5.2 (and any revision to that Train Plan which is required to be supplied or is otherwise supplied to the Authority from time to time by the Franchise Operator) shall (except to the extent otherwise agreed by the Authority) be a train plan and/or diagram which the Franchise Operator is capable (or will be capable, at the time that the Train Plan is to be operated) of operating in the provision of the relevant Passenger Services and the Franchise Operator shall:
 - (i) (except to the extent otherwise agreed by the Authority) include in the certificate to be delivered pursuant to this Clause 5.2(b) a statement to that effect;
 - (ii) if requested by the Authority, demonstrate to the reasonable satisfaction of the Authority that the Franchise Operator is or will be so capable of operating that Train Plan; and
 - (iii) if requested by the Authority, and without prejudice to the foregoing, submit to the Authority the train plan or diagram which the Franchise Operator actually plans to operate, if that train plan and/or diagram is different to the

Train Plan and/or diagram previously supplied to the Authority by the Franchise Operator pursuant to this Clause 5.2(b).

- (c) The Franchise Operator shall update such notification and certification under Clause 5.2(b) as soon as reasonably practicable in the event that at any time it modifies its proposed Timetable, or is required to modify its proposed Timetable following Network Rail's rejection or modification of its bid or any part of it, and in either case such modification means that the Franchise Operator will not be able to comply with its obligations under Clause 5.1 or otherwise materially affects the proposed Timetable.
- (d) The Franchise Operator shall in addition notify the Authority as soon as reasonably practicable upon it becoming aware that:
 - (i) it may not be able to comply with its obligations under Clause 5.1 (whether such non-compliance may occur at the time of such notification or in the future); or
 - (ii) the passenger timetable of the Franchise Operator may be, or may be required to be, amended between any two consecutive Passenger Change Dates which, if such amendment had been made in connection with the setting of the Timetable in effect on the preceding Passenger Change Date, would have resulted in non-compliance with Clause 5.1 (the expression "amended between any two consecutive Passenger Change Dates" including, for the purposes of this Clause 5.2, any amendment which may be made after the Timetable has been set by reference to and in accordance with the Working Timetable, but before the Passenger Change Date on which such Timetable is intended to take effect)

in either case, whether as a result or by virtue of:

- (x) any amendment to, or the exercise of any rights of Network Rail under, any applicable Rules of the Route or Rules of the Plan. For the avoidance of doubt, this shall include any such amendment or exercise which, before the commencement of any timetable development period under the Track Access Conditions relating to a particular Timetable, may be proposed or contemplated in connection with any Major Project (as defined in the Track Access Conditions) or similar project from time to time; or
- (y) any supplemental timetable revision process or equivalent process under the Track Access Conditions whereby Network Rail may propose changes to bids for train slots after those bids have been accepted; or
- (z) any modification to the Timetable initiated by the Franchise Operator or determined by agreement between the Franchise Operator and Network Rail (it being acknowledged that any such modification made without the prior consent of the Authority will constitute a breach of this Agreement).

The Franchise Operator shall supply such details thereof as the Authority may reasonably require. These shall include details of the steps which the Franchise Operator proposes to take in order to comply with its obligations under Clause 5.2(e).

- (e) Without limiting Clause 5.1, the Franchise Operator shall use all reasonable endeavours to ensure that:
 - (i) its ability to comply with its obligations under Clause 5.1 at any time will not be affected; and
 - (ii) the passenger timetable of the Franchise Operator will not be required to be amended between any two consecutive Passenger Change Dates such that, if such amendment had been made in connection with the setting of the Timetable in effect on the preceding Passenger Change Date, would have resulted in non-compliance with Clause 5.1

in either case, by virtue of any of the matters referred to in Clause 5.2(d). Unless otherwise expressly agreed by the Authority in advance, the Franchise Operator shall accordingly, whether requested by the Authority or not, and subject always to Clause 5.2(f), exercise all relevant rights it may have under any relevant agreement (including any rights under the Track Access Conditions) to object and not to consent to any act or omission, or proposed act or omission, of Network Rail or any relevant other person which might result in it being unable to comply with its obligations under Clause 5.1, whether at the relevant time or in the future, or in its passenger timetable being so amended between two Passenger Change Dates. For the avoidance of doubt, the exercise of such rights may require the Franchise Operator to dispute any act or omission or proposed act or omission of Network Rail, to submit such dispute to any relevant dispute resolution arrangements or procedures and to appeal against any relevant award or determination under such arrangements or procedures, including to the Regulator.

- (f) The Authority:
 - (i) if it does not consider that the Franchise Operator has taken sufficient steps under Clause 5.2(e), may require the Franchise Operator to exercise such rights in such manner as it may consider reasonable in the circumstances; and/or
 - (ii) may require the Franchise Operator to seek from Network Rail or any relevant other person such additional benefits directly or indirectly for the benefit of passengers, as the Authority may consider appropriate in the circumstances as a condition of the Franchise Operator consenting to any act or omission referred to in Clause 5.2(e)

and the Franchise Operator shall comply with any such requirement. The Authority shall, to the extent reasonably practicable, allow the Franchise Operator a reasonable opportunity to make any representations to the Authority concerning the exercise of such powers before requiring the Franchise Operator to take any such action.

- (g) The provisions of Clause 5.1(b) shall be ignored for the purposes of determining whether, under the provisions of this Clause 5.2, the Franchise Operator is or will be able to comply with its obligations under Clause 5.1 and/or whether such obligations will be complied with.
- (h) The following provisions shall apply as regards co-operation by the Franchise Operator with other Train Operators in connection with development of the Timetable:

- (i) the Franchise Operator shall co-operate with other Train Operators in the development of its working timetable and such other Train Operators' working timetables to ensure that users of the Passenger Services are provided with reasonable Connections to and from the other Train Operators' railway passenger services which serve the same stations as the Passenger Services. Such obligation on the Franchise Operator shall be in addition to any express obligations regarding Connections in the Passenger Service Requirement or the Additional Service Commitment but be subject to the practicalities for the Franchise Operator and the Train Operators in altering or adjusting their respective timetables to provide such reasonable Connections;
 - (ii) subject to such restrictions or obligations as may be imposed on the Franchise Operator under the Licences, the Franchise Operator shall co-operate with such other Train Operators as may provide railway passenger services which use all or a material part of the same track or route or a route which has the same originating and finishing points as any of the Passenger Services to ensure that passengers travelling or intending to travel on such services are provided with a reasonable pattern of service, taking into account the reasonable needs of such passengers and the different types of railway passenger services provided by the relevant other Train Operators and the Franchise Operator.
- (i) Without prejudice to any other obligation of the Franchise Operator pursuant to this Agreement:
 - (i) the Franchise Operator shall use reasonable endeavours to give all relevant Rail Passengers' Committees and Local Authorities sufficient notice of all significant proposed changes to the pattern of Passenger Services (other than any such changes as are to be made on a temporary basis) so that it can take due account of such bodies' views before making a bid to Network Rail under the Track Access Conditions for the train slots which would enable it to implement such proposed changes, assuming any such views are submitted to the Franchise Operator within a reasonable period from the time of such notification. Any such notification shall be copied to the Authority at the same time. Nothing in this Clause 5.2(i)(i) shall restrict the Franchise Operator from requesting the relevant Rail Passengers' Committees and Local Authorities to keep any such notification confidential;
 - (ii) the Franchise Operator shall comply with such reasonable requirements and guidance as the Authority may notify to it from time to time in respect of giving notice to and consulting the Rail Passengers' Committees and Local Authorities under Clause 5.2(i)(i).

5.3 Compliance with Timetable and Train Plan

- (a) The Franchise Operator shall use all reasonable endeavours to provide the Passenger Services in accordance with the Timetable and the Train Plan, except to the extent the Authority may, in exceptional circumstances, otherwise agree.
- (b) In relation to the obligation to use all reasonable endeavours under Clause 5.3(a):

- (i) such obligation includes the obligation to plan and resource its operations and implement those plans and resources to take account of the risk of disruption to the Franchise Services to the greatest extent reasonably practicable having regard to all the circumstances (including the ability of the Franchise Operator to finance the provision of the Franchise Services), including the reasonably foreseeable risks arising from:
 - (x) variations in weather and operating conditions (which may include but shall not be limited to seasonal variations);
 - (y) default by, or other restrictions imposed by, suppliers to the Franchise Operator;
 - (z) shortages of appropriately skilled or qualified employees;
 - (aa) disputes with employees;
 - (bb) shortage of or defects in rolling stock;
 - (ii) for the purpose of assessing the extent of any such risk referred to in Clause 5.3(b)(i), and the extent to which it is reasonably foreseeable, regard shall be had both:
 - (a) to the historical levels of incidence of disruption in the operation of the Franchise Services (both by the Franchise Operator and its predecessors) and in the operation of other passenger rail services of a type similar to the Franchise Services; and
 - (b) to potential changes in circumstances which may affect those levels;
 - (iii) references in Clause 5.3(b)(i) to plans and resources to take account of disruption shall include both:
 - (a) those directed at preventing any disruption; and
 - (b) without limiting sub-Clause (a) above or any other obligation of the Franchise Operator, those directed at minimising the extent of any disruption;
 - (iv) when and to the extent reasonably requested by the Authority, the Franchise Operator will provide evidence of the steps taken by it in order to comply with its obligations under Clause 5.3(b)(i).
- (c) Except to the extent that the Authority may otherwise agree from time to time, at least two thirds of the seats on any train which is used in the provision of the Passenger Services by the Franchise Operator shall be located in Standard Class Accommodation.
- (d) The Franchise Operator shall notify the Authority immediately (and provide such further information and attend such meetings as it may request in relation thereto) if, in relation to any Reporting Period during the Franchise Term any or all of the following occur in relation to either or both Business Unit(s):
- (i) there are more Cancellations during such Reporting Period than the Call-in Threshold of Cancellations;

- (ii) there are more Total Cancellations during such Reporting Period than the Call-in Threshold of Total Cancellations; or
 - (iii) where applicable, the aggregate of the Actual Capacity of each train included in the Train Plan in such Reporting Period is less than the Call-in Threshold of the aggregate of the Planned Capacity of each such train.
- (e) The Franchise Operator shall provide the Passenger Services in such a manner that no notice will be required to be given under Clause 5.3(d) (whether by or to the Authority or both) in respect of three or more separate Reporting Periods in any period of thirty-nine consecutive Reporting Periods during the Franchise Term. If such number of notices is required to be given in respect of such periods, the Franchise Operator shall be deemed to be in breach of this Franchise Agreement. The Authority may determine, in the light of the circumstances giving rise to any obligation under Clause 5.3(d), that the occurrence of such obligation is to be disregarded for the purposes of this Clause 5.3(e) and references to such an obligation arising three or more times shall be construed accordingly.
- (f) Without prejudice to the generality of Clause 5.3(a), the Franchise Operator shall ensure that in each Reporting Period during the Franchise Term in relation to each and both Business Unit(s):
 - (i) there are fewer Cancellations during such Reporting Period than the Breach Threshold of Cancellations;
 - (ii) there are fewer Total Cancellations during such Reporting Period than the Breach Threshold of Total Cancellations; and
 - (iii) where applicable, the aggregate of the Actual Capacity of each train included in the Train Plan in such Reporting Period is more than the Breach Threshold of the aggregate of the Planned Capacity of each such train.
- (g) Without prejudice to the generality of Clause 5.3(a), the Franchise Operator shall in relation to each Business Unit ensure that in each Reporting Year commencing from 1 April 2004 the total aggregate number of trains during that Reporting Year which arrive at their scheduled final destination punctually (within the meaning and consistent with the definition of the Public Performance Measure) as a percentage of the total aggregate number of trains scheduled to run under every Applicable Timetable during that Reporting Year is higher in percentage terms than the Breach Threshold for the Public Performance Measure. Provided that in considering its response to any breach of the requirement set out in this Clause 5.3(g), the Authority would expect to have regard to the extent to which it appears to the Authority (in its reasonable opinion) that the Franchise Operator's ability to achieve a level of performance above the Breach Threshold for the Public Performance Measure has been affected by the level of performance of Network Rail.
- (h) ³The Franchise Operator shall not be responsible for failure to perform its obligations under Clause 5.3(d)(ii) or 5.3(f)(ii) nor shall there be any breach arising under, or as a consequence of Clause 5.3(e), nor shall there be an Event of Default under Clause 21.7(b) if, and to the extent that such failure is due to (or would have arisen but for) any Total Cancellations of the specified Service, such Total Cancellations being as a result of a major disruption to the Passenger

³ New text inserted wef 18th June 2004

Services where it was in the overall interest of passengers to concentrate Total Cancellations on the specified service, provided that:

- I. The Franchise Operator has used all reasonable endeavours to prevent the occurrence of the disruption to mitigate and minimise the effects of the Total Cancellations on its passengers (including the provision of alternative means of transport for the affected passengers) and to restore normal operations within a reasonable time; and
- II. The Franchise Operator has notified the Authority of its intention to make Total Cancellations on the specified service and as soon as reasonably practicable has provided evidence of the disruption and the means of transport provided for the affected passengers such evidence to be in accordance with the requirements set out in appendix 1 of this letter.

For the avoidance of doubt, the Franchise Operator shall maintain true, up to date and complete information on the operational performance of the specified service such information to be included in the monthly operational reports supplied to the Authority in accordance with Clause 15.1(c) of the Franchise Agreement.

- (i) For the purposes and interpretation of Clause 5.3(h) "specified service" means the Cardiff Queen Street to Cardiff Bay service as referred to in Part 1 of Schedule 2 of the Franchise Agreement.

The Authority reserves the right to terminate the above arrangement in Clause 5.3(h) upon giving notice to the Franchise Operator.

5.4 Force Majeure

- (a) The Franchise Operator shall not be responsible for any failure to perform its obligations under Clause 5.3(c), 5.3(e) or Clause 5.3(f) nor shall there be an Event of Default under Clause 21.7 if, and to the extent that, such failure is caused by or is due to any *Force Majeure* Event.
- (b) As soon as practicable after the Franchise Operator becomes aware of the occurrence or likely occurrence of any *Force Majeure* Event which has had or might reasonably be expected to have an effect on the Franchise Operator's ability to perform its obligations under Clause 5.3, it shall give notice to the Authority of:
 - (i) the occurrence or likely occurrence of the event;
 - (ii) the effect of the event or the anticipated effect of any likely event, as the case may be, on the Franchise Operator's performance of its obligations under Clause 5.3; and
 - (iii) the steps taken by the Franchise Operator to prevent the occurrence of, and/or to mitigate and minimise the effects of, such event and to restore normal operations.
- (c) The following events shall constitute *Force Majeure* Events:
 - (i) the Franchise Operator or its agents or subcontractors is or are prevented or restricted by Network Rail (including by virtue of the implementation of any Contingency Plan) from gaining access to any relevant section or part of track (including any track running into, through or out of a station) for a period in excess of 12 hours. For the purposes of this Clause 5.4.c(i):

- (x) references to the prevention or restriction from gaining access to any relevant section or part of track shall mean that no trains are permitted to be operated on the relevant section or part of track, or the number of trains so permitted is reduced from that which, but for the prevention or restriction, would have been scheduled to operate;
 - (y) the period of the prevention or restriction shall be deemed to commence with the first train of the Franchise Operator, the operation of which was prevented or restricted;
 - (z) references in sub-clauses (x) and (y) to the operation of trains include relevant scheduled empty stock train movements; and
 - (aa) “**Contingency Plan**” means a contingency plan (as defined in Condition H of the Track Access Conditions) implemented by and at the instigation of Network Rail, or such other contingency or recovery plan as the Authority may agree from time to time;
- (ii) the Franchise Operator or its agents or subcontractors is or are prevented or restricted by Network Rail or any relevant Facility Owner (other than a Facility Owner which is an Affiliate of the Franchise Operator and which is acting principally or partly to prevent it from performing its obligations under this Franchise Agreement or in bad faith) from entering or leaving:
 - (x) any relevant station (excluding, for the avoidance of doubt, any prevention or restriction from gaining access to any section or part of track running into, through or out of a station); or
 - (y) any relevant light maintenance depot or part thereof (including, for the avoidance of doubt, the movement of trains on tracks within such depots but excluding any prevention or restriction from gaining access to any track outside the light maintenance depot running into or out of that depot);
- (iii) one or more Endemic Faults or Mandatory Modifications which affects or affect the greater of two Rolling Stock Units of the Franchise Operator and 10 per cent. of all rolling stock used by the Franchise Operator in the provision of the Passenger Services;
- (iv) the greater of two Rolling Stock Units of the Franchise Operator and 10 per cent. of all rolling stock used by the Franchise Operator in the provision of the Passenger Services being damaged beyond repair or beyond economic repair;
- (v) the Franchise Operator prevents or restricts the operation of any train on safety grounds provided that:
 - (x) the Franchise Operator has, either before or as soon as reasonably practicable after initiating such prevention or restriction, sought the confirmation of the Health and Safety Executive, or other relevant body with statutory responsibility for safety in the relevant circumstances, of the necessity of such prevention or restriction; and
 - (y) without limiting the Franchise Operator’s obligations under Clause 5.4(d), if and to the extent that the Health and Safety Executive or

other relevant body (as the case may be) indicates that such prevention or restriction is not necessary, then no *Force Majeure* Event under this sub-Clause (v) shall continue in respect of that restriction or prevention after the receipt of that indication unless the Authority otherwise agrees;

- (vi) act of God, war damage, enemy action, terrorism or suspected terrorism, riot, civil commotion, rebellion or the act of any government instrumentality (including the Regulator and the Health and Safety Executive but excluding the Authority) provided, for the avoidance of doubt, that there shall be no *Force Majeure* Event under this sub-Clause (vi) by reason of:
 - (a) vandalism;
 - (b) the suicide or attempted suicide of any person;
 - (c) the activities of the police, fire service, ambulance service or other equivalent emergency service (except where those activities are in respect of any act of God, war damage, enemy action, terrorism or suspected terrorism, riot, civil commotion or rebellion which, but for this sub-clause (c), would otherwise constitute a *Force Majeure* Event); or
 - (d) act of God which results in the Franchise Operator or its agents or subcontractors being prevented or restricted by Network Rail from gaining access to any relevant section or part of track;
- (vii) any strike or other industrial action by any or all of the employees of the Franchise Operator or any or all of the employees of:
 - (a) Network Rail;
 - (b) the operator of any other relevant railway facility;
 - (c) any person with whom the Franchise Operator has a contract or arrangement for the lending, seconding, hiring, contracting out or supervision by that person of train drivers, conductors, other train crew or station or depot staff used by the Franchise Operator in the provision of the Franchise Services

or of the agents or sub-contractors of any such person and for the purposes of this Clause “industrial action” shall include any concerted action taken in connection with the employment of such employees (whether or not that action involves any breach of the employees’ conditions of employment, and including any action taken in furtherance of a dispute, or with a view to improving the terms of employment of the relevant employees or by way of support for any other person) subject always, in the case of any unofficial industrial action, to the Franchise Operator being able to demonstrate the occurrence of such unofficial industrial action to the reasonable satisfaction of the Authority.

PROVIDED and to the extent in each case that:

- (viii) such events and / or the failure of the Franchise Operator to comply with its obligations under Clause 5.3 did not occur as a result of:

- (a) the Franchise Operator's or its agents' or subcontractors' actions or omissions; or
 - (b) the Franchise Operator's own breach of, or default under, any Access Agreement, Rolling Stock Lease, Property Lease or any other agreement; and
- (ix) the Franchise Operator used and uses all reasonable endeavours to avert or prevent the occurrence of the event and/or to mitigate and minimise the effects of such event on the performance of its obligations under Clause 5.3 despite the occurrence of the event and to restore normal operations as soon as reasonably practicable after the onset of the occurrence of such event.
- (d) The Franchise Operator shall:
 - (i) use all reasonable endeavours to prevent the occurrence of any of the events in Clause 5.4(c) above, to mitigate and minimise the effects of any such event on the performance of its obligations under Clause 5.3 (including by reference to its obligations under Clause 5.3(b)) and to restore normal operations in the event of the occurrence of any such event; and
 - (ii) to the extent it is reasonable to do so or to the extent reasonably so requested by the Authority, exercise all relevant rights and remedies under any relevant agreement to prevent the occurrence or recurrence of any such event and to obtain appropriate redress or compensation from any relevant person.

5.5 Closures

Except to the extent that the Authority may otherwise agree from time to time, the Franchise Operator shall not cease to provide or withdraw or propose to discontinue any railway passenger service which might result in a Closure. In the event of a Closure or any procedures being commenced under Part I of the Act in relation to a Closure as a result of any such cessation or withdrawal or proposal or any proposed cessation or withdrawal, the Franchise Operator shall, to the extent so requested by the Authority and at its own cost, provide such railway passenger services or take such other action as the Authority may require it to take on its behalf in order for the Authority to comply with any duty imposed on it under Part I of the Act in relation to the Closure.

5.6 [INTENTIONALLY NOT USED]

5.7 Safety

- (a) Without prejudice to its other obligations under this Agreement, the Franchise Operator shall use all reasonable endeavours to improve the safety record and safety standards of the Franchise Services on a continuous basis over the duration of the Franchise Term. The Franchise Operator shall submit to the Authority on an annual basis (and whenever else reasonably requested) a plan which will identify specific measurable targets for improvement and will enable it to secure such improvement and shall comply with any such plan to the extent consistent with its obligation to use all reasonable endeavours under this Clause. When and to the extent reasonably requested by the Authority, the Franchise Operator will produce

evidence of the improvements in safety records and standards secured pursuant to any such plan.

- (b) The Franchise Operator shall co-operate with such statutory or non-statutory inquiries or reports into safety issues (including any such inquiries or reports which commenced prior to the date of this Franchise Agreement) as the Authority may specify from time to time in so far as they affect, directly or indirectly, or are applicable to, directly or indirectly, the Franchise Services and, without prejudice to its other obligations under this Franchise Agreement and subject to any funding requirements being agreed with the Authority, shall implement the conclusions and recommendations of any such inquiries and reports.
- (c) The Franchise Operator shall orally notify the Authority, as soon as practicable following receipt, of the receipt and contents of any formal notification relating to safety which it may receive from the Health and Safety Executive or any formal notification or improvement or prohibition notice received from Her Majesty's Rail Inspectorate or the successor of either of them. As soon as practicable thereafter, the Franchise Operator shall provide to the Authority a copy of such notification or notice.

5.8 Targets and Performance Reviews

Schedule 15 shall have effect between the parties, and the Authority and the Franchise Operator shall each comply with their respective obligations thereunder.

5.9 Subcontracting

- (a) The Franchise Operator may subcontract or delegate, subject to prior notification being received by the Authority, the provision of any of the Passenger Services which are to be provided under this Franchise Agreement provided that:
 - (i) it continues to be party to all Access Agreements and Property Leases reasonably necessary to provide such Passenger Services and to enjoy all relevant access and operational rights thereunder;
 - (ii) it continues to specify and control, subject to any right of Network Rail, the Timetable, Train Plan and any bids for train slots which may be required in order to provide such Passenger Services;
 - (iii) it continues to specify and control the terms and conditions (subject to the requirements of the Inter-Operator Schemes) on which such Passenger Services are to be provided, including the determination of the Price of any Fares; and
 - (iv) the Train Mileage of the Passenger Services so delegated or subcontracted does not exceed 5 per cent. of the aggregate scheduled Train Mileage of the Franchise Operator in any Reporting Period.

For the avoidance of doubt, any such subcontracting or delegation shall not relieve the Franchise Operator from its obligations in respect of such Passenger Services under this Franchise Agreement, including its obligations under this Clause 5 and Clause 25.1.

- (b) Any subcontracting or delegation of the provision of the Passenger Services other than in accordance with Clause 5.9(a) shall require the prior consent of the Authority.
- (c) The obligation on the Franchise Operator under this Franchise Agreement to procure that the Timetable includes railway passenger services specified in the Passenger Service Requirement and the Additional Service Commitment and to provide and operate such services in accordance with the Timetable applies regardless of what other services may be provided or operated by any other train operator along the same or similar route. Accordingly, the subcontracting or delegation to any other person of any of the Passenger Services which are contained in the Passenger Service Requirement or the Additional Service Commitment shall not be effective to the extent that the relevant subcontracted or delegated Passenger Service operated by such other person or persons pursuant to the relevant subcontracting or delegation arrangements is also a railway passenger service which is required to be provided under a passenger service requirement, additional service commitment or other similar requirement (whether subcontracted, delegated or not) imposed on another Train Operator.
- (d) Subject to Clause 5.9(c), references in Clause 5.1 to the Timetable and the Train Plan include, where the Authority has agreed to the provision of the relevant services, capacity and mileage by another Train Operator, the timetable and train plan of such Train Operator in so far as they relate to such provision.
- (e) References in Clause 5.2 to Clause 5.1 and compliance with Clause 5.1 shall include, where the Franchise Operator has agreed to provide services, capacity or mileage which are included in the passenger service requirement or additional service commitment of another Train Operator, clause 5.1 (or its equivalent) of the franchise agreement (or equivalent) of the other Train Operator and compliance therewith to the extent such clause relates to the relevant services, capacity or mileage.
- (f) References in this Franchise Agreement to the Train Plan include, where the Franchise Operator has agreed to provide capacity which is included in the passenger service requirement or additional service commitment of another Train Operator, the capacity so agreed to be provided.

6 Provision of Capacity

6.1 General provision of capacity

- (a) The Franchise Operator shall use all reasonable endeavours to ensure that sufficient capacity is provided, on each train used in the provision of any Passenger Services, to carry, without excessive overcrowding, all passengers intending to travel on such train and holding a valid Fare (and, if required, a reservation) for such train.
- (b) Without limiting Clause 6.1(a) the Franchise Operator shall be deemed not to have used all reasonable endeavours in relation to any Passenger Services which are not subject to any Load Factor Specifications if and to the extent that there is excessive overcrowding on such services and, other than as a result of a *Force Majeure* Event not resulting from its own or its agents' or subcontractors' actions or omissions or its own breach of, or default under, any Access Agreement, Rolling

Stock Lease, Property Lease or any other agreement, it includes in its plan and/or diagram for the operation of trains and train formations under the Timetable at the time of such overcrowding and persistently operates at such time and at times when similar overcrowding may occur fewer Vehicles than the Initial Number of Vehicles provided that this measure shall only apply from the Passenger Change Date in Summer 2004.

- (c) The Franchise Operator will establish and implement arrangements which are reasonably satisfactory to the Authority to monitor the extent to which there is or is likely to be excessive overcrowding on any Passenger Services which are not subject to any Load Factor Specifications. When and to the extent reasonably requested by the Authority, the Franchise Operator will produce evidence (i) that none of such Passenger Services have been, are, or are likely to be subject to excessive overcrowding; or (ii) of the extent of the actual or likely excessive overcrowding on any such Passenger Services and of the reasonable endeavours used by the Franchise Operator to ensure that sufficient capacity has been or is provided to avoid such excessive overcrowding. Where the Authority makes such a reasonable request it shall also have the right to obtain from the Franchise Operator the results of all monitoring activities carried out by the Franchise Operator pursuant to this Clause 6.1(c). Such results will be provided in such reasonable form as the Authority may stipulate.

6.2 Passenger Counts

- (a) When so requested by the Authority, the Franchise Operator shall carry out a programme of passenger counts, or secure that a programme of passenger counts is carried out, in respect of the Passenger Services at such times as may be required and in such manner (including as to levels of accuracy and the number of days over which the programme of counts is carried out) as may be approved from time to time by the Authority subject to a maximum of:
 - (i) four such programmes in any twelve month period (and a minimum of one such programme in any fifteen month period) during the Franchise Term) in respect of the Passenger Services subject to any Load Factor Specification; and
 - (ii) four such programmes in any twelve month period during the Franchise Term in respect of such of the Passenger Services that are not subject to any Load Factor Specifications as the Authority may reasonably specifyprovided that:
 - (x) the Franchise Operator shall not be required to carry out in aggregate more than four programmes of passenger counts in any twelve month period during the Franchise Term; and
 - (y) a request by the Authority for the Franchise Operator to carry out a programme of passenger counts in relation to Passenger Services specified by the Authority, some of which are subject to Load Factor Specifications and some of which are not, shall count as one programme of passenger counts for the purposes of this Clause 6.2(a).

The manner of such counts (including their timing and location) shall be designed to ensure so far as practicable, that the counts are typical of demand for the

Passenger Services provided by the Franchise Operator at the relevant time of year and for the relevant day of the week. Where applicable, any such count shall be carried out by a person or persons approved by the Authority (such approval not to be unreasonably withheld).

- (b) The Franchise Operator shall supply such details as may be reasonably required in respect of the results of such counts to the Authority in such reasonable form as the Authority may stipulate. The Franchise Operator shall draw the Authority's attention at the time to any particular factors which the Franchise Operator considers relevant to whether the results of such counts are typical of demand for the Passenger Services at that time.
- (c) The Authority shall be entitled to audit such counts (whether by specimen checks at the time of such counts, verification of proper compliance with the manner approved by it or otherwise). In the event that such audit reveals material error, or a reasonable likelihood of material error, in such counts, the Authority may require the counts to be repeated or the results adjusted as it considers reasonably appropriate, and the Franchise Operator shall pay to the Authority the costs of any such audit.
- (d) Save to the extent the Authority otherwise agrees, the Franchise Operator's obligations under this Clause 6.2 are separate from and in addition to any requirement for the Franchise Operator to conduct passenger counts for the purpose of Clause 6.1(c).
- (e) For the avoidance of doubt, all references to passenger demand and numbers of passengers in this Clause 6 shall refer to the demand for travel, or the number of passengers (as appropriate) in Standard Class Accommodation.

6.3 Non-applicability

The provisions of Clauses 6.4 to 6.10 shall not apply where Parts 3 and 4 of Schedule 3 have been left intentionally blank.

6.4 Load Factor Specifications

The Franchise Operator shall use all reasonable endeavours to ensure that in providing the Passenger Services it provides sufficient capacity thereon such that it does not exceed the Load Factor Specifications. The Franchise Operator shall be deemed to have complied with its obligations under this Clause 6.4 to the extent it complies with its obligations under Clause 6.2 and Clauses 6.5 to 6.7.

6.5 Preliminary statement

- (a) Within one month of any programme of counts under Clause 6.2 being completed (or such longer period as the Authority may determine), or at any other time as the parties may agree, the Franchise Operator shall submit to the Authority a preliminary statement. Such preliminary statement shall:
 - (i) include the Franchise Operator's assessment, following such count, of the Forecast Demand, together with details of how such Forecast Demand has been determined;
 - (ii) specify:
 - (x) what railway passenger services and capacity are, in its opinion, required to be included in its Timetable and Train Plan and (if

appropriate) what Other Demand Management Actions (if any) are required to be taken in order to ensure that, on the basis of such Forecast Demand, it does not exceed the Load Factor Specifications in providing the Passenger Services over the remainder of the Franchise Term; and

- (y) the extent to which such services and/or capacity and/or Other Demand Management Actions will require the Franchise Operator to secure:
 - (1) agreement with or consent from any other person; and/or
 - (2) the use of alternative and/or additional rolling stock; and/or
 - (3) enhancements or other changes to the network or other railway facilities; and
 - (iii) indicate what other changes may be proposed to its existing Timetable and Train Plan at such time.
- (b) For the avoidance of doubt, if in the opinion of the Franchise Operator the Forecast Demand is such that it will not in any circumstances be feasible to specify sufficient railway passenger services and capacity in its Timetable and Train Plan and/or to take any Other Demand Management Action to ensure that the Load Factor Specifications will not be exceeded, then:
- (i) the Franchise Operator will state this in the preliminary statement; and
 - (ii) in such a case the Franchise Operator will specify in the preliminary statement:
 - (x) what railway passenger services and capacity are, in its opinion, required to be included in its Timetable and Train Plan; and
 - (y) (if appropriate) what Other Demand Management Actions are, in its opinion, required to be taken,
- in order to ensure that, on the basis of the Forecast Demand following such programme of passenger counts, the extent of non-compliance with the Load Factor Specifications in respect of the whole or part of the period to which any Timetable applies during the Franchise Term shall be mitigated to the greatest extent possible.
- (c) The Authority and the Franchise Operator may agree on the basis of such preliminary statement:
- (i) an Agreed Capacity Plan specifying what railway passenger services and capacity are to be included in its Timetable and Train Plan;
 - (ii) an Implementation Plan for the Agreed Capacity Plan;
 - (iii) what Other Demand Management Actions (if any) are to be taken; and
 - (iv) an Implementation Plan for any such Other Demand Management Actions.

6.6 Feasibility Study

- (a) If the Authority so requests following the submission of any statement under Clause 6.5(a) or the expiry of the period for delivering such statement, the Franchise Operator shall, within one month of such request (or such longer period as the Authority may determine), submit to the Authority a Feasibility Study. If the parties are otherwise unable to agree what railway passenger services and capacity are to be included (and what Other Demand Management Actions (if any) are to be taken) under Clause 6.5(b), the Franchise Operator may submit to the Authority a Feasibility Study.
- (b) The provisions of Schedule 9 shall have effect for the purpose of determining the contents of any such Feasibility Study, the details of any Implementation Plan and the calculation of any Net Loss or Net Gain, and the Franchise Operator and the Authority will comply with their respective obligations thereunder.
- (c) Subject to the provisions of Schedule 9, including, without limitation, in relation to:-
 - (i) the level of standard class passenger demand compared to the Passenger Demand Limit; and
 - (ii) the capacity forecast to be required as compared to (1) the capacity provided (or to be provided) under the previous Agreed Capacity Plan (2) the capacity required to meet the Passenger Demand Limit such that the Load Factor Specifications are not exceeded; and (3) the Maximum Capacity Limit,

the No Net Loss No Net Gain Regime shall apply to any Capacity Change and/or the taking of any Other Demand Management Actions.

6.7 Implementation

- (a) The Franchise Operator shall implement each Agreed Capacity Plan (or each part thereof) and/or take any Other Demand Management Actions (if any) agreed or determined under Clause 6.5(c) or Part 2 of Schedule 9 in accordance with the relevant Implementation Plan as soon as reasonably practicable but no later than the date specified in the relevant Implementation Plan for the relevant Agreed Capacity Plan (or part thereof) and/or Other Demand Management Actions and shall notify the Authority on such implementation.
- (b) The Authority shall, as soon as it is reasonably satisfied that an Agreed Capacity Plan (or part thereof) and/or Other Demand Management Action(s) comprised in the relevant Implementation Plan has been implemented, issue a Change Certificate and the provisions of this Franchise Agreement shall be adjusted as from the date specified in such certificate in accordance with the Change Certificate.

6.8 Rolling Stock Capacities

- (a) The Rolling Stock Capacities shall be used to determine whether under this Clause 6 the Franchise Operator exceeds or will exceed the Load Factor Specifications in providing the Passenger Services.
- (b) The Authority shall notify the Franchise Operator from time to time of the Rolling Stock Capacities. No such notification shall, except in the case of patent error,

amend any previous notification in respect of the same type of rolling stock or configuration of rolling stock, or configuration of seating within any rolling stock.

- (c) The Franchise Operator shall inform the Authority in advance of the introduction of any new rolling stock or any different configurations of rolling stock or any different configuration of seating within any rolling stock and may request the Authority to notify it of the deemed capacities of any new rolling stock or configurations of rolling stock or configurations of seating within any rolling stock it may wish to use and shall supply such information as the Authority may reasonably request in relation thereto.

6.9 Other Train Operators

If and to the extent that the Franchise Operator provides Passenger Services which are subject to the Load Factor Specifications and another Train Operator also provides railway passenger services over the same section of track or route or over a route with the same originating and finishing points, then, except to the extent that the other Train Operator has previously consented, the Franchise Operator shall take no action or step or series of actions or steps (including by way of adjustment to the Timetable or Train Plan or to the quality of the Passenger Services) which might reasonably be considered to result in a material number of passengers who would otherwise use the Passenger Services provided by the Franchise Operator using the services provided by the other Train Operator.

- 6.10** Nothing in Clauses 6.5 or 6.7 shall prevent the Franchise Operator from planning or implementing any change to its Timetable or Train Plan which would result in more capacity being provided by the Franchise Operator on the Passenger Services than the capacity required to ensure that, on the basis of the Forecast Demand following any relevant passenger count, it does not exceed the Load Factor Specifications in providing the Passenger Services over the remainder of the Franchise Term and the obligation in Clause 6.7 to implement an Agreed Capacity Plan (or part thereof) or an Implementation Plan shall be construed accordingly.

- 6.11** For the avoidance of doubt, nothing in this Clause 6 will relieve the Franchise Operator of any obligations it may have under any other provision of this Franchise Agreement (including the Franchise Plan and Schedule 14), or limit the rights of the Authority or the action which may be taken by the Authority in respect of any breach by the Franchise Operator of any other such obligations.

7 The Timetable

7.1 Publication of Timetable

- (a) The Franchise Operator shall send to the Authority as soon as practicable but no less than 7 weeks prior to the implementation thereof, any new Timetable and related Train Plan. Any such new Timetable shall be sent at the same time to all relevant Rail Passengers' Committees and any relevant Local Authorities that may have requested a copy from the Franchise Operator.
- (b) The Franchise Operator shall publish at each Station, to the extent reasonably practicable, and in accordance with the ATOC Code of Practice on Presentation of Timetable Information, the times (as amended from time to time) of all passenger trains departing from such Station (including for the avoidance of doubt passenger trains operated by other Train Operators), the times of arrival of all such trains at all other stations at which they call, and details of the principal Connections at such

other stations to other passenger trains. For the purpose of this Clause 7.1(b) the “ATOC Code of Practice on Presentation of Timetable Information” is the code of practice on presentation of timetable information issued by the Association of Train Operating Companies and in force from time to time or, in the absence of which, such other code as the Authority may specify.

- (c) The Franchise Operator shall publish such information from the commencement of the Franchise Term and subsequently publish updates or replacements to such information to the extent necessary to reflect any changes made to such information which comes into effect on a Passenger Change Date:
- (i) ^{i ii} in the case of the booklets referred to in Clause 7.1(e)(i), such publication to be no later than 4 weeks in advance of the date the changes come into effect; and
 - (ii) in the case of the information displays in Clause 7.1(e)(ii), such publication to be no later than the date on which the changes come into effect.

In addition, the Franchise Operator shall display a poster at each Station advising customers of all significant alterations to trains serving that Station no later than 4 weeks in advance of the date on which the changes come into effect.

- (d) The obligations under Clause 7.1(b) and Clause 7.1(c) shall be subject to the provision of the relevant information or booklets at the relevant time by the relevant other train operators. The Franchise Operator shall provide the equivalent information and booklets to the operators of other stations which are served by the Passenger Services and which are not Stations in sufficient time for the information to be published by such other operators within the time limits provided for in Clause 7.1(c).
- (e) For the purposes of this Clause 7.1:
- “**publish**” shall mean:
- (i) making the relevant information available upon request in one or more booklets or in other similar form at all staffed Stations; and
 - (ii) displaying it on information displays at all Stations; and
- “**significant alterations**” shall include the addition or removal of services; changes to calling patterns, destination or origin; changes of timings for first/last trains by more than 10 minutes; changes to clockface (or near clockface) service patterns (meaning the provision of services at a specified time or times relative to the hour); and significant changes to journey times and/or key connections at the Station or at other stations at which relevant services call.
- (f) The Franchise Operator shall use all reasonable endeavours to procure (including by virtue of any arrangements made from time to time between Network Rail and RSP) that the Great Britain Passenger Rail Timetable (or any replacement of it) which is published or procured to be published by Network Rail from time to time in relation to the Passenger Services incorporates or is consistent with its Timetable from time to time.
- (g) The Franchise Operator shall use all reasonable endeavours to procure that information in relation to the Timetable is available to passengers through the National Rail Enquiry Scheme (or any replacement of it), and that information in

relation to any new or amended Timetable is available to passengers through such Scheme not less than 4 weeks prior to its implementation.

7.2 Notification of revisions to Timetable

- (a) The Franchise Operator shall inform passengers, so far as possible on 7 days' prior notice, if it will be unable to operate its trains in accordance with the Timetable. Such information shall include any revised timetable or travelling arrangements.
- (b) The relevant information shall be provided by revising or adding to the information displays referred to in Clause 7.1(e) and notifying the operators of other stations served by the Passenger Services as appropriate. The Franchise Operator shall revise or add to the information displays at the Stations promptly on receipt of any equivalent information relating to the railway passenger services of other train operators.
- (c) The time limits contained in Clause 7.2(a) shall not apply to any revisions which are made on an emergency basis, but the Franchise Operator shall in such circumstances notify or publish the relevant revisions as soon as reasonably practicable.
- (d) Notwithstanding the above obligations the Franchise Operator shall ensure that so far as reasonably practicable (including by communication of the relevant information to persons likely to field relevant enquiries) passengers making enquiries regarding the Passenger Services can be informed of the planned timetable of the Franchise Operator as far in advance as is reasonably practicable.

8 Passengers

8.1 Passenger's Charter

- (a) The Franchise Operator shall publish the Passenger's Charter from the commencement of the Franchise Term and subsequently publish updates or replacements to the Passenger's Charter to the extent necessary to reflect any changes to the Passenger's Charter which come into effect after such commencement, such publication to be no later than the date on which the changes come into effect. The date of publication of the Passenger's Charter and of subsequent updates or replacements shall be clearly marked on the front cover.
- (b) The Franchise Operator:
 - (i) may from time to time review the need for changes to the Passenger's Charter in consultation with relevant Rail Passengers' Committees; and
 - (ii) shall in any case carry out a consultation and review prior to each Performance Review Date, such review to be carried out in sufficient time so as to enable any changes resulting from the review in accordance with Clause 8.1(c) to take effect on the date required by Clause 8.1(d).
- (c) The Franchise Operator shall submit, following such review as is referred to in (b) above, a draft revised Passenger's Charter complying with the requirements of Clause 8.1(e) (or proof of consultation together with the Franchise Operator's conclusion not to amend the then current Passenger's Charter) to the Authority for approval. The Authority shall respond to such submission within one month. The

Franchise Operator shall make no amendments to the Passenger's Charter without the prior written approval of the Authority (which shall not be unreasonably withheld). For the avoidance of doubt, but without prejudice to Clause 8.1(e), nothing in this Franchise Agreement shall entitle the Authority unreasonably to require any amendment to be made to the Passenger's Charter whether as a condition of such approval or otherwise.

- (d) The revised Passenger's Charter, as approved by the Authority, shall come into effect as soon as practicable following such approval or on the date specified by the Authority in such approval. Where the revisions are to be made pursuant to a review required by Clause 8.1(b)(ii), then unless otherwise agreed by the Authority, the revised Passenger's Charter shall come into effect no later than the relevant Performance Review Date in respect of which the review has been undertaken under Clause 8.1(b)(ii).
- (e) Unless otherwise agreed by the Authority, the performance standards in the revised Passenger's Charter are to be no lower than the performance standards in the then current Passenger's Charter.
- (f) The Franchise Operator shall provide, at each main Station (as listed in the Passenger's Charter) and so far as reasonably practicable, at each staffed Station, copies of the Passenger's Charter and the passenger's charters of other train operators whose trains call at such Station. Passengers shall not be charged for copies of such documents.
- (g) The obligation under Clause 8.1(f) shall be subject to the provision of the relevant passenger's charter at the relevant time by the relevant other train operators. The Franchise Operator shall provide copies of the Passenger's Charter to the operators of other stations which are served by the Passenger Services and which are not Stations in sufficient time for the information to be published by such other operators within the time limits provided for in Clause 8.1(a). The Franchise Operator shall at the same time provide copies of the Passenger's Charter to relevant Rail Passengers' Committees.
- (h) The Franchise Operator shall make all payments and all extensions to Fares and provide all discounts on the price of Fares which may be due to be made, offered or provided from time to time under the terms of the Passenger's Charter (whether or not the Franchise Operator is legally obliged to do so).
- (i) The Franchise Operator shall, in respect of all other obligations or statements of intention or other representations under the Passenger's Charter, use all reasonable endeavours to comply with such obligations, statements and representations and to meet such standards or targets of performance as may be comprised in the Passenger's Charter from time to time.
- (j) The Franchise Operator shall procure that the Passenger's Charter Statistics detailing the performance of the Franchise Operator with respect to the standards in the Passenger's Charter is prepared in respect of every Reporting Period in accordance with the Passenger's Charter Guidelines. The Passenger's Charter Statistics and the passenger's charter statistics of other train operators whose trains call at such Station shall be displayed on information displays at all main Stations by midnight on the Saturday following the end of such Reporting Period. So far as reasonably practicable, copies of the same shall be available on request at each staffed Station. Where such Station is served by only one or more service

groups (as defined in the Passenger's Charter) ("**Charter Groups**") and not others, the Passenger's Charter Statistics relating to such other Charter Groups need not be published there.

- (k) The obligation under Clause 8.1(j) shall be subject to the provision of the passenger's charter statistics at the relevant time by the relevant other train operators in the appropriate format. The Franchise Operator shall provide the Passenger's Charter Statistics in the appropriate format to the operators of other stations which are served by the Passenger Services and which are not Stations in sufficient time for the information to be displayed by and available from such other operators within the time limits provided for in Clause 8.1(j). The Franchise Operator shall at the same time provide copies of the Passenger's Charter Statistics to relevant Rail Passengers' Committees.
- (l) The Franchise Operator shall procure that the Passenger's Charter Statistics shall be audited from time to time by an independent person or persons reasonably acceptable to the Authority. Such audit shall be conducted at least once in each calendar year and the results shall be provided to the Authority by the Franchise Operator, as shall (if so requested by the Authority) details of the methodology used in such audit.
- (m) To the extent any such audit reveals inaccuracies in the data and information used to measure the performance of the Franchise Operator:
 - (i) the Franchise Operator shall ensure so far as reasonably practicable that the production of such inaccurate data and information is not repeated;
 - (ii) the Franchise Operator shall (as soon as reasonably practicable) implement any corrections arising out of the findings of the audit but not on a retrospective basis; and
 - (iii) insofar as any errors in data and information result in compensation that should have been given not being given, the Franchise Operator shall so far as reasonably possible make such compensation available.

8.2 Disruptions to Passenger Services

- (a) In the event of a disruption to the Passenger Services (whether occurring on the day or previously expected and whether or not reflected in the Timetable) the Franchise Operator shall use all reasonable endeavours to provide or secure the provision of such alternative transport arrangements as passengers might reasonably expect (whether or not notified in advance of the disruption) and as are reasonably feasible (having regard, *inter alia*, to the length of notice of disruption received by the Franchise Operator and the frequency, duration and extent of any previous such disruptions and to safety and cost) such that passengers who would otherwise have travelled on the Passenger Services are transported by such alternative transport to (or as near as reasonably practicable to) the end of their intended journeys on the Passenger Services.
- (b) Where any Passenger Services are required to be cancelled or delayed or short formations are required to be operated, the Franchise Operator shall use all reasonable endeavours to ensure that any such cancellations, delays or short formations are not concentrated on a particular route on which the Passenger Services are operated save where such concentration either:

- (i) would be in the overall interest of passengers using the Passenger Services and would not result in disproportionate inconvenience to any group of passengers; or
 - (ii) is reasonably necessary as a result of the cause or the location of the cancellation, delay or short formation.
- (c) The Franchise Operator shall have in place reasonable contingency arrangements for the provision of alternative transport arrangements under this Clause in the event of a disruption to the Passenger Services.

8.3 Bicycles

- (a) The Franchise Operator shall have a policy setting out the services and facilities it provides for bicycles both on the Passenger Services and at the Stations. Such policy shall reflect the Franchise Operator's obligations under this Franchise Agreement and shall include any restrictions on bicycles. The Franchise Operator shall publish (as defined in Clause 7.1(e) of this Franchise Agreement) such policy, as in force from time to time.
- (b) The Franchise Operator shall, so far as reasonably practicable and subject to the availability of appropriate space on its rolling stock and Clause 8.3(f), ensure that facilities for the transport of bicycles on trains are made available, at reasonable charges (if any), to passengers using or intending to use the Passenger Services provided that no charge shall be made to passengers for the reservation of space in designated bicycle storage facilities on trains.
- (c) No charge shall be made to passengers using or intending to use the Passenger Services for the use of facilities provided in accordance with paragraph 6 of Schedule 4, except to the extent the Authority otherwise agrees.
- (d) The Franchise Operator shall, except to the extent the Authority otherwise agrees, not cease to provide the level of facilities for the carriage and storage of bicycles on trains used in the Passenger Services as was provided prior to the Franchise Commencement Date on the Passenger Services.
- (e) Except to the extent the Authority otherwise agrees having regard to, *inter alia*, the likely use of such facilities (such agreement not to be unreasonably withheld), any new rolling stock which is procured directly or indirectly by the Franchise Operator shall include facilities for the carriage and storage of bicycles.
- (f) Notwithstanding any of the above, the Franchise Operator shall not be in breach of any of its obligations under this Clause 8.3 if the reason for its failure to comply with any such obligation is the use by it on any particular occasion of some or all space otherwise available to cyclists and/or bicycles for the carriage and/or accommodation of wheelchairs and/or wheelchair users and/or those travelling with them.

8.4 National Passenger Surveys

- (a) The Authority will measure the level of customer satisfaction with the Franchise Services through National Passenger Surveys. This Clause 8.4 sets out:
 - (i) how National Passenger Surveys are intended to be carried out (sub-Clauses (b) to (i); and

- (ii) what action may be required by the Franchise Operator in response to the results of National Passenger Surveys (sub-Clauses (j) to (m)).
- (b) The Authority shall carry out National Passenger Surveys in respect of such aspects of the Franchise Services and in such form and manner and at such time as the Authority may determine from time to time provided that:
 - (i) subject to Clause 8.4(c), as at the date of this Franchise Agreement, the Authority proposes to carry out two National Passenger Surveys in each calendar year; one during the first six months (“**the Spring NPS**”) and one during the second six months (“**the Autumn NPS**”) of any year;
 - (ii) nothing shall prevent the Authority from carrying out such further National Passenger Surveys as it may require from time to time.
- (c) The Authority will use reasonable endeavours to procure that the manner in which the National Passenger Surveys are carried out shall be designed to ensure, so far as is reasonably practicable, that the results of the surveys form a reasonable basis for monitoring the trends of customer satisfaction across successive National Passenger Surveys (having regard always to the fact that National Passenger Surveys are intended to be national and are not designed with specific reference to the Franchise Services operated by the Franchise Operator).
- (d) Without limiting Clause 8.4(b), where the Authority reasonably considers it necessary to do so from time to time, the Authority will be entitled to make changes in the manner of conducting National Passenger Surveys including any change in the timing of the surveys or in the aspects of the Franchise Services to be included within the scope of the surveys. The Authority will:
 - (i) in response to any reasonable request from the Franchise Operator from time to time, make available to the Franchise Operator summary details of the methodology utilised in the design of National Passenger Surveys;
 - (ii) if and to the extent that it is reasonably practicable to do so having regard to all the circumstances (including the nature of any such change and the timescales within which the same is required to be made) consult with the Franchise Operator in connection with any such change which the Authority proposes to make and which it reasonably considers to be material; and
 - (iii) notify the Franchise Operator in relation to any such change which is made and which it reasonably considers to be material

provided that no failure to so provide such details or notification will invalidate any National Passenger Surveys for the purposes of this Agreement or otherwise.
- (e) For the avoidance of doubt, the Authority may (but shall not be obliged to) determine not to carry out, or to suspend or delay or discontinue any National Passenger Survey planned or commenced if it considers that in the circumstances it is inappropriate or impractical to carry out or continue that survey.
- (f) The Authority may from time to time publish or otherwise disclose such results of each National Passenger Survey carried out as it considers is appropriate and in any event shall disclose to the Franchise Operator such results as are necessary to give effect to the terms of this Clause 8.4 and Schedule 15.

- (g) For the purpose of this Clause 8.4 and subject to Clause 8.4(h) the NPS Benchmark shall, for any new aspect of the Franchise Services which the Authority may include within the scope of the National Passenger Survey from time to time, be determined on a basis equivalent to that on which the original NPS Benchmarks as at the Franchise Commencement Date were derived from the Autumn and Spring National Passenger Surveys identified in agreed form document “**NPS**”. The parties may refer any dispute relating to such determination for resolution in accordance with the Dispute Resolution Rules.
- (h) If at any time the Authority reasonably considers that the NPS Benchmarks are no longer appropriate or robust for the purposes of this Clause 8.4 as a result of any changes in circumstances (which may include but shall not be limited to any change in the nature of the Franchise Services or any change in the way that National Passenger Surveys are to be carried out, or the need to correct estimates or assumptions made by the Authority in setting the initial NPS Benchmarks which prove to be inaccurate) then the Authority may re-set the levels of the NPS Benchmarks (and, where different, any related Customer Satisfaction Target) to such level as it reasonably considers appropriate in order to:-
 - (i) give effect to this Clause 8.4 and Schedule 15; and,
 - (ii) so far as it is possible to do so, replicate (in terms of the level of customer satisfaction required) the effect of any NPS Benchmark (or Customer Satisfaction Target (as the case may be)) as previously set for the purposes of this Clause and Schedule 15.

The Franchise Operator shall be entitled to refer for determination in accordance with the Dispute Resolution Rules any dispute as to whether the revised NPS Benchmark (or Customer Satisfaction Target (as the case may be)) has been set at a reasonable level by the Authority in accordance with this Clause 8.4(h).

- (i) The Franchise Operator shall co-operate with the Authority as it may reasonably request from time to time to allow or facilitate the carrying out of the National Passenger Surveys. When so requested by the Authority, the Franchise Operator shall permit the Authority or its representatives and agents to have access to passengers and other persons who use Franchise Services (such access to be provided on relevant trains or at relevant stations or as otherwise reasonably required by the Authority) for the purposes of the Authority carrying out National Passenger Surveys.
- (j) After the relevant results of a National Passenger Survey have been made available to the Franchise Operator pursuant to Clause 8.4(f) representatives of the Franchise Operator shall attend a meeting with the Authority or its representatives for the purpose of enabling those results to be reviewed with the Franchise Operator. Unless otherwise required by the Authority, such meeting shall be part of a quarterly review meeting referred to in Clause 15.8.
- (k) If the results of any Autumn or Spring NPS show that the level of customer satisfaction in respect of any aspect of the Franchise Services is below the relevant NPS Benchmark for Autumn or Spring (as the case may be) then the Franchise Operator shall submit to the Authority proposals which:-

- (i) subject to (ii) below, are reasonably likely to ensure that such deterioration is remedied as soon as practicable;
 - (ii) are reasonable (having regard to cost and the practicalities of implementation) for the Franchise Operator to implement;
 - (iii) indicate the action to be taken; how that action will contribute to the remedy; where, when and for how long the action is to be taken; the name of the manager responsible; how and when the success of the action is to be measured and the estimated cost (if any) of implementation.
- (l) ***⁴The Franchise Operator shall submit such proposals to the Authority within 6 weeks of the results of such survey being provided to the Franchise Operator (or, if later and agreed or required by the Authority, within 6 weeks of the meeting referred to in Clause 8.4(j)) together with a written commentary on the aspects of the survey dealing with "Station facilities and services", "Overall satisfaction" and material changes in "Generic factors". Without limiting Clause 8.4(k), as a minimum, a proposal will be regarded as reasonable if and to the extent that:-***
- (i) ***it is not inconsistent with the Franchise Operator's other obligations under this Franchise Agreement; and***
 - (ii) ***subject to (i) above, it does not involve an increase in the level of the Franchise Operator's activities or the undertaking of any activities of a more onerous nature, in each case in relation to the relevant aspect or aspects of the Franchise Services, compared with the level or nature of such activities undertaken by the Franchise Operator as at the Franchise Commencement Date."***
- (m) If the Authority does not consider that such proposals are reasonably likely to ensure that the deterioration will be remedied, or if there is a dispute about what is reasonable in terms of cost or practicalities, the parties shall in good faith use their best endeavours to agree revised proposals within 2 weeks, following which the dispute may be resolved in accordance with the Dispute Resolution Rules. Following agreement or determination of such proposals in accordance with the Dispute Resolution Rules, the Franchise Operator shall implement such proposals in accordance with their terms. The Franchise Operator will report on the implementation of the proposals, including at quarterly review meetings referred to in Clause 15.8 and as otherwise requested by the Authority.

9 Fares and Fare Schemes

9.1 Fare Regulation

Schedule 5 shall have effect between the parties, and the Authority and the Franchise Operator shall each comply with their respective obligations thereunder.

9.2 Reduced Fares for Children

The Franchise Operator shall, where it Creates or has Created a Fare, set the Child Price for that Fare in such a way that the Fare may be purchased by or for a person under the

⁴ Date of Change 7.12.2005

age of 16 on terms which are no less favourable than would apply if that person were the holder of a Young Person's Railcard (as amended or replaced from time to time).

9.3 Agents of the Franchise Operator

The Franchise Operator shall procure that all persons selling or offering to sell Fares on its behalf (whether under the terms of the Ticketing and Settlement Agreement, as its agent or otherwise):

- (a) for Fares whose Prices or Child Prices are regulated under Clause 9.2 or Schedule 5, do so at prices no greater than the Prices or, if the Fare is to be used by a person under the age of 16, the Child Prices set for such Fares from time to time in accordance with Clause 9.2 or Schedule 5, as the case may be; and
- (b) for all Fares, comply with the provisions of Clause 30.1 of this Franchise Agreement to the extent they apply to the selling of Fares by the Franchise Operator.

9.4 Local Authority Concessionary Travel Schemes

- (a) The Franchise Operator shall participate in the concessionary travel schemes described in Part 7(a) of Schedule 1 and, if so requested by the Authority, such other concessionary travel schemes as any relevant Local Authority may require or request it to participate in, provided that the terms of any such scheme or the obligations assumed by the Local Authority in connection therewith are such as to result, by way of distribution of income or otherwise, in the reasonable opinion of the Authority, in the Franchise Operator incurring no Net Loss as a result of any such participation.
- (b) The Authority shall consult with the Franchise Operator before making any request for it to participate in any new schemes under Clause 9.4(a) and shall allow the Franchise Operator a reasonable opportunity to make representations to it with respect to any such participation.
- (c) Subject to the terms of the relevant scheme, the Franchise Operator shall be entitled to cease to participate in any concessionary travel scheme under Clause 9.4(a) if, in the opinion of the Authority, continuing participation would result in the Franchise Operator incurring any Net Loss.
- (d) The No Net Loss No Net Gain Regime shall apply to the extent required to determine whether the Franchise Operator would incur any Net Loss as a result of participation in the relevant scheme (and, for the avoidance of doubt, no adjustment shall be required to be made to the terms of this Franchise Agreement). For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining, for this purpose, whether the Franchise Operator would incur such a Net Loss.

9.5 Local Authority Multi-modal Schemes

- (a) The Franchise Operator shall participate in the multi-modal schemes described in Part 7(b) of Schedule 1 and, if so requested by the Authority, such multi-modal travel schemes as any relevant Local Authority may require or request it to participate in, provided that the terms of any such scheme or the obligations assumed by the Local Authority in connection therewith are such as to result, by way of distribution of income or otherwise, in the reasonable opinion of the

Authority and subject to Clause 9.5(b), in the Franchise Operator incurring no Net Loss as a result of any such participation.

- (b) For the purposes of this Clause 9.5, the Franchise Operator shall be deemed to incur no Net Loss as a result of participation in any scheme which is reasonably similar to or replaces any such scheme or schemes as may be listed in Part 7(b) of Schedule 1 if and to the extent that the Net Loss caused as a result of such participation is no greater than the Net Loss (if any) incurred by the Franchise Operator at the date of signature of this Franchise Agreement under the relevant scheme or schemes listed in Part 7(b) of Schedule 1 as adjusted by reference to any change in the level of prices according to the Retail Prices Index since such date.
- (c) The Authority shall consult with the Franchise Operator before making any request under Clause 9.5(a) and shall allow the Franchise Operator a reasonable opportunity to make representations to it with respect to any such participation.
- (d) Subject to the terms of the relevant scheme, the Franchise Operator shall be entitled to cease to participate in any multi-modal scheme under Clause 9.5(a) if, in the opinion of the Authority, continuing participation would result in the Franchise Operator incurring:
 - (i) in the case of any such scheme listed in Part 7(b) of Schedule 1 (or any scheme which is reasonably similar to or replaces any such scheme), any more Net Loss than the Net Loss incurred by the Franchise Operator at the date of signature of this Franchise Agreement under such scheme (or any scheme so replaced) as adjusted by reference to any change in the level of prices according to the Retail Prices Index since such date; and
 - (ii) in the case of any other such schemes which the Franchise Operator may be required to participate in under Clause 9.5(a), any Net Loss.
- (e) The No Net Loss No Net Gain Regime shall apply to the extent required to determine whether the Franchise Operator would incur any Net Loss as a result of participation in the relevant scheme (and, for the avoidance of doubt, no adjustment shall be required to be made to the terms of this Franchise Agreement). For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining, for this purpose, whether the Franchise Operator would incur such a Net Loss.

9.6 Discount Fare Schemes

- (a) If the Authority effects, or proposes to effect, an amendment to a Discount Fare Scheme or introduces any new Discount Fare Schemes or ceases to approve a Discount Fare Scheme for the purposes of section 28 of the Act, then the No Net Loss No Net Gain Regime shall apply.
- (b) The Authority shall provide a reasonable opportunity to the Franchise Operator to make representations to the Authority before amending, introducing or ceasing to approve a Discount Fare Scheme under Clause 9.6(a).
- (c) No adjustment shall be made to the terms of this Franchise Agreement unless the Net Loss or Net Gain resulting from the amendment, introduction or cessation of approval will exceed, in the year following its implementation, 0.1 per cent. of the annual Turnover of the Franchise Operator as disclosed by its latest available audited accounts.

9.7 Inter-Operator Schemes

- (a) If an amendment is effected or proposed to be effected to an Inter-Operator Scheme which requires the consent or approval of the Authority in accordance with the terms thereof, then the No Net Loss No Net Gain Regime shall apply except that adjustments shall only be made in respect of the Net Gain resulting from the Variation (or a proportion of such Net Gain is determined by the Authority) and not any Net Loss.
- (b) No adjustment shall be made to the terms of this Franchise Agreement unless the Net Gain resulting from any amendment of an Inter-Operator Scheme will exceed, in the year following the implementation of the amendment, 0.1 per cent of the annual Turnover of the Franchise Operator as disclosed by its latest available audited accounts.

9.8 Value Added Tax

If the Value Added Tax treatment of the provision of Passenger Services by the Franchise Operator changes on or before the expiry of the Franchise Period (including but not limited to an increase or reduction in the rate of Value Added Tax applying to the provision of such Passenger Services) the No Net Loss No Net Gain Regime shall apply in respect of any Net Loss or Net Gain suffered or made (as applicable) as a result of such change of treatment.

10 Stations and Depots

10.1 Closures

Except to the extent that the Authority may otherwise agree from time to time, the Franchise Operator shall not cease to operate, or cease to secure the operation of, or propose to terminate the use of, any Station or Depot, or some part of a Station or Depot, where such cessation or proposal might result in a Closure. In the event of a Closure or any procedures being commenced under Part I of the Act in relation to a Closure in connection with any such cessation or proposed cessation or termination, the Franchise Operator shall, at its own cost and to the extent so requested by the Authority, take such action as the Authority may require it to take on its behalf in order for the Authority to comply with any duty imposed on it under Part I of the Act in relation to the Closure.

10.2 Station and Depot Leases

The Franchise Operator shall not:

- (a) terminate or agree to terminate, or take or omit to take any other action which might result in the termination of any Station Lease or Depot Lease; or
- (b) assign all or part of its interest under any Station Lease or Depot Lease; or
- (c) sublet the whole or substantially the whole of the property comprised in any Station Lease or Depot Lease

except to the extent that the Authority may otherwise agree from time to time (such agreement not to be unreasonably withheld in the event that the Franchise Operator has made arrangements, reasonably satisfactory to the Authority, for the continued operation as a Station or Depot (as the case may be) of the property comprised in the relevant Station Lease or Depot Lease for the remainder of the Franchise Term or if consent to the Closure of the relevant Station or Depot has been granted).

10.3 Station standards

- (a) Subject to:
 - (i) the provisions of Clause 10.4;
 - (ii) any applicable Law; and
 - (iii) the rights of Network Rail under any relevant Station Lease, or any other person under any other contract to which the Franchise Operator or Network Rail may have been party immediately before the Franchise Commencement Date, to prohibit, restrict, approve or consent to the performance of the obligations of the Franchise Operator under this Clause 10.3

the Franchise Operator shall procure that, as a minimum at each Station, the requirements of Schedule 4 are complied with on and from the Franchise Commencement Date or such other date as may be specified in Schedule 4.

- (b) Where compliance by the Franchise Operator with the requirements of Schedule 4 would:
 - (i) either, under any applicable Law, require the consent or approval of any other person; or
 - (ii) be so subject to the rights of Network Rail or any other person,

the Franchise Operator shall use all reasonable endeavours to ensure that Network Rail or such other person consents to and approves, and does not prohibit or restrict, the performance of such obligations, whether in whole or in part and shall take such other steps and exercise such other rights as the Authority may reasonably require in relation thereto.
- (c) The Franchise Operator shall notify the Authority as soon as reasonably practicable upon it becoming aware that it may not be able to comply with its obligations under Clause 10.3(a) and shall supply such details thereof as the Authority may reasonably require.

10.4 Derogation

The Franchise Operator shall not be required to comply with the provisions of Clause 10.3 if and to the extent that the Authority granted a derogation from compliance with the equivalent provision under the Previous Franchise Agreement and has not withdrawn such derogation (any such withdrawal to be on at least six months' notice).

10.5 RPCs

If the Franchise Operator proposes to take any step on or after the Franchise Commencement Date which would result in a Station ceasing to be staffed at all times of the day at which passenger trains are scheduled to call at such Station, it shall provide at least 8 weeks' written notice of such proposal to the relevant Rail Passengers' Committee.

10.6 Statutory notices

If and to the extent so requested by the Authority, the Franchise Operator shall publish and display at the Stations (and shall use all reasonable endeavours to procure the publication and display at any other stations served by the Passenger Services) of such notices as the

Authority may wish to publish from time to time in exercise of its functions (including in relation to Closures or any enforcement or penalty orders).

10.7 Double arrow symbol

The Franchise Operator shall procure that the symbol known as the double arrow symbol (and registered with trade mark numbers 1275675, 1276989, 1276991, 1276992, 1276993, 1276994 and 1293165) shall be displayed at or near the entrance or entrances to all Stations in order to indicate the availability of access to such stations at such locations. Such display shall be in accordance with the Traffic Signs Regulations and General Directions 1994 and any guidelines laid down by the Secretary of State from time to time. In the event that it requires the users of such symbol to enter into a licence in respect of such symbol, the Franchise Operator shall enter into such licence and shall comply with its terms.

11 PSR/ASC Changes

11.1 Proposals for PSR/ASC Changes

- (a) If the Authority or the Franchise Operator wishes to propose a PSR/ASC Change, it shall give notice of the proposal to the other in accordance with this Clause 11.
- (b) Any notice which proposes a PSR/ASC Change shall:
 - (i) set out the particulars of the proposed PSR/ASC Change (including in such format as may be reasonably requested by the Authority);
 - (ii) set out the date or dates on which it is proposed that the PSR/ASC Change will take effect; and
 - (iii) subject to Clause 11.1(c), be accompanied by a Feasibility Study for such PSR/ASC Change.
- (c) In respect of a PSR/ASC Change proposed by the Authority, the Authority may request the Franchise Operator to prepare the relevant Feasibility Study. Any such Feasibility Study shall be prepared within 28 days of such request or such longer period as the parties may agree. The Authority shall be entitled to request the Franchise Operator to prepare such a Feasibility Study before the Authority gives any notice proposing a PSR/ASC Change.

11.2 Consideration of proposals

- (a) The Authority and the Franchise Operator shall give due consideration to the proposals contained in any notice of a proposed PSR/ASC Change and the related Feasibility Study.
- (b) The Authority or the Franchise Operator, as appropriate, shall notify the other of its preliminary response to any such proposals as soon as reasonably practicable and, subject to Clause 11.2(d), they shall procure a meeting of their respective representatives within 21 days of the date of receipt of the Feasibility Study to discuss the proposals.
- (c) Subject as provided in Clause 11.2(d) and Clause 11.4, the Authority and the Franchise Operator shall discuss the relevant proposals in good faith and use all reasonable endeavours to agree an Implementation Plan for the relevant PSR/ASC Change and the provisions of Part 2 of Schedule 9 shall apply for determining the Implementation Plan for any PSR/ASC Change.

- (d) The Authority shall be entitled at any stage to withdraw or not to accept, and not to enter into any negotiations or meetings in respect of, a PSR/ASC Change or an Implementation Plan which involves, in the Authority's opinion, either a reduction in the level of service or the quality of any aspect of the service under the Passenger Service Requirement or Additional Service Commitment or an increase in any Franchise Payments payable, or a reduction in any Franchise Payments receivable, by the Authority.
- (e) Notwithstanding the other requirements of this Clause 11, the Authority and the Franchise Operator shall be entitled to agree to a PSR/ASC Change on the basis that no adjustment or such adjustment as they may agree be made to the terms of this Franchise Agreement.
- (f) If the Authority requests the Franchise Operator to prepare a Feasibility Study under Clause 11.1(c) and the relevant PSR/ASC Change is not implemented, the Authority will pay to the Franchise Operator its reasonable agreed direct costs in preparing the Feasibility Study (exclusive of any Value Added Tax for which credit is available under sections 25 and 26 of the Value Added Tax Act 1994).

11.3 Sharing of Net Gain

- (a) If the Franchise Operator proposes a PSR/ASC Change which is accepted by the Authority other than pursuant to Clause 11.2(e) and which would result in a Net Gain, then such Net Gain shall be shared between the Franchise Operator and the Authority in such proportions as the Authority shall determine.
- (b) If the Franchise Operator proposes a PSR/ASC Change in good faith in accordance with Clause 11.1, together with a Feasibility Study which complies with the provisions of Part 2 of Schedule 9, and such PSR/ASC Change would result in a Net Gain, the Authority shall not, within a period of two years from the date of submission of such proposal with such a Feasibility Study be entitled to require the Franchise Operator to accept the same or a substantially similar PSR/ASC Change under Clause 11.4(a) unless a proportion of the Net Gain (if any) for such PSR/ASC Change is shared with the Franchise Operator.
- (c) For the avoidance of doubt, Net Gain in this Clause 11.3 means an aggregate Net Gain between the date of implementation of the relevant PSR/ASC Change and the expiry of the Franchise Term, having regard to any net gains or net losses that may be forecast to be made or incurred, in accordance with Schedule 9, in respect of such Change at any time during such period.

11.4 Certain proposals to be accepted

- (a) Subject to any requirement to share a proportion of any Net Gain under Clause 11.3(b) and also to Clauses 11.2(d), 11.4(b) and 11.4(c), the Authority may require, and, if the Authority so requires, the Franchise Operator shall accept, any PSR/ASC Change. The parties may resolve any dispute regarding whether Clauses 11.4(b) and 11.4(c) are applicable in accordance with the Dispute Resolution Rules. Subject to the other provisions of this Clause 11, the No Net Loss No Net Gain Regime shall apply.
- (b) The Franchise Operator shall not be required to accept a PSR/ASC Change which would reasonably be expected to result in the Train Mileage being required to be included by the Franchise Operator in the Timetable under Clause 5.1(a) in the twelve months following the implementation of the PSR/ASC Change being more

than 20 per cent. above the Train Mileage scheduled to be covered under the Timetable for the twelve months beginning on the Franchise Commencement Date or, if greater, such Train Mileage as may subsequently be scheduled to be covered by the Franchise Operator under the Timetable in any twelve month period pursuant to the requirements of Clause 6, where applicable.

- (c) The Franchise Operator shall not be required to accept any PSR/ASC Change which, when aggregated with any previous PSR/ASC Changes, could reasonably be expected to require it to incur capital expenditure in excess of 0.5 per cent. of the annual Turnover of the Franchise Operator, as disclosed by its latest available audited accounts.
- (d)
 - (i) Nothing in this Clause 11 shall prevent the Authority from requiring a PSR/ASC Change to be made such that the Passenger Services which would be required to be contained in all or part of its Timetable and Train Plan under Clause 5.1(a) would be equivalent to the Passenger Services in fact contained in all or the relevant part of its Timetable and Train Plan before such PSR/ASC Change was implemented.
 - (ii) If the Authority does so require, the Franchise Operator may either:
 - (x) within 28 days of receipt of notice of the PSR/ASC Change under Clause 11.1, require the No Net Loss No Net Gain Regime to apply (in which case it shall apply but not otherwise); or
 - (y) on one occasion thereafter and subject to Clause 11.4(d)(iii), require a PSR/ASC Change to be made which would have the effect of reversing the previous PSR/ASC Change on the basis that no Net Loss or Net Gain would arise from such further PSR/ASC Change and so no other adjustments would be made to the terms of this Franchise Agreement.
 - (iii) If and to the extent that the Authority does not accept the Franchise Operator's requirement under Clause 11.4(d)(ii)(y), the No Net Loss No Net Gain Regime shall apply to the Net Loss suffered by the Franchise Operator as a result thereof as if such non-compliance was a PSR/ASC Change under this Clause 11.
 - (iv) Nothing in this Clause 11.4(d) shall apply to any PSR/ASC Change to the extent it would require Passenger Services to be included in the Timetable and Train Plan under Clause 5.1(a) beyond those contained in the Timetable and Train Plan at the time of the PSR/ASC Change.

11.5 Implementation of PSR/ASC Changes

- (a) The Franchise Operator shall amend its Timetable and Train Plan to reflect a PSR/ASC Change as soon as reasonably practicable but no later than the date specified in the relevant Implementation Plan and shall notify the Authority as soon as it can so do.
- (b) The Authority, as soon as it is reasonably satisfied that the Franchise Operator has amended its Timetable and Train Plan, shall issue a Change Certificate and the PSR/ASC Change shall take effect from the date specified in such certificate and

the terms of this Franchise Agreement shall be adjusted as from such date in accordance with such certificate.

- (c) In complying with Clause 11.5(a) and for the avoidance of doubt, the Franchise Operator shall use all reasonable endeavours to procure as soon as reasonably practicable:
 - (i) the consent or agreement of any person whose consent or agreement is necessary to give effect to the PSR/ASC Change; and
 - (ii) the completion of such other steps as may be required for the purposes of implementing the PSR/ASC Change (including the satisfaction of any safety related requirements, the securing of any additional employees and consultation with such persons and bodies as may be appropriate).

11.6 Further investment or improvement or alteration

If the Franchise Operator or the Authority wishes to make an investment or improvement relating to the Franchise Services or other alteration to this Franchise Agreement (which would not otherwise constitute a PSR/ASC Change), it may make proposals to the other, and supply such reasonable details as the other may require, in connection therewith. The parties may, following such exchange of information, agree to amend the Franchise Plan or Schedule 14, adjust the Franchise Payments and make such other amendments to the terms of this Franchise Agreement as they may consider appropriate to reflect such investment, improvement or alteration.

12 Industry Arrangements

12.1 Inter-Operator Schemes

- (a) The Franchise Operator shall participate in, and comply with its obligations under, and the terms of, each of the Inter-Operator Schemes.
- (b) The Franchise Operator agrees to be bound by Parts IV and V of Chapter 4 of the Ticketing and Settlement Agreement.
- (c) The Franchise Operator shall not amend, or agree or propose to amend, any of the Inter-Operator Schemes other than in accordance with its terms.

12.2 Licences

The Franchise Operator shall, to the extent and in the manner so requested by the Authority and to the extent so permitted by the Regulator, on termination of this Franchise Agreement assign to the Authority or as it may direct the Licences.

12.3 Access Agreements

- (a) Except to the extent the Authority otherwise indicates, the Franchise Operator shall notify the Authority of its intention to enter into or amend any Access Agreement before the submission to the Regulator for approval of such amendment or Access Agreement under the Act, or where no such approval is required, not less than 14 days prior to entering into such amendment or Access Agreement. When and to the extent that the Authority so requires by notice, the Franchise Operator:-
 - (i) shall not submit to the Regulator for approval, and

- (ii) (where the Regulator's approval is not required) shall not enter into, or consent to any amendment to,

any Access Agreement (or, if such notice specified a particular Access Agreement or particular class of Access Agreements, any such Access Agreement) without the consent of the Authority (such consent not to be unreasonably withheld).

- (b) The Franchise Operator shall comply with such obligations as it may have under any Access Agreement to which it may be party from time to time:

- (i) to notify or consult with the Authority on any matter or proposal relating to that Access Agreement; or
- (ii) which are contingent on a particular course of action being taken by the Authority or which may otherwise be expressly included in that Access Agreement for the benefit of the Authority.

- (c) The Franchise Operator shall, to the extent so requested by the Authority:

- (i) on termination of this Franchise Agreement, in relation to any Access Agreement to which it may be party;
- (ii) following receipt of a notice purporting to terminate any particular Access Agreement to which it may be party, in relation to such Access Agreement; or
- (iii) following receipt of a notice purporting to terminate a Station Lease or Depot Lease or on becoming aware of any proceedings or any other steps having or purporting to have similar effect, in relation to any Access Agreement under which it is a Facility Owner by virtue of such Property Lease

novate its interest under any such relevant Access Agreement (and any related Collateral Agreement) to the Authority or as it may direct.

- (d) Such novation shall be subject to the agreement of the other party to the relevant Access Agreements and Collateral Agreements and, to the extent applicable, the Regulator. Such novation shall be on such terms as the Authority may reasonably require, including the following:

- (i) that the Franchise Operator shall not be released from any accrued but unperformed obligation, the consequences of any breach of the relevant agreement which is the subject of arbitration or litigation between the parties or any liability in respect of any act or omission under or in relation to the relevant agreement prior to, or as at the date of, any such novation (except to the extent that the Authority or its nominee agrees to assume and be responsible for such unperformed obligation, such liability or the consequences of such breach in connection with the relevant novation); and
- (ii) that neither the Authority nor its nominee shall be obliged, in connection with the novation, to agree to assume and be responsible for any unperformed obligation, liability or consequences of a breach referred to in paragraph (i).

- (e) The Franchise Operator shall, in the event of any of the circumstances specified in Clause 12.3(c) happening in relation to any other Train Operator who may be party to an Access Agreement to which the Franchise Operator is also party, agree to the

novation of the relevant Train Operator's interest under the relevant Access Agreement to the Authority or as it may direct, subject, to the extent applicable, to the consent of the Regulator. Such novation shall be on such terms as the Authority may reasonably require, including the terms set out in Clause 12.3(d).

- (f) The Franchise Operator shall notify the Authority on becoming aware of any circumstances which might lead to the Authority being able to require the Franchise Operator to novate its interest or agree to the novation of another Train Operator's interest under this Clause 12.3.

12.4 Property Leases

- (a) Except to the extent that the Authority may otherwise agree from time to time (such agreement not to be unreasonably withheld) and except to the extent required so to do by virtue of any relevant station or depot access conditions, the Franchise Operator shall not enter into, or consent to any amendment to, any Property Lease, without the consent of the Authority (such consent not to be unreasonably withheld).
- (b) The Franchise Operator shall, on termination of this Franchise Agreement (in relation to all Property Leases) or following receipt of a notice purporting to terminate a Property Lease or on becoming aware of any proceedings or any other steps having or purporting to have similar effect (in relation to such Property Lease), to the extent so requested by the Authority, assign its interest under each relevant Property Lease to the Authority or as it may direct, subject, where applicable, to the agreement of any other party or the Regulator.
- (c) Such assignment shall be on such terms as the Authority may reasonably require, including the following:
 - (i) that the Franchise Operator shall not be released from any accrued but unperformed obligation, the consequences of any antecedent breach of a covenant or obligation in the Property Leases or any liability in respect of any act or omission under or in relation to the Property Lease prior to, or as at the date of, any such assignment (except to the extent that the Authority or its nominee agrees 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 Authority nor its nominee shall be obliged, in connection with the assignment, to agree to assume and be responsible for any unperformed obligation, liability or consequences of a breach referred to in paragraph (i), and the Franchise Operator shall indemnify the Authority or its nominee, as the case may be, on an after tax basis against any costs, losses, liabilities or expenses suffered or incurred in relation thereto.
- (d) The Franchise Operator shall, in the event of any of the circumstances specified in Clause 12.4(b) happening in relation to any other Train Operator who may be party to a property lease to which the Franchise Operator is also party, agree to the assignment of the relevant Train Operator's interest under the relevant property lease to the Authority or as it may direct, subject, to the extent applicable, to the consent of Network Rail. Such assignment shall be on such terms as the Authority may reasonably require, including the terms set out in Clause 12.4(c).
- (e) The Franchise Operator shall notify the Authority on becoming aware of any circumstances which might lead to the Authority being able to require the Franchise

Operator to assign its interest or agree to the assignment of another Train Operator's interest under this Clause 12.4.

- (f) In respect of any new Property Lease which the Franchise Operator enters into pursuant to Clause 12.4(a) above, each of the parties acknowledges that Section 31 of the Act shall, so far as possible, apply to any such Property Lease. The parties may amend this Clause 12.4(f) to refer to specific Property Leases to the extent they so agree.
- (g) If the previous Franchise Operator does not enter into replacement leases for the Property Leases set out at Part 4 of Schedule 1 prior to 1 December 2003 then the following provisions of this sub-clause 12.4(g) will apply:-
 - (i) Subject to first obtaining such consent from the Authority as may be required by this Franchise Agreement, the Franchise Operator shall enter into:-
 - (x) (in respect of each Station) a lease with Network Rail on or before the expiry of the Station Lease relating to such Station (each such lease once granted to be deemed for the purposes of this Franchise Agreement to be a Station Lease);
 - (y) (in respect of each Depot) a lease with Network Rail on or before the expiry of the Depot Lease relating to such Depot (each such lease once granted to be deemed for the purposes of this Franchise Agreement to be a Depot Lease);
 - (z) (in respect of any Station or Depot and following the successful completion of any procedure for including additional land within the demise to the Franchise Operator set out in the relevant Station Lease or Depot Lease as appropriate (including obtaining any requisite approval of the Regulator)) a supplemental lease with Network Rail; and
 - (aa) (in respect of any Network Rail owned Station or Depot the operation of which by the Franchise Operator is consistent with the Franchise Services and for which there was no Station Lease or Depot Lease in place as at 1 September 2003), a lease with Network Rail as soon as practicable after the terms and form of such lease have been agreed and all applicable preconditions to its completion have been satisfied or waived (including obtaining any requisite approval of the Regulator), such lease once granted to be deemed for the purposes of this Franchise Agreement to be a Station Lease or a Depot Lease (as appropriate);

with the intent that as the areas to be demised are property which constitutes, or are comprised in, a network or railway facility, and are to be used for or in connection with the provision of franchised services by the Franchise Operator pursuant to this Franchise Agreement, section 31 of the Act shall apply to the leases so granted.

- (ii) The Franchise Operator shall not be held to be in breach of Clause 12.4(g)(i)(x) as a consequence of Network Rail refusing to enter into any leases as identified in that Clause.

- (iii) Each lease (including any supplemental lease) to be entered into pursuant to clause 12.4(g)(i)(x) (unless otherwise agreed by Network Rail and the Franchise Operator) shall be based on the template recognised by the Authority as being applicable to such lettings, customised to reflect such terms as have been agreed between Network Rail and the Franchise Operator.
- (iv) In respect of any assignment or variation of any Property Lease (to which section 31 of the Act applied on its grant), each of the parties to this Franchise Agreement acknowledge that it is their intention that section 31 of the Act shall continue to apply to such Property Lease notwithstanding such assignment or variation.
- (v) For the avoidance of doubt, any lease referred to in Clause 12.4(g)(i)(aa) has been contemplated by this Agreement.
- (h) If the Previous Franchise Operator enters into replacement leases for the Property Leases set out at Part 4 of Schedule 1 prior to 1 December 2003 then the following provisions of sub-clause 12.4(h) will apply:-
 - (i) In respect of any new Property Lease which the Franchise Operator enters into with Network Rail pursuant to Clause 12.4(a) above, with the intent that the areas to be demised are property which constitutes, or are comprised in, a network or railway facility, and are to be used for or in connection with the provision of franchised services by the Franchise Operator pursuant to this Franchise Agreement, section 31 of the Act shall apply to the leases so granted.
 - (ii) Subject to first obtaining such consent from the Authority as may be required by this Franchise Agreement, the Franchise Operator shall enter into a lease with Network Rail in respect of any Network Rail owned Station or Depot:
 - (x) the operation of which by the Franchise Operator is consistent with the Franchise Services; and
 - (y) for which there was no Station Lease or Depot Lease in place as at 1 September 2003, (such lease once granted to be deemed for the purposes of this Franchise Agreement to be a Station Lease or a Depot Lease (as appropriate))

as soon as practicable after the terms and form of such lease have been agreed and all applicable preconditions to its completion have been satisfied or waived (including obtaining any requisite approval of the Regulator) with the intent that the areas to be demised are property which constitutes, or are comprised in, a network or railway facility, and are to be used for or in connection with the provision of franchised services by the Franchise Operator pursuant to this Franchise Agreement, section 31 of the Act shall apply to the leases so granted. For the avoidance of doubt, any lease referred to in this Clause 12.4(h)(ii) has been contemplated by this Franchise Agreement.

- (iii) The Franchise Operator shall not be held to be in breach of clause 12.4(h)(ii) as a consequence of Network Rail refusing to enter into any leases as identified in that Clause.
- (iv) Each lease (including any supplemental lease) to be entered into pursuant to clause 12.4(h)(ii) (unless otherwise agreed by Network Rail and the Franchise Operator) shall be based on the template recognised by the Authority as being applicable to such lettings, customised to reflect such terms as have been agreed between Network Rail and the Franchise Operator.
- (v) In respect of any assignment or variation of any Property Lease (to which section 31 of the Act applied on its grant), each of the parties to this Franchise Agreement acknowledge that it is their intention that section 31 of the Act shall continue to apply to such Property Lease notwithstanding such assignment or variation.

12.5 Station Subleases

- (a) The Franchise Operator shall not sublet to any Affiliate any part of the property comprised in any Property Lease (including, for the avoidance of doubt, any Station Lease) except on terms that (except to the extent the Authority may otherwise agree):
 - (i) any such subletting (other than to an Affiliate which is a Train Operator) is terminable without compensation immediately upon the termination of this Franchise Agreement; and
 - (ii) any such subletting is excluded from the provisions of Part II of the Landlord and Tenant Act 1954 and the Tenancy of Shops (Scotland) Act 1949.
- (b) To the extent so requested by the Authority, the Franchise Operator shall, in relation to any Station Sublease and subject, to the extent relevant, to the consent of Network Rail and to the duration of the relevant Station Lease:
 - (i) extend such Station Sublease on the same terms for such period as the Authority may request (including a period equivalent to the franchise term of the Train Operator who is the tenant of such Sublease); and
 - (ii) if such Station Sublease terminates (which for the purposes of this sub-Clause shall include the termination, at or around the time of termination of the Previous Franchise Agreement, of a station sublease in respect of which the Previous Franchise Operator was the lessor), grant a new Station Sublease on the same terms to such Train Operator and for such period as the Authority may request (including a period equivalent to the franchise term of the Train Operator who is the tenant of such Sublease).
- (c) The Franchise Operator shall notify the Authority immediately on it becoming aware of any event having arisen which gives rise to the right for the Franchise Operator to forfeit or terminate any Station Sublease. The Franchise Operator shall notify the Authority if it wishes to forfeit or terminate any such Station Sublease but shall not (without the Authority's written consent) effect forfeiture or termination until three months from the date of such notice.

12.6 Rolling Stock Related Contracts

- (a) Except to the extent that the Authority may otherwise agree from time to time (such agreement not to be unreasonably withheld), the Franchise Operator shall not, in relation to any Rolling Stock Related Contract to which it may be party or propose to become a party from time to time:
- (i) execute any Rolling Stock Related Contract until approval of the terms of such contract has been given by the Authority, and shall supply a copy of all draft and all executed Rolling Stock Related Contracts (including any agreements amending any Rolling Stock Related Contract) to the Authority;
 - (ii) exercise any option or other discretion in any Rolling Stock Related Contract that would result in any increased payment being made by the Franchise Operator to the relevant counterparty or which may result in it being reasonably likely to be unable to comply with the terms of this Franchise Agreement;
 - (iii) amend the terms of any such Rolling Stock Related Contract;
 - (iv) waive the obligations of any other relevant party thereunder which arise in the last twelve months of the Franchise Period (as defined in Clause 25.6); or
 - (v) consent or agree (in accordance with any relevant provisions) that any other relevant party may perform or comply in a particular way with any relevant obligation thereunder in the last twelve months of the Franchise Period (as defined in Clause 25.6).
- (b) Except to the extent that the Authority may otherwise agree from time to time, the Franchise Operator shall not amend the terms of any insurance arrangements which relate to loss of or damage to rolling stock used by it in the provision of the Passenger Services (“relevant insurance arrangements”) and to which it may be party on the Franchise Commencement Date or to which it may, with the consent of the Authority, under this Clause 12.6(b), have subsequently become a party. The Franchise Operator shall, in addition, in the event that it enters into any new relevant insurance arrangements, use its best endeavours to ensure that the terms of such arrangements are such that the relevant insurers waive any rights of subrogation they may have by virtue of such arrangements against any other Train Operator or other passenger train operator which may have any other equivalent insurance arrangements which provide for a similar waiver of any rights of subrogation against the Franchise Operator, whether on a reciprocal basis or otherwise.

12.7 Option Related Contracts

Except to the extent that the Authority may otherwise agree from time to time (such agreement not to be unreasonably withheld), the Franchise Operator shall not, in relation to any Option Related Contract to which it may be party or propose to become a party from time to time:

- (a) execute any Option Related Contract until approval of the terms of such contract has been given by the Authority, and shall supply a copy of all draft and all executed Option Related Contracts (including any agreements amending any Option Related Contract) to the Authority;

- (b) amend the terms of any such Option Related Contract;
- (c) waive the obligations of any other relevant party thereunder which arise in the last twelve months of the Franchise Period (as defined in Clause 25.6); or
- (d) exercise any other right under any Option Related Contract to the extent so reasonably required by the Authority and notified to the Franchise Operator.

For the avoidance of doubt, the fact that any Property Lease, Access Agreement or Rolling Stock Related Agreement is also an Option Related Contract shall not prevent any other provisions of this Franchise Agreement which apply to such agreements from applying to it.

12.8 Authority's Consent

Where the consent or agreement or consultation of the Authority is required to the entry into or variation of a contract under any of Clauses 12.3, 12.4, 12.6(a), 12.7 or 27.2, it shall only be reasonable for the Authority to withhold, or impose conditions on, such consent or agreement, or respond to any consultation, where it reasonably considers that such contract or variation may:

- (a) restrict the Franchise Operator's ability to comply with its obligations under this Franchise Agreement;
- (b) adversely affect the ability of a Successor Operator to continue to provide and operate the Franchise Services on a basis acceptable to the Authority;
- (c) restrict the ability of the Authority to fulfil its functions and duties; or
- (d) adversely affect the implementation of a Major Project

and the Authority shall not unreasonably withhold or delay such consent or agreement or response to any consultation.

12.9 Brand Licences

The Franchise Operator shall comply with its obligations under each of the Brand Licences for so long as it is party to each such licence.

12.10 Other Franchise Operators

- (a) The Franchise Operator shall, in the event of the termination of the franchise agreement of another franchise operator or the making of a railway administration order in respect of another franchise operator, co-operate with the Authority, to the extent so requested, in ensuring that the relevant services provided or operated by the franchise operator may continue to be provided or operated by any successor Train Operator or the railway administrator.
- (b) The Franchise Operator shall, to the extent reasonably so requested by the Authority, ensure that, in the event of the termination of the franchise agreement of another franchise operator or the making of a railway administration order in respect of another franchise operator, the benefit of any arrangements between it and such other franchise operator which it may have designated as a key contract under the relevant franchise agreement will continue to be provided to the Train Operator or Train Operators who may succeed such franchise operator in the provision of the relevant passenger services or the operation of the relevant stations or light maintenance depots or to the relevant railway administrator.

- (c) Such benefit shall be provided on substantially the same terms as the relevant franchise operator previously obtained such benefit subject to Clauses 12.10(d) and 25.5 and subject further to the right of the Authority to exclude or modify any terms which were agreed or amended by the relevant franchise operator in the preceding twelve months which were, in the reasonable opinion of the Authority, to the material detriment of its business. Such benefit shall be provided for such period as the Authority may consider reasonably necessary to allow the relevant Train Operator or railway administrator to renegotiate such arrangements or make alternative arrangements.
- (d) The Franchise Operator shall notify the Authority of its intention to terminate any such key contract of any other Train Operator (whether such Train Operator is a current or successor Train Operator) and shall give that Train Operator sufficient notice to enable it to make suitable alternative arrangements without causing disruption to the services provided by such Train Operator.
- (e) The Franchise Operator shall, in the event of termination of the franchise agreement of another franchise operator in contemplation of the entry into or entry into effect of a new franchise agreement with the same franchise operator in respect of all or a material part of the relevant passenger services, waive any event of default or other rights it may have to terminate any agreements with such franchise operator by reason of such termination.

12.11 Direct agreements

The Franchise Operator shall pay to the Authority an amount equal to any losses, costs, liabilities, charges or expenses which may be suffered or incurred by the Authority under the provisions of any Direct Agreement which may be notified to the Franchise Operator as a result of, or in connection with:

- (a) any breach by the Franchise Operator of the terms of the Key Contract to which the relevant Direct Agreement relates; or
- (b) any unsuccessful claim being brought by the Franchise Operator against the counterparty of any such Key Contract in relation to the termination of such Key Contract.

12.12 Royal Train

The Franchise Operator shall, if and to the extent requested by any relevant person (including English Welsh & Scottish Railway Limited (or its successors)) and subject to the payment by any such person of any reasonable costs of the Franchise Operator, co-operate in the provision by such person of railway services for Her Majesty Queen Elizabeth II or members of her family or her representatives.

12.13 Disputes

The Franchise Operator shall notify the Authority of any disputes to which it is a party under any Inter-Operator Scheme, Access Agreement, Property Lease, Rolling Stock Related Contract or Option Related Contract, or under any other agreement in circumstances where the relevant dispute could have an adverse effect on the Franchise Operator's ability to comply with its obligations under this Franchise Agreement or on the provision of the Franchise Services and which have been submitted for resolution either to the courts or to any other procedure for dispute resolution provided for under such arrangements. Such notification shall be made both at the time of such submission (and

include reasonable details of the nature of the dispute) and at the time of the resolution of the dispute (whether or not subject to appeal) (and include reasonable details of the result of the dispute, any associated award and whether it is subject to appeal). The Franchise Operator shall provide such further details of any such dispute as the Authority may reasonably request from time to time.

12.14 Major Projects

(a) Specification of Major Project

In addition to the Major Projects, if any, specified in Part 8 of Schedule 1, the Authority may at any time following consultation with the Franchise Operator and other Train Operators likely to be affected by the major project, by notice to the Franchise Operator specify a major project to which this Clause 12.14 will apply (a "Major Project").

(b) Implementation of Major Project

The Franchise Operator shall, to the extent so requested by the Authority following consultation with the Franchise Operator and other Train Operators likely to be affected by the major project, co-operate with Network Rail, the Authority and any other relevant party in connection with each Major Project. Without prejudice to the generality of the foregoing, the Franchise Operator:

- (i) shall co-operate with Network Rail in Network Rail's endeavours to obtain all necessary consents required for the carrying out of the Major Project, including any approval of any major project under Part D of the Track Access Conditions and any network change under Part G of the Track Access Conditions in each case relating to the Major Project;
- (ii) shall use all reasonable endeavours to ensure that proposals for any vehicle change under Part F of the Track Access Conditions or any network change under Part G of the Track Access Conditions proposed by the Franchise Operator (if any) which are required to permit the introduction of any new rolling stock required under the Major Project are submitted to Network Rail and that all information necessary for the approval and implementation of any such vehicle change and / or network change is provided to Network Rail in accordance with the relevant provisions of Parts F and/or G of the Track Access Conditions; and
- (iii) subject to any necessary approval of the Regulator, agrees that its rights of compensation under Part G of the Track Access Conditions or otherwise in connection with the carrying out of the Major Project shall be limited to compensation calculated in accordance with Schedule 4 of the Track Access Agreement.

(c) Completion of Major Project

In the event of the commencement or proposed commencement of new railway passenger services or the alteration or proposed alteration of existing passenger services on completion of a Major Project, and to the extent and the manner the Authority reasonably so requires in writing following consultation with the Franchise Operator, the Franchise Operator shall:

- (i) exercise such rights as it may have under Part 9 of Schedule 7 of the Track Access Agreement or assign, vary or surrender its rights under any Track Access Agreement or Station Access Agreement in order to permit or facilitate the introduction of new services in connection with such commencement, proposed commencement, alteration or proposed alteration (including for the purposes of allocating to the operator of any such railway passenger services train slots to which the Franchise Operator may be entitled under the Track Access Agreement and including for the purposes of taking into account the consequences of such commencement, proposed commencement, alteration or proposed alteration);
- (ii) assign or surrender, subject to the consent of Network Rail, any Station Leases at which the Franchise Operator may cease or be likely to cease to be the principal provider of railway passenger services in consequence of such commencement, proposed commencement, alteration or proposed alteration (and shall in relation thereto novate or agree to novate any Access Agreements relating to the relevant Stations);
- (iii) in connection with such commencement, proposed commencement, alteration or proposed alteration, exercise its rights under Part D of the Track Access Conditions as reasonably required by the Authority;
- (iv) exercise such rights as it may have to waive or release its rights (if any) to restrict Network Rail's ability to grant any permission to use the Network (whether under the terms of Schedule 10 to the Track Access Agreement or any equivalent or similar provision in the Track Access Agreement or any other agreement) including for the purposes of allocating to the operator of any such railway passenger service train slots to which the Franchise Operator may be entitled under the Track Access Agreement and including for the purposes of taking into account the consequences of such commencement, proposed commencement, alteration or proposed alteration; and
- (v) exercise or not exercise such other related rights under any relevant agreement as reasonably required by the Authority.

(d) **Utilisation of output**

On the next Passenger Change Date following completion of a Major Project:

- (i) the Franchise Operator shall, to the extent reasonably so requested by the Authority, use the outputs of the Major Project in connection with the provision of the Franchise Services; and
- (ii) the Authority may make such amendments to any relevant provisions of this Franchise Agreement including, but not limited to any Thresholds, PPM Benchmarks in Part 4 of Schedule 7, the PSR and the ASC as it considers reasonable to reflect the improvement which can reasonably be expected from the completed Major Project for the provision of improved Franchise Services by the Franchise Operator. If:-
 - (x) the Franchise Operator disagrees that any or all of the amendments proposed by the Authority is reasonable for the Authority to propose,

and if it shall have notified the Authority accordingly within 14 days of the Authority's determination; or

- (y) there is any dispute over the extent of the outputs of the Major Project, or whether the Major Project has been completed such that the outputs of the Major Project are available for use by the Franchise Operator;

then either of the parties may refer that issue for determination in accordance with the Dispute Resolution Rules. Until any such amendment is agreed or determined to be reasonable in accordance with this paragraph, this Franchise Agreement shall continue to apply without such amendment.

(e) **No Net Loss or Gain**

In respect of any Major Project (except where otherwise specified in Part 8 of Schedule 1), in respect of which the Authority:-

- (i) requires the Franchise Operator to take actions under sub-Clause (c) above; or
- (ii) requires the Franchise Operator to use the outputs and/or makes any amendment to this Franchise Agreement under sub-clause (d) above

the No Net Loss No Net Gain Regime shall apply to such actions.

12.15 Specified IOS Projects

(a) **Delivery of Specified IOS Projects**

The Franchise Operator:

- (i) shall take such steps as may be reasonably requested by the Authority to enter into or amend any relevant Track Access Agreement or other relevant agreement (including any agreement relating to a station), subject where applicable to the approval of the Regulator, in relation to the delivery of and utilisation of any output specified in the Incremental Output Statement;
- (ii) shall use all reasonable endeavours to ensure:
 - (a) performance by Network Rail (or any other relevant person) of its obligations in relation to all Specified IOS Projects; and
 - (b) delivery by Network Rail (or any other relevant person) of the Relevant IOS Outputs in relation to all Specified IOS Projects,in each case, in the timeframe contained in the Incremental Output Statement;
- (iii) to the extent reasonably so requested, shall exercise any related rights it may have under any agreement with Network Rail or otherwise in connection with such Specified IOS Projects; and
- (iv) subject to any necessary approval of the Regulator, agrees that its right of compensation under Part G of the Track Access Conditions or otherwise in connection with the carrying out of the Specified IOS Project, or the specified IOS project of any other Train Operator, shall be limited to

compensation calculated in accordance with Schedule 4 of the Track Access Agreement.

(b) Information to Authority

- (i) The Franchise Operator shall keep the Authority reasonably informed of the progress of implementation and/or development and/or completion of all Specified IOS Projects. The Franchise Operator shall use all reasonable endeavours to keep itself informed of the state of progress regarding the same in order to enable it to fulfil its obligations under this Clause 12.15(b)(i).
- (ii) Without prejudice to sub-Clause (i) above, within 14 days (or such longer period as the parties may agree) of a request from the Authority for any information regarding the progress of implementation and/or development and/or completion of one or more Specified IOS Projects, the Franchise Operator shall use all reasonable endeavours to obtain such information and deliver such information to it in such format, if any, as the Authority may reasonably have requested. Without prejudice to the generality of the previous sentence, the Franchise Operator shall use such rights as it has against Network Rail and as are reasonable to use in the circumstances to obtain any such information.

(c) Utilisation of output

On the next Passenger Change Date following completion by Network Rail (or any other relevant person) of the Specified IOS Project:

- (i) the Franchise Operator shall, to the extent reasonably so requested by the Authority, use the Relevant IOS Output or Outputs in connection with the provision of the Franchise Services; and
- (ii) the Authority may make such amendments to any relevant provisions of this Franchise Agreement including, but not limited to any Thresholds, any PPM Benchmarks in Part 4 of Schedule 7, the PSR and the ASC as it considers reasonable to reflect the improvement which can reasonably be expected from the completed Specified IOS Project for the provision of improved Franchise Services by the Franchise Operator. If the Franchise Operator disagrees that any or all of the amendments proposed by the Authority is reasonable for the Authority to propose, and if it shall have notified the Authority accordingly within 14 days of the Authority's determination, then either of the parties may refer that issue for determination in accordance with the Dispute Resolution Rules. Until any such amendment is agreed or determined to be reasonable in accordance with this paragraph, this Franchise Agreement shall continue to apply without such amendment.

Completion of any Specified IOS Project shall be deemed to have taken place for the purposes of this Clause upon Network Rail (or any other relevant person) being able to demonstrate to the satisfaction of the Franchise Operator, failing which to the satisfaction of an independent expert as provided for in the relevant Track Access Agreement, that the Specified IOS Project is capable of delivering the Relevant IOS Output or Outputs.

(d) Specification of further Incremental Outputs and No Net Loss or Gain

- (i) The Authority may amend any Specified IOS Project previously designated or amend the Incremental Output Statement (including by the addition of further outputs) and designate further Specified IOS Projects in relation to any outputs amended or added by such amendment, and the list in Part 9 of Schedule 1 shall be deemed amended accordingly. The provisions of this Clause 12.15 shall apply to any new or amended Specified IOS Project from the date of such specification or such other date as may be specified by the Authority.
- (ii) Where the Authority exercises any of its rights under sub-Clause (d)(i) above then the No Net Loss No Net Gain Regime shall apply in respect of any Net Loss or Net Gain suffered or made (as applicable) as a result of such amendment or designation.

12.16 Rolling Stock Testing and Commissioning

The Franchise Operator shall, to the extent reasonably requested by the Authority and subject to payment of any reasonable costs by the relevant third party, co-operate with such third parties as the Authority may indicate in connection with the testing and commissioning of new rolling stock. Such third parties may include, without limitation, a Successor Operator, a rolling stock manufacturer or the Authority. The co-operation (which shall not unreasonably disrupt the provision and operation of the Franchise Services) may include:

- (a) the movement of test trains within and around depots;
- (b) making available suitably qualified personnel to operate the test trains along the routes of the Passenger Services and provide information on such routes;
- (c) making available of train paths;
- (d) granting or procuring of access to the third party and its representatives at relevant facilities;
- (e) the delivery of rolling stock to specific locations.

12.17 Integrated Transport Schemes

- (a) Unless otherwise agreed by the Authority, the Franchise Operator shall co-operate with any schemes which may be proposed by any third party (including any Local Authority) and which relate principally to the integration of any other form of transport with the Franchise Services.
- (b) Where any such scheme or proposed scheme is designated by the Authority for the purposes of this Clause 12.17 then the Franchise Operator shall participate in the relevant scheme and take such other steps as the Authority may require in setting up such scheme and the No Net Loss No Net Gain Regime shall apply to such participation and other steps in relation to such scheme.
- (c) In determining the amount of any Net Loss, there shall be excluded any costs which it would not be unreasonable to expect the Franchise Operator to bear in the context of its wider obligations under this Franchise Agreement (including (without limitation) where any costs are wholly immaterial or where the requirements imposed on the Franchise Operator in connection with such scheme are not

materially different from its existing activities (whether required or not under this Franchise Agreement)).

- (d) The Authority shall consult with the Franchise Operator before designating any scheme under Clause 12.17(b) and shall allow the Franchise Operator a reasonable opportunity to make representations to it with respect to any such designation.

12.18 The Capacity Utilisation Strategy

(a) Implementation of the Route Utilisation Strategy

The Franchise Operator shall, to the extent so requested by the Authority co-operate with Network Rail, the Authority and any other relevant party in connection with the implementation of the Capacity Utilisation Strategy and Route Utilisation Strategy. Without prejudice to the generality of the foregoing, the Franchise Operator shall:

- (i) exercise such rights as it may have under Part 9 of Schedule 7 of the Track Access Agreement or vary, assign or surrender its rights under any Track Access Agreement or Station Access Agreement in order to permit or facilitate the introduction of new services in connection with a Route Utilisation Strategy (including for the purposes of allocating to the operator of any such railway passenger services train slots to which the Franchise Operator may be entitled under the Track Access Agreement and including for the purposes of taking into account the consequences of such the implementation of a Route Utilisation Strategy);
- (ii) assign or surrender, subject to the consent of Network Rail, any Station Leases at which the Franchise Operator may cease or be likely to cease to be the principal provider of railway passenger services in consequence of the implementation of a Route Utilisation Strategy (and shall in relation thereto novate or agree to novate any Access Agreements relating to the relevant Stations);
- (iii) in connection with the implementation of a Route Utilisation Strategy, exercise its rights under Part D of the Track Access Conditions as reasonably required by the Authority;
- (iv) exercise such rights as it may have to waive or release its rights (if any) to restrict general changes to Network Rail's ability to grant any permission to use the network (whether under the terms of the Track Access Agreement or any equivalent or similar provision in any other agreement) including for the purposes of allocating to the operator of any such railway passenger service train slots to which the Franchise Operator may be entitled under the Track Access Agreement and including for the purposes of taking into account the consequences of the implementation of a Route Utilisation Strategy; and
- (v) exercise or not exercise such other related rights under any relevant agreement as reasonably required by the Authority.

(b) Consequential amendments to the Franchise Agreement

On or about the date of the implementation of a Route Utilisation Strategy the Authority may make such amendments to any relevant provisions of this Franchise Agreement including, but not limited to any thresholds, PPM Benchmarks in Part 4 of Schedule 7, the PSR, the ASC and the Agreed Capacity Plan, as it considers reasonable to reflect the implementation of a Route Utilisation Strategy. If the Franchise Operator disagrees that any or all of the amendments proposed by the Authority is reasonable for the Authority to propose, and if it shall have notified the Authority accordingly within 14 days of the Authority's determination, then either of the parties may refer that issue for determination in accordance with the Dispute Resolution Rules. Until any such amendment is agreed or determined to be reasonable in accordance with this paragraph, this Franchise Agreement shall continue to apply without such amendment.

(c) **No Net Loss or Gain**

In respect of the implementation of a Route Utilisation Strategy in respect of which the Authority:-

- (i) requires the Franchise Operator to take actions under sub-Clause (a) above; or
- (ii) requires the Franchise Operator to use the outputs and/or makes any amendment to this Franchise Agreement under sub-clause (b) above

the No Net Loss No Net Gain Regime shall apply to such actions.

13 Pensions

13.1 Franchise Sections

The Franchise Operator shall in respect of the Franchise Services participate in, and become Designated Employer in relation to, one or more sections of the Railways Pension Scheme (the "Franchise Section(s)"). Subject to Clause 13.3 and Clause 13.4(b), all employees of the Franchise Operator will be offered membership of the Franchise Section(s) save that without prejudice to any rights which any such employee may otherwise have the Franchise Operator shall not for the purposes of this Agreement be so obliged to offer such membership to any employee who is employed on a fixed term contract of twelve months or less.

13.2 Restrictions on Membership

The Franchise Operator will restrict membership of the Franchise Section(s) to its employees unless the Franchise Section(s) has adopted the Defined Contribution Arrangement as defined in the Pension Trust. In such a case, subject to Clause 13.4 below and with the consent of the Authority, membership may include employees of any subsidiary of the Franchise Operator which is engaged in the railway industry and which becomes a Participating Employer in that Defined Contribution Arrangement.

13.3 Closed Schemes

- (a) Subject to any Inland Revenue requirements, the Franchise Operator shall take such steps as may be necessary (including entering into any relevant deed of adherence) to allow Closed Scheme Employees to continue in membership of the Closed Schemes in accordance with the terms of those Schemes.

- (b) For the purposes of Clause 13.3(a):
 - (i) “Closed Scheme Employees” means such of the employees (if any) of the Franchise Operator who were, immediately prior to the commencement of the Franchise Term, members of the Closed Schemes; and
 - (ii) “Closed Schemes” means the British Railways Superannuation Fund, the Great Western Railway Supplemental Pensions Reserve Fund, the BR (1974) Pension Fund and the NFC Retirement Plan.

13.4 Variations in benefits

The Franchise Operator shall not, without the prior consent of the Authority (which consent shall not be unreasonably withheld):

- (a) restructure or change the composition of earnings of employees of the Franchise Operator in such a way as to increase that part of earnings which qualifies as pensionable earnings under the rules of the Franchise Section(s) or take any action (or consent to the taking of any action) which could detrimentally affect to any material extent the funding of the Franchise Sections (including varying or providing different or additional benefits under the Franchise Section(s) or promising to do so) unless:
 - (i) the changes are required by Law; or
 - (ii) the Franchise Operator has received advice from the Actuary that the changes do not impose any additional cost on the Franchise Sections; or
 - (iii) the changes only affect benefits payable in respect of the past service and the future service (up to the end of the Franchise Term) of members of the Franchise Section(s) and an additional cash payment has, prior to the date of the change, been paid by the Franchise Operator to the Trustee of the Railways Pension Scheme which will, in the opinion of the Actuary, meet in full the additional cost imposed;
- (b) provide retirement, death, disability or life assurance benefits for or in respect of any of its employees other than under the Franchise Section(s) or as provided in Clause 13.3 or provide no such benefits;
- (c) take any action (or consent to the taking of any action) which could materially affect the contributions payable by Participating Employers under the Franchise Section(s) (including varying or providing different or additional benefits under the Franchise Section(s) in respect of future service) unless such action is required by Law; and
- (d) take (or omit to take) any action which could result in that part of the Railways Pension Scheme appropriate to the Franchise Section(s) being wound up.

13.5 Initial Transfer Value

If under the terms of the Railways Pension Scheme, a transfer value is paid into the Franchise Section(s) from a section of the Railways Pension Scheme in relation to which the Franchise Operator was a Participating Employer prior to the Franchise Commencement Date and, in the opinion of the Actuary, that transfer value is less than the amount required to provide relevant pension rights referred to in Article 6(5)(a) of the Railway Pensions (Protection and Designation of Schemes) Order 1994 (the “Order”), the

Franchise Operator shall, as soon as reasonably practicable, pay to the Trustee of the Railways Pension Scheme an amount equal to the difference.

13.6 Discharge of obligations

- (a) The Franchise Operator shall provide:
 - (i) following a request by the Authority and within one month of the expiry of each Franchise Operator Year; and
 - (ii) at such other times following a reasonable request by the Authoritya certificate signed by the Trustee of the Railways Pension Scheme stating either that the Franchise Operator has fully complied with its obligations as Participating Employer to contribute to the Franchise Sections (or, if it has not so complied, the extent to which it has not fully complied with such obligations) for (where the certificate is given pursuant to (i) above), the relevant Franchise Operator Year or (where the certificate has been given pursuant to (ii) above) such period as the Authority shall specify.
- (b) The Franchise Operator shall provide such other information (including actuarial information) as the Authority may reasonably request.
- (c) In the event that the Trustee does not certify that the Franchise Operator has fully complied with its obligations as Participating Employer to contribute to the Franchise Sections or if the Authority otherwise reasonably considers that the Franchise Operator has not complied with such obligations, the Authority shall be entitled to withhold from any Franchise Payments payable by it under Clause 16 and Schedule 6 such amount as represents in its opinion an amount no greater than the amount of contribution that the Franchise Operator has failed to make.
- (d) The Authority may withhold such amount until such time as it reasonably determines that the relevant contributions have been made in full by the Franchise Operator following which the amount withheld shall become payable (without interest) on the next day a Franchise Payment becomes payable under Schedule 6 which falls no less than 7 days after such determination or, if there is no such day, 14 days after the date of such determination. To the extent that the Authority has not so determined within 4 weeks after the expiry of the Franchise Period, the Franchise Operator's right to receive the amount so withheld under this Franchise Agreement shall lapse and the Authority shall not be obliged to pay such amount.
- (e) The Authority may at any time during the Franchise Term seek information from the Trustee of the Railways Pension Scheme with a view to satisfying itself that the Franchise Operator has fully discharged its obligations as Participating Employer in respect of the payment of contributions to the Franchise Sections.

14 Other Covenants

14.1 Franchise Plan and Aspirations for enhancements

- (a) The Franchise Operator and the Franchisee shall each comply with their respective obligations under the Franchise Plan set out in Schedule 13.
- (b) The Franchise Operator and the Authority shall each comply with their respective obligations under Schedule 14.

14.2 Financial Covenants

The Franchise Operator and the Franchisee shall each comply with their respective obligations in Schedule 10.

14.3 Performance Bond

- (a) The Franchise Operator shall procure that, with effect from the date of signature of this Franchise Agreement, at all times throughout the Franchise Term and for a period of one year and seven months after the end of the Franchise Term (ignoring for these purposes any extension of the Franchise Term pursuant to Clause 20.2(a)), there shall be in place a valid and effective Performance Bond and having a value equal to the amount determined under Clause 14.3(c). Each Performance Bond shall have a minimum duration of at least 3 years when first issued save in respect of a Performance Bond issued less than 11 months before the expiry of the Franchise Term which shall expire on the date that is 19 months after the date on which the franchise is to expire, if this date is earlier.
- (b) The Authority may, if so requested by the Franchise Operator, reduce the amount required to be guaranteed under a Performance Bond at any time. It shall be under no obligation to do so in any circumstances and may reduce such amount subject to compliance with other conditions as may be appropriate in the circumstances.
- (c) The amount of any Performance Bond provided under this Clause 14.3 shall be in the period of 12 months starting on and from the Franchise Commencement Date , £2,974,000 and thereafter £5,000,000.
- (d) If the principal amount of the Performance Bond is to be amended under Clause 14.3(c) then, as soon as practicable following the determination of the required amount, the Franchise Operator shall procure the amendment of the then current Performance Bond or the delivery of a new Performance Bond to reflect such revised amount and the delivery to the Authority of such amended or new Performance Bond. Until such revised amount is determined, there shall be no requirement to provide a new or amended Performance Bond provided the existing Performance Bond otherwise complies with the requirements of Clause 14.3(a). Such amendment need not be approved previously in writing by the Authority but any other amendment to the Performance Bond undertaken at the same time shall constitute an amendment for the purposes of Clause 14.3(f).
- (e) The Performance Bond shall be on terms that it is payable to the Authority in full in London on demand on the Authority serving a written demand on the Bond Provider in accordance with the terms of the Performance Bond.
- (f) The Franchise Operator may, and shall if necessary in order to comply with its obligations under this Clause, replace the Performance Bond at any time provided that the Authority receives a replacement Performance Bond:
 - (i) substantially in the form of the existing Performance Bond (or in any other form acceptable to the Authority in its discretion); and
 - (ii) duly executed and delivered by a Bond Provider acceptable to the Authority.
- (g) In determining whether a Bond Provider under any replacement Performance Bond is acceptable, the Authority may exercise its discretion and shall not be obliged to accept a Bond Provider accepted under any previous Performance Bond.

- (h) The Franchise Operator shall provide such information relating to any Bond Provider or proposed Bond Provider as the Authority may require from time to time.
- (i) If at any time the Authority reasonably considers the Bond Provider under the then current Performance Bond to be unacceptable, the Authority may require the Franchise Operator within 7 business days to procure the execution and delivery of a new Performance Bond by a Bond Provider acceptable to the Authority notwithstanding the other provisions of this Clause 14.3 and irrespective of the scheduled expiry date of the then current Performance Bond. If the Franchise Operator pursuant to this Clause 14.3(i) provides to the Authority a replacement Performance Bond which is acceptable to the Authority, valid and effective, then the existing Performance Bond shall be released and may be terminated forthwith following confirmation from the Authority that the replacement Performance Bond is acceptable.

14.4 Season Ticket Bond

This has been intentionally left blank.

14.5 Supplier Accreditation

- (a) The Franchise Operator shall put in place within three months of the Franchise Commencement Date, and retain, an Approved Model for the self-assessment of its performance in respect of its obligations under this Franchise Agreement and the provision and operation of the Franchise Services. The Franchise Operator shall deliver to the Authority on an annual basis its self-assessment of its performance under the relevant Approved Model and its plans for continuous improvements in relation to the provision and operation of the Franchise Services, the first such assessment to be completed within twelve months of the Franchise Commencement Date (or such other date as may be agreed).
- (b) In this Clause 14.5, an "Approved" Model means the Business Excellence Model of the British Quality Foundation or the EFQM Excellence Model of the European Foundation for Quality Management or any other comparable model which the Authority may approve from time to time for the purposes of this Clause 14.5.

15 Monitoring and provision of information

15.1 Maintenance of records

- (a) The Franchise Operator shall maintain true, up to date and complete financial and planning records and accounts in accordance with the requirements set out in Part 1 of Schedule 8, as such requirements may reasonably be amended from time to time by the Authority.
- (b) The Franchise Operator shall maintain true, up to date and complete records relating to the operation and maintenance of assets which it owns or operates in accordance with the requirements set out in Part 2 of Schedule 8, as such requirements may reasonably be amended from time to time by the Authority.
- (c) The Franchise Operator shall maintain true, up to date and complete records relating to the operational performance of the Franchise Operator for each Business Unit in accordance with the requirements set out in Part 3 of Schedule 8,

as such requirements may reasonably be amended from time to time by the Authority.

- (d) The Franchise Operator shall maintain true, up to date and complete records relating to the passenger journeys and miles provided by the Franchise Operator and the earnings of the Franchise Operator in accordance with the requirements set out in Part 5 of Schedule 8, as such requirements may reasonably be amended from time to time by the Authority.
- (e) The Franchise Operator shall comply with such reporting requirements as are set out in Parts 1 to 3 and 5 of Schedule 8 and in addition shall make available, and, if requested by the Authority, provide copies of, on reasonable notice by the Authority and at reasonable times, the records and accounts referred to in Clauses 15.1(a), (b), (c) and (d) for inspection by the Authority. The Authority shall be entitled to appoint one or more suitable representatives to check, verify and take copies of any such records and accounts.
- (f) All records and accounts required to be maintained in accordance with this Clause 15.1 and Clause 15.1 of the Previous Franchise Agreement shall be held for a period of six years or until transferred to a Successor Operator, whichever is the earlier.
- (g) The obligations of the Franchise Operator under this Clause 15.1 may be waived by the Authority to the extent it notifies the Franchise Operator that it is receiving the relevant information directly from any other relevant person (including Network Rail and RSP). The Franchise Operator shall, to the extent so requested by the Authority, confirm or validate any such information which is received from any other such person.
- (h) Reference to records and accounts in this Clause 15 shall include records and accounts maintained under the Previous Franchise Agreement to the extent they relate to the Franchise Services and the Franchise Operator has access to them (which it shall use all reasonable endeavours to obtain).

15.2 Delivery of accounts

- (a) The Franchisee and the Franchise Operator shall each deliver to the Authority as soon as they are available but no later than 4 months after the end of each of their respective accounting reference periods, beginning with the first accounting reference period which ends within the Franchise Period, certified true copies of their respective annual reports and audited accounts as at the end of and for that accounting period, together with copies of all related directors' and auditors' reports.
- (b) Each set of accounts delivered under Clause 15.2(a) shall, save as stated in the notes thereto, be prepared and audited in accordance with GAAP and consistently applied and in accordance with the Companies Act 1985 and, together with those notes and subject to any qualifications contained in any relevant auditors' report, shall give a true and fair view of the state of affairs and profits for the period covered by such accounts.
- (c) The Franchise Operator shall in addition deliver to, or procure due delivery to, the Authority, certified true copies of the annual reports and audited accounts together with copies of all related directors' and auditors' reports in respect of each Parent within four months of the end of each accounting reference period of such Parent

or, in the case of any Parent domiciled outside England and Wales, the equivalent documents in the jurisdiction of residence of such Parent.

- (d) The Franchise Operator shall in addition deliver to the Authority, within ten working days⁵ of the end of each relevant period, unaudited accounts for each Reporting Period (or other period agreed by the Authority) during the Franchise Term. Each set of accounts shall be drawn up in the form required under Part 4 of Schedule 8 (or such form as may reasonably be amended from time to time by the Authority) and shall be prepared, subject to Clause 15.2(e) consistently in accordance with the Franchise Operator's normal accounting policies, details of which shall be supplied, on request, to the Authority and any changes to which should be notified to the Authority on submission of such accounts. The Franchise Operator shall in addition provide, at the same time as delivery of the audited accounts under Clause 15.2(a), a reconciliation to such accounts of the figures for the Reporting Period ending on or about the end of the relevant Franchise Operator Year and the preceding twelve Reporting Periods, delivered under this Clause 15.2(d).
- (e) The Authority shall be entitled to require preparation of such unaudited accounts under such accounting policies as may be prescribed by it from time to time.

15.3 Annual Business Plan

- (a) ***⁶The Franchise Operator shall have at all times during the Franchise Period, a business plan covering the current calendar year and the remainder of the Franchise Term (the "Annual Business Plan").***
- (b) The first Annual Business Plan shall be the Initial Business Plan. Each subsequent Annual Business Plan shall be provided by the Franchise Operator to the Authority no more than six months and no less than three months prior to the start of each subsequent Franchise Operator Year for the Authority's review and comment. Each such Annual Business Plan shall comply with Clause 15.3(c) below. The Franchise Operator and the Franchisee will attend such meetings and make such presentations as the Authority shall request in connection with any proposed Annual Business Plan. The persons attending such meetings on behalf of the Franchise Operator and Franchisee shall be of appropriate seniority and responsibility and shall include such directors and/or senior managers of the Franchise Operator, Franchisee and any Parent as the Authority may require. Any comment or failure to comment on the Annual Business Plan or agreement or approval, implicit or explicit, of the Annual Business Plan by the Authority will not relieve the Franchise Operator or the Franchisee of any of their obligations under this Franchise Agreement.
- (c) Each Annual Business Plan shall describe the Franchise Operator's planned activities for the period covered by such Annual Business Plan, including:
 - (i) a summary of the Passenger Services which the Franchise Operator plans to operate over the period of the Annual Business Plan (including any changes in the pattern of Passenger Services provided at the time of preparation of the Annual Business Plan) and how the Franchise Operator proposes to deliver them;

⁵ Insertion of new text wef 6th April 2004

⁶ date of change 14.2.2006

- (ii) a summary of the other services which the Franchise Operator plans to operate over the period of the Annual Business Plan and how the Franchise Operator proposes to deliver them;
- (iii) details of any investments proposed to be made or procured by the Franchisee or the Franchise Operator in relation to the Franchise Services over the period of the Annual Business Plan;
- (iv) a summary of the Franchise Operator's plans for marketing and developing the Franchise Services;
- (v) profit and loss, balance sheet and cash flow projections and supporting revenue, cost and resource analyses in reasonable detail for the period of the Annual Business Plan (and in no less detail than in the Initial Business Plan) including a reasonable forecast of the operating costs of the Franchise Operator for the period covered by the Annual Business Plan;
- (vi) supporting action plans ("**Action Plans**") setting out the steps which the Franchise Operator proposes to take in order to deliver the outcomes anticipated by the Annual Business Plan. Subjects for Actions Plans may include:-
 - (x) timetable development;
 - (y) human resourcing and training;
 - (z) service performance management and improvement;
 - (aa) integration with other forms of transport;
 - (bb) customer service improvement; and
 - (cc) the formulation of Aspirations and/or the development of Aspirations into Development Proposals under (and as defined in) Schedule 14.

The Authority may at any time require the Franchise Operator to produce an Action Plan in respect of any aspect of its then current Annual Business Plan.

The Franchise Operator will comply with any guidance which the Authority may issue from time to time as to its reasonable requirements for the format of, and the contents and assumptions to be included in, the Annual Business Plan.

- (d) In particular, the Annual Business Plan shall take account of and demonstrate to the reasonable satisfaction of the Authority:
 - (i) how the Franchise Operator will be able to meet its obligations under this Franchise Agreement for the period of the Annual Business Plan; and
 - (ii) the steps the Franchise Operator proposes to take in order to meet the Key Criteria and secure the continuation of this Franchise Agreement after the next Performance Review Date in accordance with Schedule 15.
- (e) The Franchise Operator shall notify the Authority as soon as reasonably practicable if the business outlook or prospective financial results of the Franchise Operator are likely to be materially different from the Annual Business Plan for such period. Following such notification, the Franchise Operator shall, to the extent

requested to do so by the Authority and within one month thereof, supply the Authority with a revised Annual Business Plan for the remainder of the period which reflects the latest view of business and otherwise complies with this Clause 15.3.

- (f) At or around the same time as the meetings held in accordance with clause 15.3(b) (and without prejudice to the terms of the Franchise Plan or Schedule 14), the Franchise Operator and the Authority will meet to discuss and review the Options then contained in the Franchise Plan, and the Aspirations described in Schedule 14.

15.4 Provision of registered details

- (a) The Franchisee and the Franchise Operator shall inform the Authority on or before the Franchise Commencement Date of the following information relating to each of them and, subsequently, of any change thereto within 21 days of the occurrence of any such change:
 - (i) name;
 - (ii) business address and registered office;
 - (iii) directors and company secretary;
 - (iv) auditors;
 - (v) trading name or names; and
 - (vi) to the best of the Franchisee's knowledge and belief having made due and diligent enquiry, the identity of all persons holding, separately or acting by agreement (as defined in Clause 21.2), directly or indirectly, the right to cast more than 20 per cent. of the votes capable of being cast on a poll at general meetings of the Franchisee.
- (b) The Franchisee and the Franchise Operator shall in addition provide to the Authority on or before the Franchise Commencement Date a certified copy of their memorandum and articles of association, and subsequently at the same time as the relevant issue or delivery (or, if effected by another person, as soon as practicable thereafter), a copy of each notice or circular or other document issued to its shareholders or to the shareholders of any Parent and a copy of any document relating to it which is delivered to the Registrar of Companies in England and Wales.

15.5 Changes in business

The Franchisee and the Franchise Operator shall inform the Authority of any material change or proposed material change in its business (including the employment or the termination of employment of any key employees, the termination of any Key Contracts, any litigation or other dispute which may have a material effect on its business) and any material change in or restructuring of the capitalisation or financing of the Franchisee, the Franchise Operator or any Parent.

15.6 Contraventions of Franchise Agreement

The Franchisee and the Franchise Operator shall notify the Authority, so far as possible before it may occur and, in any event, as soon as reasonably practicable after its occurrence, of any contravention by the Franchisee or the Franchise Operator of any

provision of this Franchise Agreement or the exceeding of any Call-in Threshold referred to in this Franchise Agreement. For the purposes of the notification obligation under this Clause 15.6 (but for no other purposes except where expressly stated in this Franchise Agreement) the Franchisee and the Franchise Operator shall be in contravention of this Franchise Agreement if, being under an obligation to use reasonable endeavours (or similar expression) to achieve a particular result by a particular certain time, such result is not achieved by such time.

15.7 [Intentionally not used]

15.8 Quarterly review meetings

- (a) The Franchise Operator and Franchisee shall attend quarterly review meetings with the Authority or its representatives for the purpose of enabling the Authority to conduct regular reviews of the financial and operational performance of the Franchise Operator and Franchisee including:-
- (i) the Franchise Operator's performance against the Key Criteria described in Schedule 15;
 - (ii) the Franchise Operator's performance against the Operational Performance Target Milestones in respect of the Year;
 - (iii) the Franchise Operator's performance against its most recent Annual Business Plan and its progress against any Action Plans developed under Clause 15.3(c); and
 - (iv) any other obligations of the Franchise Operator and Franchisee in relation to this Franchise Agreement.

The persons attending such meetings on behalf of the Franchise Operator and Franchisee shall be of appropriate seniority and responsibility and shall include such directors and/or senior managers of the Franchise Operator, Franchisee and any Parent as the Authority may require. The Franchisee and Franchise Operator will prepare and present at such meetings a report comparing the projections, analyses and forecasts contained in the Annual Business Plan pursuant to Clause 15.3(c)(v) against actual performance for the Reporting Periods that have elapsed since the previous quarterly review meeting such report to include, for the avoidance of doubt, a profit and loss account, balance sheet and cash flow statement, a commentary on variances from the Annual Business Plan projections and forecasts and changes to the Annual Business Plan as a result of Variations agreed in the previous quarter. If requested to do so by the Authority the Franchise Operator and Franchisee shall prepare and present such further reports at these meetings as the Authority may request. The obligations under this Clause 15.8 are subject to the Franchisee and Franchise Operator receiving at least 28 days notice of the date of the meeting and the reports required in the case of meetings where the reports required are to be based to a material extent on information, records or documents not held or maintained by the Franchise Operator or Franchisee and seven days (or such longer period as the parties may agree in the circumstances) in all other cases.

- (b) Any comment or failure to comment and any agreement or approval, implicit or explicit by the Authority at such meetings will not relieve the Franchisee of Franchise Operator of any of their obligations under this Franchise Agreement.

15.9 Further information

- (a) The Franchise Operator and the Franchisee shall deliver, or procure the delivery of, such other information, records or documents relating to, or connected with, the operation of the Franchise Services or this Franchise Agreement to the Authority, and within such period, as the Authority may in each case reasonably require (not to exceed seven days, in the case of information, records or documents held or maintained by the Franchise Operator or Franchisee (as appropriate) and twenty-eight days in any other case).
- (b) The information shall include any agreement, contract or arrangement to which the Franchise Operator or the Franchisee is a party in connection with any rolling stock used in the operation of the Passenger Services and (in so far as the Franchise Operator or the Franchisee has or is otherwise able to obtain the same) any other agreement contract or arrangement which may be associated with the procurement, leasing, financing or maintenance of any such rolling stock, including by way of example any agreement for the manufacture or supply of any rolling stock, or any arrangements for the securitisation of any lease granted in respect of such rolling stock.
- (c) The Franchise Operator shall comply with such reasonable requests and guidance as the Authority may notify to it from time to time in respect of the provision of information to and cooperation and consultation with Rail Passengers' Committees and Local Authorities.
- (d) The Franchisee and the Franchise Operator shall upon request provide or procure the provision to the Authority of such information, records and documents as the Authority shall reasonably request for the purposes of determining the existence, likelihood, nature or scope of any breach of, or Event of Default under, this Franchise Agreement.

15.10 Right of audit or inspection

- (a) The Authority and its representatives shall be permitted to inspect at any time the books, records and any other material kept by or on behalf of each of the Franchisee and the Franchise Operator:
 - (i) in order to check or audit any information supplied to the Authority under this Franchise Agreement; or
 - (ii) to monitor compliance with its obligations under this Franchise Agreement; or
 - (iii) for the purposes of facilitating the carrying out of the Authority's functions .

Each of the Franchisee and the Franchise Operator shall make available to the Authority and its representatives such information and grant such access or procure the grant of such access (including to or from third parties) as they shall reasonably require in connection therewith. In the event that any such exercise reveals that information previously supplied to the Authority was in any material

respect inaccurate on the basis of information available to the Franchise Operator (or the Franchisee, as the case may be) at the time (or reveals any other non-trivial breach of obligation by the Franchisee or the Franchise Operator, as the case may be), the costs of any such exercise shall be borne by the Franchise Operator (or the Franchisee, as the case may be).

- (b) The Authority and its representatives shall be permitted to inspect at any reasonable time any assets (including but not limited to Franchise Assets) used by the Franchise Operator in the operation of the Franchise Services:
 - (i) in order to check or audit any information supplied to it under this Franchise Agreement;
 - (ii) in order to monitor compliance with its obligations under this Franchise Agreement; or
 - (iii) for the purpose of facilitating the carrying out of the Authority's functions.

The Authority and its representatives shall be permitted to take photographs, film or make a video recording, or make any other kind of record of any such inspection. The Franchise Operator shall grant such access or procure the grant of such access (including to or from third parties) as the Authority shall reasonably require in connection therewith. In the event that any such exercise reveals that any information previously supplied to the Authority was in any material respect inaccurate on the basis of information available to the Franchise Operator at the time or any other breach of its obligations by the Franchise Operator, the costs of any such exercise shall be borne by the Franchise Operator.

15.11 Access to third parties

- (a) The Franchise Operator shall, where so requested by the Authority, use all reasonable endeavours to ensure that the Authority may have direct access to such information, data or records relating to the Franchise Operator which is maintained by third parties and which the Authority is entitled to have access to, or have copies of, from the Franchise Operator under this Franchise Agreement.
- (b) The Franchise Operator shall, if and to the extent the Authority so requests, procure the provision by RSP to the Authority of such information, data and records as it may be entitled to receive under the Ticketing and Settlement Agreement and in such form as the Authority may specify from time to time. Such obligation shall be subject to the payment by the Authority of the costs incurred by RSP in providing such information.

15.12 Compatibility of information systems

- (a) Any financial, operational or other information, data and records required to be provided to the Authority under this Franchise Agreement shall be provided, if so requested by the Authority, in such a form as may be compatible with the Authority's electronic data and records systems on the Franchise Commencement Date as modified from time to time. In the event of such a modification, the Authority shall pay to the Franchise Operator the agreed reasonable costs (excluding any Value Added Tax) to the Franchise Operator of updating its systems or any relevant interconnection in order to be able to continue so to provide such information, data and records, to the extent that such costs exceed in any year the

higher of (i) £10,000, and (ii) the amount calculated in accordance with the following formula:

$$\text{Costs} = £10,000 \times \text{RPI}$$

where RPI equals the quotient of the Retail Prices Index for the month for which the Retail Prices Index has most recently been determined at the time the Franchise Operator incurs the costs divided by the Retail Prices Index for the month falling six months after the Franchise Commencement Date.

- (b) The Franchise Operator shall ensure that the interconnection of such systems or the provision of such information, data and records to the Authority under this Franchise Agreement will not result in any infringement of any third party Intellectual Property rights to which its systems or such information, data or records may be subject.

15.13 Franchise Operator Year

If the financial year of the Franchise Operator (as determined under section 223 of the Companies Act 1985) is at any time different from the Franchise Operator Year, the parties may agree to change the dates of the Franchise Operator Year, and to shorten or elongate the then current Franchise Operator Year as appropriate, subject to such changes to this Franchise Agreement as may be appropriate (including without limitation to Franchise Payments or any Annual Business Plan).

Part III — Financial Provisions

16 Franchise Payments

16.1 Franchise Payments

Schedule 6 shall have effect for the purpose of determining the Franchise Payments to be paid during the Franchise Term, subject to and in accordance with this Clause 16 and the other provisions of this Franchise Agreement and the Authority and the Franchise Operator shall comply with their respective obligations thereunder.

16.2 Set-off

The Authority shall be entitled to set off against any Franchise Payment payable by it under Schedule 6 any Incentive Payment or Adjustment Payment payable or due to it under this Franchise Agreement, any monetary penalty payable under the Act and any other amount payable to or due to the Authority under or in relation to this Franchise Agreement.

16A Industrial Relations

The Authority, in its sole discretion, may decide to reimburse or ameliorate net losses of the Franchise Operator arising from industrial action (howsoever caused and of whatever nature) in circumstances where the Franchise Operator has demonstrated to the satisfaction of the Authority that it has taken all reasonable steps to avoid the industrial action and, industrial action having nevertheless occurred, the Franchise Operator has taken all reasonable steps to mitigate its effects.

17 Incentive Payments

Schedule 7 shall have effect for the purpose of the determination and payment of the Incentive Payments to be paid during the Franchise Term, subject to and in accordance with the other provisions of the Franchise Agreement and the Authority and the Franchise Operator shall each comply with their respective obligations thereunder.

18 Changes

18.1 Track access and station charging reviews

- (a) For the purposes of this Clause 18.1, the following definitions shall apply:
 - (i) “Charge Variation” shall mean a variation to a Relevant Agreement which is effected as a result of a Charging Review (including any variation effected in connection with the Incremental Output Statement, in its current or any amended form, whether or not with immediate effect).
 - (ii) “Charging Review” shall mean :
 - (x) the exercise by the Regulator of his powers under:
 - (aa) Part 7 of Schedule 7 of the Track Access Agreement specified in Part 2(a) of Schedule 1;
 - (bb) Condition F 11.5 of the Franchise Station Access Conditions in relation to any station which is not an Independent Station; and

- (cc) Condition 42.5 of the Independent Station Access Conditions in relation to any station which is an Independent Station;
 - (y) the following by the Regulator of the procedure in Schedule 4A of the Act; or
 - (z) the exercise by the Regulator of any other powers of the Regulator or the following of any other procedure, which the Authority notifies the Franchise Operator that they, in its reasonable opinion, have an equivalent effect to, or are intended to fulfil the same function as, the powers or procedure referred to in Clause 18.1(a)(ii)(x) or (y) in relation to any Relevant Agreements (for the avoidance of doubt, including Relevant Agreements which are not the subject of any preceding Charging Review)
- or any amendment to a, or entry into a new, Relevant Agreement which is approved by the Regulator to the extent that it relates to the implementation of a Relevant IOS Output.
- (iii) “Independent Station” shall mean any of the stations Network Rail is or may have become, and at the relevant time is, the Facility Owner.
- (iv) “Relevant Agreements” shall mean any Property Leases or Access Agreements in relation to any stations or track which may be used from time to time by the Franchise Operator in connection with the Franchise Services, as replaced or amended from time to time.
- (b) In the event of a Charge Variation the No Net Loss No Net Gain Regime shall apply subject to the other provisions of this Clause 18.1.
- (c) No adjustment to the terms of this Franchise Agreement will be required to be made under Clause 18.1(b) in respect of any Franchise Operator Year if the amount of Net Loss or Net Gain in that Franchise Operator Year would be less than 0.1 per cent of the annual Turnover of the Franchise Operator as disclosed by its latest available audited accounts.
- (d) For the purposes of Clause 18.1(b) and Schedule 9, the Net Loss and Net Gain shall be determined on the basis that no adjustment shall be made under Clause 18.1(b) to the extent a Charge Variation relates, directly or indirectly and however it may be effected:
 - (i) *Traction Electricity Charge*

to the Traction Electricity Charge (as defined in the Track Access Agreement specified in Part 2(a) of Schedule 1), or any equivalent charges, payable by the Franchise Operator, under any Relevant Agreement to the extent such Charge Variation relates to a variation in the amount payable (in pence per kwh or otherwise) for traction current consumed by railway vehicles operated by or on behalf of the Franchise Operator (except to the extent that such variation reflects any change in the basis of calculation of the margin or premium (if any) which the counterparty to the Relevant Agreement is entitled to charge in respect of that traction current);
 - (ii) *Number of Services or Passengers*

to any change in the actual or estimated average number of passenger rail services per day operated by the Franchise Operator, or the average number of passengers per service, or any other change which reflects the level of demand, or change in the level of demand, for the Passenger Services. It is acknowledged that, as at the date of this Franchise Agreement, the average number of passengers per day is reflected in Appendix 1 of Schedule 8 of the Track Access Agreement specified in Part 2(a) of Schedule 1, by virtue of the number of passenger journeys having been taken account of in the setting of the Network Rail Payment Rate;

(iii) *Calculation of "Marginal Revenue Effect"*

to any change in the basis of the calculation of the level or amount of the actual or estimated effect on the revenue of any train operator which arises from a change in operational performance of passenger rail services. It is acknowledged that, as at the date of this Franchise Agreement, such effect on revenue is known as "the Marginal Revenue Effect" and is reflected in Appendix 1 of Schedule 8 of the Track Access Agreement specified in Part 2(a) of Schedule 1, by virtue of the "MRE" element of the Network Rail Payment Rate.

(iv) *Monitoring Points and Weightings*

to any change to:

- (1) the Monitoring Points (as defined in the Track Access Agreement specified in Part 2(a) of Schedule 1) or to any equivalent monitoring points under any Track Access Agreement from time to time (each such Monitoring Point and/or equivalent monitoring point being referred to in this paragraph (y) as a "measuring point"); and/or
- (2) the weightings attributable to any such measuring point

to the extent that the change is made to reflect any change in the nature or pattern of passenger rail services operated by the Franchise Operator, or in the actual or estimated numbers of passengers travelling on such services.

(v) *Changes in Drafting or Structure*

to any other amendment to the drafting or structure of any Relevant Agreement to the extent that the Authority may, after consultation with the Franchise Operator, reasonably determine that such amendment has no material effect on the Relevant Agreement, the charges payable thereunder or the relationship between any Relevant Agreement and this Franchise Agreement provided that if the Franchise Operator disagrees that it is reasonable for the Authority to determine that any such amendment has no such material effect, and if it shall have notified the Authority accordingly within 60 days of the Authority's determination, then either of the parties may refer that issue for determination in accordance with the Dispute Resolution Rules. For the purpose of this Clause 18.1(d)(v), it will be reasonable for the Authority to determine that an amendment has no material effect to the extent that it alters the procedural, operational, mechanical or other similar relationship between any relevant parties (but not, for the avoidance of doubt, to the extent that it affects the financial

relationship between any relevant parties, or the balance or allocation of risks between any relevant parties).

- (e) The Authority shall be entitled to make such consequential amendments to Schedule 7 of this Franchise Agreement as the Authority may consider appropriate to reflect any Charge Variation described in any of Clauses 18.1(d)(ii), (iv) and/or (v). For the avoidance of doubt, there will be no Net Loss or Net Gain attributable to any such consequential amendments under Clause 18.1(b).

18.2 Change of Law Review

- (a) In the event of a Change of Law and if so requested by the Franchise Operator or the Authority, the No Net Loss No Net Gain Regime shall apply subject to Clause 18.2(b), (c), and (d), except that:-
 - (i) the Franchise Operator shall for each Change of Law bear or receive (as the case may be) £300,000 of the Net Loss or Net Gain (if any) which results from that Change of Law provided that with effect from the start of the second and each subsequent Franchise Operator Year this amount will be increased by RPI (where RPI is the quotient of the Retail Prices Index for the month falling two months before the relevant Franchise Operator Year divided by the Retail Prices Index for the month falling two months before the first Franchise Operator Year); and
 - (ii) the balance of each such Net Loss or Net Gain shall be borne or received (as the case may be) by the Authority.
- (b) The Franchise Operator shall not be required to bear or entitled to receive (as the case may be) an aggregate Net Loss or Net Gain in excess of the Capped Amount during the Franchise Term as a result of Changes of Law. Any Net Loss or Net Gain in excess of the Capped Amount shall be borne or received (as the case may be) by the Authority. The No Net Loss No Net Gain Regime shall be applied in respect of each Change of Law to reflect this Clause 18.2(b). The "Capped Amount" shall mean £5,000,000 provided that such amount shall be adjusted each time a request is made by the Franchise Operator pursuant to Clause 18.2(a) in accordance with the following formula:
$$CA = £5,000,000 \times RPI$$

Where CA is the adjusted amount of the Capped Amount and RPI means the quotient of the Retail Prices Index for the month falling two months prior to the date that the No Net Loss No Net Gain Regime calculation is made divided by the Retail Prices Index for January 2002.
- (c) Any such request by the Franchise Operator or the Authority must, unless otherwise agreed by the Authority, be made within 12 months after the date on which the Change of Law first takes effect.
- (d) The Franchise Operator shall:-
 - (i) use all reasonable endeavours to minimise any increase and maximise any reduction in costs associated with any Change of Law and to procure that its suppliers, sub-contractors and agents do so;

- (ii) without limiting Clause 18.2(d)(i), ensure that when any expenditure is incurred or any commitment is entered into in relation to any Franchise Services, foreseeable Changes in Law at that time are taken into account.

The Franchise Operator shall consult with the Authority in respect of the Franchise Operator's proposals for compliance with this Clause 18.2(d). In any event, for the purpose of Clause 18.2 (a) the Net Loss or Net Gain (as the case may be) will be the lowest aggregate Net Loss that can be incurred, or the highest aggregate Net Gain that can be made, in respect of the Change of Law taking into account any appropriate alternative methods of dealing with the Change of Law (irrespective of the actual actions or steps which the Franchise Operator may take in respect thereof).

- (e) No adjustment shall be required to be made to the terms of this Franchise Agreement under Clause 18.2 if it would result in an adjustment being made to the level of Franchise Payments payable in any Financial Year hereunder of less than one per cent of the annual Turnover of the Franchise Operator as disclosed by its latest available audited accounts.
- (f) This Clause 18.2 shall not apply to any Change of Law which is anticipated by or provided for in any other provision of this Franchise Agreement. In particular, but without limitation, this Clause 18.2 shall not apply at all in the case of any Change of Law which results in:-
 - (i) a Track Access Adjustment Payment or a Station Access Adjustment Payment under paragraphs 7 and 8 of Part 2 of Schedule 6; or
 - (ii) a Mandatory Modification falling within the scope of paragraph 9 of Part 2 of Schedule 6.

18.3 Changes to Wales & Borders Assumptions

For the purposes of Schedule 9, a Variation to the Wales & Borders' Assumptions shall arise (and, subject only to any qualifications contained in the following sub-clauses of this Clause 18.3, the No Net Loss No Net Gain Regime shall apply):-

- (a) if there is any difference between:-
 - (i) the amount payable by the Franchise Operator from the Franchise Commencement Date under any Track Access Agreement or Station Access Agreement relating to the Transferring Services; and
 - (ii) the amount included by the Franchisee in its BAFO Proposal to be determined on the basis of the charges included by the Franchise Operator for the first Franchise Operator Year totalling £⁷ as at 1 April 2002 as set out in the document in the agreed terms marked "NRC" to be extrapolated for the whole of the Franchise Term on the same basis as set out in such document as such charges are included in the Financial Model;

which results directly from a reallocation of the charges and/or other amounts payable thereunder which are applicable as at the Franchise Commencement

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

Date to the Transferring Services and the Retained Services respectively, save to the extent that this is provided for under Clause 18.3(e);

- (b) if there is any difference between:-
- (i) the amount payable by the Franchise Operator from the Franchise Commencement Date in relation to:
 - (x) charges payable to the National Rail Enquiry Scheme;
 - (y) charges payable to ATOC;
 - (z) charges payable to the British Transport Police; and
 - (ii) the amount included by the Franchisee in its BAFO Proposal in relation to each of 18.3(b)(i)(x)-(z), being:
 - (i) "Where text has been omitted from this document, this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.
 - (ii) "Where text has been omitted from the document this is because the Director General Rail or Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000.
 - (iii) "Where text has been omitted from the document this is because the Director 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 results directly from a reallocation of the charges and/or other amounts payable thereunder as at the Franchise Commencement Date which are applicable to the Transferring Services and the Retained Services respectively;

- (c) if there is a change to the date assumed by the Franchisee in its BAFO Proposal for the termination of the Class 175 Hire Agreement being the Passenger Change Date in December 2005 ("the 175 Termination Date") that results in the 175 Termination Date being a date other than the Passenger Change Date in December 2005; and
- (d) if changes to services along the North Wales coast and between Birmingham and North Wales directed by the Authority are introduced which are not substantially in accordance with the assumptions about such alterations notified to the Franchisee by the Authority on 6 February 2003 in a document entitled "Timetable Developments – Revised Bidding Instructions" and reflected in the Franchise Payments as subsequently revised in further guidance issued to the Franchisee on 7th August 2003 as set out in the document in the agreed terms and marked "NWA";
- (e) if there is any difference between:-
- (i) the Recalibrated Schedule 8 Rates; and
 - (ii) the Assumed Schedule 8 Rates

If, pursuant to this Clause 18.3(e), the No Net Loss No Net Gain Regime is to apply, the parties agree that one of the adjustments to the Franchise Agreement

which may be made by the Authority is an adjustment to Schedule 7 of this Franchise Agreement (notwithstanding that any such adjustment would involve estimations and would not capture any actual Net Loss or Net Gain on a pound for pound basis).

For the purposes of this Clause 18.3(e):-

- (aa) "Assumed Schedule 8 Rates" means the assumed levels of Performance Points and Payment Rates for each of the Train Operator and Network Rail under Schedule 8 of the Track Access Agreement, as set out in Part 5 of Schedule 7;
- (bb) "Migration Recalibration" means the recalculation of the Performance Points and Payment Rates for each of the Train Operator and Network Rail provided for in the Initial Track Access Agreement as at the date of this Franchise Agreement (or under any equivalent provision in the Initial Track Access Agreement or any subsequent Track Access Agreement entered into in accordance with this Franchise Agreement), to take account of amendments made in consequence of the Relevant Migrations to access rights granted under the Initial Track Access Agreement;
- (cc) "Recalibrated Schedule 8 Rates" means the adjusted Performance Points and Payment Rates for each of the Train Operator and Network Rail included in schedule 8 of a Track Access Agreement in place of the Performance Points and Payment Rates which would otherwise have applied, but only to the extent that the adjustment is solely and directly attributable to the Migration Recalibration; and
- (dd) "Relevant Migrations" means either or both of:-
 - (i) the entering into of the Previous Franchise Agreement (representing the transfer to the Previous Franchise Operator of responsibility for the operation of services previously operated by Wales & West Passenger Trains Limited and Central Trains Limited); and
 - (ii) the arrangements for the transfer to the Previous Franchise Operator of responsibility for the operation of the Transferring Services.

For the purposes of this Clause 18.3, "Transferring Services" shall mean those of the passenger services, stations and depots previously operated by FNW which were included in the Previous Franchise Agreement pursuant to the Deed of Amendment between the Previous Franchise Operator, National Express Group Plc and the Authority dated 27th September 2003 ("the Amendment Agreement"), and "Retained Services" shall mean those of the franchise services operated by FNW as at 27th September 2003 which were not included in the Amendment Agreement.

For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining, for the purposes of sub-clauses 18.3(a)-(e), whether the Franchise Operator would incur a Net Loss or a Net Gain.

18.4 Continued Use of 175s

Following the 175 Termination Date, the Franchise Operator shall ensure the continued use of the Class 175 Vehicles subject to the Class 175 Rolling Stock Lease (including those previously subject to the Class 175 Hire Agreement) in the provision of the Passenger Services for the remainder of the Franchise Period, except to the extent that the Authority otherwise agrees (in circumstances where such use is not necessary or appropriate in the provision of the Passenger Services).

18.5 Transferring Employees

If the number of Franchise Employees who transfer (by operation of law) from Cardiff Railway Company Limited to the Franchise Operator at the Franchise Commencement Date exceeds 1,882 ("the W&B Employees"), the Franchise Operator shall notify the Authority of the excess and, subject to the Franchise Operator demonstrating this to the Authority's reasonable satisfaction, an amount of £28,030 for each W&B Employee in excess of 1,882 shall be added to the next Franchise Payment to be made following the notification, unless the next Franchise Payment is due to be made during the 7 days following notification. In that event the adjustment shall be made to the next following Franchise Payment in accordance with paragraph 3 of Part 2 of Schedule 6.

18.6 Changes to Great Western Timetable

- (a) If on or before the Passenger Change Date in December 2004 changes are introduced by Great Western Trains Company Limited to its timetable in force as at the date of the Franchise Agreement and:-
 - (i) those changes are substantially in accordance with the assumptions about alterations to those services set out in the agreed terms and marked "FGWA" ("FGW Assumptions"), then the Franchise Payments shall be adjusted with effect from the Passenger Change Date on which the revised services are implemented by adding (or subtracting) the relevant amount for the Franchise Operator Year in which the services are implemented and for each of the following Franchise Operator Years in the Franchise Period to the values for "RA" in Part 3 of Schedule 6 of the Franchise Agreement. For this purpose, "the relevant amount" means the appropriate amount for each Franchise Operator Year set out in Part 5 of Schedule 6; or
 - (ii) those changes are not substantially in accordance with the FGW Assumptions, the No Net Loss No Net Gain Regime shall apply to adjust the relevant amounts derived from the application of Clause 18.6(a)(i) above to take account only of the differences between the FGW Assumptions and the actual changes introduced by Great Western Trains Company Limited (such that the Franchise Payments are then themselves adjusted by an amount equivalent to the adjusted amounts).
- (b) For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of Clause 18.6(a)(ii), whether the Franchise Operator would incur a Net Loss or a Net Gain.

18.7 DDA

- (a) Without limiting any other provision of this Franchise Agreement, the Franchise Operator shall comply with its obligations under the DDA. This clause sets out

specific arrangements which apply in respect of physical alterations to stations which may be required in certain circumstances in order for franchise operators to comply with the DDA.

(b) It is acknowledged that:-

- (i) there is limited funding available to the Authority to assist franchise operators with the carrying out of physical alteration works at stations;
- (ii) consequently, there is a need for such works to be carried out over a period of time to reflect the availability of funding, and for such works to be prioritised with regard to where there is the greatest need; and
- (iii) the national programme of works of physical alterations at stations which is being developed by the Authority seeks to address these issues in a practical and structured way.

(c) If during the Franchise Term:-

- (i) the Franchise Operator has complied with its obligations in Section 21(2)(d) of the DDA to provide a reasonable alternative method of making services at a Station accessible to a Disabled Person; but
- (ii) notwithstanding such compliance, the Franchise Operator reasonably considers it is still required to incur incremental expenditure, take any action or change or cease any existing operation in order to comply with the DDA Requirements in respect of the Station

then the Franchise Operator may seek the Authority's consent to the action, change or cessation.

(d) If the Franchise Operator seeks the Authority's consent under Clause 18.7(c), and demonstrates to the Authority's satisfaction that the criteria in Clause 18.7(c) have been satisfied, then the Authority may agree that the No Net Loss No Net Gain Regime will apply in respect of such expenditure, action, change or cessation. In considering its response to any such request the Authority will have regard to the availability of funding and the priorities set out in the national programme described in Clause 18.7(b).

(e) If the Franchise Operator is required to pay any increased access charges as a result of additional expenditure incurred by a relevant station facility owner in order to comply with the DDA Requirements in respect of any station at which the Passenger Services are permitted to call under this Franchise Agreement then:-

- (i) provided the Franchise Operator notifies the Authority in advance of any such required additional access charges; and
- (ii) subject to the Franchise Operator complying with the Authority's reasonable directions as regards the exercise of any rights the Franchise Operator may have in respect thereof

then the No Net Loss No Net Gain Regime will apply.

(f) No adjustment will be made under this Clause 18.7 in respect of work the Franchise Operator has been requested to carry out by the Authority to identify the

extent to which Stations are accessible and/or priorities for capital improvements at Stations if funding becomes available.

- (g) If during the Franchise Period the Franchise Operator receives notification from a Disabled Person of an allegation of a breach of the DDA Requirements or notification of a claim under the DDA in respect of any Station (each a "Claim") then the Franchise Operator shall:
- (i) notify the Authority within seven days of receiving such notification of the Claim. The Franchise Operator shall at the same time notify the Authority what reasonable alternative methods of making the services at the Station accessible to a Disabled Person pursuant to section 21(2)(d) of the DDA it has put in place;
 - (ii) if required by the Authority, defend the Claim (which may include appealing the judgment) subject to the Authority paying the Franchise Operator's reasonable costs of such defence or appeal; and
 - (iii) act in accordance with the reasonable instructions of the Authority to defend the Claim as required under Clause 18.7(g)(ii) and not settle or enter into any compromise in relation to the Claim including, without limitation, entering into mediation without the consent of the Authority.
- (h) If in the opinion of the Franchise Operator it will be more cost effective to settle the Claim rather than act in accordance with the Authority's requirement under Clause 18.7(g)(ii) it shall produce for the Authority's approval a settlement proposal ("Settlement Proposal").
- (i) If the Authority, acting reasonably, does not accept the Settlement Proposal; and
- (i) still requires the Franchise Operator to defend the Claim in accordance with Clause 18.7(d)(ii); and
 - (ii) the award made in favour of a Disabled Person in respect of the Claim is higher than the figure set out in the Settlement Proposal

then the Authority shall pay to the Franchise Operator the difference between such an award and the figure set out in the Settlement Proposal, together with, for the avoidance of doubt, costs incurred or payable by the Franchise Operator in defending the Claim to the extent that such costs have not already been paid by the Authority under Clause 18.7(g)(ii).

19 Franchise Viability

19.1 Threat to viability of franchise

The Franchise Operator may request the Authority to review the terms of this Franchise Agreement if it considers that if it is to be required to continue to comply with its obligations hereunder until the end of the Franchise Term, there would either be an Event of Default under Clause 21.1 before the end of the Franchise Term or its financial status would otherwise be threatened. Any such request shall be accompanied by a report prepared by an appropriate independent adviser of recognised standing which confirms, in the adviser's opinion, the extent to which the financial status of the Franchise Operator is threatened and any countervailing measures that might be taken by the Franchise Operator in order to improve or preserve its financial position.

19.2 Review of terms of Franchise Agreement

If the Franchise Operator so requests, the Authority may, but shall not be obliged to, offer to adjust the terms of this Franchise Agreement (including the Passenger Service Requirement, the Additional Service Commitment and the level of Franchise Payments) to such extent as the Authority considers appropriate having regard to:

- (a) whether it considers there would either be an Event of Default under Clause 21.1 before the end of the Franchise Term or the financial status of the Franchise Operator would otherwise be threatened;
- (b) any proposed adjustment to the other terms of this Franchise Agreement, the level of Annual Franchise Payments which would reasonably be expected to be set for a period equivalent to the balance of the Franchise Term if the Authority were to invite by competitive tender other persons (including persons who would provide and operate the relevant services on an economic and efficient basis) to provide, or secure the provision of, the Passenger Services under a franchise agreement for a term equivalent to the original duration of the Franchise Term;
- (c) the cost of inviting other persons to provide, or secure the provision of, the Passenger Services before the expiry of the Franchise Term;
- (d) whether the threat to the financial status of the Franchise Operator has arisen as a result of circumstances beyond its control and which it could not reasonably have been expected to counteract;
- (e) whether it would be in the interests of passengers using the Passenger Services to adjust the terms of this Franchise Agreement, having regard to the quality of service provided by the Franchise Operator;
- (f) the continued motivation of the Franchise Operator following any such adjustment; and
- (g) such other matters as the Authority may consider appropriate at the time.

19.3 Acceptance of offer

If the Authority does so offer, the Franchise Operator may accept such offer and the Franchise Agreement shall be amended accordingly subject to such other variations as the parties may agree.

Part IV — Term and Termination

20 Franchise Term

20.1 Expiry of term

Subject to Clause 20.2, the Franchise Term shall expire at 2.00 a.m. on 14 October 2018 or such other date as the Authority notifies to the Franchise Operator under Clause 20.4. Subject to Clause 23 or any prior termination hereof, this Franchise Agreement shall terminate on the expiry of the Franchise Term.

20.2 Extension of term

- (a) If the Authority gives notice to the Franchise Operator not less than three months before the date on which the Franchise Term would have otherwise expired in accordance with Clause 20.1, the Franchise Term shall, subject to Clauses 20.2(b) and (d), expire at 2.00 a.m. on such date as may be specified by the Authority in such notice subject to the right of the Authority to terminate at any prior time subject always to the Authority keeping the Franchise Operator reasonably informed of the likely date of any such earlier termination. The latest date specified in such notice shall be not less than one and not more than seven Reporting Periods after the date on which the Franchise Term would have otherwise expired in accordance with Clause 20.1.
- (b) Any such extension shall be subject to the availability to the Franchise Operator of the relevant rolling stock to be able to continue to provide the Passenger Services. The Franchise Operator shall use all reasonable endeavours to obtain such rolling stock and shall, if so requested by the Authority, use such rolling stock as would have been used by the relevant Successor Operator if no such extension had been made.
- (c) Whether or not such notice is given under Clause 20.2(a) the Franchise Operator shall, to the extent so requested by the Authority, exercise such rights of termination as it may have under any Key Contract to terminate such Key Contract on the expiry of the Franchise Term.
- (d) The Franchise Operator and the Authority may agree, not less than three months before the date on which the Franchise Term would have otherwise expired in accordance with Clause 20.1, to extend the Franchise Term for a period of not more than sixty-five Reporting Periods and subject to such conditions as they may consider to be appropriate at the time. If they do so agree, the Authority shall not be entitled to extend the Franchise Term under Clause 20.2(a).
- (e) The Franchise Operator shall enter into such Property Leases as it and the Authority may agree for it to be desirable or appropriate for it to do so in connection with its continuation of the Franchise Services for the duration of any extension under this Clause 20.2.

20.3 Financial arrangements

- (a) If and only if the Franchise Operator so requests within two weeks of being notified of any such extension under Clause 20.2(a), the Fixed Franchise Payments payable for the period of such extension shall be adjusted to such amount as would

reasonably be expected to result in the Franchise Operator making no Profit or Loss in respect of such period.

- (b) Except to the extent the parties otherwise agree, the amount of such Fixed Franchise Payments shall be determined by reference only to the information available to both parties at the time of the Franchise Operator's request. The Franchise Operator shall provide such information in relation thereto as the Authority may reasonably request. If the Authority so requests where the Franchise Operator is party to any arrangements with Affiliates which are not on arm's length terms the Profit or Loss of the Franchise Operator for the purposes of this Clause 20.3 shall be determined as if the Franchise Operator had entered into such arrangements on arm's length terms. If the parties are unable to agree the amount of such Fixed Franchise Payments on the basis of such information, they may refer the dispute for resolution in accordance with the Dispute Resolution Rules.
- (c) If no request is made under Clause 20.3(a), then, unless the parties otherwise agree, the provisions of Schedule 6 shall continue to apply for the period of any extension under Clause 20.2 except that the Annual Franchise Payment in respect of the period of such extension shall be the same as the Annual Franchise Payment for the preceding Franchise Operator Year multiplied by the quotient of the Retail Prices Index for the month falling two months before the start of such period of extension divided by the Retail Prices Index for the month falling twelve months before such month falling two months before the start of such period of extension.
- (d) For the purposes of calculating the adjustment to be made (if any) pursuant to Clause 20.3(a):
 - (i) unless otherwise agreed by the Authority, the Franchise Operator will not be expected to incur any additional costs, liabilities and expenses in relation to the operation of the Franchise Services which are of a type not previously incurred by the Franchise Operator under the Franchise Agreement in the normal provision of the Franchise Services;
 - (ii) no account will be taken of any payment or other obligation or liability which has accrued or arisen or is expected to accrue or arise otherwise than in respect of the period by which the Franchise Term is to be extended as specified under Clause 20.2(a). Without limiting the foregoing, the Franchise Operator shall take no action or steps which are designed, directly or indirectly, to transfer any costs, liabilities and expenses which properly relate to the period prior to the date on which the Franchise Term would (but for the extension pursuant to Clause 20.2(a)), have expired such that those costs, liabilities and expenses shall not be taken into account for the purposes of calculating the adjustment to be made (if any) pursuant to Clause 20.3(a);
 - (iii) no account will be taken of any liability which the Franchise Operator may be expected to incur as a result of any breach (whenever arising) by the Franchise Operator of this Agreement; and
 - (iv) unless otherwise agreed by the Authority, the payments which the Franchise Operator may be expected to make or receive, in respect of any Reporting Period during the period by which the Franchise Term is extended, pursuant to Schedule 7 or under the Track Access Agreement

relating to the performance of Network Rail or the Franchise Operator, shall be equivalent to the payments (if any) which the Franchise Operator was liable to make or receive thereunder in respect of the corresponding Reporting Period in the previous Franchise Operator Year.

- 20.4** If the Authority so determines, following a Performance Review Date and under and in accordance with Part 2 of Schedule 15, the Authority shall be entitled to serve written notice stating that the Franchise Term shall (subject to Clause 20.2) expire at 2.00a.m. on such date as the Authority shall specify in such notice. Such date shall not be earlier than whichever is the latest of (a) the date falling 6 months after the date of the notice, and (b) the Phase End Date following the Performance Review Date.

21 Events Of Default

The following are Events of Default and the occurrence of an Event of Default shall constitute a breach and contravention of this Franchise Agreement by the Franchise Operator and the Franchisee:

21.1 Insolvency

- (a) *Administration*: Any step being taken by any person with a view to the administration of the Franchise Operator, Franchisee or any Parent or Bond Provider under Part II of the Insolvency Act 1986;
- (b) *Insolvency*: Any of the Franchise Operator, Franchisee or any Parent or Bond Provider stopping or suspending or threatening to stop or suspend payment of all or a material part of (or a particular type of) its debts, or being unable to pay its debts, or being deemed unable to pay its debts under section 123(1) or (2) of the Insolvency Act 1986 except that in the interpretation of this paragraph:
 - (i) the words "it is proved to the satisfaction of the court that" in sub-section (1)(e) and sub-section (2) of section 123 shall be deemed to be deleted;
 - (ii) section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for "£750" there was substituted "£100,000" or such higher figure as the Authority may from time to time determine by notice in writing to the Franchise Operator and the Franchisee; and
 - (iii) any of the Franchise Operator, Franchisee or any Parent or Bond Provider shall not be deemed to be unable to pay its debts for the purposes of this paragraph if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is being contested in good faith by such person with recourse to all appropriate measures and procedures and such person has adequate funds to discharge the amount of such demand or if any such demand is satisfied before the expiration of 21 days from such demand;
- (c) *Arrangements with Creditors*: The directors of the Franchise Operator, Franchisee or any Parent or Bond Provider making any proposal under section 1 of the Insolvency Act 1986, or any of the Franchise Operator, Franchisee or any Parent or Bond Provider proposing or making any agreement for the deferral, rescheduling or other readjustment (or proposing or making a general assignment or an arrangement or composition with or for the benefit of the relevant creditors) of all or a material part of (or of a particular type of) its debts, or a moratorium being agreed or declared in respect of or affecting all or a material part of (or of a particular type of) its debts;

- (d) *Security Enforceable*: Any step being taken to enforce security over or a distress, execution or other similar process being levied or served out against any property of the Franchise Operator or the whole or a substantial part of the assets or undertaking of the Franchisee or any Parent or Bond Provider, including the appointment of a receiver, administrative receiver, manager or similar person to enforce that security;
- (e) *Stopping Business/Winding-Up*: Any step being taken by the Franchise Operator, Franchisee or any Parent or Bond Provider with a view to its winding-up or any person presenting a winding up petition or any of the Franchise Operator, Franchisee or any Parent or Bond Provider ceasing or threatening to cease to carry on all or a material part of its business, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation on terms approved by the Authority before that step is taken;
- (f) *Railway Administration Order*: A railway administration order being made in relation to the Franchise Operator under sections 60 to 62 of the Act;
- (g) *Analogous Events*: Any event occurring which, under the law of any relevant jurisdiction, has an analogous or equivalent effect to any of the events listed above

unless, in the case of paragraphs (a), (d) and (e), the relevant petition, proceeding or other step is being actively contested in good faith by the relevant person with recourse to all appropriate resources and procedures and such person has adequate funds to discharge the relevant debt and subject, in the case of any relevant event occurring in relation to a Bond Provider and there being no other Event of Default at such time, to a period of 7 days having elapsed in order to allow the Franchise Operator a reasonable period to replace the relevant Bond Provider.

21.2 Change of Control

Without the prior consent of the Authority:

- (a) the Franchise Operator ceasing to be a wholly owned subsidiary of the Franchisee; or
- (b) a change in the identity of any one person, or two or more persons acting by agreement, who may Control the Franchisee during the Franchise Term which, for the avoidance of doubt, shall include a person, or two or more persons acting by agreement, ceasing to Control the Franchisee at any time during the Franchise Term, whether or not any other person Controls the Franchisee at the same time

and, for the purposes of this Clause 21.2, two or more persons shall be deemed to be acting by agreement in relation to the Franchisee if, assuming the Franchisee was a target company as defined in section 204(1) of the Companies Act 1985, such persons would be under an obligation to disclose an interest in shares in such company by virtue of an agreement between such persons.

21.3 Revocation of Licence

Revocation of any Licence held by the Franchise Operator which it may be required to hold in order to comply with its obligations under this Franchise Agreement.

21.4 Breach of Law

- (a) It becoming unlawful for the Franchise Operator to provide all or a material part of the Passenger Services or to operate all or a material number of the Stations or

Depots (except to the extent not required so to do under this Franchise Agreement).

- (b) The Franchise Operator or any of the directors or senior managers of the Franchise Operator being convicted of manslaughter, fraud or any other indictable criminal offence in each case relating to the provision and operation of the Franchise Services.
- (c) The Franchise Operator being in material non-compliance with a prohibition or enforcement order (or the equivalent thereof) of the Health and Safety Executive (or any successor thereto) and which is not the subject of an appeal which turns out to be successful.

21.5 Breach of Passenger Service Requirement

The Franchise Operator failing to comply, subject to Clause 5.1(b), with its obligations under Clause 5.1(a).

21.6 Non-membership of Inter-Operator Schemes

The Franchise Operator ceasing to be a member of, or ceasing to participate in or to be party to, any of the Inter-Operator Schemes, or having its membership or participation therein suspended.

21.7 Ceasing to provide Passenger Services

Other than with the agreement in writing of the Authority or to the extent excused under Clause 5.4 as a result of a *Force Majeure* Event, in relation to the Timetable and Train Plan, in any Reporting Period during the Franchise Term in relation to either or both Business Unit(s):

- (a) there being more Cancellations during such Reporting Period than the Default Threshold of Cancellations;
- (b) there being more Total Cancellations during such Reporting Period than the Default Threshold of Total Cancellations;
- (c) where applicable, the aggregate of the Actual Capacity of each train included in the Train Plan in such Reporting Period being less than the Default Threshold of the aggregate of the Planned Capacity of each such train.

21.8 Bonds and Liquidity Maintenance

- (a) Any Performance Bond ceasing to be a legal, valid and binding obligation on the relevant Bond Providers (other than in accordance with their terms) or it otherwise becoming unlawful or impossible for the Bond Providers to perform their respective obligations thereunder.
- (b) There ceasing or failing to be a Performance Bond which fulfils the requirements of Clause 14.3.
- (c) The Franchise Operator being in breach of any of its obligations under paragraph 2 of Part 1 of Schedule 10, which breach is not remedied within 7 days of a notice from the Authority requiring the breach to be remedied.

21.9 Key Contracts

Termination of any of the Key Contracts except where requested by the Authority or to the extent that the Franchise Operator has demonstrated to the reasonable satisfaction of the Authority that it is no longer necessary for it to be party to such Key Contracts or it has made adequate alternative arrangements in order to be able to continue to provide and operate the Franchise Services.

21.10 Enforcement orders

Non-compliance by the Franchisee or the Franchise Operator with (i) a provisional order or (ii) a final order or (iii) a penalty or (iv) any other order made relating to contravention of either a relevant condition or requirement (as defined in Section 55 of the Act) or another order, in each case made by the Authority under the Act.

21.11 Other Franchises

Termination, as a result of an event of default (excluding, for the avoidance of doubt, termination as a result of non-satisfaction of a condition precedent), of any other franchise agreement in respect of which the franchisee is the Franchisee or an Affiliate of the Franchisee.

21.12 Safety Case

The Franchise Operator commits a serious breach of the Railways (Safety Case) Regulations 1994.

21.13 Franchise Default Milestones

The Franchise Operator fails to achieve one or more of the Franchise Default Milestones.

21.14 Breach of other obligations

The Franchisee or Franchise Operator not performing or complying to a material extent with any one or more of its obligations under this Franchise Agreement (other than such non-performance or non-compliance as may constitute an Event of Default under Clauses 21.1 to 21.13) and, after a written notice from the Authority specifying such non-performance or non-compliance, breaching such obligation again to a material extent or permitting the breach to continue or, if the breach is capable of remedy, failing to remedy such breach within such reasonable period as the Authority may specify in such written notice.

22 Consequences of Events Of Default

22.1 Notification of Event of Default

The Franchisee and the Franchise Operator shall notify the Authority as soon as reasonably practicable on, and, in any event, within 24 hours of, it becoming aware of the occurrence of an Event of Default or an event which is likely to result in the occurrence of an Event of Default. The Franchisee and the Franchise Operator shall take such action or steps as the Authority may require for any Event of Default or potential Event of Default to be remedied.

22.2 Termination

The Authority shall be entitled, on the occurrence of an Event of Default which it reasonably considers to be material, to terminate this Franchise Agreement forthwith on written notice. This Franchise Agreement shall terminate on the date specified in any such notice which terminates or purports to terminate this Franchise Agreement.

23 Consequences of Termination

Upon termination of this Franchise Agreement (whether through default or effluxion of time or otherwise) the obligations of the parties hereunder shall cease except for:

- (a) any obligations arising as a result of any antecedent breach of this Franchise Agreement;
- (b) any obligations which are expressed to continue in accordance with the terms of this Franchise Agreement; and
- (c) any other obligations which give effect to such termination or to the consequences of such termination or which otherwise apply (expressly or impliedly) on or after such termination.

Nothing in this Clause 23 shall prevent the Authority from bringing an action against the Franchisee or the Franchise Operator in connection with the termination of this Franchise Agreement prior to the expiry of the Franchise Term.

Part V — Obligations associated with change of Franchise Operator

24 Reletting of Franchise

The Franchise Operator acknowledges that the Authority may wish, at or before the expiry of the Franchise Period, either to invite persons, who may include the Franchisee or the Franchise Operator, to tender for, the right to provide all or some of the Passenger Services under a franchise agreement or alternatively to enter into a franchise agreement in respect of the Passenger Services without having gone through a tendering process. The Franchise Operator further acknowledges that the Authority is under a duty under section 30 of the Act to secure in certain circumstances the provision of the Passenger Services, including if no further franchise agreement is entered into on the termination of this Franchise Agreement in respect of such Passenger Services. The Franchise Operator accordingly accepts and agrees to the restrictions and obligations imposed on it under this Part V of this Franchise Agreement.

25 Maintenance of Franchise

25.1 Maintenance as going concern

- (a) The Franchise Operator shall maintain and manage the business of providing the Franchise Services with the intent that a Successor Operator would be able to take over the business of providing the Franchise Services immediately at any time. The Franchise Operator shall use all reasonable endeavours to ensure that such Successor Operator would have immediate access to all Franchise Employees and Primary Franchise Assets for such purpose.
- (b) The Franchise Operator shall maintain and manage the business of providing the Franchise Services on the basis that, to the extent possible and practicable, such business will be transferred, in the manner contemplated under this Franchise Agreement, as a going concern at the end of the Franchise Period to, and continued immediately thereafter by, a Successor Operator. The Franchise Operator shall accordingly use all reasonable endeavours to ensure that an appropriate number of employees (having sufficient skills, qualifications and experience) will transfer by operation of Law to any Successor Operator following the expiry of the Franchise Period.
- (c) Both prior to and following the selection of a Successor Operator (whether a franchise operator or otherwise and whether or not subject to the satisfaction of any conditions), the Franchise Operator shall co-operate with, where a Successor Operator has been so appointed, such Successor Operator or, where not, the Authority, and shall take such steps as may be reasonably requested by the Authority so as to ensure the continuity of, and an orderly handover of control over, the Franchise Services (including, without limitation, bidding for and securing the Timetable and the Train Plan for the Franchise Services to be operated by the Successor Operator (whether or not a Successor Operator has been identified and whether or not there is in place an Access Agreement relating to the relevant period)).

25.2 Handover packages

- (a) The Franchise Operator shall maintain and keep up to date a handover package, which shall contain the information and objects set out in Schedule 12 and such

other information and objects as the Authority may reasonably specify from time to time.

- (b) The Franchise Operator shall ensure that any Successor Operator will have immediate access to such package on the expiry of the Franchise Period and shall accordingly agree with the Authority from time to time a location at which such package should be kept, which unless otherwise agreed, shall be the offices of a solicitor approved by the Authority.
- (c) Once in each Franchise Operator Year, the Franchise Operator shall provide a report from its auditors addressed to the Authority which confirms that the package maintained by the Franchise Operator pursuant to Clause 25.2(a) contain the information and objects required thereunder. The Franchise Operator shall make such package available for inspection to the Authority or its representative whenever so reasonably requested.
- (d) Without prejudice to the preceding provisions of this Clause 25.2, the Franchise Operator shall provide to the Authority the following information and letters, and shall supply revised information and/or letters to the Authority as and when required to ensure they remain accurate and up to date:
 - (i) Details of the location of the Handover Package which details shall include one or more contact name(s), address(es) and telephone number(s) enabling contact during, and outside of, normal office hours with person(s) authorised and able to release the package.
 - (ii) A letter in a form approved by the Authority:
 - (1) from the Franchise Operator confirming that an irrevocable instruction has been given to the holder of the Handover Package that any of the Authority, a Successor Operator or their agent, is entitled to require access to and delivery of the Handover Package on demand, and confirming the Authority's right to audit the Handover Package;
 - (2) to the Authority from the solicitor, or other person authorised by the Authority, holding the Handover Package confirming that they will release the Package to the Authority, a Successor Operator or their agent, on demand, and confirming that the Handover Package will be made available for the purposes of auditing its contents when so required by the Authority.
 - (iii) A list of all directors and function managers of the Franchise Operator, together with details of the means of contacting them, or their deputies, during, and outside of, normal working hours.
 - (iv) A letter in a form approved by and addressed to the Authority confirming the details of any insurer providing insurance to the Franchise Operator, and authorising the insurer (and any relevant broker) to release any insurance related information to the Authority, a Successor Operator or their agents on demand.

25.3 Preparation for reletting

- (a) The Franchise Operator, if and to the extent so requested by the Authority, shall provide the Authority and its representatives and advisers with reasonable access to the Franchise Employees and the books, records and other material kept by or on behalf of the Franchise Operator in connection with the Franchise Services for the purpose of such representatives and advisers preparing any reports or other documents in connection with any invitation to potential Successor Operators to tender for the right and obligation to provide or operate all or any of the Franchise Services or any invitation to other potential franchisees to tender for the right and obligation to provide any other railway passenger services or operate any other additional railway asset or the entering into of any franchise agreement or other agreement relating to the Franchise Services, without having gone through a tendering process. The Franchise Operator shall make available to the Authority and its representatives and advisers in a timely fashion such information (including, without limitation, financial and operational information), shall prepare and present such information in such manner (including in disaggregated form), and shall assist in the verification of such information (including the provision of answers to verification questions), as they shall reasonably require in connection with such exercise provided that such exercise shall not unduly interfere with the continuing provision and operation of the Franchise Services by the Franchise Operator. The Authority may at the outset of the reletting process set out the process and timescale for the provision and verification of information and the Franchise Operator shall comply with the Authority's reasonable requirements in this regard.
- (b) Without limiting Clause 25.3(a), if and to the extent the Authority requires in connection with any proposal (whether or not yet finalised) to enter into separate franchise and/or other agreements with one or more Successor Operators, each relating to some only of the Franchise Services (whether or not together with other passenger rail services) at or following the end of the Franchise Period and whether or not the agreement of the Franchise Operator will be required to bring into effect any such proposals (including the early termination of this Franchise Agreement), the Franchise Operator agrees and acknowledges that the Authority may require:
 - (i) that the Franchise Operator provides the Authority with such additional information and reports and analysis as the Authority may require in respect of such different groups of Franchise Services as the Authority may identify ("**Franchise Service Groups**"). This may include information relating to the operational and financial performance of Franchise Service Groups, and identification of those employees, assets and liabilities which relate to the Franchise Service Groups together with an indication of the extent to which the same are shared between the operation of different Franchise Service Groups;
 - (ii) subject to (c) below, that the Franchise Operator shall reorganise the business of providing the Franchise Services in such manner as is agreed by the Authority to be necessary or desirable to facilitate the transfer anticipated by this Clause 25.1(b) on an ongoing basis of the business of providing the Franchise Services within each of the Franchise Service Groups to separate Successor Operators. This may include, to the extent reasonably practicable:

- (x) the re-organisation of personnel such that an appropriate number of employees (having sufficient skills, qualifications and experience) will transfer by operation of law or otherwise be available as necessary to each Successor Operator of each Franchise Service Group;
 - (y) entering into additional or clarificatory contractual or other arrangements such that the Successor Operator of each Franchise Service Group will have the necessary assets and rights to operate the Franchise Services within that Franchise Service Group.
- (c) Where the Franchise Operator reasonably considers that any requirement of the Authority pursuant to Clause 25.3(b) (ii) will result in a material additional cost to the Franchise Operator, the Franchise Operator shall give notice to this effect to the Authority. The notice will be accompanied by the Franchise Operator's forecast of the Net Loss which will result from the Franchise Operator carrying out the Authority's requirements. If the Authority advises the Franchise Operator that it still wishes the Franchise Operator to carry out its requirements, the No Net Loss No Net Gain Regime shall apply to the requirements of the Authority under Clause 25.3(b).

25.4 Non-frustration of transfer

The Franchise Operator shall take no action or steps which are or are designed, directly or indirectly, to prejudice or frustrate the transfer as a going concern of the business of providing the Franchise Services at the end of the Franchise Period to a Successor Operator. In particular the Franchise Operator shall take no action or steps which is or are designed, directly or indirectly, to avoid, frustrate or circumvent any provision of this Franchise Agreement which is included in whole or in part for the purpose of preventing any such prejudicial or frustrating action or steps (including those contained in this Part V of the Franchise Agreement). Subject to such restrictions and the other provisions of this Franchise Agreement, the Franchise Operator shall be entitled to take such action as it may require for the purposes of bidding to become, or becoming, such a Successor Operator.

25.5 Arrangements with Affiliates

- (a) The Franchise Operator shall ensure that every contract or other arrangement or transaction to which it may be party with any Affiliate for the supply of goods, the provision of services (including the licensing of any Intellectual Property) or otherwise, is on arm's length terms.
- (b) For the avoidance of doubt, in the event that any such arrangement is a Key Contract and is not on arm's length terms, the Authority may require the Franchise Operator to terminate (at its own cost) such arrangement and the Franchise Operator shall comply with any such requirement.

25.6 Last twelve months of Franchise Period

Where reference is made in this Part V of this Franchise Agreement to the last twelve or thirteen months of the Franchise Period, such period shall be deemed to commence on the following dates (except and until the actual date of expiry of the Franchise Period is known):

- (a) the date which is twelve or thirteen months, as the case may be, prior to the date of expiry of the Franchise Term under Clause 20.1 (as may be amended under

Clause 20.4) assuming that the Authority does not elect to give notice of extension under Clause 20.2(a);

- (b) the date on which the Authority reasonably considers that an Event of Default may occur within the following twelve months and notifies the Franchise Operator that such period of twelve or thirteen months shall be deemed to commence;
- (c) the date on which the Authority notifies the Franchise Operator that such period of twelve or thirteen months shall be deemed to commence on the grounds that the Authority considers it reasonably likely that this Franchise Agreement will be terminated by agreement between the parties within such period; and
- (d) if the Authority notifies the Franchise Operator following any Performance Review Date, the date of such notification. Unless the Authority otherwise requires, such notice shall be deemed to have been withdrawn if and when (and with effect from when) the Authority gives notice under Part 2 of Schedule 15 that the Franchise Agreement is to continue into the next Phase.

Any such period (which may be longer or shorter than twelve or thirteen months, as the case may be) shall expire on the date of termination of the Franchise Agreement or, if earlier, in the case of periods commencing under paragraph (b), the date falling twelve months after the date of any notice under paragraph (b) or, in each case, such earlier date as the Authority may determine.

26 Restrictions on Activities

26.1 Affiliates of Franchise Operator

Nothing in this Clause 26 shall restrict any Affiliate of the Franchise Operator (including the Franchisee) from having an interest in or participating in any business or activity other than the Franchise Services.

26.2 Restrictions on Franchise Operator

- (a) The Franchise Operator shall have the right to provide and operate the Franchise Services during the Franchise Period and shall not directly or indirectly, without the prior written consent of the Authority, carry on any business or activity other than the provision and operation of the Franchise Services.
- (b) Such consent shall not be unreasonably withheld where the other business or activity proposed to be carried on by the Franchise Operator could not reasonably be so carried on by an Affiliate of the Franchise Operator unless, in the Authority's reasonable opinion:
 - (i) such additional business or activity might prejudice the continuity of the provision of the Franchise Services by a Successor Operator at the end of the Franchise Period; or
 - (ii) might result in additional liabilities and obligations being assumed by such a Successor Operator.
- (c) The Authority, to the extent that it does so consent, may do so on such conditions agreed with the Franchise Operator at the time of the grant of its consent as the Authority considers appropriate for the purpose of securing the continuity of the provision of the Franchise Services at the end of the Franchise Period.

26.3 Specific restrictions

Without prejudice to the generality of the provisions of Clause 26.2 and for the avoidance of doubt, the Franchise Operator shall not during the Franchise Period, without the consent of the Authority:

- (a) provide or operate any railway passenger services other than the Passenger Services or Charter Services;
- (b) operate any stations or light maintenance depots other than the Stations and Depots; or
- (c) hold shares, participations or any other interest in any other company or body corporate unless such company or body corporate is owned directly or indirectly by other participants in the railway industry and the holding is incidental to the Franchise Operator's participation in an Inter-Operator Scheme or some other arrangement designed to ensure or facilitate co-operation between such participants or between any such participants and any other person.

26.4 Employees

The Franchise Operator shall not engage any Franchise Employee in any activity or business which it may not conduct or engage in under this Clause 26.

27 Key Contracts

27.1 Key Contracts

Save in respect of any contract to which the Franchise Operator may have been party on the Franchise Commencement Date, the Franchise Operator shall not enter into, be party to or be beneficiary under any Key Contract, unless the relevant counterparty is a Train Operator or the Authority has previously entered into a Direct Agreement in respect of such Key Contract with the relevant counterparty on terms acceptable to the Authority and any such Direct Agreement has been amended as required by the Authority for the purposes in each case of ensuring that the Passenger Services may continue to be provided on a basis acceptable to the Authority and that the Stations and Depots may continue to be operated in the event of breach or termination of such Key Contract, termination of this Franchise Agreement or the making of a railway administration order in respect of the Franchise Operator on a basis acceptable to the Authority.

27.2 No amendment

Without prejudice to Clauses 12.3(a), 12.4(a), 12.6 and 12.7 and subject to Clause 12.8:

- (a) the Franchise Operator shall not without the prior consent of the Authority (which shall not be unreasonably withheld or delayed) vary, or purport to vary, the terms or conditions of any Key Contract where such variation first takes effect in the last 12 months of the Franchise Period or where all or part of such variation first takes effect after the end of the Franchise Period; and
- (b) in addition, when and to the extent that the Authority so requires by notice, the Franchise Operator shall not vary, or purport to vary, the terms of any Key Contract (or if such notice specified a particular Key Contract or class of Key Contracts, any such Key Contract as specified) without the consent of the Authority.

27.3 Designation

The Authority may, subject to Clause 27.4, designate at any time as a Key Contract any agreement, contract, licence or other arrangement (whether in written, oral or other form) which the Franchise Operator is party to or beneficiary under or which it may propose to be party to or beneficiary under, where the Authority considers that such designation is reasonably necessary for securing that the Franchise Services may continue to be provided by a Successor Operator on the expiry of the Franchise Period or otherwise facilitating the transfer of the provision of the Franchise Services at such time. For the avoidance of doubt such arrangements may include any informal or formal arrangement that the Franchise Operator may have with any other person from time to time (including an Affiliate and including any arrangement for the storage or accommodation of any employees or assets (including any relevant electronic or computer systems)).

27.4 Notification of categories of Key Contracts

The Authority may from time to time notify the Franchise Operator of those types or categories of contracts or arrangements which it considers may be Key Contracts and those which it does not. The Franchise Operator shall be entitled to rely on such notifications until amended or revoked on reasonable notice. The Franchise Operator shall inform the Authority from time to time of any arrangements which it may be intending to enter into (or, without prejudice to the foregoing, to which it is at that time already a party) which it believes the Authority may reasonably wish to designate under Clause 27.3, and shall give the Authority a reasonable opportunity to so designate such arrangements. In any event, and without prejudice to its obligations hereunder, the Franchise Operator shall notify the Authority as and when the Franchise Operator enters into any such arrangements.

27.5 Designation of existing Contracts

If the Authority designates as a Key Contract any contract or arrangement to which the Franchise Operator may already be party and which the Authority has previously notified the Franchise Operator would not be considered to be a Key Contract under Clause 27.4 (and in respect of which such notice has not been revoked), the Franchise Operator shall be deemed not to be in breach of its obligations under Clause 27.1 but shall, where so reasonably requested by the Authority, use its reasonable endeavours to procure that the Authority may enter into a Direct Agreement with the relevant counterparty as soon as practicable.

27.6 Emergencies

Nothing in this Clause 27 or Clause 12 shall prevent the Franchise Operator from entering into on a short term basis such contracts or arrangements as it may consider necessary or appropriate to deal with any emergency which may arise in connection with the provision and operation of the Franchise Services nor shall it be required to procure that the Authority enters into a Direct Agreement in respect of such contracts.

27.7 De-designation of Key Contracts

The Authority may at any time during the Franchise Period, by serving a notice on the Franchise Operator specifying the Key Contracts in question (whether specifically or by reference to any type or category of Key Contract or both), cause the agreements, contracts, licences or other arrangements forming those Key Contracts to cease to be designated as Key Contracts. Such Key Contracts shall cease to be so designated on the date specified in such notice. Any such notice under this Clause shall be without prejudice

to the Authority's rights under Clauses 27.3, 27.4 and 27.5, to redesignate any such agreement, contract, licence or other arrangement as a Key Contract.

27.8 Amendments to Schedule 11

Without prejudice to the preceding provisions of this Clause 27, Part 3 of Schedule 11 shall be amended as necessary from time to time to take account of any designation or de-designation hereunder of any Key Contracts.

27.9 Replacement of Key Contracts

The Franchise Operator shall, prior to the due date of expiry of such Key Contracts as the Authority may specify to the Franchise Operator (or, if earlier, such other date as it may be reasonably likely that any such Key Contract will terminate), enter into and conduct negotiations which will enable it to secure appropriate replacement arrangements (whether with the same counterparty to the old Key Contract or not) prior to the date of expiry or termination, as the case may be, of the relevant Key Contract.

28 [Intentionally not used]

29 Franchise Employees

29.1 Terms of employment of existing employees

The Franchise Operator shall not, and shall secure that each other relevant employer shall not, without the prior consent of the Authority (which shall not be unreasonably withheld or delayed), vary, or purport or promise to vary, the terms or conditions (as amended from time to time) of employment of any Franchise Employee (including promise to make any additional payment or provide any additional benefit and including for the avoidance of doubt any term or condition relating to holiday, leave or hours to be worked) where such variation or addition:

- (a) takes effect in the last twelve months of the Franchise Period unless it is in the ordinary course of business and, when aggregated with any other variation or addition which takes effect during such period, represents an increase in the remuneration of the Franchise Employee of no more than the percentage increase in the level of the Average Earnings Index between the month for which such index was last published at the time the variation or addition is made or proposed and the month falling twelve months before such month; or
- (b) all or part of it first takes effect after the end of the Franchise Period; or
- (c) results in any such employment not being terminable by the employer within six months of the expiry of the Franchise Period; or
- (d) relates to a payment or the provision of a benefit triggered by termination of employment; or
- (e) relates to the provision of a benefit (but excluding base salary) which any such employee will or may have a contractual right to receive after the expiry of the Franchise Period; or
- (f) prevents, restricts or hinders any such employee from working for a Successor Operator or from performing the duties such employee performed for the Franchise Operator.

Without limiting the foregoing, the Franchise Operator shall consult with the Authority as soon as reasonably practicable in any circumstances in which the Authority's consent under this Clause 29.1 may be required. Further, it shall always be deemed to be reasonable for the Authority to withhold its consent to a variation or addition which is prohibited without such consent under Clause 29.1 (a) provided the Authority:

- (i) makes an overall increase in Franchise Payments equal to the amount of the direct net losses suffered by the Franchise Operator on the days ("Relevant Days") when the Passenger Services are affected by industrial action taken by the Franchise Employees which is a consequence of a refusal by the Authority to agree to the variation or addition; and
- (ii) agrees that during the Relevant Days there shall be no application of the regime by which the Franchise Operator is required to make payments to the Authority in respect of poor performance to the extent that such poor performance is a consequence of the industrial action referred to in sub-paragraph (i) above. Further, to the extent that the Franchise Operator may be in breach of the Franchise Agreement (excluding breaches in relation to safety requirements) or the call-in, breach and/or default thresholds in Part 2 of Schedule 3 of the Franchise Agreement and in each case as a consequence of the industrial action referred to in this paragraph, such breach shall be waived by the Authority.

29.2 Terms of employment of new employees

The Franchise Operator shall not, and shall secure that each other relevant employer shall not, without the prior consent of the Authority (which shall not be unreasonably withheld or delayed), create or grant, or promise to create or grant, terms or conditions of employment for any Franchise Employee where such employment by the Franchise Operator or such other relevant employer may commence on or after the Franchise Commencement Date if and to the extent that:

- (a) such terms or conditions are materially different to the terms or conditions of employment of equivalent or nearest equivalent Franchise Employees at the date of commencement of employment of such new Franchise Employee; and
- (b) if such terms or conditions were granted to such equivalent Franchise Employees already employed by the Franchise Operator by way of variation to their terms or conditions of employment, the Franchise Operator would be in breach of Clause 29.1.

29.3 Changes in numbers and total cost of employees

Subject to and excluding any increase in the remuneration of Franchise Employees permitted under Clause 29.1, the Franchise Operator shall not, and shall secure that each other relevant employer shall not, without the prior consent of the Authority (which shall not be unreasonably withheld or delayed) increase or decrease in the last twelve months of the Franchise Period the number of Franchise Employees either such that the total number of Franchise Employees or the total cost per annum to the Franchise Operator and each other relevant employer of employing all Franchise Employees is increased or such that the total number of Franchise Employees is decreased, in each case, by more than 5 per cent. during such period of twelve months.

30 Fares

30.1 Period of validity of Fares

The Franchise Operator shall not, without the consent of the Authority (not to be unreasonably withheld) Create or agree to Create any Fares or Discount Cards which do not expire or otherwise cease to be valid within thirteen months of the sale of such Fare or Discount Cards and shall not, except to the extent required to do so under the terms of the Ticketing and Settlement Agreement as a result of the Creation of a Fare or Discount Card by another person, sell any such Fare or Discount Card.

30.2 Reduction in Prices of Fares

- (a) During the last thirteen months of the Franchise Period the Franchise Operator shall not, without the consent of the Authority (not to be unreasonably withheld), set the Price or Child Price of, or sell (except to the extent required to do so under the terms of the Ticketing and Settlement Agreement as a result of the Price or Child Price, as the case may be, of a Fare being set by another person), any Fare which would entitle the purchaser thereof to travel on all or any of the Passenger Services after the Franchise Period for an amount which is less than the Price or the Child Price, as the case may be, of that Fare immediately before the commencement of such thirteen month period or, in the case of a new Fare, the Price of its nearest equivalent immediately before the commencement of such period.
- (b) Clause 30.2(a) shall not prevent the giving of any discount or reduction to which the purchaser of that Fare may be entitled by virtue of:
 - (i) presenting a Discount Card issued by the Franchise Operator before the commencement of such period (or any equivalent replacement thereof) and to which the purchaser would have been entitled before the commencement of such period;
 - (ii) presenting a Discount Card of another train operator;
 - (iii) the Passenger's Charter or the passenger's charter of any other train operator; or
 - (iv) any relevant conditions of carriage.
- (c) The Franchise Operator shall procure, to the extent applicable, that persons acting as its agent (except persons acting in such capacity by virtue of having been appointed under Parts II to VI of Chapter 9 of the Ticketing and Settlement Agreement or by being party to the Ticketing and Settlement Agreement) shall comply with the provisions of Clause 30.2(a) to the extent they apply to the selling of Fares by the Franchise Operator.

30.3 Percentage allocations

- (a) Except to the extent that the Authority may consent from time to time (such consent not to be unreasonably withheld), the Franchise Operator shall not, in the last thirteen months of the Franchise Period, take any action or step which may result in its Percentage Allocation (as defined in the Ticketing and Settlement Agreement) in respect of any Rail Product (as defined in the Ticketing and Settlement Agreement) being reduced.

- (b) The Franchise Operator shall notify the Authority before taking any such action or step in the last thirteen months of the Franchise Period and upon becoming aware of any other person proposing to take any action or step which may have the same effect. The Franchise Operator shall take such action as the Authority may reasonably request in order to prevent any such reduction, including submitting any dispute to any relevant dispute resolution procedures.

31 Inter-Operator Schemes

31.1 Voting on scheme councils

Subject to Clause 31.2, during the last twelve months of the Franchise Period the Franchise Operator shall give the Authority reasonable notice of any meeting of a scheme council of an Inter-Operator Scheme on which the Franchise Operator is represented or a scheme management group of any Inter-Operator Scheme on which the Franchise Operator has a permanent position or employs a member and of the resolutions to be voted upon thereat and shall notify the Authority at the same time of its voting intentions. The Franchise Operator shall not without the consent of the Authority (not to be unreasonably withheld or delayed) cast its vote in favour of or against any resolution to be decided at any such meeting. Once consent has been given, the Franchise Operator shall vote in the manner so approved by the Authority.

31.2 Successor Operator

Where the Franchise Operator has been notified by the Authority that a Successor Operator has been selected (whether a franchise operator or otherwise and whether or not subject to the satisfaction of any conditions), the Franchise Operator shall notify and consult with any such Successor Operator on any decisions to be taken by the scheme council of an Inter-Operator Scheme on which the Franchise Operator is represented or a scheme management group of any Inter-Operator Scheme on which the Franchise Operator has a permanent position or employs a member, where such decision might reasonably be considered to affect the interests of the Successor Operator. The parties shall agree on which way to vote on each such decision and, failing agreement, shall refer the matter to the Authority who shall determine the manner in which the Franchise Operator shall vote having regard to the transfer of the Franchise Services as a going concern at the end of the Franchise Period and the Franchise Operator shall vote accordingly.

32 Franchise Assets

32.1 Designation as Franchise Assets

- (a) Subject to Clause 32.1(b), all property, rights and liabilities of the Franchise Operator from time to time during the Franchise Period shall be designated as Franchise Assets and shall constitute franchise assets for the purposes of section 27(11) of the Act.
- (b) The following property, rights and liabilities shall not be designated as Franchise Assets and shall not constitute franchise assets for the purposes of section 27(11) of the Act:
 - (i) the rights and liabilities of the Franchise Operator under any contract of employment;

- (ii) ***the rights and liabilities of the Franchise Operator under the Rolling Stock Leases;***⁸
- (iii) the rights and liabilities of the Franchise Operator under this Franchise Agreement or any Transfer Scheme or Supplemental Agreement;
- (iv) the rights and liabilities of the Franchise Operator under the Ticketing and Settlement Agreement;
- (v) the rights and liabilities of the Franchise Operator in respect of any sums placed on deposit with a bank or other financial institution; and
- (vi) such other property, rights and liabilities as the Franchise Operator and Authority may agree from time to time under Clause 32.13(a) or as the Authority may de-designate as Franchise Assets under Clause 32.13(b).

32.2 Designation as Primary Franchise Assets

The following property, rights and liabilities shall (to the extent they are also Franchise Assets under Clause 32.1 above) be designated as Primary Franchise Assets with effect from the following dates:

- (a) the property, rights and liabilities listed in Parts 1 and 2 of Schedule 11, on the Franchise Commencement Date;
- (b) any additional property, rights and liabilities designated under Clause 32.5 during the Franchise Period, on the date of their designation;
- (c) any additional property, rights and liabilities designated under Clause 32.6 during the Franchise Period, on the date of their designation;
- (d) any property or right which is vested in the Franchise Operator and used for the purpose of maintaining, replacing, repairing or renewing any property designated as Primary Franchise Assets pursuant to Clause 32.2(a), (b) or (c) (whether pursuant to Clause 32.7 or not) and which forms or replaces part or all of such designated property on completion of such maintenance, replacement, renewal or repair, on the date of their use for such purpose;
- (e) the rights and liabilities of the Franchise Operator under any Key Contract designated under Clause 32.9, on the date of their designation; and
- (f) the rights and liabilities of the Franchise Operator in respect of the terms of any Fare or Discount Card designated under Clause 32.10, on the date of their designation.

32.3 Consent of Authority to certain transactions

For the purposes of section 27(3) of the Act and subject to Clause 32.4(d), the Authority hereby gives its consent to the Franchise Operator:

- (a) if and to the extent that the Franchise Assets are property or rights and are not designated as Primary Franchise Assets:
 - (i) to transfer or agree to transfer any such Franchise Assets or any interests in, or right over, any such Franchise Assets;

⁸ Date of Change 17/11/2010

- (ii) to create or extinguish, or agree to create or extinguish, any interest in, or right over, any such Franchise Assets; and
- (b) if and to the extent that the Franchise Assets are liabilities and are not designated as Primary Franchise Assets, to enter into any agreement under which any such liability is released or discharged, or transferred to some other person.

32.4 Security interests

- (a) For the purpose of section 27(3) of the Act, the Authority hereby gives its consent to the Franchise Operator, if and to the extent that the Franchise Assets are property or rights (and whether or not designated as Primary Franchise Assets), creating or agreeing to create any Security Interest over any Franchise Asset to the extent that the terms of any such Security Interest are such that:
 - (i) if the relevant Franchise Asset becomes the subject of a transfer scheme made under Schedule 21 of the Transport Act, it shall be fully and automatically released from the relevant Security Interest immediately before the coming into force of such a transfer scheme; and
 - (ii) if the relevant Franchise Asset is assigned, novated or otherwise transferred to another person under Clauses 12.2, 12.3 or 12.4 of this Franchise Agreement or by virtue of any other amendment to this Franchise Agreement, it shall be fully and automatically released from the relevant Security Interest immediately before such assignment, novation or transfer; and
 - (iii) it shall not be enforced or enforceable until the date of such Franchise Asset ceasing to be designated as a Franchise Asset (whether under Clauses 32.13 or 35.1 or otherwise).
- (b) The Franchise Operator shall accordingly not create or agree to create a Security Interest over any Franchise Assets except on the terms permitted under Clause 32.4(a).
- (c) The Franchise Operator shall provide the Authority with such information as it may reasonably require in relation to any Security Interest over any of its property or rights.
- (d) Nothing in Clause 32.3 shall be deemed to constitute the giving of the Authority's consent to the creation of, or the agreement to create, a Security Interest to which it would not give its consent under this Clause 32.4.

32.5 Designation of additional property, rights and liabilities

- (a) The Authority may at any time and from time to time during the Franchise Period other than, subject to Clause 32.6(b), during the last twelve months of such Franchise Period, by serving a notice on the Franchise Operator specifying the property, rights or liabilities in question, designate any or all of the Franchise Assets as Primary Franchise Assets. Such designation shall take effect from the delivery of such notice and may refer to all or certain categories of property, right or liabilities.
- (b) Any such notice shall be accompanied by a statement of the reasons why the Authority has so designated such property, rights or liabilities and shall specify the time (not being less than 28 days from the date of giving the notice) within which the Franchise Operator may make representations or objections with respect to the

designation. If the Franchise Operator makes representations or objections which cannot be resolved by agreement within a period of 56 days from the date of the Authority's notice, the Franchise Operator may refer the dispute for resolution in accordance with the Dispute Resolution Rules for determination of whether or not the relevant property, rights or liabilities should cease to be so designated.

- (c) Any such determination shall be made only on the basis that the designation of such property, rights or liabilities was not reasonably necessary for securing that the Franchise Services may continue to be provided by a Successor Operator on the expiry of the Franchise Period on a basis acceptable to the Authority or otherwise facilitating the transfer of the provision of the Franchise Services at such time. In the event of there being any outstanding dispute on the expiry of the Franchise Period in respect of any such designation, then, except to the extent that the Authority and the Franchise Operator may otherwise agree, such dispute shall be deemed to cease immediately before the expiry of the Franchise Period and the relevant property, rights and liabilities shall not cease to be designated as Primary Franchise Assets on or after the expiry of the Franchise Period.

32.6 Designation at expiry of Franchise Period

- (a) The Franchise Operator shall, for the purpose of ensuring that the Authority may designate as Primary Franchise Assets under this Clause 32.6 the relevant property, rights and liabilities, keep vested in it at all times during the Franchise Period such property, rights and liabilities as it may reasonably require in order to be able to comply with:
 - (i) the Licences;
 - (ii) any contracts of employment with Franchise Employees;
 - (iii) any relevant Fares;
 - (iv) any Key Contracts; and
 - (v) any applicable safety legislation regulations or safety standards and the Safety Case.
- (b) The Authority may at any time during the last 12 months of the Franchise Period (including, for the avoidance of doubt and notwithstanding the other provisions of this Clause 32.6, on or before the date of termination of this Franchise Agreement), by serving a notice on the Franchise Operator specifying the property, rights or liabilities in question, designate any or all of the Franchise Assets as Primary Franchise Assets. Such designation shall take effect from the delivery of such notice and may refer to all or certain categories of property, rights or liabilities.
- (c) The Authority may within 28 days of so designating such Primary Franchise Assets cause such Primary Franchise Assets to cease to be designated by serving a notice on the Franchise Operator specifying the property, rights or liabilities in question. Such ceasing to be designated shall take effect upon delivery of such notice.
- (d) The Franchise Operator may in addition, within 14 days of such designation, object in writing to the Authority to such designation. Such objection may be made solely on the grounds that the designation of the relevant property, rights or liabilities specified in the objection was not reasonably necessary for securing that the Franchise Services may continue to be provided by a Successor Operator on the expiry of the Franchise Period on a basis acceptable to the Authority or otherwise

facilitating the transfer of the provision of the Franchise Services at such time. The Authority shall respond to any such objection as soon as reasonably practicable and shall take account of any representations made by the Franchise Operator regarding the use of the relevant Primary Franchise Assets otherwise than in the provision and operation of the Franchise Services.

- (e) If the Franchise Operator's objections cannot be resolved by agreement within a period of 14 days from the date of the submission of the objection, the Franchise Operator may refer the dispute for resolution in accordance with the Dispute Resolution Rules which shall determine whether or not the designation of the relevant property, rights or liabilities was reasonably necessary for securing that the Franchise Services may continue to be provided by a Successor Operator after the Franchise Period on a basis acceptable to the Authority or otherwise facilitating the transfer of the provision of the Franchise Services at such time, and accordingly whether or not they should cease to be so designated. In the event of there being any outstanding dispute on the expiry of the Franchise Period in respect of any such designation, then, except to the extent that the Authority and the Franchise Operator may otherwise agree, such dispute shall be deemed to cease immediately before the expiry of the Franchise Period and the relevant property, rights and liabilities shall not cease to be designated as Primary Franchise Assets on or after the expiry of the Franchise Period.

32.7 Maintenance of Primary Franchise Assets

- (a) The Franchise Operator shall, to the extent relevant and subject to Clauses 32.8, 33.2 and 34.2, maintain, protect and preserve the Primary Franchise Assets in good working order having regard to their state and condition at their date of designation and in accordance with the degree of skill, diligence, prudence and operating practice which would be reasonably expected of a skilled and experienced operator of railway assets engaged in the same undertaking under the same or similar circumstances.
- (b) The Franchise Operator shall so maintain, protect and preserve the Primary Franchise Assets on the assumption that they will be transferred at the end of the Franchise Period to a Successor Operator and used by such Successor Operator in the provision or operation of the Franchise Services.
- (c) Where any such Primary Franchise Assets are lost, destroyed or otherwise beyond repair, the Franchise Operator shall, subject to Clauses 32.8 and 33.2, replace such Primary Franchise Assets with equivalent property, rights or liabilities of equal or better quality than the replaced Primary Franchise Assets. Any Primary Franchise Asset so replaced shall cease to be designated as such on such replacement.
- (d) Subject to Clause 32.8, nothing in this Clause 32.7 shall require the Franchise Operator to provide replacement property, rights or liabilities in a better state or condition than that which the Primary Franchise Assets they replaced were in on the date of their designation.

32.8 Specified Franchise Assets

- (a) The Authority may designate at any time a property, right or liability which has been designated as a Primary Franchise Asset as a Specified Franchise Asset. Such designation shall take effect upon delivery to the Franchise Operator of a notice specifying the property, right or liability in question except that the property, rights

and liabilities specified in Part 2 of Schedule 11 shall be so designated automatically on the Franchise Commencement Date.

- (b)
 - (i) In respect of each such Specified Franchise Asset (except for Specified Franchise Assets which were specified franchise assets under the Previous Franchise Agreement), the Franchise Operator shall prepare a schedule of condition specifying its condition as at the date of such designation. Such schedule shall be agreed with the Authority and shall be in respect of such aspects of the Specified Franchise Asset as the Authority may reasonably require. If the Franchise Operator and Authority are unable to agree the relevant schedule of condition, they may refer the dispute to the Dispute Resolution Rules for determination of the condition of the relevant Specified Franchise Asset at the date of designation in respect of the aspects specified by the Authority.
 - (ii) The schedules of condition prepared in respect of Specified Franchise Assets which were specified franchise assets under the Previous Franchise Agreement shall apply to such Specified Franchise Assets as if they had been agreed between the Franchise Operator and the Authority in respect of this Franchise Agreement.
- (c) The obligation of the Franchise Operator to maintain, preserve and protect the Franchise Assets under Clause 32.7 shall, in respect of the Specified Franchise Assets, include the obligation to maintain the Specified Franchise Assets, subject to fair wear and tear, in at least as good a condition as the condition specified in the relevant schedule of condition.
- (d) The Authority may not object to any proposal to replace a Specified Franchise Asset but the Franchise Operator shall obtain the approval of the Authority of any proposed replacement (which shall not be unreasonably withheld) before so replacing the Specified Franchise Asset in question under Clause 32.7.

32.9 Designation of Key Contracts

The Authority shall, subject to Clause 32.11, be entitled to designate the rights and liabilities of the Franchise Operator under any Key Contract as a Primary Franchise Asset at any time during the Franchise Period by serving a notice on the Franchise Operator specifying the relevant rights or liabilities. Such designation shall take effect from delivery of such notice.

32.10 Designation of Fares and Discount Cards

The Authority shall be entitled to designate all or any rights and liabilities of the Franchise Operator under the terms of any Fare or Discount Card as a Primary Franchise Asset at any time during the Franchise Period by serving a notice on the Franchise Operator specifying the relevant rights or liabilities. Such designation shall take effect from delivery of such notice.

32.11 Rights and liabilities

The Authority in designating as a Primary Franchise Asset the rights and liabilities of the Franchise Operator (whether under a contract or otherwise) may restrict such rights and liabilities so designated to such extent as the Authority may consider appropriate, including to those rights and liabilities arising after or otherwise relating to a period after a particular

time (including the period after the expiry of the Franchise Period) or to those relating only to the Franchise Services or a particular part thereof.

32.12 Provision of information to Authority

- (a) The Franchise Operator shall provide such information as the Authority may reasonably require in order to satisfy itself, before any property, rights or liabilities are designated as Franchise Assets or Primary Franchise Assets under this Clause 32 after the Franchise Commencement Date, that, if they are so designated, they will be vested in the Franchise Operator. Such information may include details of any Security Interests over such property, rights and liabilities.
- (b) The Franchise Operator shall further provide such information as to the property, rights and liabilities of the Franchise Operator as the Authority may reasonably require in connection with the designation of Primary Franchise Assets. Such information shall be supplied to the Authority within such timescales as it may reasonably require in the circumstances.

32.13 De-Designation

- (a) The Authority and the Franchise Operator may agree in writing at any time during the Franchise Period that a Franchise Asset shall cease to be designated as a Franchise Asset or that a Primary Franchise Asset shall cease to be designated as a Primary Franchise Asset, and the relevant property, right or liability shall cease to be designated upon such agreement coming into effect.
- (b) The Authority may in addition at any time during the Franchise Period, by serving notice on the Franchise Operator specifying the Franchise Assets in question, cause such Franchise Assets to cease to be designated. Such Franchise Assets shall cease to be so designated on the date specified in such notice. Such right may only be exercised in respect of Franchise Assets which are not Primary Franchise Assets.
- (c) The Authority may in addition, by serving notice on the Franchise Operator specifying the Primary Franchise Assets or Specified Franchise Assets in question, cause such Primary Franchise Assets or Specified Franchise Assets to cease to be designated. Such Primary Franchise Assets or Specified Franchise Assets shall cease to be so designated on the date specified in such notice. Such right may be exercised, in respect of any Specified Franchise Assets or any rights and liabilities in respect of a Fare or Discount Card, at any time and, in respect of any other Primary Franchise Assets, no later than one year prior to the expiry of the Franchise Term.
- (d) Without prejudice to the preceding provisions of this Clause 32, Parts 1 and/or 2 (as the case may be) of Schedule 11 shall be amended as necessary from time to time to take account of any designation or de-designation hereunder of any Primary Franchise Assets or Specified Franchise Assets.

32.14 Relevant Contracts

- (a) Subject to Clauses 32.14(b)–(f) inclusive, the Authority agrees, on or before the Final Date, to designate both the rights and the Future Liability of the Franchise Operator under each Relevant Contract as a Primary Franchise Asset, provided that, for the avoidance of doubt, nothing in this Clause or otherwise shall require the Authority to include within, and the Authority shall be entitled to exclude from,

such designation, any rights or liabilities to the extent they relate to the period prior to the Final Date.

- (b) Prior to the Final Date, the Franchise Operator will, at the Authority's request, take such steps to terminate any Future Liability arising under a Relevant Contract, as the Authority shall specify with effect from such date as it shall specify. The Franchise Operator shall use all reasonable endeavours to ensure all costs relating to such termination are as low as reasonably practicable and, save to the extent that they are caused by the Franchise Operator's failure to comply with this obligation, the Authority shall indemnify the Franchise Operator in respect of such costs, insofar as they are referable to any Future Liability or are Unavoidable Break Costs. For the avoidance of doubt the Franchise Operator shall not be indemnified for any other termination costs relating to any obligation or period of time prior to the Final Date.
- (c) Without prejudice to any other obligations of the Franchise Operator or rights of the Authority, the Authority will have no obligation pursuant to this Clause 32.14 in respect of any Relevant Contract to the extent that:
 - (i) its terms or conditions have been varied without the Authority's prior consent thereby materially increasing the potential Future Liability; or
 - (ii) its terms or conditions have not been complied with by the Franchise Operator thereby materially increasing the potential Future Liability,

and the Authority will have no obligation under this Clause 32.14 if for any reason the Franchise Agreement is terminated before the Final Date.

- (d) Instead of designating a Relevant Contract in accordance with Clause 32.14(a), the Authority may satisfy its obligations in respect of that Relevant Contract under that Clause:
 - (i) where the Relevant Contract is an Access Agreement, Collateral Agreement or a Property Lease, by exercising its rights, pursuant to Clause 12 of this Franchise Agreement, to require the Franchise Operator to novate or assign (as the case may be) its interest in that Relevant Contract to the Authority or as it may direct (subject to receipt by the Franchise Operator of any applicable consent if and to the extent that Clause 12 says the novation or assignment is subject to any third party consent); or
 - (ii) by making or entering into any other agreement, deed or arrangement ("Alternative Arrangement") which the Authority, in its reasonable opinion, considers has an equivalent effect to the arrangements proposed in Clause 32.14(a) or Clause 32.14(d)(i) in terms of being effective (subject always to the same conditions as are contained in Clause 32.14(c)) for the purpose of providing that, with effect from the Final Date, the Franchise Operator will be released from Future Liability in respect of the Relevant Contract, or that as between the Franchise Operator and the Authority, the Authority will be liable in respect of any such Future Liability. This may include, but shall not be limited to, the making of a transfer scheme in respect of a Primary Franchise Asset in favour of a person other than a Successor Operator. In such a case, the provisions of the Franchise Agreement shall apply (mutatis

mutandis) as if such other person were a "Successor Operator" for the purposes of the Franchise Agreement.

- (e) The Franchise Operator undertakes to co-operate with the Authority to facilitate any Alternative Arrangement including, without limitation, by entering into such deeds or documents as the Authority may require for such purpose.
- (f) Where the Franchise Operator intends to enter into any contract and to request the Authority to regard it as a Relevant Contract, the Franchise Operator shall use all reasonable endeavours to limit the term of such contract to a term not extending more than 12 months beyond:
 - (i) the next Phase End Date, if the last Phase End Date has not yet been reached, or;
 - (ii) 14 October 2018 if it hasexcept to the extent it is not possible to do so on reasonably acceptable commercial terms and without materially increasing the costs of entering into such contract.
- (g) If the Franchise Operator has complied with Clause 32.14(f) in relation to a proposed contract that involves a Future Liability and has delivered such supporting information as the Authority shall reasonably require, then:-
 - (i) the Authority shall permit it to be regarded as a Relevant Contract if it is a Maintenance Contract that involves expenditure of at least £100,000 per annum (exclusive of Value Added Tax) or if it is any other contract involving expenditure of at least £20,000 per annum (exclusive of Value Added Tax) and provided that:-
 - (x) the contract is necessary for the provision of the Franchise Services and without which it would not be possible for the Franchise Services to be provided; and
 - (y) the contract is, in the Authority's reasonable opinion, on reasonable commercial terms and is of value to and capable of being used by a Successor Operator and will not adversely affect the ability of a Successor Operator to continue to provide and operate the Franchise Services; and
 - (z) compliance with the contract, or obtaining the benefit of it, is not effectively dependent on a Successor Operator's continuation with contracts that are not Relevant Contracts (for example, but without limitation, because it relates to specified rolling stock); and
 - (aa) payments under the contract are proportionate and regularly scheduled throughout the term of the contract and are not weighted towards the period after the next Phase End Date or 14 October 2018, and
 - (bb) the Franchise Operator agrees (for any contract which is not an Access Agreement or a Property Lease) that the Authority shall have the same rights under Clause 12.4 of the Franchise Agreement in relation to it, as if it was a Property Lease;

or

- (ii) the Authority shall permit it to be regarded as a Relevant Contract if it replaces a Relevant Contract on substantially similar terms (including the expiry date of the contract); or
- (iii) the Authority shall not unreasonably refuse to permit it to be regarded as a Relevant Contract, if it is a Property Lease, Access Agreement or Collateral Agreement, if it is necessary to enable the Franchise Operator to satisfy the Passenger Service Requirement and if it does not continue for more than 12 months beyond 14 October 2018; or
- (iv) the Authority shall not unreasonably refuse to permit it to be regarded as a Relevant Contract, if it is the only lease agreement for a headquarters building for the Franchise Operator in Cardiff, if it is reasonably required by the Franchise Operator, if it is on arm's length commercial terms, and if it does not continue for more than 12 months beyond 14 October 2018.

This Clause 32.14(g) is without prejudice to any other rights of the Authority or obligations of the Franchise Operator in relation to the entering into of any such contract.

- (h) For the purposes of this Clause 32.14:
 - (i) **"Final Date"** means the date on which the Franchise Term expires under Clause 20;
 - (ii) **"Future Liability"** means any liability of the Franchise Operator in respect of the performance of its obligations under a Relevant Contract, insofar as it arises and solely relates to the period after the Final Date. "Future Liability" shall exclude any accrued but unperformed obligation, the consequences of any antecedent breach of covenant or obligation, or any liability in respect of any act or omission or period of time under or in relation to a Relevant Contract prior to the Final Date;
 - (iii) **"Relevant Contract"** means each and any of the Access Agreements and Property Leases listed in Parts 2 and 4 of Schedule 1 together with any other contract, that is entered into after the date hereof and which the Authority permits to be regarded as a Relevant Contract;
 - (iv) **"Unavoidable Break Costs"** means any costs or damages of the Franchise Operator arising on or as a result of termination of a Relevant Contract by the Franchise Operator with effect from the date requested by the Authority, which cannot be reasonably avoided by the Franchise Operator in accordance with its obligations in Clauses 32.14(b) and 32.14(f); but excluding:
 - (x) any costs which can fairly be apportioned to benefits already received by the Franchise Operator prior to the date of such termination; and
 - (y) any costs or damages arising from any breach of such contract by the Franchise Operator prior to such termination (but not, for the avoidance of doubt, any costs or damages arising from the Franchise

Operator's actions in terminating the contract with effect from the requested date).

33 Spares

33.1 Maintenance of spares

The Franchise Operator shall maintain an appropriate level of Spares or an appropriate level of access to Spares from a third party for use in connection with the Franchise Services in accordance with the degree of skill, diligence, prudence and practice which would reasonably be expected of a skilled and experienced operator of railway assets engaged in the same undertaking in the same or similar circumstances.

33.2 Franchise Assets

- (a) The obligations of the Franchise Operator to maintain, preserve and protect Primary Franchise Assets under Clause 32.7 shall, in respect of Spares, include the obligation to replace any Spare which has been so designated, which subsequent to its designation ceases to be part of the stock of Spares available to the Franchise Operator for use in the provision of the Franchise Services, with an equivalent Spare of equal or better quality than the Spare so replaced.
- (b) The Authority hereby consents to the installation of Spares which have been designated as Primary Franchise Assets on rolling stock. Subject to Clause 32.2(d), any Spare which is so installed shall cease to be so designated on such installation.

33.3 Designation and De-designation of Spares Contracts

The following provisions will apply in relation to Designated Spares Contracts:

- (a) The Authority may from time to time notify the Franchise Operator of types or categories of agreements, contracts or arrangements which it has determined shall not for the time being be Designated Spares Contracts for the purpose of this Franchise Agreement. Such determination may be made by reference to:
 - (i) any type or category of Spares;
 - (ii) any type or category of agreement, contract or arrangementor any other matter, in the Authority's absolute discretion.
- (b) The effect of a notice by the Authority under Clause 33.3(a) is that, with effect from the date stated in such notice, and subject to Clause 33.3(c), any reference in this Franchise Agreement to a Designated Spares Contract shall exclude any agreement, contract or arrangement to which the notice refers. Provided always that nothing in this Clause 33.3(b) shall prevent the Authority from taking any action in respect of any breach arising before the date stated in the notice.
- (c) Notwithstanding any notice issued by the Authority pursuant to Clause 33.3(a), the Authority may at any time thereafter, by further notice to the Franchise Operator, reverse the effect of any determination made under Clause 33.3(a).
- (d) The effect of a notice by the Authority under Clause 33.3(c) is that, with effect from the date stated in such notice, any reference in this Franchise Agreement to a Designated Spares Contract shall include any agreement, contract or arrangement

to which the notice refers irrespective of when such agreement, contract or arrangement was entered into Provided always that:

- (i) no notice under Clause 33.3(c) shall have retrospective effect; and
- (ii) if, after the effective date of a notice under Clause 33.3(a) and before the effective date of a notice under Clause 33.3(c), the Franchise Operator has become a party to an agreement, contract or arrangement which was excluded from the definition of Designated Spares Contracts by the Clause 33.3(a) notice and subsequently included in that definition by the Clause 33.3(c) notice, then unless a Direct Agreement has already been entered into in relation to that agreement, contract or arrangement, the Franchise Operator shall, where so reasonably requested by the Authority, use its reasonable endeavours to procure that the Authority may enter into a Direct Agreement with the relevant counterparty as soon as practicable.

34 Intellectual Property

34.1 Franchise Operator's Intellectual Property

- (a) On the expiry of the Franchise Period the Franchise Operator shall grant to any Successor Operator such licences of any Intellectual Property which:

- (i) is owned by or licensed to the Franchise Operator;
- (ii) has not been designated as a Primary Franchise Asset; and
- (iii) does not represent or constitute a Mark,

as may, in the reasonable opinion of the Authority, be reasonably necessary for any such Successor Operator to operate the Franchise Services on an efficient and economic basis after the expiry of the Franchise Period. When agreeing the terms on which Intellectual Property is to be licensed to it, the Franchise Operator shall use all reasonable endeavours to ensure that such terms include the right to sub-license such Intellectual Property to enable it to comply with this clause 34.1. The Franchise Operator shall not enter into a licence that does not include such a provision without first obtaining the Authority's prior written consent.

- (b) Any such licence shall be granted to any such Successor Operator for such period as the Authority may determine to be reasonably necessary for the purpose of securing continuity of the provision of the Franchise Services and shall be free of charge and royalty free for a period of 1 month or less. If such licence is for a period in excess of 1 month the grant of the licence shall be subject to payment of a reasonable royalty (backdated to the expiry of the Franchise Period) on the basis of a willing licensor and licensee entering into a licence on comparable terms to similar licences of such Intellectual Property. If the Franchise Operator and the relevant Successor Operator are unable to agree such royalty, the Authority or the Franchise Operator may resolve the dispute in accordance with the Dispute Resolution Rules.
- (c) Any such licence shall be in such form as the Authority shall reasonably determine except that it shall:
 - (i) be non-exclusive and limited to use solely for the purposes of the provision and operation of the Franchise Services and will not provide for any right to

use such Intellectual Property for any other purpose (including its marketing or exploitation for any other purpose);

- (ii) be terminable on material breach by the Successor Operator;
- (iii) contain an indemnity from the Franchise Operator to the effect that to the best of its knowledge and belief it owns the relevant Intellectual Property or has the right to license it and the licensing of it and the subsequent use of the Intellectual Property will not infringe any third party Intellectual Property rights in such Intellectual Property;
- (iv) require the Successor Operator, to the extent it relates to any trade marks, to use such marks in such manner as may reasonably be required by the Franchise Operator provided that it shall not be reasonable for the Franchise Operator to require such marks to be used in a manner materially different to their use during the Franchise Period.

34.2 Intellectual Property Franchise Assets

- (a) The obligation of the Franchise Operator to maintain, preserve and protect the Primary Franchise Assets under Clause 32.7 shall, subject to Clause 34.2(b), in respect of Primary Franchise Assets which constitute Intellectual Property, include the obligation to:
 - (i) maintain, preserve, and renew any registrations thereof (including payment of any renewal or other fee);
 - (ii) where appropriate, procure and prosecute the application for their registration or the registration of any appropriate licences in all relevant registers of such Intellectual Property;
 - (iii) take such action as may be reasonably necessary to prevent or prohibit the infringement of any such Intellectual Property by third parties, by the taking of legal proceedings or otherwise; and
 - (iv) where appropriate, take such action as may be reasonably necessary to defend any challenge to the validity or ownership of such Intellectual Property by third parties, by the taking of legal proceedings or otherwise.
- (b) The Franchise Operator shall be excused performance of its obligations under Clause 34.2(a) to the extent that in the opinion of the Authority the cost of so doing would be unreasonably high or that full performance would not be commercially reasonable having regard to the use of the relevant Intellectual Property in the provision and operation of the Franchise Services.

34.3 Branding

- (a) Subject to any applicable obligations or restrictions on the Franchise Operator (including the terms of the Rolling Stock Leases), the Franchise Operator shall be entitled to apply registered or unregistered trade marks (including company names, livery and other distinctive get-up) to such assets as it may use or own in the operation and provision of the Franchise Services.
- (b) Subject to Clauses 34.3(d) and 34.3(h), the Franchise Operator may:
 - (i) in respect of unregistered Marks, provide or procure the provision of an irrevocable undertaking to any relevant Successor Operator to the effect that neither it nor the owner of the Marks will enforce such rights as it may

have or may in the future have in respect of such Marks against such Successor Operator and its successors; and

- (ii) in respect of registered Marks, grant or procure the grant of an irrevocable royalty-free licence to use such Marks to such Successor Operator and its successors.
- (c) Any such licence or undertaking under Clause 34.3(b) shall be in such form as the Authority shall reasonably determine except that the terms of any such licence and, to the extent appropriate, any such undertaking shall accord with the provisions of sub-Clauses 34.1(c)(i) to 34.1(c)(iv).
- (d) Subject to Clause 34.3(h), to the extent that:
 - (i) the Franchise Operator does not provide a relevant licence or undertaking under Clause 34.3(b); or
 - (ii) the Authority considers the relevant Marks to be so distinctive or otherwise such that a Successor Operator could not reasonably be asked to use the relevant assets to which the Marks are applied; or
 - (iii) the Franchise Operator has not otherwise removed or covered such Marks in such a way as may be reasonably acceptable to the Authority prior to the expiry of the Franchise Period,

the Franchise Operator shall pay to the relevant Successor Operator such amount as may be agreed between the Franchise Operator and such Successor Operator, subject to Clause 34.3(g), as being the reasonable cost (including any Value Added Tax for which credit is not available under sections 25 and 26 of the Value Added Tax Act 1994) of covering such Marks or otherwise removing all indications of or reference to the Marks in a manner reasonably acceptable to the Authority. Such cost shall not in any event exceed the cost to the Successor Operator of replacing such Marks with its own. In the event that the Franchise Operator and the relevant Successor Operator fail to agree such cost within 28 days of the expiry of the Franchise Period, the Franchise Operator or the Authority may refer such dispute for resolution, subject to Clause 34.3(g), in accordance with the Dispute Resolution Rules.

- (e) Such costs under Clause 34.3(d) may include the reasonable cost of:
 - (i) removing or covering Marks from the exterior of a train;
 - (ii) removing or covering interior indications of the Marks including upholstery and carpets;
 - (iii) replacing or covering all station or other signs including bill boards; and
 - (iv) otherwise ensuring that such removal, covering or replacement is effected with all reasonable care and in such manner that the relevant assets may reasonably continue to be used by a Successor Operator in the provision of the Franchise Services.
- (f) The Franchise Operator shall, in addition to making a payment under Clause 34.3(d), grant or procure the grant of a licence or undertaking complying with Clauses 34.3(b) and (c) except that it shall only be for such period as may be agreed between the Franchise Operator and the Successor Operator as being reasonably required by the Successor Operator to remove the Marks from all

relevant assets without causing excessive disruption to the operation of the Franchise Services. In the event that such period cannot be agreed, the Authority or the Franchise Operator may refer such dispute for resolution, subject to Clause 34.3(g), in accordance with the Dispute Resolution Rules.

- (g) The Authority shall determine at or around the end of the Franchise Period, and after consultation with the Franchise Operator, the maximum liability of the Franchise Operator under Clause 34.3(d) and the maximum length of licence or undertaking under Clause 34.3(f).
- (h) The provisions of Clauses 34.3(b) to (g) shall not apply to the extent the relevant asset is not to be used by a Successor Operator. The Authority shall notify the Franchise Operator as soon as it is aware of whether or not any such asset is to be so used.

34.4 Non-designation of new brands

The Authority agrees not to designate as a Primary Franchise Asset any registered or unregistered trade mark which is developed by the Franchise Operator.

35 Transfer of Primary Franchise Assets

35.1 Option Arrangements

The Authority hereby grants to the Franchise Operator the right to require the Authority to make, and the Franchise Operator hereby grants to the Authority the right to make, a Transfer Scheme in accordance with Schedule 21 of the Transport Act for the transfer of any or all of such property, rights or liabilities as may be designated as Primary Franchise Assets on the expiry of the Franchise Period. Each such right may be exercised on, or within 14 days before, the expiry of the Franchise Period by serving notice on the other party specifying the Primary Franchise Assets in question. Following any such exercise of such rights the Authority may and shall make one or more such Transfer Schemes for the transfer of the Primary Franchise Assets specified in any such notice before, or within 14 days after the expiry of the Franchise Period. Any Franchise Assets or Primary Franchise Assets which are not so transferred shall cease to be designated as such 14 days after the expiry of the Franchise Period.

35.2 Supplemental Agreement

Without prejudice to the duties, powers, rights and obligations of the Authority under the Transport Act in respect of any Transfer Scheme, any Transfer Scheme shall impose on the Franchise Operator and the transferee an obligation to enter into an agreement substantially in the form of the Supplemental Agreement which shall provide for the determination of amounts to be paid in respect of the property rights and liabilities which are transferred under the relevant Transfer Scheme. The Franchise Operator shall enter into any such agreement and shall comply with its obligations thereunder.

35.3 Payment of estimated transfer price

- (a) The Authority may require the Franchise Operator to pay to any relevant transferee under a Transfer Scheme or any relevant transferee under a Transfer Scheme to pay to the Franchise Operator, as the case may require, on the day on which the Transfer Scheme comes into force such sum as the Authority may determine should be so paid between them having regard to:

- (i) its estimate of the sum likely to be paid under the relevant Supplemental Agreement in respect of the Primary Franchise Assets being transferred under the relevant Transfer Scheme;
 - (ii) its estimate of any other sums likely to be paid thereunder;
 - (iii) the status of the Franchise Operator and the transferee and whether any estimate so paid would be likely to be repaid, if in excess of the sums eventually payable thereunder; and
 - (iv) such other matters as the Authority may consider appropriate to have regard to at the time.
- (b) The Franchise Operator shall pay to any such transferee such sum as the Authority may determine under Clause 35.3(a) on the day any relevant Transfer Scheme comes into force.

35.4 Possession of Franchise Assets

On the coming into force of a Transfer Scheme, the Franchise Operator shall deliver up to the Authority (or such other person as it may specify) possession of such Primary Franchise Assets as may be transferred under such Transfer Scheme.

35.5 Repayment of Bond monies

The Authority shall pay to the Franchise Operator, within six months of the last date any demand can be made (disregarding for this purpose the actual date on which any such demand has been made) on the relevant Bond Provider under the Performance Bond, an amount equal to:

- (a) the aggregate of any monies paid to the Authority under the Performance Bond; less
- (b) the amount, in the Authority's reasonable opinion, of the losses, liabilities, costs or expenses (if any) which the Authority, the Secretary of State or a Successor Operator may have incurred or suffered or may be reasonably likely to incur or suffer as a result of:
 - (i) the failure of the Franchise Operator to perform or comply with its obligations under any Supplemental Agreement or Part V or Clauses 12.2, 12.3(a) or (c), 12.4(a) or (b), 12.5(a), 12.6(a), 12.7(a), 12.11 or 13.4 of this Franchise Agreement; or
 - (ii) termination of this Franchise Agreement as a result of an Event of Default or following service of notice by the Authority under Clause 20.4 (including (and, in the case only of such a termination following service of notice under Clause 20.4, limited to) any costs or expenses incurred by the Authority in securing, and (if different) entering into a franchise agreement in respect of, the provision of any Franchise Services previously provided by the Franchise Operator);
 - (iii) the making of a railway administration order in relation to the Franchise Operator pursuant to sections 60 to 62 of the Act

provided that where if and to the extent that the Authority has demanded payment of the Performance Bond on the grounds (inter alia) that the Franchise Operator has failed to comply with its obligations under the Franchise Agreement to provide a new or replacement Performance Bond in accordance with the requirements and/or timescales

required by the Franchise Agreement, then the Authority shall not be obliged to pay the Franchise Operator any sum under this Clause 35.5 before six months after the last date on which any demand could otherwise (but for the earlier demand) have been made by the Authority under the Performance Bond.

36 Associated Obligations on Termination

36.1 Assistance in securing continuity

In order to facilitate the continuity of the Franchise Services on expiry of the Franchise Period the Franchise Operator shall take such steps, both before and after the expiry of the Franchise Period, as the Authority may reasonably require, having regard to the cost to the Franchise Operator, to assist and advise any Successor Operator in providing and operating the Franchise Services. In particular, the Franchise Operator shall provide any Successor Operator with such records and information relating to or connected with the Franchise Services as the Authority may reasonably request (other than confidential financial information but including all relevant records relating to the Franchise Employees).

36.2 Access

The Franchise Operator hereby authorises the Authority and its representatives to have such access as it may reasonably request on the expiry of the Franchise Period to such property as it may own, lease or operate at such time, for the purpose of facilitating the continuity of the Franchise Services.

36.3 Key Contracts

The Franchise Operator shall provide such assistance to any Successor Operator as the Authority may reasonably require in ensuring that pursuant to any Direct Agreements any such Successor Operator may enter into (or enjoy the benefit of) contracts equivalent to the relevant Key Contracts (or parts thereof) with the relevant counterparties including, without limitation, terminating, surrendering, cancelling or undertaking not to enforce its rights under any Key Contract (or parts thereof) provided that nothing in this Clause shall require the Franchise Operator to undertake not to enforce its rights under a Key Contract in so far as and to the extent only that those rights relate to the period prior to the expiry of the Franchise Period.

36.4 Change of Name

The Franchise Operator and the Franchisee shall cease to use any trade marks which are licensed to the Franchise Operator under any of the Brand Licences forthwith upon expiry of the Franchise Period and shall take all necessary steps to change any company name which incorporates any such marks as soon as practicable.

Part VI — General Provisions

37 Compliance With Laws

The Franchise Operator shall comply with all applicable Laws relating to the provision and operation of the Franchise Services and the conduct of the Franchise Operator's business under this Franchise Agreement.

38 Exclusion of Liability

38.1 Liability with respect to Passengers and Third Parties

The Franchisee and Franchise Operator each hereby acknowledge that the Authority will not be responsible for the actions of the Franchisee, Franchise Operator or any Affiliate of the Franchisee and that, otherwise than as expressly provided in this Franchise Agreement, the Franchise Operator will provide and operate the Franchise Services at its own cost and risk without recourse to the Authority or government funds or guarantees. The Franchisee and the Franchise Operator will accordingly hold the Authority fully protected and indemnified in respect of all losses, liabilities, costs, charges, expenses, actions, proceedings, claims or demands incurred by or made on the Authority in connection with any death, personal injury, loss or damage suffered by passengers or by any third party using or affected by the Franchise Services caused or contributed to by the Franchisee, the Franchise Operator, any Affiliate of the Franchisee, their employees, agents, contractors or sub-contractors.

38.2 Liability of Authority

Neither the Authority nor any of its officers, agents or employees shall in any circumstances be liable to the Franchisee or the Franchise Operator for any loss or damage caused by the negligent exercise of any powers reserved to the Authority under this Franchise Agreement, except to the extent that such negligence also constitutes a breach of an obligation of the Authority under this Franchise Agreement. Neither the Franchisee nor the Franchise Operator may recover from the Authority or any of its officers, agents, or employees any amount in respect of loss of profit or other consequential loss.

38.3 Entire Agreement

- (a) This Franchise Agreement contains the entire agreement between the parties in relation to the subject matter of this Franchise Agreement and supersedes all prior agreements and arrangements other than such confidentiality agreements or undertakings as the Franchisee may have entered into in connection with its proposal to secure the provision of the Passenger Services under this Franchise Agreement.
- (b) The Franchisee and Franchise Operator each hereby acknowledges that it is not entering into this Franchise Agreement in reliance on any warranties, representations or undertakings howsoever or to whomsoever made except in so far as such are contained in this Franchise Agreement or are embodied in any warranties, representations and undertakings on the part of the Reporting Accountants contained in the Letter of Representation. The Franchisee and Franchise Operator each hereby acknowledges and agrees with the Authority (for itself 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 the document entitled “Best and Final Offers Instructions” relating to the Franchise Operator.

- (c) The Franchisee irrevocably and unconditionally waives any right which it may otherwise have to claim damages in respect of and/or to rescind this Franchise Agreement on the basis of any warranty, representation or undertaking unless and to the extent that such warranty, representation or undertaking was made fraudulently.

38.4 Liability in relation to projects

- (a) The Authority may for its own purposes (whether under this Franchise Agreement or under any other arrangement or otherwise and whether before or after the date of this Franchise Agreement) monitor or review any proposals, plans or projects (or any aspect thereof) of the Franchise Operator under this Agreement, but no review, enquiry, comment, statement or report undertaken, made or given by or on behalf of the Authority during such review or monitoring (nor the failure to undertake, make or give any review, enquiry, comment or statement), shall operate to exclude or relieve any other party from or reduce or otherwise affect their obligations under this Agreement.
- (b) The exercise by or on behalf of the Authority of (or, as the case may be, any failure to exercise) any of its functions, rights or obligations under any review or monitoring process shall not in any way create any liability, express or implied, on behalf of the Authority to any other party save to the extent that the exercise (or failure to exercise) any of such functions rights or obligations results in a breach by the Authority of an express provision of this Agreement and the Authority does not make or give any representation or warranty, either expressed or implied, as to whether any proposal, plan or project will enable any other party to comply with their obligations under this Agreement.

39 Confidentiality

39.1 Confidentiality

Subject to the provisions of the Act, the Transport Act and Clauses 39.2 to 39.7, each party shall hold in confidence all documents, materials and other information, whether technical or commercial, supplied by or on behalf of another party to this Franchise Agreement (including without limitation all documents and information supplied in the course of proceedings under the Dispute Resolution Rules) and shall not, except with that other party's written authority, publish or otherwise disclose the same otherwise than as expressly provided for in this Franchise Agreement unless or until the recipient party can reasonably demonstrate that any such document, material or information is in the public domain through no fault of its own and through no breach of this Franchise Agreement, whereupon to the extent that it is in the public domain this obligation shall cease.

39.2 Disclosure of Confidential Information

A party shall be entitled to disclose any data or information acquired by it under or pursuant to this Franchise Agreement or information relating to a dispute arising under this Franchise Agreement without the prior written consent of any other party if such disclosure is made in good faith:

- (a) to any Affiliate of such party upon obtaining from such Affiliate an undertaking of confidentiality equivalent to that contained in Clause 39.1;
- (b) to any outside consultants or advisers engaged by or on behalf of such party and acting in that capacity upon obtaining from such consultants or advisers an undertaking of confidentiality equivalent to that contained in Clause 39.1;
- (c) to any lenders, security trustee, bank or other financial institution (and their advisers) from which such party is seeking or obtaining finance upon obtaining from any such person an undertaking of confidentiality equivalent to that contained in Clause 39.1;
- (d) to the extent required by Law or pursuant to an order of any court of competent jurisdiction or under the Dispute Resolution Rules or the rules of a recognised stock exchange or a formal or informal request of any taxation authority;
- (e) to any insurer upon obtaining from such insurer an undertaking of confidentiality equivalent to that contained in Clause 39.1;
- (f) to directors, employees and officers of such party, to the extent necessary to enable such party to perform its obligations under this Franchise Agreement or to protect or enforce its rights under this Franchise Agreement; or
- (g) by the Franchise Operator, to the Regulator, a Rail Passengers' Committee or a Local Authority.

39.3 Publication of certain information

- (a) Notwithstanding the provisions of Clause 39.1 above, the Authority shall be entitled to publish (whether to the press, the public or to one or more individuals, companies or other bodies, including to prospective Successor Operators) in such form and at such times as it sees fit, the following (for the avoidance of doubt, irrespective of whether the same was provided to the Authority by the Franchisee or Franchise Operator or a third party):
 - (i) the amount of Franchise Payments payable under this Franchise Agreement and the aggregate amount of Franchise Payments and Incentives paid in each year under this Franchise Agreement;
 - (ii) such information as the Authority may consider reasonably necessary to publish in connection with the performance of its functions in relation to any Closures or proposed Closures;
 - (iii) any Passenger's Charter Statistics and the amounts of any payments by the Franchise Operator under the Passenger's Charter;
 - (iv) such information as the Authority may reasonably require to publish in order to explain the nature of, and reasons for, or to consult on any PSR/ASC Changes or proposed PSR/ASC Changes;
 - (v) such information as may reasonably be required in connection with the retendering or reletting of the franchise or any part thereof, provided that such information may only be published during the period of, or during the period leading up to, such retendering or reletting;
 - (vi) any reports and accounts delivered to it under Clause 15.2(a);

- (vii) the results of any monitoring or measurement of the performance of the Franchise Operator in the provision of the Franchise Services (including any information provided under Clause 15.1(c) or (d) of this Franchise Agreement and including the Public Performance Measure);
 - (viii) the results, on a service group, route, station or other comparable basis, of any passenger counts under Clause 6.2;
 - (ix) such information as the Authority may reasonably require to publish in connection with the provision of the Passenger Services by the Franchise Operator in accordance with the Load Factor Specifications;
 - (x) the results of any surveys under Clause 8.4;
 - (xi) details of the Franchise Operator's plans and performance in respect of safety;
 - (xii) such information as the Authority may reasonably require to publish in connection with the implementation of any Major Projects;
 - (xiii) such information as the Authority may reasonably require to publish in connection with Parts 2 and 3 of Schedule 14;
 - (xiv) subject to section 75(3) of the Act, such information as the Authority may reasonably require to include in its annual report in respect of all franchise operators; and
 - (xv) such information as the Authority may reasonably require to publish at or around the expiry or possible termination of the Franchise Period in order to secure continuity of the provision and operation of the Franchise Services.
- (b) Except to the extent permitted above or otherwise under this Clause 39, the Authority may publish any other information relating to the Franchise Operator if it has previously notified the Franchise Operator and the Franchise Operator does not demonstrate to the reasonable satisfaction of the Authority within 14 days of such notification that the publication of such information would be materially detrimental to its business. If the Franchisee or Franchise Operator attempts so to demonstrate to the Authority but it is not so satisfied, the Authority shall allow seven more days before publishing the relevant information.

39.4 Publication by Authority

Nothing in this Clause 39 shall be deemed to prohibit, prevent or hinder, or render the Authority liable for, the disclosure of any information by the Authority to the Regulator, the Parliamentary Commissioner for Administration, a Minister of the Crown or any department of the government of the United Kingdom or the Scottish Parliament, National Assembly of Wales, Mayor of London, Greater London Authority or any department or officer of any of them or of information which is otherwise disclosed for the purpose of facilitating the carrying out of its functions.

39.5 Provision of information to Regulator

The Franchise Operator hereby authorises the Authority to provide to the Regulator, to the extent so requested by the Regulator, such information as may be provided to the Authority in relation to the Franchise Operator under this Franchise Agreement.

39.6 Disclosure by Comptroller and Auditor General

The parties to this agreement recognise that the Comptroller and Auditor General may in pursuance of his functions under the Exchequer and Audit Department Acts 1866 and 1921 and the National Audit Act 1983 disclose information which he has obtained pursuant to those Acts and which a party to this Franchise Agreement would not be able to disclose otherwise than under this Clause 39.

39.7 Continuing Obligation

This Clause 39 (and any other Clauses necessary to give effect thereto) shall survive the termination of this Franchise Agreement irrespective of the reason for termination.

40 Notices

40.1 Notices⁹¹⁰

Any notice, notification or other communication under or in connection with this Franchise Agreement shall be in writing and shall be delivered by hand or recorded delivery or sent by pre-paid first class post, or by electronic data transfer (subject to notification by the recipient of any facility it may operate for receipt of such data transfer) to the relevant parties at the relevant addresses for services set out below, or to such other address in the United Kingdom as each party may specify by notice in writing to other parties to this Franchise Agreement.

Name: **¹¹Department for Transport**
Address: ¹² **Great Minster House
33 Horseferry Road
London
SW1P 4DR**
Attention: **Director, Rail Commercial Contracts¹³**
Facsimile: **0207 944 2446**
E-mail: **Franchise.notices@dft.gsi.gov.uk**

Name: **Arriva Trains Limited**
Address: **1 Admiral Way
Doxford International Business Park
Sunderland
Tyne & Wear
SR3 3XP**

Facsimile number: 0191 520 4181
Email address: thorpe1@arriva.co.uk

⁹ New text inserted wef 28th January 2005

¹⁰ date of change 26.4.2005

¹¹ Date of Change 19.1.2006

¹² Date of Change 01/10/2011

¹³ Date of Change 24/02/2011

Attention: The Company Secretary

Name: **Arriva Trains Wales/Trenau Arriva Cymru Limited**

Address **St. Mary's House
47 Penarth Road
Cardiff/Caerdydd
CF10 5DJ**

Facsimile number: 02920 645 357

Email address: thorpl@arriva.co.uk

Attention: The Company Secretary"

40.2 Deemed Receipt

Any such notice or other communication shall be deemed to have been received by the party to whom it is addressed as follows:

- (a) if sent by hand or recorded delivery, when so delivered;
- (b) if sent by pre-paid first class post, from and to any place within the United Kingdom, three business days after posting unless otherwise proven; and
- (c) if by electronic data transfer, upon sending.

41 Assignment

The Franchisee and the Franchise Operator shall not without the prior written consent of the Authority assign, hold in trust for any other person, or grant a Security Interest in or over, this Franchise Agreement or any part thereof or any benefit or interest or rights therein or thereunder (other than any rights that the Franchise Operator may have to receive monies under a Supplemental Agreement or Clause 35.5).

42 Delegation

Anything authorised or required to be done by or under this Franchise Agreement by the Authority may be done by any member of its staff who is authorised generally or specially in that behalf by the Authority or any of its or their agents or representatives.

43 Settlement of Disputes

Where any of the parties are entitled, pursuant to the terms of this Franchise Agreement, to refer a dispute arising out of or in connection with this Franchise Agreement for resolution or determination in accordance with the Dispute Resolution Rules, then such dispute shall, unless the parties otherwise agree and subject to any duty of the Authority under section 55 of the Act, be resolved or determined by arbitration pursuant to the Dispute Resolution Rules, save that the arbitrator shall be a suitably qualified person chosen by agreement between the parties or, in default of agreement, chosen by the Disputes Secretary from a panel of persons agreed from time to time for such purposes between the Authority and the Franchise Operator or, in default of agreement as to the arbitrator or as to such panel, selected on the application of any party by the President of the Law Society or the

President of the Institute of Chartered Accountants in England and Wales from time to time (or such other person to whom they may delegate such selection).

44 Miscellaneous Provisions

44.1 Variations in Writing

- (a) Subject to Clause 44.1(b), no variation of this Franchise Agreement (other than pursuant to a Change Certificate or otherwise expressly contemplated under this Franchise Agreement) shall be effective unless in writing and signed by duly authorised representatives of the parties.
- (b) The consent or approval of the Franchisee shall not be required for any variation or amendment of the rights or obligations of the Authority and Franchise Operator under this Franchise Agreement.
- (c) Subject thereto, the parties may make such variations as they may consider appropriate from time to time.

44.2 Waivers

- (a) The Authority may at any time waive the obligations of the Franchisee and the Franchise Operator under this Franchise Agreement and their obligations hereunder shall be construed accordingly.
- (b) No waiver by any party of any default by another in the performance of any of the provisions of this Franchise Agreement shall operate or be construed as a waiver of any other or further default whether of a like or different character. The failure to exercise or delay in exercising a right or remedy under this Franchise Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Franchise Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

44.3 Disregard Tolerances

- (a) The Authority may by notice to the Franchise Operator from time to time specify Disregard Tolerances which shall apply for the purposes of the Franchise Agreement to the extent specified in such notice.
- (b) For the purpose of this Clause 44.3, "Disregard Tolerances" shall mean specified parameters within which any act or omission by the Franchise Operator or any other occurrence or matter which would, but for this Clause, constitute a breach of the Franchise Operator's obligations under this Franchise Agreement, shall be disregarded by the Authority and shall not constitute such a breach. For the avoidance of doubt, the Authority may make the application of any Disregard Tolerance conditional upon any matter as may be specified by the Authority in the notice. This may include the Franchise Operator taking such steps as the Authority considers appropriate to rectify or otherwise secure future compliance with the relevant obligations.
- (c) The obligations of the Franchise Operator in respect of which Disregard Tolerances may be specified by the Authority may relate to:

- (i) the Passenger Service Requirement and/or the Additional Service Commitment;
 - (ii) Fares; and
 - (iii) such other matters as the Authority may notify the Franchise Operator from time to time.
- (d) The Authority may at any time by notice to the Franchise Operator amend or withdraw, with effect from the date stated in the notice, any Disregard Tolerances previously specified. No such notice shall have retrospective effect.

44.4 Change of Framework

- (a) Subject to Clauses 44.4(f) and (g), on the occurrence of any Change of Framework the Authority may (but shall not be obliged to), after consultation with the Franchise Operator and other franchise operators whose franchise agreements contain an equivalent clause to this Clause 44.4, make such modifications to the Relevant Provisions as may reasonably be necessary to ensure that the commercial effect of such provisions is preserved and not affected as a result of the relevant Change of Framework and the Franchisee and Franchise Operator hereby irrevocably consent to such changes. The Authority will, for the avoidance of doubt, not be obliged to make any alterations to the level of Franchise Payments as a result of any Change of Framework under this Clause.
- (b) For the purposes of this Clause 44.4, “**Change of Framework**” means any alteration in the procedural, operational, mechanical or other similar relationship between any relevant railway industry parties (including Network Rail and the Franchise Operator) (but not, for the avoidance of doubt, the financial relationship between the relevant parties (including any incentive or performance regime) nor any type of relationship in so far as it relates to the balance or allocation of risks between the relevant parties) including as a result of:
 - (i) a Change of Law;
 - (ii) any amendment, alteration, termination (in whole or in part) or modification to or change of interpretation of or entry into any contract or agreement between any relevant industry parties;
 - (iii) any change of practice or custom of relevant industry parties (whether or not reflected in any amendment to any relevant agreement); or
 - (iv) the change of identity of any particular partywhich, in any case, affects or restricts the commercial effect of any Relevant Provisions of this Franchise Agreement as in effect prior to the relevant Change of Framework.
- (c) For the purposes of this Clause 44.4, the “**Relevant Provisions**” are:
 - (i) Clauses 5.1 and 5.2 (which relate to the procedure for creating the Timetable);
 - (ii) Clause 5.4(c)(i) and (ii) (being certain *Force Majeure* Events);
 - (iii) Clause 5.9 (which relates to permitted subcontracting);

- (iv) Clause 7 (which relates to the publication of the Timetable);
 - (v) Clause 12.14 (which relates to Major Projects);
 - (vi) Clause 12.15 (which relates to Incremental Output Statements);
 - (vii) Clause 13 (which relates to the railway industry pension arrangements);
 - (viii) paragraphs 13 to 19 of Part 2 of Schedule 5 and Clauses 9.2, 9.3 and 30 (which relate to the creation and sale of Fares);
 - (ix) Part 3 of Schedule 7 (which relates to the determination of the performance of the Franchise Operator);
 - (x) Part 3(a) of Schedule 15 (which relates to the determination of the performance of the Franchise Operator);
 - (xi) the definitions of “Collateral Agreement”, “Creating”, “Initial Flexing Rights”, “Network Change”, “Passenger Change Date”, “Pension Trust”, “Summer Timetable” and “Winter Timetable” and related definitions, “Rules of the Plan”, “Rules of the Route”, “Safety Case”, “Timetable”, “Track Access Agreement” and “Working Timetable” and other definitions relating to the other Relevant Provisions set out above.
- (d) Nothing in this Clause 44.4 shall be construed to mean that any other provisions of this Franchise Agreement should cease to be effective on a Change of Framework.
- (e) Insofar as any Change of Framework also constitutes a Change of Law then the provisions of Clause 18.2 shall apply.
- (f) If the Franchise Operator believes that the modifications to any Relevant Provisions (if any) proposed by the Authority in response to a Change of Framework will have a material adverse effect on the Franchise Operator, then it may make representations to the Authority. The Authority will consider whether it agrees that there would be a material adverse effect on the Franchise Operator. If agreement cannot be reached upon whether there would be such a material adverse effect, then either party may refer the matter to dispute resolution under the Dispute Resolution Rules. If it is determined that there would be a material adverse effect, the Authority may, but shall not be obliged to, propose modifications or alternative modifications (as applicable) to the Relevant Provisions in accordance with Clause 44.4(a) which do not in its opinion give rise to a material adverse effect or, if the Authority does not wish to propose modifications or alternative modifications (as applicable), then Clause 44.4(g) shall apply.
- (g) If it is agreed or determined that the modifications proposed by the Authority in accordance with Clause 44.4(a) (“the original modifications”) will have a material adverse effect on the Franchise Operator and the Authority does not wish to propose modifications or alternative modifications (as applicable) under Clause 44.4(f), then the No Net Loss No Net Gain Regime will apply in respect of the original modifications.

44.5 Time Limits

Where in this Franchise Agreement, any obligation of a party is required to be performed within a specified time limit (including, for the avoidance of doubt, an obligation to use reasonable endeavours or all reasonable endeavours to secure a particular result within

such time limit) that obligation shall be deemed to continue after that time limit if the party fails to comply with that obligation (or secure the result, as appropriate) within the time limit.

44.6 Payments to be Free and Clear

All sums payable by any party under this Franchise Agreement shall be paid free and clear of any deductions, withholdings, set-offs or counter-claims, save only as may be required by law or as expressly permitted or required under this Franchise Agreement.

44.7 Partial Invalidity

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

44.8 Further Assurance

Each of the parties agrees to execute and deliver all such further instruments and do and perform all such further acts and things as shall be necessary or expedient for the carrying out of the provisions of this Franchise Agreement.

44.9 Rights of Third Parties

- (a) A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement except to the extent set out in this Clause 44.9.
- (b) Any Successor Operator or potential Successor Operator nominated by the Authority and notified to the Franchise Operator for the purposes of this Clause 44.9 may enforce and rely on the provisions of Part V of this Agreement to the same extent as if it were a party but subject to Clause 44.9(d).
- (c) This Agreement may be terminated and any term may be amended or waived without the consent of any person nominated under Clause 44.9(b).
- (d) The person nominated under Clause 44.9(b) shall only be entitled to enforce and rely on Part V of this Agreement to the extent determined by the Authority (whether at the time of nomination or at any other time) except that, to the extent any such person is entitled to enforce and rely on Part V of this Agreement, any legal proceedings in relation thereto must be commenced within one year of the expiry of the Franchise Period and any such person shall not be entitled to enforce or rely on Part V of this Franchise Agreement to the extent that it has consented to any particular act or omission of the Franchise Operator which may constitute a breach of Part V or has been afforded a reasonable opportunity to indicate to the Franchise Operator that it is not so consenting and has not so indicated (such reasonable opportunity to be determined by the Authority unless otherwise agreed).

44.10 [Intentionally not used]

44.11 Authority's consent or approval

For the avoidance of doubt, where any provision of this Agreement (other than a provision to which Clause 12.8 applies) provides for any matter to be subject to the consent or approval of the Authority, then (subject only to the express terms (if any) of that provision as to the basis on which that consent or approval may be given or withheld) the Authority shall be entitled to make that consent or approval subject to any such condition or conditions as it considers appropriate, which may include, but shall not be limited to, the adjustment of any other terms of this Agreement.

45 Governing Law

This Franchise Agreement shall be governed by and construed in accordance with the laws of England and Wales and, subject to the provisions of Clause 43, the parties irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Franchise Agreement.

In witness whereof the parties hereto have executed this Franchise Agreement the day and year first before written.

The corporate seal of)
THE STRATEGIC RAIL AUTHORITY)
hereto affixed is authenticated by:)

SRA SEAL

ROBERT PLAMPIN **ROBERT PLAMPIN**
.....
Authorised by
THE STRATEGIC RAIL AUTHORITY

SIGNED by **E A CAMERON**
for and on behalf of
ARRIVA TRAINS LIMITED } **E A CAMERON**

SIGNED by **E A CAMERON**
for and on behalf of
ARRIVA TRAINS WALES/TRENAU ARRIVA
CYMRU LIMITED } **E A CAMERON**

Schedule 1 — Conditions Precedent and Other Documents (Clause 2.2)

Part 1 — Licences

- (a) Passenger Train Operator's Licence.
 - (b) Station Operator's Licence.
 - (c) Depot Operator's Licence.
- Non-passenger Operator's Licence.

Part 2 — Access Agreements

(a) Track access

Track Access Agreement dated 28 May 1995 between Railtrack and the Cardiff Railway Company Limited as amended by:

- (i) the Second Supplemental Track Access Agreement dated 6 December 1995 between Railtrack and the Cardiff Railway Company Limited;
- (ii) the Third Supplemental Track Access Agreement dated 18 January 1996 between Railtrack and the Cardiff Railway Company Limited; and
- (iii) the Fourth Supplemental Track Access Agreement dated 20 March 1996 between Railtrack and the Cardiff Railway Company Limited and the Supplemental Track Access Agreements to the Fourth Supplemental Track Access Agreement denominated 4a and 4b dated 22 February 1996 and 27 February 1996 between Railtrack and the Cardiff Railway Company Limited;
- (iv) the Fifth Supplemental Track Access Agreement dated 27 March 1996 between Railtrack and the Cardiff Railway Company Limited;
- (v) the Sixth Supplemental Track Access Agreement dated 19 March 1996 between Railtrack and the Cardiff Railway Company Limited;
- (vi) the Seventh Supplemental Track Access Agreement dated 28 March 1996 between Railtrack and the Cardiff Railway Company Limited;
- (vii) the Eighth Supplemental Track Access Agreement dated 25 April 1996 between Railtrack and the Cardiff Railway Company Limited;
- (viii) the Ninth Supplemental Track Access Agreement dated 19 July 1996 between Railtrack and the Cardiff Railway Company Limited; and
- (ix) the Tenth Supplemental Track Access Agreement dated 7 October 1996 between Railtrack and the Cardiff Railway Company Limited;
- (x) the Twelfth Supplemental Track Access Agreement dated 19 May 1998 between Railtrack and the Cardiff Railway Company Limited and the Supplemental Track Access Agreements to the Twelfth Supplemental Track Access Agreement denominated 12a and 12b dated 4 August 1998 and 21 August 1998 between Railtrack and the Cardiff Railway Company Limited;

- (xi) the Fourteenth Supplemental Track Access Agreement dated 25 September 1998 between Railtrack and the Cardiff Railway Company Limited;
- (xii) the Fifteenth Supplemental Track Access Agreement dated 30 March 1999 between Railtrack and the Cardiff Railway Company Limited;
- (xiii) the Twentieth Supplemental Track Access Agreement dated 25 May 2000 between Railtrack and the Cardiff Railway Company Limited;
- (xiv) the Twenty-second Supplemental Track Access Agreement dated 21 September 2000 between Railtrack and the Cardiff Railway Company Limited;
- (xv) the Twenty-third Supplemental Track Access Agreement dated 30 April 2001 between Railtrack and the Cardiff Railway Company Limited;
- (xvi) the Twenty-fourth Supplemental Track Access Agreement dated 28 September 2001 between Railtrack and the Cardiff Railway Company Limited;
- (xvii) the Twenty-fifth Supplemental Track Access Agreement dated 12 October 2001 between Railtrack and the Cardiff Railway Company Limited;
- (xviii) the Twenty-sixth Supplemental Track Access Agreement dated 16 May 2002 between Railtrack and the Cardiff Railway Company Limited;
- (xix) the Twenty-seventh Supplemental Track Access Agreement dated 5 December 2002 between Railtrack and the Cardiff Railway Company Limited;
- (xx) the Twenty-eighth Supplemental Track Access Agreement dated 26 September 2002 between Railtrack and the Cardiff Railway Company Limited;
- (xxi) the Twenty-ninth Supplemental Track Access Agreement dated 14 May 2003 between Network Rail and the Cardiff Railway Company Limited;
- (xxii) the Thirtieth Supplemental Track Access Agreement dated 24 September 2003 between Network Rail and the Cardiff Railway Company Limited; and
- (xxiii) the Thirty-first Supplemental Track Access Agreement dated 23 September 2003 between Network Rail and the Cardiff Railway Company Limited.

(b) Independent station access

- (i) Station Access Agreement dated 1 April 1995 between Railtrack and the Cardiff Railway Company Limited relating to Birmingham New Street.
- (ii) Station Access Agreement dated 1 April 1995 between Railtrack and the Cardiff Railway Company Limited relating to Manchester Piccadilly.
- (iii) Station Access Agreement dated 4 October 1996 between Railtrack and the Cardiff Railway Company Limited relating to London Waterloo.

Part 3(a) — Inter-Operator Schemes

- (i) ATOC Staff travel scheme dated 23 July 1995, between the Cardiff Railway Company and the other participants named therein;
- (ii) Ticketing and Settlement Agreement;
- (iii) ATOC LRT Scheme dated 23 July 1995, between the Cardiff Railway Company and the other participants named therein;

- (iv) Travelcard Agreement dated 15 October 1995, between London Regional Transport, the Cardiff Railway Company and the other train operators named therein;
- (v) Through Ticketing (Non-Travelcard) Agreement dated 15 October 1995, between London Regional Transport, the Cardiff Railway Company Limited and the other train operators named therein; and
- (vi) National Rail Enquiry Scheme dated 11 June 1996, between the Cardiff Railway Company Limited and the other participants named therein.

Part 3(b) — Discount Fare Schemes

- (i) ATOC Disabled Persons Railcard Scheme dated 23 July 1995, between the Franchise Operator and the other participants named therein;
- (ii) ATOC Young Persons Railcard Scheme dated 23 July 1995, between the Franchise Operator and the other participants named therein; and
- (iii) ATOC Senior Railcard Scheme dated 23 July 1995, between the Franchise Operator and the other participants named therein.

Part 4 — Property Leases

(a) Stations

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Aber station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Abercynon North station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Abercynon South station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Aberdare station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Aberdovey station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of station Abergavenny.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Abererch station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of station Aberystwyth.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ammanford station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Baglan station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Bargoed station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Barmouth station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Barry station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Barry Docks station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Barry Island station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Birchgrove station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Borth station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Bridgend station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Brithdir station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Briton Ferry station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Broome station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Bucknell station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Bulth Road station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Bynea station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cadoxton station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Caerphilly station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Caersws station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Caldicot station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cardiff Bay station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cardiff Central station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cardiff Queen Street station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Carmarthen station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cathays station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Chepstow station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Chirk station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Church Stretton station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cilmeri station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Clarbeston Road station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Clunderwen station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cogan station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Coryton station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Craven Arms station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Criccieth station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cwmbach station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cwmbran station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Cynghordy station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Danescourt station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Dinas (Rhondda) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Dinas Powys station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Dingle Road station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Dolau station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Dovey Junction station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Dyffryn Ardudwy station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Eastbrook station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Fairbourne station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Fairwater station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Fernhill station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ferryside station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ffairfach station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Fishguard Harbour station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Garth (Dyfed) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Garth (Glamorgan) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Gilfach Fargoed station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Gobowen station

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Gowerton station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Grangetown station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Harlech station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Haverfordwest station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Heath High Level station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Heath Low Level station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Hengoed station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Hereford station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Hopton Heath station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Johnston station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Kidwelly station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Kilgetty station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Knighton station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Knucklas station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Lamphey station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Leominster station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Lisvane & Thornhill station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Llanaber station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Llanbedr station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llanbister Road station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llanbradach station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llandaf station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Llandanwg station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Llandecwyn station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llandeilo station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llandovery station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llandrindod Wells station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llandybie station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llanelli station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llangadog station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llangammarch station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llangennech station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llangynllo station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llanishen station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llansamlet station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llanwrda station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llanwrtyd Wells station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Llwyngwril station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Llwynypia station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ludlow station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Lydney station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Machynlleth station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Maesteg station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Maesteg (Ewenny Road) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Manorbier station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Merthyr Tydfil Luxulyan station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Merthyr Vale station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Milford Haven Commando station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Minffordd Village station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Morfa Mawddach station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Mountain Ash station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Nantwich station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Narberth station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Neath station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Newport station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Newtown (Powys) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ninian Park station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pantyffynnon station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pembrey & Burry Port station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pembroke station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pembroke Dock station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Penally station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Penarth station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pencoed station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pengam station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Penhelig station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Penrhiwceiber station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Penrhyndeudraeth station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Pensarn station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pentre-bach station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pen-y-Bont station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Penychain station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pontarddulais station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pontlottyn station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pontyclun station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pontypool & New Inn station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pontypridd station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Port Talbot Parkway station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Porth station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Porthmadog station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Prees station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Pwllheli station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Pyle station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Quakers Yard station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Radyr station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Rhiwbina station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Rhymney station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Ruabon station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Sarn station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Saundersfoot station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Severn Tunnel Junction station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Shrewsbury station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Skewen station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Sugar Loaf Halt station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Swansea station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Taffs Well station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Talsarnau station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Talybont station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Tenby station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Tir-phil station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Tondu station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ton Pentre station

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Tonfanau station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Tonypany station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Trefforest station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Trefforest Estate station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Trehafod station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Treherbert station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Treorchy station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Troed-y-Rhiw station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ty Glas station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Tygwyn station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Tywyn station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Waun-gron Park station.

Lease dated 2 March 1997 between Railtrack and the Cardiff Railway Company Limited in respect of Welshpool station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Wem station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Whitchurch (Glamorgan) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Whitchurch (Salop) station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Whitland station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Wildmill station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Wrenbury station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ynyswen station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Yorton station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ystrad Mynach station.

Lease dated 13 October 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Ystrad Rhondda station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Abergele & Pensarn station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Bangor station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Betws-y-Coed station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Blaenau Ffestiniog station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Bodorgan station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Buckley station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Caergwrle station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Cefn-y-Bedd station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Chester station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Colwyn Bay station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Conwy station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Deganwy station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Dolgarrog station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Dolwyddelan station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Flint station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Frodsham station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Glan Conwy station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Gwersyllt station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Hawarden station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Hawarden Bridge station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Helsby station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Heswall station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Hope (Clwyd) station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Llandudno station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Llandudno Junction station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Llanfairfechan station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Llanfairpwll station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Llanrwst station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of North Llanrwst station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Neston station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Penmaenmawr station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Pen-y-Ffordd station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Pont-y-Pant station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Prestatyn station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Rhosneigr station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Rhyl station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Roman Bridge station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Runcorn East station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Shotton (High Level) station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Shotton (Low Level) station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Tal-y-Cafn station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Ty Croes station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Upton station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Valley station.

Lease dated 2 March, 1997 between Railtrack and North West Regional Railways Limited in respect of Wrexham General station.

Agreement for Lease dated 1 April, 1998 between Railtrack and North Western Trains Company Limited in respect of Wrexham Central station.

Agreement for Lease dated 4 February 1997 between Railtrack and North Western Trains Company Limited in respect of Holyhead station.

[Note: References under this paragraph (a) in items 190 to 234 to North West Regional Railways Limited should be read as referring to BRB who entered into the leases on behalf of North West Regional Railways Limited (then a TOU).]

(b) **Depots**

Lease dated 28 June 1996 between Railtrack and the Cardiff Railway Company Limited in respect of Canton depot.

Lease dated 7 October, 1996 between Railtrack and North West Regional Railways Limited in respect of Holyhead depot.

(c) **Independent Stations**

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Part 5 — Rolling Stock Leases

1. Rolling Stock MOLA between Angel Trains Contracts Limited and Cardiff Railway Company Limited dated 1 September 1999.

2. Rolling Stock MOLA in respect of the Rolling Stock Units as set out in the Supplemental Leases (at (5)-(7)) below between Porterbrook Leasing Company Limited and Cardiff Railway Company Limited dated 16 October 1995.
- 3a. Lease Supplement in respect of five Class 143 Pacer DMUs between Porterbrook Leasing Company Limited and Cardiff Railway Company Limited dated 14 October 2001 (PB/LS/129/01) – units: 143604/143606/143607/143624/143625
- 3b. Lease Supplement (Amendment & Restatement) in respect of seven Class 143 Pacer DMUs between Porterbrook Leasing Company Limited and Cardiff Railway Company Limited signed by Cardiff Railway Company Limited (PB/LS/129/01) – units: 143604/ 143606/ 143607/ 143622/ 143623/ 143624/ 143625.
- 3c. Lease Supplement in respect of five Class 143 Pacer DMUs between Porterbrook Leasing Company Limited and Cardiff Railway Company Limited dated 14 October 2001 (PB/LS/129/02) – units: 143602/143605/143608/143615/143616.
- 3d. Agreement Relating to the City Line Service between the British Railways Board and The County Council of South Glamorgan dated 27th March 1992 – unit: 143609.
- 3e. Agreement relating to providing a passenger train service between Cardiff in the County of South Glamorgan and Maesteg in the County of Mid Glamorgan between the British Railways Board and Mid Glamorgan County Council dated 22nd March 1991 – units: 143601/ 143610/ 143614.
4. Lease Supplement in respect of six Class 150/2 Sprinter DMUs between Porterbrook Leasing Company Limited and Cardiff Railway Company Limited dated 14 October 2001 – units: 150267/150278/150279/150280/150281/150282.
5. Lease Supplement in respect of four Class 153 single car DMUs between Porterbrook Leasing Company Limited and Cardiff Railway Company Limited dated 28 September 2003 (PB/LS/129/04) – units: 153310/ 153313/ 153361/ 153367.
- 6a. Lease Supplement in respect of ten Class 142 Pacer DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated 14 October 2001 (ACR1429001) – units: 142085/ 142086/ 142087/ 142088/ 142089/ 142090/ 142091/ 142092/ 142093/ 142094.
- 6b. Lease Supplement in respect of five Class 142 Pacer DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated 14 October 2001 (ACR1429002) – units: 142083/ 142010/ 142069/ 142002/ 142006.
- 6c. Lease Substitution and Amendment in respect of the nine Class 142 Pacer DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated various from 16 August 2002 to 20 December 2002 – units: 142072/ 142073/ 142074/ 142075/ 142076/ 142077/ 142080/ 142081/ 142082.
- 7a. Lease Supplement in respect of twenty nine Class 158 Sprinter DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated 14 October 2001 (AWB1580001) – units 158815/ 158816/ 158817/ 158818/ 158819/ 158820/ 158821/

158822/ 158823/ 158824/ 158825/ 158826/ 158827/ 158828/ 158829/ 158830/ 158831/
158832/ 158833/ 158834/ 158835/ 158836/ 158837/ 158838/ 158839/158840/ 158841/
158842/ 158843.

- 7b. Lease Amendment in respect of two Class 158 Sprinter DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated 8 October 2002, transferring 158815 / 158816 to Wales & West Passenger Trains Limited t/a Wessex Trains.
- 7c. Operating Sublease Agreement for Passenger Rolling Stock between Cardiff Railway Company t/a Wales & Borders Trains Limited and Wales & West Passenger Trains Limited t/a Wessex Trains dated 28 September 2003 with reference to 158817.
8. Lease Supplement in respect of eleven Class 158 Sprinter DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated 14 October 2001 (AWB1580002) – units 158844/ 158845/ 158846/ 158847/ 158848/ 158849/ 158850/ 158851/ 158852/ 158853/ 158854.
9. Lease Supplement in respect of five Class 153 DMUs between Angel Trains Limited and Cardiff Railway Company Limited dated 14 October 2001 (AWB1530001) – units 153303/ 153327/ 153362/ 153312/ 153353.
10. Rolling Stock Hire Agreement in respect of sixteen Mark 2 F vehicles between Riviera Trains and Cardiff Railway Company Limited dated 3 July 2003 – units: 5911/ 5961/ 5971/ 5976/ 6008/ 6064/ 6067/ 6119/ 6137/ 6162/ 6177/ 6183/ 9520/ 9527/ 9529/ 9531.
11. Operating Hire Agreement in respect of WX/WB/SL1 (with the option to hire Class 143, 150/2, 153 & 158 Vehicles) between Cardiff Railway Company Limited and Wales & West Passenger Trains Limited dated 14 October 2001 – customer has option to request hire of vehicles.
12. Operating Hire Agreement in respect of WB/CT/SL1 (with the option to hire Class 143, 150/2, 153 & 158 Vehicles) between Cardiff Railway Company Limited and Central Trains Limited dated 14 October 2001– customer has option to request hire of vehicles.
13. Operating Sublease Agreement for Passenger Rolling Stock in respect of three Class 153 single car DMU (sets 153320/153321/153323) between Central Trains Limited and Wales & West Passenger Trains Limited dated 28 September 2001.

Part 6 — Brand Licences

- (a) Exclusive Trade Mark Licence Agreement dated 10 December 1995 between the Director of Passenger Rail Franchising and the Previous Franchise Operator in respect of certain trade marks relating exclusively to the Previous Franchise Operator.
- (b) Non-exclusive Trade Mark Licence Agreement dated 10 December 1995 between the Director of Passenger Rail Franchising and the Previous Franchise Operator in respect of certain other trade marks not relating exclusively to the Previous Franchise Operator.

Part 7 — Local Authority Schemes

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Part 8 - Major Projects

- (a) West Midlands Capacity - the options identified by the West Midlands Rail Network Capacity Review to address the capacity requirements of the rail network in the West Midlands to the year 2020 as identified in the Summary Report published by the consultants and the Next Steps Paper published by the steering group, in each case in June 2000;
- (b) Channel Tunnel Rail Link (CTRL) - high speed rail link between the Channel Tunnel and London St Pancras station, including capacity for domestic services in Kent as well as international services;
- (c) East Coast Main Line upgrade - a number of phased infrastructure and rolling stock projects to increase route capacity, reduce journey times and deliver better operational performance by major works at Leeds, Peterborough and Doncaster, the upgrading of diversionary routes for freight and the construction of new tunnels and a viaduct at Welwyn;
- (d) East London Line - a northern extension (to the North London Line near Dalston) and a southern extension (to the national rail network south of the Thames) to the East London Line, in order to enable services to operate between Willesden Junction, Finsbury Park and Highbury & Islington north of the Thames, and Wimbledon, West Croydon and Crystal Palace to the south;
- (e) Leeds First - a comprehensive resignalling and track enhancement scheme. Key features involve a doubling of the approach tracks into Leeds from the east and the abolition of several conflicting movements which have historically limited capacity. Extra capacity is included within the scheme through the commissioning of new platforms and the overall speed of trains through the layout is increased;
- (f) Line 9 works at London Bridge station - an amendment to the planned Thameslink 2000 works at London Bridge, including an additional through route and ninth platform to augment the eight high-level platforms already proposed under Thameslink 2000;
- (g) London Cross Rail - a project integrating main line services to the west and east of London via new tunnels between Paddington and Liverpool Street, and to include new stations with Underground connections at Bond Street, Tottenham Court Road and Farringdon;

- (h) Thameslink 2000 - a project to increase the capacity of the route between London St Pancras and Blackfriars stations to permit the operation of up to 24 services per hour in each direction of trains of up to 12 cars in length and to construct a new connection on to the East Coast Main Line permitting the operation of services on the East Coast as well as the Midland Main Lines via London Bridge or Elephant and Castle to a range of destinations in southern England. The project also includes the provision of a new subterranean station below St Pancras and the enhancement of a number of stations to permit the operation of 12-car trains;
- (i) West Coast Main Line upgrade - works planned in two phases to deliver (at Phase 1) infrastructure works to enable tilting trains to travel at up to 125 mph, and to enable one extra train to be run on the line per hour, and (at Phase 2), *inter alia*, works to enable tilting trains to travel at up to 140 mph, and to enable further trains to be run between London and Birmingham, Manchester and Holyhead / Chester, and the fitting of Automatic Train Protection to the infrastructure throughout the core route; and
- (j) Edinburgh Cross-Rail - a scheme to provide a new half-hourly passenger service (to be operated by two Class 158 units) from the west of Edinburgh via Haymarket and Waverley Station to new stations at Brunstane and Kinnaird Park in the east and south-east of the city, including the upgrade of existing freight railway from Portobello Junction and a park and ride facility at Kinnaird Park.

Part 9 - Specified IOS Projects

Location	Main Output	Key Requirement	Lead Zone	Lead TOC	Tranche
Filton Jn. (IOS 03.068)	Operational Flexibility	Remodel the junction to allow parallel movements between the Bristol TM and Cardiff directions.	GW	Wessex	T1

Schedule 2 — Franchise Services (Clause 26 and others)

Part 1 — Passenger Services

Railway passenger services (excluding any Charter Services) in each direction via the following routes (and, in the event of a disruption, any reasonable diversionary route):

Service Group 1: Cardiff Local Services

Treherbert to Cardiff Central via Pontypridd

Aberdare to Cardiff Central via Pontypridd

Merthyr Tydfil to Cardiff Central via Pontypridd

Pontypridd to Cardiff Central via Radyr

Radyr to Cardiff Central via Cathays or Ninian Park

Coryton to Cardiff Central

Rhymney to Cardiff Central

Cardiff Queen Street to Cardiff Bay

Penarth to Cardiff Central

Barry Island to Cardiff Central

Maesteg to Cardiff Central

and calling at the following stations:¹⁴

Aber	Cwmbach	Maesteg	Sarn
Abercynon North	Danescourt	Maesteg (Ewenny Road)	Taffs Well
Abercynon South	Dinas Powys	Merthyr Tydfil	Tir-phil
Aberdare	Dinas Rhondda	Merthyr Vale	Ton Pentre
Bargoed	Dingle Road	Mountain Ash	Tondu
Barry	Eastbrook	Ninian Park	Tonypanydy
Barry Docks	Fairwater	Penarth	Treffeorest
Barry Island	Fernhill	Pencoed	Treffeorest Estate
Birchgrove	Garth (Mid Glamorgan)	Pengam	Trehafod
Bridgend	Gilfach Fargoed	Penrhiwceiber	Treherbert
Brithdir	Grangetown	Pentre-bach	Treorchy
Cadoxton	Heath High Level	Pontlloftyn	Troed-y-Rhiw
Caerphilly	Heath Low Level	Pontyclun	Ty Glas

¹⁴ Insertion of new text wef 22nd March 2004

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Cardiff Bay	Hengoed	Pontypridd	Waun-gron Park
Cardiff Central	Lisvane & Thornhill	Porth	Whitchurch (Cardiff)
Cardiff Queen Street	Llanbradach	Quakers Yard	Wildmill
Cathays	Llandaf	Radyr	Ynyswen
Cogan	Llanishen	Rhiwbina	Ystrad Mynach
Coryton	Llwynypia	Rhymney	Ystrad Rhondda

Service Group 2: Wales and Borders Rural and Inter-Urban¹⁵

Swansea to Pembroke Dock
Cardiff Central to Carmarthen via Swansea
Cardiff Central & Carmarthen to Milford Haven
Cardiff Central or Swansea or Carmarthen to Fishguard Harbour
Bridgend to Swansea (Swanline) Local
Shrewsbury to Llanelli and Swansea
Cardiff Central to Crewe and Manchester
Cardiff Central to Gloucester
Cardiff Central to Hereford
Hereford to Shrewsbury
Shrewsbury to Crewe
Birmingham New Street to Shrewsbury
Shrewsbury to Chester
Shrewsbury to Aberystwyth
Machynlleth to Pwllheli

¹⁶

Cardiff to Waterloo*
Cardiff to Holyhead
Cardiff to Liverpool
Crewe to Chester
Chester to Llandudno Junction
Llandudno Junction to Bangor
Bangor to Holyhead
Llandudno Junction to Llandudno

¹⁵ date of deletions 14.2.2006

Llandudno and Llandudno Junction to Blaenau Ffestiniog

Through services Crewe and Chester to Bangor and Holyhead

Wrexham to Bidston

Manchester and Chester to Bangor and Holyhead

Birmingham to Holyhead

and calling at the following stations:¹⁷

Aberdovey	Didcot Parkway*	Llanelli	Reading*
Abererch	Dockyard	Llangadog	
Abergavenny	Dolau	Llangammarch	Rhosneigr
Abergele & Pensarn	Dolgarrog	Llangennech	Rhyl
Aberystwyth	Dolwyddelan	Llangynllo	Roman Bridge
Albrighton	Dovey Junction	Llansamlet	Ruabon
Ammanford	Dyffryn Ardudwy	Llanrwst	Runcorn**
Baglan	Earlestown	Llanwrda	Runcorn East
Bangor (Gwynedd)		Llanwrtyd	
Barmouth	Fairbourne	Llwyngwrl	
Basingstoke*	Ferryside	London Waterloo*	
Bath Spa*	Ffairfach		
Betws-y-Coed		Ludlow	Salisbury*
Bidston	Fishguard Harbour	Lydney	
Bilbrook	Flint	Machynlleth	Saundersfoot
Birmingham New Street	Frodsham	Manchester Oxford Road	Severn Tunnel Junction
Blaenau Ffestiniog	Garth (Powys)	Manchester Piccadilly	Shifnal
	Glan Conwy	Manorbier	Shotton High Level
Bodorgan	Gloucester	Menheniot	Shotton
Borth	Gobowen	Milford Haven	Shrewsbury
Bradford-on-Avon*	Gowerton	Minffordd	Skewen
Bridgend	Gwersyllt	Morfa Mawddach	Stafford*** ¹⁸
	Harlech	Nailsea & Blackwell	Stockport
Bristol Parkway*	Haverfordwest	Nantwich	Sugar Loaf Halt
	Hawarden	Narberth	Swansea

¹⁶ date of deletion 14.2.2006

¹⁷ Insertion of new text wef 22nd March 2004

¹⁸ Insertion of new text wef 22nd March 2004: may not call from 26 September 2004 (affected services and stations indicated by ***)

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Briton Ferry	Hawarden Bridge	Neath	Swindon*
Broome		Neston	Talsarnau
Buckley	Helsby	Newport (S. Wales)	Talybont
Bucknell	Hereford		Tal-Y-Cafn
Builth Road	Heswall	Newton-le-Willows	
Bynea		Newtown (Powys)	
Caersws	Holyhead	North Llanrwst	Tenby
Caergwrle	Hope (Flintshire)	Oakengates	
Caldicot	Hopton Heath	Pantyyffynnon	Tonfanau
Cardiff Central	Johnston	Pembrey & Burry Port	Trowbridge*
Carmarthen		Pembroke	
Cefn-y-Bedd	Kidwelly	Pembroke Dock	Ty Croes
Chepstow	Kilgetty	Penally	Tywyn
Chester	Knighton	Pencoed	Tywyn
Chirk	Knucklas	Pengam	Upton
Church Stretton	Lamphey	Penhelig	Valley
Cilmeri	Leominster	Penmaenmawr	Warminster*
Clapham Junction*		Penrhyndeudrath	Warrington Bank Quay
Clarbeston Road	Liverpool Lime Street**	Pensarn	Wellington
Clunderwen	Llanaber	Pen-y-Bont	Welshpool
Codsall	Llanbedr	Penychain	
Colwyn Bay	Llanbister Road	Penyfford	Wem
Conwy	Llandanwg	Penzance	Whitchurch (Salop)
Craven Arms	Llandecwyn	Pontarddulais	Whitland
Criccieth	Llandeilo	Pontyclun	Wilmslow
Crewe	Llandovery	Pont-y-pant	Woking*
Cwmbran	Llandrindod Wells	Pontypool & New Inn	Wolverhampton
Cynghordy	Llandudno	Port Talbot Parkway	
[...]¹⁹	Llandudno Junction	Porthmadog	Wrenbury
	Llanfairfechan	Prees	Wrexham Central
Deganwy	Llanfairpwll	Prestatyn	Wrexham General
	Llandybie	Pwllheli	Yatton

¹⁹ Dawlish Warren deleted wef 22nd March 2004

Acton Bridge**²⁰

Lawrence Hill*

Patchway

Cosford

Chippenham*

Stapleton Road*

Telford Central

Hartford**

Winsford**

Provided that the above Service Group shall be amended to delete the Cardiff to Waterloo services (as operated immediately prior to the Franchise Commencement Date) with effect from the commencement of the Summer 2004 Timetable or such later date when these services are transferred to another franchise operator as notified by the Authority (affected services and stations indicated by *).

Business Units

1. The Valley Lines Business Unit shall be comprised of the passenger services included in Service Group 1 (Cardiff Local Services) as set out above and, in addition, services in each direction via the following routes (and, in the event of a disruption, any reasonable diversionary route) from the date of commencement of such services:

Barry to Bridgend (Vale of Glamorgan); and
Ebbw Vale Parkway to Cardiff Central.
2. Services on all other routes included in Service Group 2 shall be included in the Wales & Borders Rural and Inter-Urban Business Unit, save as set out in paragraph 3 below.
3. In the case of services which travel along the routes included in paragraph 1 above but which also travel for part of their journeys along routes included in Service Group 2, these shall for the purposes of the operation of the Business Units and performance monitoring under Clause 5.3 and Schedules 3 and 15, be treated for the respective parts of their journeys as being part of the Business Unit to which such route belongs.

Part 2 — Station Services

- (a) The provision of any services to persons at the following stations or to train operators whose trains call at the following stations (provided that such services:
 - (i) are made available only or principally to passengers alighting from or joining trains calling at such stations and to such train operators;
 - (ii) are provided in connection with the calling of trains at such stations and are not designed to encourage passengers or other persons to use such services other than in connection with a journey on a train calling at such stations; and

²⁰ Insertion of new text wef 22nd March 2004: Provided that the above Service Group shall be amended to delete the Cardiff to Liverpool services (as operated immediately prior to the Franchise Commencement Date) with effect from the commencement of the Winter 2004 Timetable (26 September 2004) or such later date when these services are transferred to another franchise operator as notified by the Authority (affected services and stations indicated by **)

- (iii) exclude the selling or issuing (for a charge) of any goods other than railway timetables); and
- (b) the provision of access to any person under an Access Agreement at the following stations:

Aber	Dingle Road	Llanishen	Radyr
Abercynon North	Dolau	Llansamlet	Rhiwbina
Abercynon South	Dolgarrog	Llanrwst	Rhosneigr
Aberdare	Dolwyddelan	Llanwrda	Rhyl
Aberdovey	Dovey Junction	Llanwrtyd	Rhymney
Abererch	Dyffryn Ardudwy	Llwyngwrl	Roman Bridge
Abergavenny	Eastbrook	Llwynypia	Ruabon
Abergele & Pensarn	Fairbourne	Ludlow	Runcorn East
Aberystwyth	Fairwater	Lydney	Sarn
Ammanford	Fernhill	Machynlleth	Saundersfoot
Baglan	Ferryside	Maesteg	Severn Tunnel Junction
Bangor (Gwynned)	Ffairfach	Maesteg (Ewenny Road)	Shotton High Level
Bargoed	Fishguard Harbour	Manorbier	Shotton
Barmouth	Flint	Merthyr Tydfil	Shrewsbury
Barry	Frodsham	Merthyr Vale	Skewen
Barry Docks	Garth (Powys)	Milford Haven	Sugar Loaf Halt
Barry Island	Garth (Mid Glamorgan)	Minffordd	Swansea
Betws-y-Coed	Gilfach Fargoed	Morfa Mawddach	Taffs Well
Birchgrove	Glan Conwy	Mountain Ash	Talsarnau
	Gobowen	Nantwich	Talybont
Blaenau Ffestiniog	Gowerton	Narberth	Tal-Y-Cafn
Bodorgan	Grangetown	Neath	Tenby
Borth	Gwersyllt	Neston	Tir-phil
Bridgend	Harlech	Newport (S. Wales)	Ton Pentre
Brithdir	Haverfordwest	Newtown (Powys)	Tondu
Briton Ferry	Hawarden	Ninian Park	Tonfanau
Broome	Hawarden Bridge	North Llanrwst	Tonypanyd
Buckley	Heath High Level	Pantyyfynnon	Treforest
Bucknell	Heath Low Level	Pembrey & Burry Port	Treforest Estate
Builth Road	Helsby	Pembroke	Trehafod
Bynea	Hengoed	Pembroke Dock	Treherbert

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Cadoxton	Hereford	Penally	Treorchy
Caerphilly	Heswall	Penarth	Troed-y-Rhiw
Caersws	Holyhead	Pencoed	Ty Croes
Caergwrle	Hope (Flintshire)	Pengam	Ty Glas
Caldicot	Hopton Heath	Penhelig	Tygwyn
Cardiff Bay	Johnston	Penmaenmawr	Tywyn
Cardiff Central	Kidwelly	Penrhiwceiber	Upton
Cardiff Queen Street	Kilgetty	Penyfford	Valley
Carmarthen	Knighton	Penrhyndeudraeth	Waun-gron Park
Cathays	Knucklas	Pensarn	Welshpool
Cefn-y-Bedd	Lamphey	Pentre-bach	Wem
Chepstow	Leominster	Pen-y-Bont	Whitchurch (Cardiff)
Chester	Lisvane & Thornhill	Penychain	Whitchurch (Salop)
Chirk	Llanaber	Pontarddulais	Whitland
Church Stretton	Llanbedr	Pontlloftyn	Wildmill
Cilmeri	Llanbister Road	Pontyclun	Wrenbury
Clarbeston Road	Llanbradach	Pont-y-pant	Wrexham Central
Clunderwen	Llandaf	Pontypool & New Inn	Wrexham General
Cogan	Llandanwg	Pontypridd	Ynyswen
Colwyn Bay	Llandecwyn	Port Talbot Parkway	Yorton
Conwy	Llandeilo	Porth	Ystrad Mynach
Coryton	Llandovery	Porthmadog	Ystrad Rhondda
Craven Arms	Llandrindod Wells	Prees	
Criccieth	Llandudno	Prestatyn	
Cwmbach	Llandudno Junction	Pwllheli	
Cwmbran	Llanfairfechan	Pyle	
Cynghordy	Llanfairpwll	Quakers Yard	
Danescourt	Llandybie		
Deganwy	Llanelli		
Dinas Rhondda	Llangadog		
Dinas Powys	Llangammarch		
	Llangennech		
	Llangynllo		

Llantwit Major²¹

Rhose Cardiff²²
International Airport

For the avoidance of doubt Station Services shall include the provision of any service which the Franchise Operator may provide, or may be required to provide, under any Access Agreement in effect on the Franchise Commencement Date.

Part 3 — Light Maintenance Services

The provision of access to any other person under an Access Agreement and the carrying out to rolling stock of maintenance work of a kind which is normally carried out at regular intervals of twelve months or less to prepare such rolling stock for service, the stabling or other temporary holding of rolling stock, the refuelling of rolling stock and the cleaning of the exterior or the interior of rolling stock, in each case for itself and/or other train operators, at the Stations and at the following light maintenance depots:

Cardiff Canton

Holyhead

Machynlleth

For the avoidance of doubt Light Maintenance Services shall include the provision of any service which the Franchise Operator may provide, or may be required to provide, under any Access Agreement in effect on the Franchise Commencement Date.

Part 4 — Ancillary Services

- (a) The selling, lending or hiring of any goods or rights and the provision of any services (whether for a charge or not) on any train used in the provision of the Passenger Services where such goods or services are sold or provided principally for consumption or use on the relevant train, including the sale of any Fares, meals, light refreshments, newspapers, magazines, books or phone cards.
- (b) The provision of any service at any station served by the Passenger Services which, if provided on a train used in the provision of the Passenger Services, would fall within paragraph (a) of this Part 4 of Schedule 2, or which, if provided at a Station, would fall within Part 2 of Schedule 2 and which, in each case, is made available only or principally to persons at such stations who either are about to travel or have recently travelled on a train used by the Franchise Operator in the provision of the Passenger Services.
- (c) In any Reporting Period, the subleasing, hiring or licensing of up to 15 per cent. of the rolling stock used by the Franchise Operator from time to time in the provision of the Passenger Services (such percentage to be determined by reference to the aggregate period of time for which such rolling stock is sub-let, hired or licensed and the aggregate period of time for which it is used in the provision of the Passenger Services).
- (d) The lending, seconding, hiring or contracting out during any Reporting Period to another person or persons (whether for a charge or not) of:

²¹ Date of new text 14.2.2006

²² date of new text 14.2.2006

- iii(i) up to 1 per cent. of the number of employees of the Franchise Operator during such Reporting Period (or, if greater, on the Franchise Commencement Date) for over 90 per cent. of their normal working hours during such Reporting Period (including on a full-time basis); and
- iv(ii) up to 1 per cent. of any other employees of the Franchise Operator during such Reporting Period (such percentage to be determined on the basis of the aggregate number of hours in such Reporting Period for which each employee is employed by the Franchise Operator (or, if greater, such aggregate number of hours in the first Reporting Period under this Franchise Agreement pro rata to the number of days in the relevant Reporting Period) and the aggregate number of hours in such Reporting Period for which any such employee is so lent, seconded, hired or contracted out)

(provided that no employee lent, seconded, hired or contracted out under any other paragraph of this Part 4 and, for the avoidance of doubt, no employee who is engaged in any other activity which is permitted under this Schedule 2 shall constitute an employee who is lent, seconded, hired or contracted out under this paragraph).

- (e) The heavy maintenance of rolling stock and other railway vehicles on behalf of any other person at the following light maintenance depots, subject to the number of persons engaged or employed in such activity not exceeding by more than 10 per cent. the numbers so engaged or employed on the Franchise Commencement Date:

Cardiff Canton

- (f) The selling at any location of any Fare which is valid, in whole or in part, on the Passenger Services and the selling of any other Fare at any location where such Fares may be purchased from the Franchise Operator on or before the date of signature of this Franchise Agreement or at any new location provided that the majority of Fares sold at any such new location shall be Fares which are valid, in whole or in part, on the Passenger Services.
- (g) The selling, in conjunction with any Fare, of any other rights which entitle the purchaser thereof to:
 - (i) travel on any other train within Great Britain; or
 - (ii) travel on any shipping or ferry service within or from within Great Britain; or
 - (iii) travel on any train whose journey commences or ends within the European Union; or
 - (iv) travel on any bus whose journey commences or ends at, or at a location reasonably proximate to, a station served by the Passenger Services;
 - (v) attend any event or attraction or enter any location which is situated reasonably proximate to the end of an intended journey by train within Great Britain.
- (h) The lending, seconding, hiring or contracting out of employees of the Franchise Operator to other train operators in order to enable such persons to provide services at the Stations to passengers travelling on their trains.
- (i) The provision of telephone information relating to railway passenger services within Great Britain to passengers.
- (j) The supervision, management and training of train crew of other train operators provided such activity is necessarily incidental to the provision of the Passenger Services and could not reasonably be carried out by or through an Affiliate of the Franchise Operator.

- (k) The subleasing, hiring, licensing, lending, selling of any rolling stock or other assets of the Franchise Operator or the lending, hiring or contracting out of any employees of the Franchise Operator or the provision of any other services to Network Rail or any other train operator on an emergency basis.
- (l) The licensing or permitting of any other person (including Affiliates of the Franchise Operator) to carry out any activity or business, in connection with the provision of the Franchise Services or otherwise, on any train operated by the Franchise Operator, at any station served by the Passenger Services, at any Depot, or otherwise (including the letting, leasing or licensing (on an exclusive basis or otherwise) of any part or all of a Station or Depot to such other person).
- (m) Such other activity or business as may be reasonably necessary for the purpose of providing the other Franchise Services specified in this Schedule 2 or complying with this Franchise Agreement provided that it could not reasonably be carried out by or through an Affiliate of the Franchise Operator.
- (n) The provision or operation of Charter Services, subject to the Train Mileage of such Charter Services not exceeding in any Reporting Period 2 per cent. of the scheduled Train Mileage of Passenger Services provided by the Franchise Operator in such Reporting Period.
- (o) Any services or activity not falling within Parts 1 to 3 of this Schedule 2 or paragraphs (a) to (n) above, subject to the gross value of any such services or activity (excluding any attribution of costs) not exceeding £25,000 per annum each and in aggregate no more than £250,000 per annum in each Franchise Operator Year, provided that in the second and each subsequent Franchise Operator Year these amounts will be adjusted in accordance with the following formulae:-

$$\text{Adjusted Amount} = \text{Original Amount} \times \text{RPI}$$

where RPI is the quotient of the Retail Prices Index for the month falling two months before the relevant Franchise Operator Year divided by the Retail Prices Index for the month falling two months before the first Franchise Operator Year.

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Schedule 3 — Passenger Service Requirement²³

Part 1 — Passenger Service Requirement (Clause 5.1)

1 Definitions

The following definitions shall apply in this Part 1 of Schedule 3 except to the extent that the context otherwise requires or except where expressly indicated otherwise:-

“Bank Holiday” means a Weekday on which banks in the City of London are not open for business;

“Cardiff Peak” shall mean, in relation to any service, a Weekday service (except services at Christmas or New Year or on a Bank Holiday) which arrives at Cardiff Central between 0730 and 0930 or departs from Cardiff Central between 1600 and 1815;

“Christmas” means 25 and 26 December in any year;

“Connection” means a connection (however described) between any of the Passenger Services provided by the Franchise Operator and any other railway passenger service provided by it or any other passenger train operator or any bus, ferry or shipping service and where reference is made to a time period in relation to a Connection this refers to a waiting period for such Connection;

“Journey Time” means the time in the Timetable to be taken by a service in travelling between the specified departure point and specified destination for that service;

“New Year” means 1 January in any year;

“Off-Peak” means, in relation to any service, a service which is not a Peak service;

“Peak” means, in relation to any service, a Weekday service (except services at Christmas or New Year or on a Bank Holiday) which arrives at the relevant station between 07.30 and 10.00 (the “Morning Peak”) or departs from the relevant station between 16.00 and 18.30 (the “Evening Peak”) and references to “Peak”, “Morning Peak” and “Evening Peak” periods shall be construed accordingly;

“Spring Bank Holiday” means the last Monday in May on which banks in the City of London are not open for business or such other day appointed as a bank holiday in place of such day pursuant to the Banking and Financial Dealings Act 1971;

“Summer” means, except where expressly indicated otherwise, the period; between the late May Bank Holiday and Late Summer August Bank Holiday.

“Swansea Peak” shall mean, in relation to any service, a Weekday service (except services at Christmas or New Year or on a Bank Holiday) which

²³ DATE OF CHANGE 2.8.2006

arrives at Swansea between 0830 and 0915 or departs from Swansea between 1700 and 1745;

“Weekday” means any day other than a Saturday or Sunday;

“Winter” means any period which is not Summer.

2 General Provisions and Construction

2.1 Days and Times of day

2.1.1 *For the purposes of this Passenger Service Requirement only and except to the extent the context otherwise requires, references to a day mean the period commencing at 02.00 on one day and ending at 01.59 on the following day and references to Weekdays and particular days of the week shall be construed accordingly.*

2.1.2 *References to periods of times and periods of days in this Part 1 of Schedule 3 include the times and days such periods start and finish.*

2.1.3 *All references to time are to the twenty-four hour clock.*

2.2 Services

2.2.1 *Except where expressly indicated to the contrary, references to services, all services or any part or any proportion of services in this Passenger Service Requirement are to be construed as references to the Passenger Services (or the relevant part or proportion thereof) required to be included by the Franchise Operator in its Timetable pursuant to Clause 5.1(a) of this Franchise Agreement and do not include such additional railway passenger services as may be provided from time to time by the Franchise Operator.*

2.2.2 *Except where expressly indicated to the contrary, where an interval or frequency is specified for a service, such specification shall apply at the departure point or arrival point as relevant, for the relevant service.*

2.2.3 *Except where expressly indicated to the contrary, all services are to run in both directions and the requirements of this Passenger Service Requirement (including any interval between services, frequency of service or stopping pattern) are to apply in each direction.*

2.2.4 *Except where expressly indicated to the contrary, where an interval, frequency or number of services is specified for a service, such interval, frequency or number of services shall apply between the early and late arrivals or departures specified for the relevant service.*

2.3 Stations

2.3.1 *Except where expressly indicated to the contrary and subject always to compliance with the other provisions of this Part 1 of Schedule 3 (including any maximum Journey Times) and any restrictions placed on the Franchise Operator under Part 1 of Schedule 2 of this Franchise Agreement, nothing in this Passenger Service Requirement shall prevent services which are required to be included by, or on behalf of, the Franchise Operator in the Timetable pursuant to Clause 5.1(a) of the Franchise Agreement calling at any stations which are not specified in this Part 1 of Schedule 3 or any relevant part of it.*

2.3.2 *Stations where demand for a particular service is such that there are often no passengers wishing to leave or join the relevant service may be designated as a Request Stop Station for that service. Any such designation shall be clearly advertised in advance to intending passengers (including in the Timetable).*

2.4 Connections

2.4.1 *Except where expressly indicated to the contrary, a service which is required to be included in the Timetable shall be provided so as to enable travel between the stations specified without change of train. Where a service may be provided by a Connection or where a Connection is required to be provided between two services, such service or combination of services may be provided without change of train being required.*

2.4.2 *Except where expressly indicated to the contrary, where Connections are required to be provided by the Franchise Operator, it shall ensure that the interval or waiting period between the two relevant services is of a sufficient duration to allow passengers a reasonable period of time to transfer between the two relevant services.*

2.4.3 *Except where expressly indicated to the contrary, where services are subject to maximum Journey Times, such Journey Times shall not apply where the services are required to be, or may be, provided by Connections.*

2.5 Maximum Journey Times

Maximum Journey Times shall apply to all services including additional services. Where variations apply to a service, or an additional service does not terminate and/or originate from the same station or stations as the standard service, the maximum Journey Time shall apply to that part of the journey which falls between the two stations between which the standard service is specified as being provided.

2.6 Bank holidays

In the event of a Bank Holiday and on the Weekdays between Christmas and New Year the service required to be included in the Timetable for such day shall, except to the extent the Authority otherwise agrees:

- 2.6.1** *on Bank Holidays a Weekday Service will operate on the following routes:
A1-B1 (inclusive), C1-C3 (inclusive), E1-I1 (inclusive) and a Saturday Service will operate on the following routes : D1-D10 (inclusive)*
- 2.6.2** *on Christmas Day there is no requirement to run a service*
- 2.6.3** *on Boxing Day there is no requirement to run a service*
- 2.6.4** *on days between Christmas Day and New Year's Day a Saturday Service should operate on the following routes: D1-D10 (inclusive)*
- 2.6.5** *on New Year's Day there is no requirement to run a service on the following routes: D1-D10 (inclusive)*

2.7 Service intervals

2.7.1 *Except where expressly indicated to the contrary, where services are required to be included in the Timetable for a specified period of time with a specified interval between each service during such period (and for the purposes of this paragraph 2.7.1 "specified period of time" shall include any period which commences and/or ends with a specified service), then the following shall apply:-*

- (i) the minimum number of services to be included in the Timetable in such period shall be the quotient of the number of minutes in the period divided by the number of minutes in the specified interval, rounded down to the nearest whole number;*
- (ii) the interval between any two services during such period may be extended, subject to the other provisions of this paragraph 2.7.1, by five minutes or, if greater, an amount of minutes equivalent to one sixth of the specified interval between each service rounded down to the nearest whole number and subject to such extension not exceeding ten minutes;*
- (iii) the interval between any two services may be reduced, subject to the other provisions of this paragraph 2.7.1, below the interval between each service specified for such period by such amount as the Franchise Operator may determine;*
- (iv) the interval between services during such specified period of time shall be such that, for any period which occurs during such specified period and has a duration equivalent to $((4 \times I) + E)$ minutes (where I is equal to the specified interval and E is equal to the extension permitted to such interval under paragraph 2.7.1(ii)), at least four services shall be included in the Timetable in such period; and*

- (v) *the intervals between the start of such period of time and the first service in such period (save where such period of time starts with a specified service) and between the last service in such period and the end of such period (save where such period of time ends with a specified service) shall each be no more than the interval between each service specified for such period and (save where such period of time starts and/or ends with a specified service) one of such intervals shall be no more than half such interval between each service.*

2.7.2 *Except where expressly indicated to the contrary, where one period ends and another period begins immediately thereafter and services are specified at different intervals for each such period, the maximum interval between the last service in the first period and the first service in the second period shall be the longer of the maximum intervals allowed for each such period.*

2.7.3 *Except where expressly indicated to the contrary, where a certain number of services are specified to be provided “per hour”, each such service shall be an hourly service and paragraph 2.7.1 above shall apply in respect of each such service.*

2.8 Headings

All headings used in Sections A-I of paragraph 3 below shall form part of the Part 1 of Schedule 3.

2.9 Paragraphs

References to paragraph numbers within Sections A-I of paragraph 3 below are references to paragraphs within each such section.

3 Services

The Franchise Operator shall include the following services in the Timetable.

A1 CREWE TO CHESTER²⁴

1 Monday to Saturday

- 1.1** *Between and including the Early and Late services (As specified in Paragraphs 1.2 and 1.3) services shall be provided at hourly intervals between Crewe and Chester. After 1900 one interval of 1 hour 30 minutes may apply in each direction. Until the May 2009 timetable change date this may be extended to 2 hours. The Franchise operator shall use reasonable endeavours to provide a reasonable pattern of services between Crewe and Chester taking into account services provided by other Train Operators.*
- 1.2** *Crewe departures: an early service shall be provided no later than 07.30. A late service shall be provided no earlier than 23.15.*
- 1.3** *Chester departures: an early service shall be provided no later than 06.30, 06.45 Saturday. A late service shall be provided no earlier than 22.30.*
- 1.4** *The maximum Journey Time in both directions shall be 28 minutes.*

2 Sunday

- 2.1** *11 services in Summer, 7 in Winter, shall be provided between Crewe and Chester with a maximum interval of 2 hours 15 minutes.*
- 2.2** *Crewe departures: an early service shall be provided between 08.30 and 09.30 summer and 09.30-10.30 winter. A late service shall be provided between 23.30 and 00.30.*
- 2.3** *Chester departures: an early service shall be provided between 0700 and 0800 in Summer, 08.00 and 09.00 in Winter A late service shall be provided between 21.00 and 22.00.*
- 2.4** *The maximum Journey Time in both directions shall be 28 minutes”*

²⁴ Date of change 19/12/2008

A2 CHESTER TO LLANDUDNO JUNCTION

1 Monday to Saturday

- 1.1** *Two services per hour shall be provided between Chester and Llandudno Junction calling at Prestatyn, Rhyl and Colwyn Bay. One service each hour shall also call at Shotton, Flint, and Abergele & Pensarn. Two services in one direction may omit to call at Prestatyn & Rhyl and one service in one direction may omit to call at Colwyn Bay. There may be two intervals of up to 1 hour 30 minutes in each direction.*
- 1.2** *Chester departures: an early service shall be provided no later than 07.50. A late service shall be provided no earlier than 18.20. Three additional services, two on Winter Saturdays, shall be provided between 19.00 and 23.30 which shall call at Shotton, Flint, Prestatyn, Rhyl, Abergele & Pensarn and Colwyn Bay - one service may omit to call at Abergele & Pensarn. The Franchise Operator shall use reasonable endeavours to provide a reasonable pattern of service taking into account services provided by other Train Operators.*
- 1.3** *Llandudno Junction departures: an early service shall be provided no later than 07.00. A late service shall be provided no earlier than 19.45. Two additional services shall be provided between 20.30 and 22.30 with a maximum interval of 1 hour 15 minutes. One service shall call at Flint and Shotton between 08.05 and 08.40. One service shall arrive in Rhyl from Colwyn Bay between 08.00 and 08.30. One service shall call at Flint and Shotton between 17.15 and 18.00. One service shall be provided from Colwyn Bay between 17.30 and 18.00 for Rhyl.*
- 1.4** *There may be one service interval of two hours in each direction at Abergele & Pensarn.*
- 1.5** *The maximum Journey Time in both directions shall be 1 hour 9 minutes, 30% of services shall complete the journey within 50 minutes.*

2 Summer Sunday

- 2.1** *16 services shall be provided between Chester and Llandudno Junction calling at Prestatyn, Rhyl and Colwyn Bay. 11 services shall call at Shotton and Flint, and eight services shall call at Abergele & Pensarn. The maximum interval between services shall be two hours, there may be one interval in each direction of 3 hours.. Two services in one direction may omit to call at Prestatyn.*
 - 2.2** *Chester departures: an early service shall be provided between 06.00 and 09.00. A late service shall be provided between 22.45 and 00.00.*
 - 2.3** *Llandudno Junction departures: an early service shall be provided between 06.00 and 08.00. A late service shall be provided between 21.30 and 23.00.*
 - 2.4** *The maximum Journey Time from Chester to Llandudno Junction shall be 1 hour 8 minutes, 45% of services shall complete the journey within 55 minutes.*
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2.5 *The maximum Journey Time from Llandudno Junction to Chester shall be 59 minutes, 40% of services shall complete the journey within 55 minutes.*

3 *Winter Sunday*

3.1 *Nine services shall be provided between Chester and Llandudno Junction, calling at Prestatyn, Rhyl, and Colwyn Bay. Five services shall also call at Shotton, Flint, and Abergele & Pensarn.*

3.2 *Chester departures: an early service shall be provided between 09.00 and 13.00. A late service shall be provided between 24.00 and 01.00.*

3.3 *Llandudno Junction departures: an early service shall be provided between 10.00 and 12.00. A late service shall be provided between 21.00 and 23.00.*

3.4 *The maximum Journey Time from Chester to Llandudno Junction shall be 57 minutes.*

3.5 *The maximum Journey Time from Llandudno Junction to Chester shall be 1 hour 14 minutes.*

A3 LLANDUDNO JUNCTION TO BANGOR

1 Monday to Saturday

- 1.1** *15 services shall be provided between Llandudno Junction and Bangor with a maximum interval of 1 hour 30 minutes. Six services shall call intermediately at Conwy, Penmaenmawr and Llanfairfechan. One additional service shall be provided at each of Conwy, Penmaenmawr and Llanfairfechan.*
- 1.2** *Llandudno Junction departures: an early service shall be provided between 08.00 and 09.00. A late service shall be provided between 21.00 and 22.00. An additional service shall be provided between 22.30 and 00.30.*
- 1.3** *Bangor departures: an early service shall be provided between 06.00 and 07.00. A late service shall be provided no earlier than 21.15 Mondays to Fridays, 20.45 on Saturdays.*
- 1.4** *Bangor arrivals from Conwy, Penmaenmawr and Llanfairfechan: there shall be one arrival from Conwy between 07.00 and 08.45 and one from Penmaenmawr and Llanfairfechan between 08.15 and 08.45.*
- 1.5** *Llandudno Junction arrivals from Llanfairfechan, Penmaenmawr and Conwy: there shall be at least one arrival from each of these between 08.15 and 09.15. There shall be at least three services from Llanfairfechan and Penmaenmawr between 15.05 and 17.45 for Llandudno Junction.*
- 1.6** *The maximum Journey Time between Bangor and Llandudno Junction shall be 26 minutes for services making intermediate calls and 22 minutes for non-stop services.*

2. Sunday

- 2.1** *Nine services shall be provided between Llandudno Junction and Bangor. Three services shall call at Conwy, Penmaenmawr and Llanfairfechan.*
 - 2.2** *Llandudno Junction departures: an early service shall be provided between 09.00 and 12.00. A late service shall be provided between 21.00 and 23.00.*
 - 2.3** *Bangor departures: an early service shall be provided between 08.30 and 11.30. A late service shall be provided between 21.00 and 23.00.*
 - 2.4** *The maximum Journey Time between Llandudno Junction and Bangor shall be 38 minutes for a service making intermediate stops and 32 minutes for a non-stop service.*
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A4 BANGOR TO HOLYHEAD

1 Monday to Saturday

- 1.1** 11 services shall be provided between Bangor and Holyhead of which six shall call at Llanfairpwll, Bodorgan, Ty Croes, Rhosneigr and Valley.
- 1.2** Bangor departures: an early service shall be provided between 08.30 and 10.00. A late service, which may be provided by another operator, shall be provided between 22.30 and 00.00. Two services, the first between 15.20 and 15.50 and the second between 17.30 and 18.00, shall call at the stations listed in Paragraph 1.1
- 1.3** Holyhead departures: an early service shall be provided between 06.00 and 08.00. A late service shall be provided between 18.00 and 20.00.
- 1.4** The maximum Journey Time between Bangor and Holyhead shall be 55 minutes.
- 1.5** There shall be at least one arrival in Bangor from Holyhead and all stations on Anglesey between 08.05 and 08.45.

2 Sunday

- 2.1** Five services in Summer, four in Winter, shall be provided between Bangor and Holyhead, one of which shall call at Llanfairpwll, Bodorgan, Ty Croes, Rhosneigr and Valley in each direction.
 - 2.2** Bangor departures: an early service shall be provided between 10.00 and 12:15 in Summer and between 10:00 and 14:30 in Winter. This early service shall connect with ferry services to Ireland and shall, as far as reasonably practical, provide connections with other operator's services from London. A late service shall be provided between 21:00 and 23:00.
 - 2.3** Holyhead departures: an early service shall be provided between 09.00 and 13.00. A late service shall be provided between 19.00 and 22.00.
 - 2.4** The maximum Journey Time between Bangor and Holyhead shall be 50 minutes for a service making intermediate stops and 42 minutes for a non-stop service.
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A5 LLANDUDNO JUNCTION TO LLANDUDNO

1 Monday to Saturday

- 1.1** 20 services shall be provided between Llandudno and Llandudno Junction, 17 of which on Monday to Friday, and 15 of which on Saturday, shall call at Deganwy. The maximum interval between services shall be 1 hour 21 minutes.
- 1.2** Llandudno Junction departures: an early service shall be provided between 06.00 and 07.00. A late service shall be provided between 20.30 and 22.30.
- 1.3** Llandudno departures: an early service shall be provided between 06.15 and 07.00. A late service shall be provided between 21.00 and 22.30.
- 1.4** The maximum Journey Time shall be 12 minutes.
- 1.5** Reasonable endeavours shall be made to provide either through journeys, or Connections within 15 minutes, to and from Bangor and/or Chester.

2 Summer Sunday

- 2.1** 12 services shall be provided between Llandudno Junction and Llandudno such that the maximum interval between services is 1 hour 15 minutes. 10 services shall call at Deganwy.
 - 2.2** Llandudno Junction departures: an early service shall be provided between 09.30 and 11.00. A late service shall be provided between 18.00 and 19.00.
 - 2.3** Llandudno departures: an early service shall be provided between 09.30 and 11.30. A late service shall be provided between 18.15 and 19.15.
 - 2.4** The maximum Journey Time shall be 12 minutes.
 - 2.5** Reasonable endeavours shall be made to provide either through journeys, or Connections within 15 minutes to and from Bangor and/or Chester.
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**A6 LLANDUDNO AND LLANDUDNO JUNCTION TO BLAENAU
FFESTINIOG**

1 Monday to Saturday

- 1.1 Six services shall be provided between Blaenau Ffestiniog and Llandudno Junction, calling at Llanrwst and Betws-y-Coed. Five services shall call at Glan Conwy, Tal-y-Cafn, Dolgarrog, North Llanrwst, Pont-y-Pant, Dolwyddelan and Roman Bridge, and shall be extended to and from Llandudno. One of these five may commence and terminate Llandudno Junction provided that there is a connection within 10 minutes for Llandudno.**
- 1.2 Llandudno Junction departures: a service shall be provided between 06.45 and 0830. A late service shall be provided between 17.30 and 19.00. One service shall arrive at Llanrwst between 0745 and 0845**
- 1.3 Blaenau Ffestiniog departures: a service shall be provided between 0615 and 0715. A late service shall be provided between 18.00 and 20.00. One service shall depart Llanrwst between 15.15 and 1545 to Llandudno Junction.**
- 1.4 The maximum Journey Time between Llandudno Junction and Blaenau Ffestiniog shall be 1 hour 13 minutes.**
- 1.5 The Franchise Operator shall use reasonable endeavours to provide through journeys, or Connections within 15 minutes, to and from Bangor and/or Chester.**

2 Sunday

No service specified.

A7 THROUGH SERVICES CREWE AND CHESTER TO BANGOR AND HOLYHEAD

1 Monday to Saturday

- 1.1** 6 services shall be provided between Crewe and Bangor calling at Chester and Llandudno Junction, with an additional three services provided between Chester and Bangor between 06.00 and 24.00. Taking other operators into account, the maximum interval between services shall be 3 hours, with one maximum interval between services of 5 hours 15 minutes. Six trains each day shall be extended to and from Holyhead. Such services may be formed by combining services specified in routes A2, A3 and A4.
- 1.2** Crewe departures: an early service with a change at Chester shall be provided between 08.00 and 08.30. A late service with a change at Chester shall be provided Monday to Friday and Summer Saturdays between 21.00 and 22.45.
- 1.3** Bangor departures to Crewe: an early service shall be provided between 06.30 and 07.30. A late service shall be provided between 18.00 and 19.00.
- 1.4** The maximum Journey Time between Crewe and Bangor shall be 1 hour 51 minutes.
- 15** An additional service shall be provided Monday to Friday only from Birmingham New Street to Holyhead between 22.00 and 01.00, calling at Wolverhampton, Crewe, Chester, Llandudno Junction and Bangor. The Franchise Operator shall use reasonable endeavours to connect with a ferry to Ireland within 1 hour 15 minutes.
- 1.6** The Franchise Operator shall use reasonable endeavours to connect with ferry services to and from Ireland at Holyhead subject to the needs of local travellers.

2 Sunday

- 2.1** Four services shall be provided between Crewe and Bangor,. At least five through services in Summer, four in Winter, shall be provided between Chester and Holyhead. There may be one interval no greater than 2 hours 45 minutes between Chester and Bangor and no greater than four hours between Chester and Holyhead.
 - 2.2** Crewe departures: an early service shall be provided between 09.00 and 11.00 in Summer and between 09.00 and 13.00 in Winter. A late service shall be provided between 20.00 and 22.00.
 - 2.3** Bangor departures: an early service shall be provided between 09.00 and 12.00 in Summer and between 09.00 and 13.00 in Winter. A late service shall be provided between 19.30 and 22.30.
 - 2.4** An additional service shall be provided from Birmingham New Street to Holyhead between 22.00 and 01.00, calling at Wolverhampton, , Crewe, Chester, Llandudno Junction and Bangor. The Franchise Operator shall use reasonable endeavours to connect with a ferry to Ireland within 1 hour 15 minutes.
 - 2.6** The maximum Journey Time between Bangor and Crewe shall be 2 hours 3 minutes.
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- 2.7 *The Franchise Operator shall use reasonable endeavours to connect with ferry services to and from Ireland at Holyhead subject to the needs of local travellers.***

B1 WREXHAM TO BIDSTON

1 Monday to Saturday

- 1.1** *An hourly service shall be provided between Wrexham Central and Bidston. One service to Bidston may start from Wrexham General. One service from Bidston may terminate at Wrexham General. There may be one interval in each direction of no greater than 1 hour 15 minutes.*
- 1.2** *Services specified in 1.1 above shall call at Wrexham General, Gwersyllt, Cefn-y-Bedd, Caergwrle, Hope, Penyffordd, Buckley, Hawarden, Shotton, Neston, Heswall, and Upton. Three services shall call at Hawarden Bridge.*
- 1.3** *Wrexham General departures: an early service shall be provided no later than 06.45. A late service shall be provided no earlier than 17.35*
- 1.4** *Bidston departures: an early service shall be provided no later than 07.45. A late service shall be provided no earlier than 18.32*
- 1.5** *A two hourly service shall be provided on Bank Holidays with early and late services as specified in 1.3 and 1.4. Two services each day shall call at Hawarden Bridge.*
- 1.6** *The maximum Journey Time between Wrexham Central and Bidston shall be 66 minutes in both directions.*

2 Sunday

There is no Sunday service specified for this route.

B2 MANCHESTER TO CHESTER VIA WARRINGTON BANK QUAY

1 Monday to Saturday

- 1.1** *An hourly service shall be provided between Manchester Piccadilly and Chester calling at Manchester Oxford Road, Newton-le-Willows, Earlestown, Warrington Bank Quay and Runcorn East.*
- 1.2** *Manchester departures: an early service shall be provided no later than 07.30. A late service shall be provided no earlier than 22.30. One additional service shall be provided between 17.30 and 18.00, such a service need not run on Saturdays or Bank Holidays.*
- 1.3** *Chester departures: an early service shall be provided no later than 07.15. A late service shall be provided no earlier than 22.45. One additional service shall be provided between 07.15 and 07.45 such a service need not run on Saturdays or Bank Holidays.*
- 1.4** *The maximum Journey Time shall be 1 hour 10 minutes.*
- 1.5** *At least 50% of the services provided shall run direct to and from either Llandudno or Bangor.*

2 Sunday

- 2.1** *11 services, 10 in Winter, shall be provided between Manchester Piccadilly and Chester, calling at Manchester Oxford Road, Newton-le-Willows, Earlestown, Warrington Bank Quay and Runcorn East*
 - 2.2** *Manchester departures: an early service shall be provided between 07.30 and 09.30, in Summer, and between 07.30 and 10.30 in Winter. A late service shall be provided between 22.45 and 23.45.*
 - 2.3** *Chester departures: an early service shall be provided between 07.30 and 09.30 in Summer, and between 09.30 and 10.30 in Winter. A late service shall be provided between 22.00 and 24.00. Two services need not call at Runcorn East*
 - 2.4** *The maximum Journey Time shall be 1 hour 10 minutes.*
 - 2.5** *The Franchise Operator shall use reasonable endeavours to provide services which run direct to and from either Llandudno or Bangor.*
-

C1 SHREWSBURY TO CHESTER

1 Monday to Saturday

1.1 Service Pattern

1.1.1 *Ten services shall be provided between Shrewsbury and Chester calling at Gobowen, Chirk, Ruabon and Wrexham General.*

1.1.2 *The maximum interval between services specified in paragraph 1.1.1 above shall be 2 hours 15 minutes.*

1.2 Chester Arrivals

1.2.1 *An early arrival between 0600 and 0645.*

1.2.2 *A late arrival between 2145 and 2245.*

1.2.3 *Maximum Journey Time 1 hour 5 minutes.*

1.3 Chester Departures

1.3.1 *An early departure between 0615 and 0715.*

1.3.2 *A late departure between 2145 and 2245.*

1.3.3 *Maximum Journey Time 1 hour 5 minutes.*

1.4 Connections

1.4.1 *The Franchise Operator shall use reasonable endeavours to provide at Shrewsbury between 0730 and 1900 through services or connect within 10 minutes with services to and from Wolverhampton and Birmingham New Street.*

2 Sundays

2.1 Service Pattern

2.1.1 *Five services shall be provided between Shrewsbury and Chester calling at Gobowen, Chirk, Ruabon and Wrexham General.*

2.2 Chester Arrivals

2.2.1 *An early arrival between 1030 and 1230.*

2.2.2 *A late arrival between 2045 and 2245.*

2.2.3 *Maximum Journey Time 1 hour 5 minutes.*

2.3 Chester Departures

2.3.1 *An early departure between 1130 and 1330.*

2.3.2 *A late departure between 2100 and 2330.*

2.3.3 *Maximum Journey Time 1 hour 5 minutes.*

2.4 Connections

2.4.1 *The Franchise Operator shall use reasonable endeavours to provide at Shrewsbury between 1200 and 2100 through services or connect within 10 minutes with services to and from Wolverhampton and Birmingham New Street.*

C2 SHREWSBURY TO ABERYSTWYTH

1. *Monday to Saturday*

1.1 *Service Pattern*

1.1.1 *A two-hourly service shall be provided between Shrewsbury and Aberystwyth calling at Welshpool, Newtown, Caersws, Machynlleth, Dovey Junction and Borth. One such service in each direction may involve one Connection provided that maximum Journey Times are not exceeded. Services shall be extended to and from Birmingham New Street.*

1.1.2 *For the purposes of this service only “two-hourly” shall mean intervals not exceeding 2 hours 20 minutes provided that four services are provided in any 8 hour 25 minute interval. One interval between Saturday departures from Aberystwyth may be extended to 2 hours 45 minutes.*

1.2 *Shrewsbury Departures*

1.2.1 *An early departure no later than 0945.*

1.2.2 *A late departure no earlier than 2130.*

1.2.3 *Maximum Journey Time to Aberystwyth 1 hour 57 minutes.*

1.3 *Aberystwyth Departures*

1.3.1 *An early departure no later than 0545.*

1.3.2 *A late departure no earlier than 1940.*

1.3.3 *Maximum Journey Time to Shrewsbury 1 hours 57 minutes.*

1.4 *Additional Services*

1.4.1 *One additional journey shall be provided from Machynlleth to Aberystwyth, departing from Machynlleth between 0745 and 0855. .*

2. *Summer Sundays*

2.1 *Service Pattern*

2.1.1 *Five services shall be provided between Shrewsbury and Aberystwyth calling at Welshpool, Newtown, Caersws, Machynlleth, Dovey Junction and Borth. One such service in each direction may involve one Connection provided that maximum Journey Times are not exceeded. Two services shall be extended to and from Birmingham New Street.*

2.2 *Shrewsbury Departures*

2.2.1 *An early departure between 0800 and 0900*

2.2.2 *A late departure between 2030 and 2230.*

2.2.3 *Maximum Journey Time to Aberystwyth 1 hours 57 minutes.*

2.3 *Aberystwyth Departures*

2.3.1 *An early departure between 0800 and 0900.*

2.3.2 *A late departure between 1930 and 2130.*

2.3.3 *Maximum Journey Time to Shrewsbury 1 hours 57 minutes.*

3. *Winter Sundays*

3.1 *Service Pattern*

3.1.1 *Three services shall be provided between Shrewsbury and Aberystwyth calling at Welshpool, Newtown, Caersws, Machynlleth and Borth. Such services shall be extended to and from Birmingham New Street.*

3.2 *Shrewsbury Departures*

3.2.1 *An early departure between 0800 and 1445.*

3.2.2 *A late departure between 2030 and 2230.*

3.2.3 *Maximum Journey Time to Aberystwyth 1 hours 57 minutes.*

3.3 *Aberystwyth Departures*

3.3.1 *An early departure between 0800 and 1245.*

3.3.2 *A late departure between 1700 and 2130.*

3.3.3 *Maximum Journey Time to Shrewsbury 1 hours 57 minutes.*

3.4 *Variations*

3.4.1 *One service shall be provided from Machynlleth to Aberystwyth arriving at Aberystwyth between 1100 and 1300.*

C3 MACHYNLLETH TO PWLLHELI ^{v vi}

1. Summer Weekdays

1.1 Service Pattern

1.1.1 *Eight services shall be provided between Machynlleth and Barmouth calling at Dovey Junction, Penhelig, Aberdovey, Tywyn, Llwyngwrl, Fairbourne and Morfa Mawddach.*

1.1.2 *Six services specified in paragraph 1.1.1 above in each direction shall be extended to and from Pwllheli calling at Llanaber, Talybont, Dyffryn Ardudwy, Llanbedr, Pensarn, Llandanwg, Harlech, Talsarnau, Penrhyndeudraeth, Minffordd, Porthmadog, Criccieth and Butlins Penychain.*

1.1.3 *Two services specified in paragraph 1.1.2 above in each direction shall call at each of Tygwyn, Llandecwyn and Abererch.*

1.1.4 *One service specified in paragraph 1.1.1 above in each direction shall call at Tonfanau.*

1.2 Machynlleth Departures

1.2.1 *An early departure between 0515 and 0645.*

1.2.2 *A late departure between 2100 and 2200.*

1.2.3 *Maximum Journey Time to Pwllheli 2 hour 25 minutes provided that one service make take 2 hours 49 minutes*

1.3 Machynlleth Arrivals

1.3.1 *An early arrival between 0700 and 0800.*

1.3.2 *A late arrival between 2045 and 2200.*

1.3.3 *Maximum Journey Time from Pwllheli 2 hour 25 minutes.*

1.4 Connections

1.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 1.1.1 to connect within 15 minutes with services to and from Shrewsbury.*

2. Winter Weekdays

2.1 Service Pattern

2.1.1 *Seven services shall be provided between Machynlleth and Barmouth calling at Dovey Junction, Penhelig, Aberdovey, Tywyn, Llwyngwrl, Fairbourne and Morfa Mawddach.*

- 2.1.2 *Six services specified in paragraph 2.1.1 above in each direction, including the late departures specified in paragraphs 2.2.2 and 2.3.2 below, shall be extended to and from Pwllheli calling at Llanaber, Talybont, Dyffryn Ardudwy, Llanbedr, Pensarn, Llandanwg, Harlech, Talsarnau, Penrhyndeudraeth, Minffordd, Porthmadog, Criccieth and Butlins Penychain.*
 - 2.1.3 *Two services specified in paragraph 2.1.2 above in each direction shall call at each of Tygwyn, Llandecwyn and Abererch.*
 - 2.1.4 *One service specified in paragraph 2.1.1 above in each direction shall call at Tonfanau.*
 - 2.2 **Machynlleth Departures**
 - 2.2.1 *An early departure between 0500 and 0645.*
 - 2.2.2 *A late departure between 2100 and 2200.*
 - 2.2.3 *Maximum Journey Time to Pwllheli 2 hour 25 minutes provided that one service make take 2 hours 49 minutes*
 - 2.2.4 *.*
 - 2.3 **Machynlleth Arrivals**
 - 2.3.1 *An early arrival between 0645 and 0745.*
 - 2.3.2 *A late arrival between 2045 and 2215.*
 - 2.3.3 *Maximum Journey Time from Pwllheli 2 hours 25 minutes.*
 - 2.4 **Connections**
 - 2.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 2.1.1 to connect within 15 minutes with services to and from Shrewsbury.*
 - 3. **Summer Saturdays**
 - 3.1 **Service Pattern**
 - 3.1.1 *Seven services shall be provided between Machynlleth and Pwllheli calling at Dovey Junction, Penhelig, Aberdovey, Tywyn, Llwyngwrl, Fairbourne, Morfa Mawddach, Barmouth, Llanaber, Talybont, Dyffryn Ardudwy, Llanbedr, Pensarn, Llandanwg, Harlech, Talsarnau, Penrhyndeudraeth, Minffordd, Porthmadog, Criccieth and Butlins Penychain.*
 - 3.1.2 *Three services specified in paragraph 3.1.1 above in each direction shall call at each of Tygwyn, Llandecwyn and Abererch.*
 - 3.1.3 *Two services specified in paragraph 3.1.1 above in each direction shall call at Tonfanau.*
-

3.2 Machynlleth Departures

- 3.2.1** *An early departure between 0500 and 0800.*
- 3.2.2** *A late departure between 2100 and 2200.*
- 3.2.3** *Maximum Journey Time to Pwllheli 2 hour 25 minutes.*

3.3 Machynlleth Arrivals

- 3.3.1** *An early arrival between 0715 and 0945.*
- 3.3.2** *A late arrival between 2045 and 2215.*
- 3.3.3** *Maximum Journey Time from Pwllheli 2 hour 25 minutes. provided that one service make take 2 hours 49 minutes*

3.4 Connections

- 3.4.1** *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 3.1.1 to connect within 15 minutes with services to and from Shrewsbury.*

4. Winter Saturdays

4.1 Service Pattern

- 4.1.1** *Seven services shall be provided between Machynlleth and Barmouth calling at Dovey Junction, Penhelig, Aberdovey, Tywyn, Llwyngwril, Fairbourne and Morfa Mawddach.*
- 4.1.2** *Six services specified in paragraph 4.1.1 above in each direction including the late departures specified in paragraphs 4.2.2 and 4.3.2 below shall be extended to and from Pwllheli calling at Llanaber, Talybont, Dyffryn Ardudwy, Llanbedr, Pensarn, Llandanwg, Harlech, Talsarnau, Penrhyndeudraeth, Minffordd, Porthmadog, Criccieth and Butlins Penychain.*
- 4.1.3** *Two services specified in paragraph 4.1.2 above in each direction shall call at each of Tygwyn, Llandecwyn and Abererch.*
- 4.1.4** *One service specified in paragraph 4.1.1 above in each direction shall call at Tonfanau.*

4.2 Machynlleth Departures

- 4.2.1** *An early departure between 0500 and 0800.*
- 4.2.2** *A late departure between 2100 and 2200.*
- 4.2.3** *Maximum Journey Time to Pwllheli 2 hour 25 minutes.*

4.3 Machynlleth Arrivals

4.3.1 *An early arrival between 0745 and 0945.*

4.3.2 *A late arrival between 2045 and 2215.*

4.3.3 *Maximum Journey Time from Pwllheli 2 hours 25 minutes.*

4.4 **Connections**

4.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 4.1.1 to connect within 15 minutes with services to and from Shrewsbury.*

5. **Summer Sundays**

5.1 **Service Pattern**

5.1.1 *Three services shall be provided between Machynlleth and Pwllheli calling at Dovey Junction, Penhelig, Aberdovey, Tywyn, Llwyngwril, Fairbourne, Morfa Mawddach, Barmouth, Llanaber, Talybont, Dyffryn Ardudwy, Llanbedr, Pensarn, Llandanwg, Harlech, Talsarnau, Penrhyndeudraeth, Minffordd, Porthmadog, Criccieth and Butlins Penychain.*

5.2 **Machynlleth Departures**

5.2.1 *An early departure between 0815 and 1015.*

5.2.2 *A late departure between 1830 and 2230.*

5.2.3 *Maximum Journey Time to Pwllheli 2 hour 25 minutes.*

5.3 **Machynlleth Arrivals**

5.3.1 *An early arrival between 1015 and 1415.*

5.3.2 *A late arrival between 2015 and 2215.*

5.3.3 *Maximum Journey Time from Pwllheli 2 hour 25 minutes.*

5.4 **Connections**

5.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 5.1.1 to connect within 15 minutes with services to and from Shrewsbury.*

6. **Winter Sundays**

6.1 **Service Pattern**

6.1.1 *One service between Machynlleth and Pwllheli shall be provided calling at Dovey Junction, Penhelig, Aberdovey, Tywyn, Llwyngwril, Fairbourne, Morfa Mawddach, Barmouth, Llanaber, Talybont, Dyffryn Ardudwy, Llanbedr, Pensarn,*

Llandanwg, Harlech, Talsarnau, Penrhyndeudraeth, Minffordd, Porthmadog, Criccieth and Butlins Penychain.

6.2 *Machynlleth Departures*

6.2.1 *One departure between 1500 and 1900.*

6.2.2 *Maximum Journey Time 2 hour 25 minutes.*

6.3 *Machynlleth Arrivals*

6.3.1 *One arrival between 1500 and 1900.*

6.3.2 *Maximum Journey Time 2 hour 25 minutes.*

6.4 *Connections*

6.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 6.1.1 to connect within 15 minutes with services to and from Shrewsbury.*

C4 BIRMINGHAM NEW STREET TO SHREWSBURY²⁵

1.1 Wolverhampton and Birmingham International Departures

- 1.1.1** *An early departure to Shrewsbury from Birmingham International no later than 0715 on Weekdays and 0845 on Saturdays.*
- 1.1.2** *A late departure to Shrewsbury from Birmingham International no earlier than 2100.*
- 1.1.3** *Maximum Journey Time from Birmingham International to Shrewsbury shall be 1 hour 15 minutes.*

1.2 Shrewsbury Departures

- 1.2.1** *An early departure to arrive at Birmingham International no later than 0700 on Weekdays and 0830 On Saturdays*
- 1.2.2** *A late departure to Birmingham International no earlier than 1915.*
- 1.2.3** *Maximum Journey Time from Shrewsbury to Birmingham International shall be 1 hour 20 minutes with two exceptions of 1 hour 30 minutes.*

1.3 Service Pattern

- 1.3.1** *Between and including the Early and Late Services fifteen services (fourteen on Saturdays) shall be provided at hourly intervals between Birmingham International and Shrewsbury, calling at Birmingham New Street, Wolverhampton, Telford Central and Wellington.,*
- 1.3.2** *Of the services specified in Paragraph 1.3.1 Five services shall be extended to/from Chester in combination with route C1 and seven services shall be extended to/from Machynlleth in combination with route C2.*
- 1.3.3** *The Franchise Operator shall use reasonable endeavours to provide two trains per hour between Shrewsbury and Birmingham New Street when these services are combined with services provided by other Train Operators.*

1.4 Additional Services and Variations

- 1.4.1** *One additional service shall be provided from Birmingham New Street to Shrewsbury departing no earlier than 2315, calling at Wolverhampton, Bilbrook, Codsall, Albrighton, Cosford, Shifnal, Telford Central, Oakengates, and Wellington.*
- 1.4.2** *One additional service shall be provided from Wolverhampton to Shrewsbury departing no earlier than 0010, calling at Telford Central and Wellington.*

²⁵ Date of change 19/2/2008

1.4.3 *Two additional services shall be provided from Shrewsbury to Birmingham New Street at an hourly interval departing between 2115 and 2245, calling at Wellington, Telford Central and Wolverhampton*

1.4.4 *One additional service shall be provided from Shrewsbury to Wolverhampton departing no earlier than 2300 calling at Wellington, Oakengates, Telford Central, Shifnal, Cosford, Albrighton, Codsall and Bilbrook.*

2. Sundays

2.1 Birmingham International Departures

2.1.1 *An early departure to Shrewsbury from Birmingham International no later than 1000.*

2.1.2 *A late departure to Shrewsbury from Birmingham International no earlier than 2145*

2.1.3 *Maximum Journey Time from Birmingham International to Shrewsbury shall be 1 hour 30 minutes*

2.2 Shrewsbury Departures

2.2.1 *An early departure to Birmingham International no later than 0830.*

2.2.2 *A late departure to Birmingham International no earlier than 2015.*

2.2.3 *Maximum Journey Time from Shrewsbury to Birmingham International shall be 1 hour 35 minutes.*

2.3 Service Pattern

2.3.1 *Between and including the Early and Late services fourteen services shall be provided at hourly intervals between Birmingham International and Shrewsbury calling at Wolverhampton, Telford and Wellington.*

2.3.2 *For the purposes of this service only, “hourly” shall mean intervals not exceeding 1 hour 20 minutes provided that four services are provided in any 4 hour 20 minute period.*

2.3.3 *Eight of the services specified in Paragraph 2.3.1 shall be provided in each direction at a maximum interval of two hours between Wolverhampton and Shrewsbury, calling at Bilbrook, Codsall, Albrighton, Cosford, Shifnal, Telford Central, Oakengates and Wellington. In the from Birmingham International direction one interval may be extended up to 2 hours 20 minutes, and in the from Shrewsbury direction two intervals may be extended up to 2 hours 15 minutes.*

2.4 Additions and Variations

2.4.1 *One additional service shall be provided from Birmingham International to Shrewsbury departing no earlier than 2300, calling at Birmingham New Street,*

Wolverhampton, Bilbrook, Codsall, Albrighton, Cosford, Shifnal, Telford Central, Oakengates, and Wellington.

- 2.4.2** ***One additional service shall be provided from Shrewsbury to Wolverhampton departing no earlier than 2215, calling at Wellington, Oakengates, Telford Central, Shifnal, Cosford, Albrighton, Codsall and Bilbrook “***

D1 TREHERBERT TO CARDIFF CENTRAL VIA PONTYPRIDD

1. Weekdays

1.1 *The services specified in paragraphs 1.2 to 1.4 below shall be provided each Weekday on the route between Treherbert and Cardiff Central via Pontypridd.*

1.2

1.2.1 *An early service from Treherbert shall arrive at Cardiff Central at or before 07.15. A late service from Treherbert to Cardiff Central shall depart at or after 21.00.*

1.2.2 *An early service from Cardiff Central shall arrive at Treherbert at or before 08.00. A late service from Cardiff Central to Treherbert shall depart at or after 22.00.*

1.3 *The interval between departures of services shall not exceed 30 minutes between the early service and 19.00 from Treherbert to Cardiff Central, and shall not exceed 1 hour thereafter..*

1.4 *^{vii}The interval between departures of services shall not exceed 30 minutes between the Early Service and 1915 from Cardiff Central to Treherbert and shall not exceed 1 hour thereafter except that one interval of 1 hour 40 minutes shall be permitted after 2100.*

2. Saturdays

2.1 *The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Treherbert and Cardiff Central via Pontypridd.*

2.2

(i) *An early service from Treherbert shall arrive at Cardiff Central at or before 07.45. A late service from Treherbert to Cardiff Central shall depart at or after 21.00.*

(ii) *An early service from Cardiff Central shall arrive at Treherbert at or before 07.30. A late service from Cardiff Central to Treherbert shall depart at or after 22.00.*

2.3 *The interval between departures of services shall not exceed 30 minutes between the early service and 19.00 from Treherbert to Cardiff Central and shall not exceed 1 hour minutes thereafter.*

2.4 *The interval between departures of services shall not exceed 30 minutes between the Early Service and 1915 from Cardiff Central to Treherbert and shall not exceed 1 hour thereafter except that one interval of 1 hour 40 minutes shall be permitted after 2100,*

3. Sundays

3.1 *The services specified in paragraphs 3.2 to 3.5 below shall be provided each Sunday on the route between Treherbert and Cardiff Central via Pontypridd.*

3.2 In the Summer Timetable:

(i) *An early service from Treherbert shall arrive at Cardiff Central at or before 09.15. A late service from Treherbert to Cardiff Central shall depart at or after 19.45.*

(ii) *An early service from Cardiff Central shall arrive at Treherbert at or before 11.15. A late service from Cardiff Central to Treherbert shall depart at or after 21.00.*

3.3 In the Winter Timetable:

(i) *An early service from Treherbert shall arrive at Cardiff Central at or before 15.15. A late service from Treherbert to Cardiff Central shall depart at or after 19.00.*

(ii) *An early service from Cardiff Central shall arrive at Treherbert at or before 16.15. A late service from Cardiff Central to Treherbert shall depart at or after 21.00.*

- 3.4 *In the Summer Timetable seven trains shall depart from Treherbert to Cardiff Central and seven trains shall depart from Cardiff Central to Treherbert at a maximum interval of 2 hours .*
- 3.5 *In the Winter Timetable four trains shall depart from Treherbert to Cardiff Central and four trains shall depart from Cardiff Central to Treherbert at a maximum interval of 150 minutes.*
4. **General**
- 4.1 ^{viii ix} *Unless otherwise indicated above, all services shall call at Treherbert, Ynyswen, Treorchy, Ton Pentre, Ystrad Rhondda, Llwynypia, Tonypany, Dinas, Porth, Trehafod, Pontypridd and Cardiff Central and on Weekdays and Saturdays all services routed via Cardiff Queen Street shall in addition call at Cardiff Queen Street.*
- 4.2 ^{x xi} *The maximum journey time for services from Treherbert to Cardiff Central and from Cardiff Central to Treherbert shall be 1 hour 7 minutes.*
- 4.3 *The Franchise Operator shall use reasonable endeavours to provide connections within 15 minutes between the fast services from London to Cardiff Central and services from Cardiff Central to Treherbert after 18.30 and until the late service to Treherbert.*
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D2 ABERDARE TO CARDIFF CENTRAL VIA PONTYPRIDD

1. Weekdays

1.1 *The services specified in paragraphs 1.2 to 1.6 below shall be provided each Weekday on the route between Aberdare and Cardiff Central via Pontypridd.*

1.2

(i) An early service from Aberdare shall arrive at Cardiff Central at or before 08.15. A late service from Aberdare to Cardiff Central shall depart at or after 20.00.

(ii) An early service from Cardiff Central shall arrive at Aberdare at or before 07.30. A late service from Cardiff Central to Aberdare shall depart at or after 19.00.

1.3 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Aberdare to Cardiff Central with one interval per day of 1 hour 30 minutes being permitted.*

1.4 *Three trains shall arrive at Cardiff Central from Aberdare between (and including) the first train and 09.00 at a maximum interval of 1 hour.*

1.5 *Three trains shall depart from Cardiff Central to Aberdare between (and including) the first train and 09.00 at a maximum interval of 1 hour 30 minutes. These journeys from Cardiff Central to Aberdare need not be through journeys provided the connection time does not exceed 30 minutes for the early train and 20 minutes for the two subsequent trains. One additional through train shall depart from Cardiff Central to Aberdare between 16.30 and 17.30.*

1.6 *The interval between departures of services shall not exceed 1 hour between 09.00 and the late service from Cardiff Central to Aberdare.*

2. Saturdays

2.1 *The services specified in paragraphs 2.2 to 2.5 below shall be provided each Saturday on the route between Aberdare and Cardiff Central via Pontypridd.*

2.2

(i) An early service from Aberdare shall arrive at Cardiff Central at or before 08.30. A late service from Aberdare to Cardiff Central shall depart at or after 20.00.

(ii) An early service from Cardiff Central shall arrive at Aberdare at or before 08.15. A late service from Cardiff Central to Aberdare shall depart at or after 19.00.

2.3 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Aberdare to Cardiff Central.*

2.4 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Aberdare.*

2.5 *An additional service shall be provided from Pontypridd to Aberdare calling at all stations and arriving at Aberdare between 2130 and 2145.*

3. Sundays

3.1 *The services specified in paragraphs 3.2 to 3.5 below shall be provided each Sunday on the route between Aberdare and Cardiff Central via Pontypridd.*

3.2 *In the Summer Timetable:*

(i) An early service from Aberdare shall arrive at Cardiff Central at or before 11.15. A late service from Aberdare to Cardiff Central shall depart at or after 20.15.

- (ii) *An early service from Cardiff Central shall arrive at Aberdare at or before 10.15. A late service from Cardiff Central to Aberdare shall depart at or after 19.15.*

3.3 *In the Winter Timetable:*

- (i) *An early service from Aberdare shall arrive at Cardiff Central at or before 15.30. A late service from Aberdare to Cardiff Central shall depart at or after 20.15.*
- (ii) *An early service from Cardiff Central shall arrive at Aberdare at or before 14.30. A late service from Cardiff Central to Aberdare shall depart at or after 19.15.*

3.4 *In the Summer Timetable six trains shall depart from Aberdare to Cardiff Central and six trains shall depart from Cardiff Central to Aberdare at a maximum interval of 2 hours 30 minutes.*

3.5 *In the Winter Timetable four trains shall depart from Aberdare to Cardiff Central and four trains shall depart from Cardiff Central to Aberdare at a maximum interval of 2 hours 30 minutes.*

4. *General*

4.1 *Unless otherwise indicated above, all services shall call at Aberdare, Cwmbach, Fernhill, Mountain Ash, Penrhiwceiber, Abercynon North, Pontypridd and Cardiff Central and on Weekdays and Saturdays all services routed via Cardiff Queen Street shall in addition call at Cardiff Queen Street.*

4.2 *The maximum journey time for services from Aberdare to Cardiff Central and from Cardiff Central to Aberdare shall be 1 hour 5 minutes.*

D3 Merthyr Tydfil to Cardiff Central via Pontypridd

1. Weekdays

1.1 *The services specified in paragraphs 1.2 to 1.4 below shall be provided each Weekday on the route between Merthyr Tydfil and Cardiff Central via Pontypridd.*

1.2

- (i)** *An early service from Merthyr Tydfil shall arrive at Cardiff Central at or before 07.45. A late service from Merthyr Tydfil to Cardiff Central shall depart at or after 21.30.*
- (ii)** *An early service from Cardiff Central shall arrive at Merthyr Tydfil at or before 07.45. A late service from Cardiff Central to Merthyr Tydfil shall depart at or after 21.30.*

1.3 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Merthyr Tydfil to Cardiff Central, with one interval of 1 hour 20 minutes being permitted.*

1.4 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Merthyr Tydfil.*

2. Saturdays

2.1 *The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Merthyr Tydfil and Cardiff Central via Pontypridd.*

2.2

- (i)** *An early service from Merthyr Tydfil shall arrive at Cardiff Central at or before 08.00. A late service from Merthyr Tydfil to Cardiff Central shall depart at or after 21.30.*
- (ii)** *An early service from Cardiff Central shall arrive at Merthyr Tydfil at or before 07.45. A late service from Cardiff Central to Merthyr Tydfil shall depart at or after 21.30.*

2.3 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Merthyr Tydfil to Cardiff Central.*

2.4 *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Merthyr Tydfil.*

3. Sundays

3.1 *The services specified in paragraphs 3.2 to 3.5 below shall be provided each Sunday on the route between Merthyr Tydfil and Cardiff Central via Pontypridd.*

3.2 In the Summer Timetable:

- (i)** *An early service from Merthyr Tydfil shall arrive at Cardiff Central at or before 11.30. A late service from Merthyr Tydfil to Cardiff Central shall depart at or after 21.15.*
- (ii)** *An early service from Cardiff Central shall arrive at Merthyr Tydfil at or before 10.30. A late service from Cardiff Central to Merthyr Tydfil shall depart at or after 20.15.*

3.3 In the Winter Timetable:

- (i)** *An early service from Merthyr Tydfil shall arrive at Cardiff Central at or before 16.30. A late service from Merthyr Tydfil to Cardiff Central shall depart at or after 21.15.*
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- (ii) *An early service from Cardiff Central shall arrive at Merthyr Tydfil at or before 15.30. A late service from Cardiff Central to Merthyr Tydfil shall depart at or after 20.15.*
 - 3.4 *In the Summer Timetable six trains shall depart from Merthyr Tydfil to Cardiff Central and six trains shall depart from Cardiff Central to Merthyr Tydfil at a maximum interval of 2 hours*
 - 3.5 *In the Winter Timetable four trains shall depart from Merthyr Tydfil to Cardiff Central and four trains shall depart from Cardiff Central to Merthyr Tydfil at a maximum interval of 2 hours.*
 - 4. *General*
 - 4.1 *Unless otherwise indicated above, all services shall call at Merthyr Tydfil, Pentre-bach, Troed-y-rhiw, Merthyr Vale, Quakers Yard, Abercynon South, Pontypridd and Cardiff Central and on Weekdays and Saturdays all services routed via Cardiff Queen Street shall in addition call at Cardiff Queen Street.*
 - 4.2 *The maximum journey time for services from Merthyr Tydfil to Cardiff Central and from Cardiff Central to Merthyr Tydfil shall be 1 hour 3 minutes. .*
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D4 Pontypridd to Cardiff Central via Radyr

1. Weekdays

1.1 *The services specified in paragraphs 1.2 to 1.8 below shall be provided each Weekday on the route between Pontypridd and Cardiff Central via Radyr.*

1.2

(i) An early service from Pontypridd shall arrive at Cardiff Central at or before 06.15. A late service from Pontypridd to Cardiff Central shall depart at or after 21.45.

(ii) An early service from Cardiff Central shall arrive at Pontypridd at or before 06.45. A late service from Cardiff Central to Pontypridd shall depart at or after 22.00.

1.3 *The interval between departures of services shall not exceed 30 minutes between 07.10 and 18.30 from Pontypridd to Cardiff Central, with intervals of 40 minutes being permitted between 18.30 and the late service provided that there are two departures each hour between these times.*

1.4 *The interval between departures of services shall not exceed 30 minutes between 06.00 and 18.30 from Cardiff Central to Pontypridd, with intervals of 40 minutes being permitted between 18.30 and the late service provided that there are two departures each hour between these times with one exception of 1 hour*

1.5 *Ten services with a total of 1300 seats shall arrive at Cardiff Central from Pontypridd between 07.30 and 10.00 and these services may omit to call at Trefforest, Taffs Well and Radyr provided that the services specified in paragraph 1.3 are maintained.*

1.6 *Ten services with a total of 1300 seats shall depart from Cardiff Central to Pontypridd between 16.00 and 18.30 and these services may omit to call at Trefforest, Taffs Well and Radyr provided that the services specified in paragraph 1.4 are maintained.*

1.7 *Five services shall depart from Pontypridd to Cardiff Central calling additionally at Trefforest Estate before 09.00 and Five services shall depart from Cardiff Central to Pontypridd calling additionally at Trefforest Estate before 09.00.*

1.8 *Five services shall depart from Pontypridd to Cardiff Central calling additionally at Trefforest Estate between 13.45 and 18.15 and Five services shall depart from Cardiff Central to Pontypridd calling additionally at Trefforest Estate between 13.45 and 18.15.*

2. Saturdays

2.1 *The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Pontypridd and Cardiff Central via Radyr.*

2.2

(i) An early service from Pontypridd shall arrive at Cardiff Central at or before 06.15. A late service from Pontypridd to Cardiff Central shall depart at or after 21.45.

(ii) An early service from Cardiff Central shall arrive at Pontypridd at or before 07.00. A late service from Cardiff Central to Pontypridd shall depart at or after 22.00.

2.3 *The interval between departures of services shall not exceed 30 minutes between 07.00 and 18.30 from Pontypridd to Cardiff Central, with intervals of 45 minutes being permitted between 18.30 and the late service provided that there are two departures each hour between these times.*

2.4 *The interval between departures of services shall not exceed 30 minutes between 07.00 and 18.30 from Cardiff Central to Pontypridd, with intervals of 45 minutes being permitted*

between 18.30 and the late service provided that there are two departures each hour between these times.

3. Sundays

3.1 *The services specified in paragraphs 3.2 to 3.7 below shall be provided each Sunday on the route between Pontypridd and Cardiff Central via Radyr.*

3.2 In the Summer Timetable:

- (i) An early service from Pontypridd shall arrive at Cardiff Central at or before 09.15. A late service from Pontypridd to Cardiff Central shall depart at or after 21.45.*
- (ii) An early service from Cardiff Central shall arrive at Pontypridd at or before 09.45. A late service from Cardiff Central to Pontypridd shall depart at or after 22.00.*

3.3 In the Winter Timetable:

- (i) An early service from Pontypridd shall arrive at Cardiff Central at or before 15.15. A late service from Pontypridd to Cardiff Central shall depart at or after 21.45.*
- (ii) An early service from Cardiff Central shall arrive at Pontypridd at or before 14.00. A late service from Cardiff Central to Pontypridd shall depart at or after 21.00.*

3.4 *In the Summer Timetable the interval between departures shall not exceed 1 hour between the early service and the late service from Pontypridd to Cardiff Central, with two intervals of 1 hour 30 minutes per day being permitted.*

3.5 *In the Summer Timetable the interval between departures shall not exceed 1 hour between the early service and the late service from Cardiff Central to Pontypridd, with two intervals of 1 hour 30 minutes per day being permitted and one interval of 2 hours per day being permitted after 20.00.*

3.6 *In the Winter Timetable all services from Cardiff Central to Treherbert, Aberdare or Merthyr Tydfil and all services from Treherbert, Aberdare or Merthyr Tydfil to Cardiff Central shall call at Pontypridd, Trefforest, Taffs Well and Radyr.*

4. General

4.1 *Unless otherwise indicated above, all services shall call at Pontypridd, Trefforest, Taffs Well, Radyr and Cardiff Central and on Weekdays and Saturdays all services routed via Cardiff Queen Street shall in addition call at Cardiff Queen Street.*

4.2 *The maximum journey time for services from Pontypridd to Cardiff Central and from Cardiff Central to Pontypridd shall be 36 minutes.*

D5 RADYR TO CARDIFF CENTRAL VIA CATHAYS OR NINIAN PARK

1. Weekdays

1.1 The services specified in paragraphs 1.2 to 1.7 below shall be provided each Weekday on the route between Radyr and Cardiff Central via Cathays or Ninian Park.

1.2

- (i) An early service from Radyr shall arrive at Cardiff Central via Cathays at or before 06.15. A late service from Radyr to Cardiff Central via Cathays shall depart at or after 21.45.**
- (ii) An early service from Cardiff Central shall arrive at Radyr via Cathays at or before 06.30. A late service from Cardiff Central to Radyr via Cathays shall depart at or after 22.00.**
- (iii) An early service from Radyr shall arrive at Cardiff Central via Ninian Park at or before 07.45. A late service from Radyr to Cardiff Central via Ninian Park shall depart at or after 22.00.**
- (iv) An early service from Cardiff Central shall arrive at Radyr via Ninian Park at or before 07.45. A late service from Cardiff Central to Radyr via Ninian Park shall depart at or after 21.30.**

1.3 The interval between departures of services shall not exceed 30 minutes between 07.30 and 18.30 from Radyr to Cardiff Central via Llandaf, Cathays and Cardiff Queen Street, and shall not exceed 60 minutes between 18.30 and 22.00.

1.4 Ten trains shall arrive at Cardiff Central via Llandaf, Cathays and Cardiff Queen Street from Radyr between 07.30 and 10.00 at a maximum interval of 20 minutes and nine trains shall depart from Cardiff Central to Radyr via Llandaf, Cathays and Cardiff Queen Street between 16.00 and 18.30.

1.5 The interval between departures of services shall not exceed 30 minutes between 06.30 and 18.30 from Cardiff Central to Radyr via Llandaf, Cathays and Cardiff Queen Street, and shall not exceed 60 minutes between 18.30 and 22.00.

1.6 The interval between departures of services shall not exceed 30 minutes between 07.00 and 11.00 and between 16.00 and 18.00 from Radyr to Cardiff Central via Ninian Park with one interval of 40 minutes permitted, and shall not exceed 1 hour between 11.00 and 16.00 with one interval of 1 hour 20 minutes permitted, and shall not exceed 1 hour 30 minutes between 18.00 and the late service.

1.7 The interval between departures of services shall not exceed 30 minutes between 08.30 and 10.30 and between 15.30 and 18.00 from Cardiff Central to Radyr via Ninian Park, with one interval of 45 minutes permitted, and shall not exceed 1 hour between 10.30 and 15.30 with one interval of 1 hour 20 minutes and one interval of 45 minutes permitted, and shall not exceed 1 hour 30 minutes between 18.00 and the late service.

2. Saturdays

2.1 The services specified in paragraphs 2.2 to 2.5 below shall be provided each Saturday on the route between Radyr and Cardiff Central via Cathays or Ninian Park.

- (i) An early service from Radyr shall arrive at Cardiff Central via Cathays at or before 06.15. A late service from Radyr to Cardiff Central via Cathays shall depart at or after 21.45.**
 - (ii) An early service from Cardiff Central shall arrive at Radyr via Cathays at or before 06.45. A late service from Cardiff Central to Radyr via Cathays shall depart at or after 22.00.**
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- (iii) *An early service from Radyr shall arrive at Cardiff Central via Ninian Park at or before 07.45. A late service from Radyr to Cardiff Central via Ninian Park shall depart at or after 22.00.*
 - (iv) *An early service from Cardiff Central shall arrive at Radyr via Ninian Park at or before 08.30. A late service from Cardiff Central to Radyr via Ninian Park shall depart at or after 21.30.*
 - 2.2 *The interval between departures of services shall not exceed 30 minutes between 07.00 and 19.00 from Radyr to Cardiff Central via Llandaf, Cathays and Cardiff Queen Street, and shall not exceed 1 hour after 19.00 and until the late service.*
 - 2.3 *The interval between departures of services shall not exceed 30 minutes between the early service and 18.00 from Cardiff Central to Radyr via Llandaf, Cathays and Cardiff Queen Street, and shall not exceed 1 hour between 18.00 and until the late service.*
 - 2.4 *The interval between departures of services shall not exceed 30 minutes between 08.00 and 11.00 and between 16.00 and 18.30 from Radyr to Cardiff Central via Danescourt, Fairwater, Waun-gron Park and Ninian Park, and shall not exceed 1 hour in all other periods between 07.00 and 22.00. One interval of 40 minutes permitted (between 0800 – 11.00, and between 1600 – 18.30).*
 - 2.5 *The interval between departures of services shall not exceed 30 minutes between the early service and 10.30 and between 15.30 and 18.00 from Cardiff Central to Radyr via Danescourt, Fairwater, Waun-gron Park and Ninian Park, and shall not exceed 1 hour minutes in all other periods between 07.00 and 22.00. One interval of 40 minutes permitted between the Early service and 10.30, and between 15.30 and 18.00*
 - 3. **Sundays**
 - 3.1 *The services specified in paragraphs 3.2 to 3.8 below shall be provided each Sunday on the route between Radyr and Cardiff Central via Cathays.*
 - 3.2 ***In the Summer Timetable:***
 - (i) *An early service from Radyr shall arrive at Cardiff Central via Cathays at or before 09.15. A late service from Radyr to Cardiff Central via Cathays shall depart at or after 22.00.*
 - (ii) *An early service from Cardiff Central shall arrive at Radyr via Cathays at or before 09.30. A late service from Cardiff Central to Radyr via Cathays shall depart at or after 22.00.*
 - 3.3 ***In the Winter Timetable:***
 - (i) *An early service from Radyr shall arrive at Cardiff Central via Cathays at or before 15.15. A late service from Radyr to Cardiff Central via Cathays shall depart at or after 21.45.*
 - (ii) *An early service from Cardiff Central shall arrive at Radyr via Cathays at or before 13.45. A late service from Cardiff Central to Radyr via Cathays shall depart at or after 21.00.*
 - 3.4 *In the Summer Timetable the interval between departures of services shall not exceed 1 hour minutes between the early service and the late service from Radyr to Cardiff Central via Cathays, with two intervals of 1 hour 30 minutes being permitted.*
 - 3.5 *In the Summer Timetable the interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Radyr via Cathays, with two intervals of 1 hour 30 minutes being permitted and one interval of 2 hours being permitted after 20.00.*
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- 3.6 *In the Summer Timetable all services between Treherbert, Aberdare, Merthyr Tydfil, Pontypridd, Radyr and Cardiff Central shall call at Cardiff Queen Street between 10.00 and 17.00.*
- 3.7 *In the Winter Timetable the interval between departures of services shall not exceed 1` hour between the early service and the late service from Radyr to Cardiff Central via Llandaf and Cathays.*
- 3.8 *In the Winter Timetable the interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Radyr via Llandaf and Cathays.*
4. *General*
- 4.1 *Unless otherwise indicated above, on Weekdays and Saturdays all services shall call either at Radyr, Llandaf, Cathays, Cardiff Queen Street and Cardiff Central or at Radyr, Danescourt, Fairwater, Waun-gron Park, Ninian Park and Cardiff Central.*
- 4.2 *Unless otherwise indicated above, on Sundays all services shall call at Radyr, Llandaf, Cathays and Cardiff Central.*
- 4.3 *The maximum journey time for services from Radyr to Cardiff Central via Cathays and from Cardiff Central to Radyr via Cathays shall be 21 minutes.*
- 4.4 *The maximum journey time for services from Radyr to Cardiff Central via Ninian Park and from Cardiff Central to Radyr via Ninian Park shall be 20 minutes.*
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D6 CORYTON TO CARDIFF CENTRAL OR CARDIFF BAY

1. Weekdays

1.1 *The services specified in paragraphs 1.2 to 1.5 below shall be provided each Weekday on the route between Coryton and Cardiff Central or Cardiff Bay.*

1.2

- (i)** *An early service from Coryton shall arrive at Cardiff Queen Street at or before 07.30. A late service from Coryton to Cardiff Queen Street shall depart at or after 19.00.*
- (ii)** *An early service from Cardiff Queen Street shall arrive at Coryton at or before 07.45. A late service from Cardiff Queen Street to Coryton shall depart at or after 18.30.*

1.3 *The interval between departures of services shall not exceed 30 minutes between the early service and the late service from Coryton to Cardiff Queen Street, with one interval of 1 hour being permitted after 18.00.*

1.4 *The interval between departures of services shall not exceed 30 minutes between the early service and the late service from Cardiff Queen Street to Coryton, with one interval of 1 hour being permitted after 18.00.*

1.5 *There shall be at least a total of 400 seats on services arriving at Cardiff Queen Street from Coryton between 07.30 and 10.00 and at least a total of 400 seats on services departing from Cardiff Queen Street to Coryton between 16.00 and 18.30.*

2. Saturdays

2.1 *The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Coryton and Cardiff Central or Cardiff Bay.*

2.2

- (i)** *An early service from Coryton shall arrive at Cardiff Queen Street at or before 08.00. A late service from Coryton to Cardiff Queen Street shall depart at or after 18.45.*
- (ii)** *An early service from Cardiff Queen Street shall arrive at Coryton at or before 07.45. A late service from Cardiff Queen Street to Coryton shall depart at or after 18.30.*

2.3 *The interval between departures of services shall not exceed 30 minutes between the early service and the late service from Coryton to Cardiff Queen Street with one interval of 1 hour being permitted after 18.30.*

2.4 *The interval between departures of services shall not exceed 30 minutes between the early service and the late service from Cardiff Queen Street to Coryton with one interval of 1 hour being permitted after 18.30.*

3. Sundays

3.1 *No service shall be required on Sundays on the route between Coryton and Cardiff Central or Cardiff Bay.*

4. General

4.1 *Unless otherwise indicated above, all services shall call at Coryton, Whitchurch, Rhiwbina, Birchgrove, Ty Glas, Heath Low Level, Cardiff Queen Street and Cardiff Central or Cardiff Bay.*

- 4.2 *The maximum journey time for services from Coryton to Cardiff Queen Street shall be 21minutes and from Cardiff Queen Street to Coryton shall be 21minutes.*
 - 4.3 *The maximum journey time for services from Cardiff Queen Street to Cardiff Central and from Cardiff Central to Cardiff Queen Street shall be 8 minutes.*
 - 4.4 *The maximum wait at Cardiff Queen Street for services operating through between Coryton and Cardiff Central shall be 10 minutes.*
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D7 RHYMNEY TO CARDIFF CENTRAL OR CARDIFF BAY

1. Weekdays

1.1 The services specified in paragraphs 1.2 to 1.16 below shall be provided each Weekday on the route between Rhymney and Cardiff Central or Cardiff Bay.

1.2

(i) An early service from Rhymney shall arrive at Cardiff Queen Street at or before 07.15. A late service from Rhymney to Cardiff Central shall depart at or after 21.00.

(ii) An early service from Cardiff Queen Street shall arrive at Rhymney at or before 08.30. A late service from Cardiff Queen Street to Rhymney shall depart at or after 22.00.

1.3 The interval between departures of services shall not exceed 30 minutes between the early service and 08.30 from Rhymney to Cardiff Queen Street with one interval of 45 minutes being permitted, and shall not exceed 1 hour after 08.30 and before 16.30 and two services shall operate at intervals not less than 1 hour 20 minutes and not more than 2 hours between 16.30 and the late service.

1.4 Eight trains with a total of 1200 seats shall arrive at Cardiff Queen Street from Caerphilly between 07.30 and 10.00 and eight trains with a total of 1200 seats shall depart from Cardiff Queen Street to Caerphilly between 16.00 and 18.30.

1.5 One additional service shall depart from Caerphilly at or after 05.45 and arrive at Cardiff Queen Street at or before 06.30.

1.6 One additional service shall depart from Cardiff Central at or after 06.30 and arrive at Caerphilly at or before 07.30 and another additional service shall depart from Cardiff Central at or after 22.45 and arrive at Caerphilly at or before 23.45.

1.7 The interval between departures of services from Cardiff Queen Street to Caerphilly shall not exceed 30 minutes between 07.00 and 18.00.

1.8 The interval between departures of services from Caerphilly to Cardiff Queen Street shall not exceed 30 minutes between 07.00 and 17.00.

1.9 There shall be two departures an hour between the early service and 17.00 including the services specified in paragraph 1.3 from Bargoed to Cardiff Queen Street with a maximum interval of 40 minutes, and there shall be two additional departures between 07.45 and 09.15 excluding the services specified in paragraph 1.3.

1.10 There shall be three departures after 17.00 and until the late service from Bargoed to Cardiff Queen Street with a maximum interval of two hours.

1.11 The interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Queen Street to Rhymney with one interval of 1 hour 30 minutes being permitted and one additional service operating between 17.00 and 18.00.

1.12 There shall be two departures an hour from Cardiff Queen Street to Bargoed between the early service and 18.00 and the interval between departures of services shall not exceed 30 minutes after 08.00 including the services specified in paragraph 1.8, with one additional service operating between 17.00 and 18.00.

2. Saturdays

- 2.1** *The services specified in paragraphs 2.2 to 2.9 below shall be provided each Saturday on the route between Rhymney and Cardiff Central or Cardiff Bay.*
- 2.2** *An early service from Rhymney shall arrive at Cardiff Queen Street at or before 07.15. A late service from Rhymney to Cardiff Queen Street shall depart at or after 20.00.*
- (i)** *An early service from Cardiff Queen Street shall arrive at Rhymney at or before 10.15. A late service from Cardiff Queen Street to Rhymney shall depart at or after 22.00.*
- 2.3** *The interval between departures of services from Cardiff Queen Street to Caerphilly shall not exceed 30 minutes between 10.00 and 17.00.*
- 2.4** *The interval between departures of services from Caerphilly to Cardiff Queen Street shall not exceed 30 minutes between 10.00 and 18.00.*
- 2.5** *The interval between departures of services shall not exceed 60 minutes between the early service and the late service from Rhymney to Cardiff Queen Street with one interval of 2 hours being permitted after 17.00, and one additional service departing between 07.00 and 08.00.*
- 2.6** *The interval between departures of services shall not exceed 45 minutes between 07.30 and 18.30 from Bargoed to Cardiff Queen Street provided that there shall be two departures an hour including the service specified in paragraph 2.5.*
- 2.7** *The interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Queen Street to Rhymney.*
- 2.8** *The interval between departures of services shall not exceed 30 minutes from 08.00 to 18.00 from Cardiff Queen Street to Bargoed including the service specified in paragraph 2.3.*
- 2.9** *An additional service from Cardiff Central shall depart at or after 22.45 and arrive at Caerphilly at or before 23.45.*

3. Sundays

- 3.1** *The services specified in paragraphs 3.2 to 3.5 below shall be provided each Sunday on the route between Rhymney and Cardiff Central or Cardiff Bay.*
- 3.2** *In the Summer Timetable:*
- (i)** *An early service from Rhymney shall arrive at Cardiff Queen Street at or before 10.00. A late service from Rhymney to Cardiff Queen Street shall depart at or after 19.15.*
- (ii)** *An early service from Cardiff Queen Street shall arrive at Rhymney at or before 12.15. A late service from Cardiff Queen Street to Rhymney shall depart at or after 21.15.*
- 3.3** *In the Winter Timetable:*
- (i)** *An early service from Rhymney shall arrive at Cardiff Central at or before 16.15. A late service from Rhymney to Cardiff Central shall depart at or after 19.15.*
- (ii)** *An early service from Cardiff Central shall arrive at Rhymney at or before 17.15. A late service from Cardiff Central to Rhymney shall depart at or after 20.00.*
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- 3.4 *In the Summer Timetable six trains shall depart from Rhymney to Cardiff Queen Street and six trains shall depart from Cardiff Queen Street to Rhymney at a maximum interval of 2 hours.*
- 3.5 *In the Winter Timetable three trains shall depart from Rhymney to Cardiff Central and three trains shall depart from Cardiff Central to Rhymney.*
4. **General**
- 4.1 *Unless otherwise indicated, all services shall call at Rhymney, Pontlottyn, Tir-phil, Brithdir, Bargoed, Pengam, Hengoed, Ystrad Mynach, Llanbradach, Aber, Caerphilly, Lisvane and Thornhill, Llanishen, Heath High Level, Cardiff Queen Street and Cardiff Central or Cardiff Bay.*
- 4.2 *All services shown as departing from or arriving at Cardiff Queen Street shall have respectively started at or continued on to Cardiff Central or Cardiff Bay.*
- 4.3 *In the Winter Sunday Timetable no service shall be required to Cardiff Bay and Cardiff Queen Street and all trains shall serve Cardiff Central.*
- 4.4 *The maximum journey time for services from Rhymney to Cardiff Queen Street shall be 59 minutes and from Cardiff Queen Street to Rhymney shall be 1 hour 7 minutes*
- 4.5 *The maximum journey time for services from Bargoed to Cardiff Queen Street shall be 47 minutes and from Cardiff Queen Street to Bargoed shall be 55 minutes with 80% of the services from Cardiff Queen Street to Bargoed having a maximum journey time of 47 minutes.*
- 4.6 *The maximum journey time on Sundays for services between Rhymney and Cardiff Central shall be 1 hour.*
- 4.7 *The maximum wait at Cardiff Queen Street for services operating through between Rhymney and Cardiff Central shall be 10 minutes.*
- 4.8 *On Weekdays and Saturdays connections shall be provided within 15 minutes where reasonably practicable between the fast services from London to Cardiff Central and services from Cardiff Central to Rhymney after 18.30 and until the late service to Rhymney.*
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D8 CARDIFF QUEEN STREET TO CARDIFF BAY

1. Weekdays

1.1 *The services specified in paragraphs 1.2 to 1.4 below shall be provided each Weekday on the route between Cardiff Queen Street and Cardiff Bay.*

1.2 *An early service from Cardiff Queen Street shall arrive at Cardiff Bay at or before 07.15. A late service from Cardiff Queen Street to Cardiff Bay shall depart at or after 18.30.*

(i) An early service from Cardiff Bay shall arrive at Cardiff Queen Street at or before 07.30. A late service from Cardiff Bay to Cardiff Queen Street shall depart at or after 18.30.

1.3 *The interval between departures of services shall not exceed 30 minutes between the early service and the late service from Cardiff Queen Street to Cardiff Bay, with ten trains to depart from Cardiff Queen Street between 07.30 and 10.00.*

1.4 *The interval between departures of services shall not exceed 30 minutes between the early service and 16.00 from Cardiff Bay to Cardiff Queen Street, provided that there shall be nine services between 16.00 and the late service.*

2. Saturdays

2.1 *The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Cardiff Queen Street and Cardiff Bay.*

2.2

(i) An early service from Cardiff Queen Street shall arrive at Cardiff Bay at or before 10.00. A late service from Cardiff Queen Street to Cardiff Bay shall depart at or after 16.30.

(ii) An early service from Cardiff Bay shall arrive at Cardiff Queen Street at or before 10.00. A late service from Cardiff Bay to Cardiff Queen Street shall depart at or after 16.30.

2.3 *The interval between departures of services shall not exceed 30 minutes between 10.30 and 16.00 from Cardiff Queen Street to Cardiff Bay.*

2.4 *The interval between departures of services shall not exceed 30 minutes between 10.30 and 16.00 from Cardiff Bay to Cardiff Queen Street.*

3. Sundays

3.1 *The services specified in paragraphs 3.2 to 3.4 below shall be provided each Sunday on the route between Cardiff Queen Street and Cardiff Bay.*

3.2 *In the Summer Timetable:*

(i) An early service from Cardiff Queen Street shall arrive at Cardiff Bay at or before 11.15. A late service from Cardiff Queen Street to Cardiff Bay shall depart at or after 14.45.

(ii) An early service from Cardiff Bay shall arrive at Cardiff Queen Street at or before 12.00. A late service from Cardiff Bay to Cardiff Queen Street shall depart at or after 16.15.

3.3 *No service on Sundays in the Winter shall be required between Cardiff Queen Street and Cardiff Bay.*

3.4 *In the Summer Timetable five trains shall depart from Cardiff Queen Street to Cardiff Bay and five trains shall depart from Cardiff Bay to Cardiff Queen Street at a maximum interval of 1 hour 30 minutes.*

4. General

- 4.1** *Unless otherwise indicated above, all services shall call at Cardiff Queen Street and Cardiff Bay.*
- 4.2** *The maximum journey time for services from Cardiff Queen Street to Cardiff Bay shall be 5 minutes and from Cardiff Bay to Cardiff Queen Street shall be 5 minutes with 90% of the services from Cardiff Bay to Cardiff Queen Street having a maximum journey time of 5 minutes.*
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D9 PENARTH TO CARDIFF CENTRAL

1. Weekdays

1.1 The services specified in paragraphs 1.2 to 1.7 below shall be provided each Weekday on the route between Penarth and Cardiff Central.

1.2

(i) An early service from Penarth shall arrive at Cardiff Central at or before 07.30. A late service from Penarth to Cardiff Central shall depart at or after 23.00.

(ii) An early service from Cardiff Central shall arrive at Penarth at or before 07.15. A late service from Cardiff Central to Penarth shall depart at or after 22.45.

1.3 The interval between departures of services shall not exceed 30 minutes between the early service and 19.00 from Penarth to Cardiff Central, and shall not exceed 1 hour after 19.00 and until the late service.

1.4 Seven trains with a total of 600 seats shall arrive at Cardiff Central from Penarth between 07.30 and 10.00 and seven trains with a total of 600 seats shall depart from Cardiff Central to Penarth between 16.00 and 18.30.

1.5 The interval between departures of services shall not exceed 30 minutes between the first service and 19.00 from Cardiff Central to Penarth, and shall not exceed 1 hour after 19.00 and until the late service.

2. Saturdays

2.1 The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Penarth and Cardiff Central.

2.2

(i) An early service from Penarth shall arrive at Cardiff Central at or before 07.30. A late service from Penarth to Cardiff Central shall depart at or after 23.00.

(ii) An early service from Cardiff Central shall arrive at Penarth at or before 07.15. A late service from Cardiff Central to Penarth shall depart at or after 22.45.

2.3 The interval between departures of services shall not exceed 30 minutes between 07.00 and 19.00 from Penarth to Cardiff Central, and shall not exceed 1 hour after 19.00 and until the late service.

2.4 The interval between departures of services shall not exceed 30 minutes between 07.00 and 19.00 from Cardiff Central to Penarth, and shall not exceed 1 hour after 19.00 and until the late service.

3. Sundays

3.1 The services specified in paragraphs 3.2 to 3.4 below shall be provided each Sunday on the route between Penarth and Cardiff Central.

3.2 In the Summer Timetable:

(i) An early service from Penarth shall arrive at Cardiff Central at or before 11.00. A late service from Penarth to Cardiff Central shall depart at or after 16.45.

(ii) An early service from Cardiff Central shall arrive at Penarth at or before 10.45. A late service from Cardiff Central to Penarth shall depart at or after 16.30.

3.3 No service on Sundays in the Winter shall be required between Cardiff Central and Penarth.

- 3.4 ***In the Summer Timetable four trains shall depart from Penarth to Cardiff Central and four trains shall depart from Cardiff Central to Penarth at a maximum interval of 2 hours 30 minutes.***
 - 4. ***General***
 - 4.1 ***Unless otherwise indicated above, all services shall call at Penarth, Dingle Road, Grangetown and Cardiff Central.***
 - 4.2 ***The maximum journey time for services between Cardiff Central and Penarth shall be 16 minutes***
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D10 BARRY ISLAND TO CARDIFF CENTRAL

1. Weekdays

1.1 The services specified in paragraphs 1.2 to 1.7 below shall be provided each Weekday on the route between Barry Island and Cardiff Central.

1.2

- (i) An early service from Barry Island shall arrive at Cardiff Central at or before 06.30. A late service from Barry Island to Cardiff Central shall depart at or after 21.30.**
- (ii) An early service from Cardiff Central shall arrive at Barry Island at or before 06.30. A late service from Cardiff Central to Barry Island shall depart at or after 22.45.**

1.3 The interval between departures of services shall not exceed 30 minutes between 06.00 and 20.00 from Barry Island to Cardiff Central provided that there shall be two departures an hour, and shall not exceed 1 hour after 20.00 and until the late service.

1.4 Nine trains with a total of 900 seats shall arrive at Cardiff Central from Barry Island between 07.30 and 10.00 provided that two of these services may start from Barry and nine trains with a total of 900 seats shall depart from Cardiff Central to Barry Island between 16.00 and 18.30 provided that one of these services may terminate at Barry.

1.5 The interval between departures of services shall not exceed 30 minutes between 06.00 and 19.00 from Cardiff Central to Barry Island, and shall not exceed 1 hour after 19.00 and until the late service.

2. Saturdays

2.1 The services specified in paragraphs 2.2 to 2.4 below shall be provided each Saturday on the route between Barry Island and Cardiff Central.

2.2

- (i) An early service from Barry Island shall arrive at Cardiff Central at or before 06.45. A late service from Barry Island to Cardiff Central shall depart at or after 21.30.**
- (ii) An early service from Cardiff Central shall arrive at Barry Island at or before 07.15. A late service from Cardiff Central to Barry Island shall depart at or after 22.45.**

2.3 The interval between departures of services shall not exceed 30 minutes between 07.00 and 20.00 from Barry Island to Cardiff Central, and shall not exceed 1 hour after 20.00 and until the late service.

2.4 The interval between departures of services shall not exceed 30 minutes between 07.00 and 19.00 from Cardiff Central to Barry Island, and shall not exceed 1 hour after 19.00 and until the late service.

3. Sundays

3.1 The services specified in paragraphs 3.2 to 3.7 below shall be provided each Sunday on the route between Barry Island and Cardiff Central.

3.2 In the Summer Timetable:

- (i) An early service from Barry Island shall arrive at Cardiff Central at or before 0930. A late service from Barry Island to Cardiff Central shall depart at or after 21.30.**
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- (ii) *An early service from Cardiff Central shall arrive at Barry Island at or before 0900. A late service from Cardiff Central to Barry Island shall depart at or after 21.00.*

3.3 In the Winter Timetable:

- (i) *An early service from Barry Island shall arrive at Cardiff Central at or before 09.0930. A late service from Barry Island to Cardiff Central shall depart at or after 21.30.*
- (ii) *An early service from Cardiff Central shall arrive at Barry Island at or before 0900. A late service from Cardiff Central to Barry Island shall depart at or after 22.00.*

3.4 *In the Summer Timetable the interval between departures of services shall not exceed 60 minutes between the early service and the late service from Barry Island to Cardiff Central, provided that the interval shall not exceed 30 minutes between 09.45 and 19.45 with one interval of 1 hour being permitted.*

3.5 *In the Summer Timetable the interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Barry Island, provided that the interval shall not exceed 30 minutes between 10.15 and 20.15 with one interval of 1 hour being permitted.*

3.6 *In the Winter Timetable the interval between departures of services shall not exceed 1 hour between the early service and the late service from Barry Island to Cardiff Central, with one interval of 2 hours being permitted before 13.00 and one interval of 1 hour 30 minutes being permitted after 16.00.*

3.7 *In the Winter Timetable the interval between departures of services shall not exceed 1 hour between the early service and the late service from Cardiff Central to Barry Island, with one interval of 2 hours minutes being permitted before 13.00 and one interval of 1 hour 30 minutes being permitted after 16.00.*

4. General

4.1 *Unless otherwise indicated above, all services shall call at Barry Island, Barry, Barry Docks, Cadoxton, Dinas Powys, Eastbrook, Cogan, Grangetown and Cardiff Central.*

4.2 *The maximum journey time for services from Barry Island to Cardiff Central shall be 30 minutes and from Cardiff Central to Barry Island shall be 30 minutes.*

F1 SWANSEA TO PEMBROKE DOCK

1. Weekdays

1.1 Service Pattern

1.1.1 *Six services shall be provided between Swansea and Pembroke Dock calling at Llanelli, Carmarthen, Whitland, Narberth, Kilgetty, Saundersfoot, Tenby, Penally, Manorbier, Lamphey and Pembroke.*

1.1.2 *One additional service shall be provided between Swansea and Tenby calling at Llanelli and Carmarthen, Whitland, Narberth, Kilgetty and Saundersfoot.*

1.2 Swansea Departures

1.2.1 *An early departure between 05:50 and 06:50.*

1.2.2 *A late departure between 1845 and 2145.*

1.2.3 *Maximum Journey Time 2 hour 30 minutes.*

1.3 Pembroke Dock Departures

1.3.1 *An early departure between 0615 and 0715.*

1.3.2 *A late departure between 1945 and 2145.*

1.3.3 *Maximum Journey Time 2 hours 20 minutes.*

1.4 Additional Services and Variations

1.4.1 *One additional service shall be provided from Pembroke Dock to Carmarthen calling at all intermediate stations specified in paragraph 1.1.1. This service shall depart between 50 minutes and 2 hours 10 minutes later than the late departure specified in paragraph 1.3.2.*

1.4.2 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 1.1.1 to connect within 15 minutes with services provided by any Train Operator to and from London.*

2. Summer Saturdays

2.1 Service Pattern

2.1.1 *Six services shall be provided between Swansea and Pembroke Dock calling at Llanelli, Carmarthen, Whitland, Narberth, Kilgetty, Saundersfoot, Tenby, Penally, Manorbier, Lamphey and Pembroke.*

2.2 Swansea Departures

2.2.1 *An early departure between 0700 and 0800.*

2.2.2 *A late departure between 1845 and 2145.*

2.2.3 *Maximum Journey Time 2 hours 30 minutes.*

2.3 Pembroke Dock Departures

2.3.1 *An early departure between 0615 and 1030.*

2.3.2 *A late departure between 2000 and 2145.*

4. Summer Sundays

4.1 Service Pattern

4.1.1 *Four services shall be provided between Swansea and Pembroke Dock calling at Llanelli, Carmarthen, Whitland, Narberth, Kilgetty, Saundersfoot, Tenby, Penally, Manorbier, Lamphey and Pembroke.*

4.1.2 *One additional service shall be provided in each direction between Carmarthen and Pembroke Dock calling at Whitland, Narberth, Kilgetty, Saundersfoot, Tenby, Penally, Manorbier, Lamphey and Pembroke.*

4.2 Pembroke Dock Arrivals

4.2.1 *An early arrival between 0945 and 1115.*

4.2.2 *A late arrival between 2030 and 2230.*

4.2.3 *Maximum Journey Time from Swansea 2 hours 22 minutes.*

4.3 Pembroke Dock Departures

4.3.1 *An early departure between 0930 and 1230.*

4.3.2 *A late departure between 1930 and 2230.*

4.3.3 *Maximum Journey Time 2 hours 13 minutes.*

4.4 Additional Service and Variations

4.4.1 *One service specified in paragraph 4.1.1 may involve one Connection provided such Connection does not exceed 15 minutes.*

4.4.2 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 4.1.1 to connect within 15 minutes with services provided by any Train Operator to and from London.*

4.4.3 *The early arrival specified in paragraph 4.2.1 may start from Carmarthen*

5. Winter Sundays

5.1 Service Pattern

5.1.1 *Two services shall be provided between Swansea and Pembroke Dock calling at Llanelli, Carmarthen, Whitland, Narberth, Kilgetty, Saundersfoot, Tenby, Penally, Manorbier, Lamphey and Pembroke.*

5.1.2 *One additional service shall be provided in each direction between Carmarthen and Tenby calling at Whitland, Narberth, Kilgetty and Saundersfoot. This service may form the Early service specified in 5.2.1 and 5.3.1*

5.2 Swansea Departures

5.2.1 *An early departure between 0945 and 1145.*

5.2.2 *A late departure between 1830 and 2230.*

5.2.3 *Maximum Journey Time 2 hours 30 minutes.*

5.3 Pembroke Dock Departures

5.3.1 *An early departure between 1130 and 1430.*

5.3.2 *A late departure between 1930 and 2230.*

5.3.3 *Maximum Journey Time 2 hours 23 minutes.*

5.4 ***Additional Services and Variations***

- 5.4.1 ***The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 5.1.1. to connect within 15 minutes with services provided by any Train Operator to and from London.***

F2 GOWERTON LOCAL SERVICE

1. Weekdays

1.1 Service Pattern

1.1.1 *Eight services shall be provided between Swansea and Llanelli calling at Gowerton.*

1.1.2 *Five services specified in paragraph 1.1.1 shall be extended to and from Carmarthen.*

1.2 Swansea Departures

1.2.1 *An early departure between 05:50 and 06:50.*

1.2.2 *A late departure between 23:05 and 23:50.*

1.3 Swansea Arrivals

1.3.1 *An early arrival between 06:45 and 07:45.*

1.3.2 *A late arrival between 2200 and 2315.*

2. Saturdays

2.1 Service Pattern

2.1.1 *Seven services shall be provided between Swansea and Llanelli calling at Gowerton.*

2.1.2 *Four services specified in paragraph 2.1.1 shall be extended to and from Carmarthen.*

2.2 Swansea Departures

2.2.1 *An early departure between 0815 and 0915.*

2.2.2 *A late departure between 2130 and 2345.*

2.3 Swansea Arrivals

2.3.1 *An early arrival between 0730 and 0830.*

2.3.2 *A late arrival between 2200 and 2315.*

3. Summer Sundays

3.1 Service Pattern

3.1.1 *Four services shall be provided from Swansea to Carmarthen calling at Gowerton and Llanelli.*

3.1.2 *Three services shall be provided from Carmarthen to Swansea calling at Gowerton and Llanelli.*

3.2 Swansea Departures

3.2.1 *An early departure between 0815 and 1115.*

3.2.2 *A late departure between 2230 and 2345.*

3.3 Swansea Arrivals

3.3.1 *An early arrival between 1100 and 1400.*

3.3.2 *A late arrival between 2230 and 2315.*

4. **Winter Sundays**

4.1 **Service Pattern**

4.1.1 *Three services shall be provided between Swansea and Carmarthen calling at Gowerton and Llanelli.*

4.2 **Swansea Departures**

4.2.1 *An early departure between 1100 and 1400.*

4.2.2 *A late departure between 2230 and 2345.*

4.3 **Swansea Arrivals**

4.3.1 *An early arrival between 1100 and 1400.*

4.3.2 *A late arrival between 2230 and 2315.*

F3 KIDWELLY AND FERRYSIDE LOCAL SERVICE

1. Weekdays

1.1 Service Pattern

- 1.1.1** *Nine services shall be provided between Swansea and Carmarthen calling at Llanelli, Pembrey & Burry Port and Ferryside.*
- 1.1.2** *Eight services specified in paragraph 1.1.1 in each direction shall call at Kidwelly.*
- 1.1.3** *One service specified in paragraph 1.1.1 in each direction shall be provided during or within 10 minutes of the Swansea Peak.*
- 1.1.4** *The maximum interval permitted between services specified in paragraph 1.1.1 shall be 3 hours 20 minutes.*

1.2 Swansea Departures

- 1.2.1** *An early departure between 0630 and 0800.*
- 1.2.2** *A late departure between 2245 and 2400.*

1.3 Swansea Arrivals

- 1.3.1** *An early arrival between 0600 and 0715*
- 1.3.2** *A late arrival between 2200 and 2315.*

2. Summer Saturdays

2.1 Service Pattern

- 2.1.1** *Ten services shall be provided between Swansea and Carmarthen calling at Llanelli, Pembrey & Burry Port and Ferryside.*
- 2.1.2** *Nine services specified in paragraph 2.1.1 in each direction shall call at Kidwelly.*

2.2 Swansea Departures

- 2.2.1** *An early departure between 0700 and 0800.*
- 2.2.2** *A late departure between 2245 and 2345.*

2.3 Swansea Arrivals

- 2.3.1** *An early arrival between 0600 and 0700.*
- 2.3.2** *A late arrival between 2200 and 2315.*

3. Winter Saturdays

3.1 Service Pattern

- 3.1.1** *Eleven services shall be provided between Swansea and Carmarthen calling at Llanelli, Pembrey & Burry Port and Ferryside.*
- 3.1.2** *Nine services specified in paragraph 3.1.1 in each direction shall call at Kidwelly.*

3.2 Swansea Departures

- 3.2.1** *An early departure between 0630 and 0730.*
- 3.2.2** *A late departure between 2245 and 2345.*

3.3 Swansea Arrivals

- 3.3.1** *An early arrival between 0600 and 0700.*
 - 3.3.2** *A late arrival between 2200 and 2315.*
 - 4.** **Summer Sundays**
 - 4.1** **Service Pattern**
 - 4.1.1** *Six services shall be provided between Swansea and Carmarthen calling at Llanelli, Pembrey & Burry Port, Kidwelly and Ferryside.*
 - 4.2** **Swansea Departures**
 - 4.2.1** *An early departure between 0815 and 1115.*
 - 4.2.2** *A late departure between 2230 and 2345.*
 - 4.3** **Swansea Arrivals**
 - 4.3.1** *An early arrival between 1000 and 1300.*
 - 4.3.2** *A late arrival between 2200 and 2315.*
 - 5.** **Winter Sundays**
 - 5.1** **Service Pattern**
 - 5.1.1** *Four services shall be provided between Swansea and Carmarthen calling at Llanelli, Pembrey & Burry Port, Kidwelly and Ferryside.*
 - 5.2** **Swansea Departures**
 - 5.2.1** *An early departure between 1100 and 1400.*
 - 5.2.2** *A late departure between 2200 and 0100.*
 - 5.3** **Swansea Arrivals**
 - 5.3.1** *An early arrival between 1000 and 1300.*
 - 5.3.2** *A late arrival between 2200 and 2315.*

F4 CARDIFF CENTRAL TO CARMARTHEN VIA SWANSEA

1. Weekdays

1.1 Service Pattern

1.1.1 Cardiff Central and Swansea

- (i) Ten services shall be provided between Cardiff Central and Swansea.*
- (ii) Nine services specified in paragraph 1.1.1(i) in each direction shall call at Bridgend.*
- (iii) Seven services specified in paragraph 1.1.1(i) in each direction shall call at Port Talbot Parkway and Neath.*

1.1.2 Swansea and Carmarthen

- (i) Sixteen services shall be provided between Swansea and Carmarthen calling at Llanelli.*
- (ii) Fourteen services specified in paragraph 1.1.2(i) in each direction shall call at Pembrey & Burry Port.*
- (iii) The maximum interval between services specified in paragraph 1.1.2(i) shall be 2 hours.*

1.1.3 Cardiff Central and Carmarthen

- (i) Nine services shall be provided between Cardiff Central and Carmarthen calling at Swansea. Such services may be provided from a combination of services specified in paragraphs 1.1.1 and 1.1.2 or from separate services.*

1.2 Cardiff Central Departures to Swansea or Carmarthen

- 1.2.1** *An early departure between 0515 and 0615.*
- 1.2.2** *A late departure between 2215 and 2315.*
- 1.2.3** *Maximum Journey Time to Carmarthen 2 hours 36 minutes.*

1.3 Carmarthen Arrivals from Swansea or Cardiff Central

- 1.3.1** *An early arrival between 0715 and 0915.*
- 1.3.2** *A late arrival between 2400 and 0100.*

1.4 Carmarthen Departures to Swansea or Cardiff Central

- 1.4.1** *An early departure between 0515 and 0630.*
- 1.4.2** *A late departure between 2115 and 2315.*
- 1.4.3** *Maximum Journey Time to Cardiff Central 2 hours 25 minutes.*

1.5 Cardiff Central Arrivals from Swansea or Carmarthen

- 1.5.1** *An early arrival between 0700 and 0800.*
- 1.5.2** *A late arrival between 2315 and 0015.*

1.6 Additional Services and Variations

- 1.6.1 *One less Carmarthen to Swansea and Cardiff Central service specified in paragraphs 1.1.1(i) to 1.1.3(i) may be provided on Fridays after 1900. This shall not apply to the late services specified in paragraphs 1.4.2 and 1.5.2.*
 - 1.6.2 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 1.1.2 to connect within 15 minutes with services provided by any Train Operator to and from London.*
 - 1.6.3 *The late arrival at Cardiff Central specified in paragraph 1.5.2 may omit to call at Neath on Fridays.*
 - 2. **Summer Saturdays**
 - 2.1 **Service Pattern**
 - 2.1.1 **Cardiff Central and Swansea**
 - (i) *Eight services shall be provided between Cardiff Central and Swansea.*
 - (ii) *Seven services specified in paragraph 2.1.1(i) in each direction shall call at Bridgend.*
 - (iii) *Five services specified in paragraph 2.1.1(i) in each direction shall call at Port Talbot Parkway and Neath.*
 - 2.1.2 **Swansea and Carmarthen**
 - (i) *Thirteen services shall be provided between Swansea and Carmarthen calling at Llanelli.*
 - (ii) *Twelve services specified in paragraph 2.1.2(i) in each direction shall call at Pembrey & Burry Port.*
 - 2.1.3 **Cardiff Central and Carmarthen**
 - (i) *Seven services shall be provided between Cardiff Central and Carmarthen calling at Swansea. Such services may be provided from a combination of services specified in paragraphs 2.1.1 and 2.1.2 or from separate services.*
 - 2.2 **Cardiff Central Departures to Swansea or Carmarthen**
 - 2.2.1 *An early departure between 0515 and 0800.*
 - 2.2.2 *A late departure between 2130 and 2315.*
 - 2.2.3 *Maximum Journey Time to Carmarthen 2 hours 25 minutes.*
 - 2.3 **Carmarthen Arrivals from Swansea or Cardiff Central**
 - 2.3.1 *An early arrival between 0715 and 0845.*
 - 2.3.2 *A late arrival between 2330 and 0030.*
 - 2.4 **Carmarthen Departures to Swansea or Cardiff Central**
 - 2.4.1 *An early departure between 0515 and 0615.*
 - 2.4.2 *A late departure between 2115 and 2315.*
 - 2.4.3 *Maximum Journey Time to Cardiff Central 2 hour.*
 - 2.5 **Cardiff Central Arrivals from Swansea or Carmarthen**
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- 2.5.1** *An early arrival between 0700 and 0800.*
 - 2.5.2** *A late arrival between 2115 and 2300.*
 - 2.6** ***Additional Services and Variations***
 - 2.6.1** *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 2.1.2 to connect within 15 minutes with services provided by any Train Operator to and from London.*
 - 3.** ***Winter Saturdays***
 - 3.1** ***Service Pattern***
 - 3.1.1** ***Cardiff Central and Swansea***
 - (i)** *Seven services shall be provided between Cardiff Central and Swansea.*
 - (ii)** *Five services specified in paragraph 3.1.1(i) in each direction shall call at Bridgend.*
 - (iii)** *Three services specified in paragraph 3.1.1(i) in each direction shall call at Port Talbot Parkway and Neath.*
 - 3.1.2** ***Swansea and Carmarthen***
 - (i)** *Fifteen services shall be provided between Swansea and Carmarthen calling at Llanelli.*
 - (ii)** *Thirteen services specified in paragraph 3.1.2(i) in each direction shall call at Pembrey & Burry Port.*
 - 3.1.3** ***Cardiff Central and Carmarthen***
 - (i)** *Six services shall be provided between Cardiff Central and Carmarthen calling at Swansea. Such services may be provided from a combination of services specified in paragraphs 3.1.1 and 3.1.2 or from separate services.*
 - 3.2** ***Cardiff Central Departures to Swansea or Carmarthen***
 - 3.2.1** *An early departure between 0515 and 0900.*
 - 3.2.2** *A late departure between 1645 and 2315.*
 - 3.2.3** *Maximum Journey Time to Carmarthen 2 hours 25 minutes.*
 - 3.3** ***Carmarthen Arrivals from Swansea or Cardiff Central***
 - 3.3.1** *An early arrival between 0715 and 0815.*
 - 3.3.2** *A late arrival between 2330 and 0030.*
 - 3.4** ***Carmarthen Departures to Swansea or Cardiff Central***
 - 3.4.1** *An early departure between 0515 and 0615.*
 - 3.4.2** *A late departure between 2115 and 2315.*
 - 3.4.3** *Maximum Journey Time to Cardiff Central 2 hour .*
 - 3.5** ***Cardiff Central Arrivals from Swansea or Carmarthen***
 - 3.5.1** *An early arrival between 0700 and 0800.*
 - 3.5.2** *A late arrival between 2000 and 2300.*
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3.6 Additional Services and Variations

3.6.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 3.1.2 to connect within 15 minutes with services provided by any Train Operator to and from London.*

4. Summer Sundays

4.1 Service Pattern

4.1.1 Cardiff Central and Swansea

(i) *Eight services shall be provided between Cardiff Central and Swansea calling at Bridgend.*

(ii) *Four services specified in paragraph 4.1.1(i) in each direction shall call at Port Talbot Parkway and Neath.*

4.1.2 Swansea and Carmarthen

(i) *Eight services shall be provided between Swansea and Carmarthen calling at Llanelli and Pembrey & Burry Port.*

4.1.3 Cardiff Central and Carmarthen

(i) *Seven services shall be provided between Cardiff Central and Carmarthen calling at Swansea. Such services may be provided from a combination of services specified in paragraphs 4.1.1 and 4.1.2 or from separate services.*

4.2 Cardiff Central Departures to Swansea or Carmarthen

4.2.1 *An early departure between 0745 and 0845.*

4.2.2 *A late departure between 2130 and 2230.*

4.2.3 *Maximum Journey Time to Carmarthen 2 hours 25 minutes.*

4.3 Carmarthen Arrivals from Swansea or Cardiff Central

4.3.1 *An early arrival between 1000 and 1100.*

4.3.2 *A late arrival between 2315 and 0030.*

4.4 Carmarthen Departures to Swansea or Cardiff Central

4.4.1 *An early departure between 1000 and 1100.*

4.4.2 *A late departure between 2200 and 2315.*

4.4.3 *Maximum Journey Time to Cardiff Central 2 hour*

4.5 Cardiff Central Arrivals from Swansea or Carmarthen

4.5.1 *An early arrival between 1045 and 1245.*

4.5.2 *A late arrival between 2345 and 0100.*

4.6 Additional Services and Variations

4.6.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 4.1.2 to connect within 15 minutes with services provided by any Train Operator to and from London.*

5. Winter Sundays

5.1 Service Patterns

5.1.1 Cardiff Central and Carmarthen

- (i) Six services shall be provided between Cardiff Central and Carmarthen calling at Bridgend and Swansea.*
- (ii) Four services specified in paragraph 5.1.1(i) in each direction shall call at Port Talbot Parkway and Neath.*

5.1.2 Swansea and Carmarthen

- (i) Seven services shall be provided between Swansea and Carmarthen calling at Llanelli.*
- (ii) Seven services specified in paragraph 5.1.2(i) in each direction shall call at Pembrey & Burry Port.*

5.2 Cardiff Central Departures to Swansea or Carmarthen

5.2.1 *An early departure between 0745 and 1015.*

5.2.2 *A late departure between 2130 and 2230.*

5.2.3 *Maximum Journey Time to Carmarthen 2 hour 25 minutes.*

5.3 Carmarthen Arrivals from Swansea or Cardiff Central

5.3.1 *An early arrival between 1000 and 1215.*

5.3.2 *A late arrival between 2315 and 0030.*

5.4 Carmarthen Departures to Swansea or Cardiff Central

5.4.1 *An early departure between 1000 and 1100.*

5.4.2 *A late departure between 2200 and 2315.*

5.4.3 *Maximum Journey Time to Cardiff Central 2 hours 25 minutes.*

5.5 Cardiff Central Arrivals from Swansea or Carmarthen

5.5.1 *An early arrival between 1045 and 1245.*

5.5.2 *A late arrival between 2345 and 0100.*

5.6 Additional Services and Variations

5.6.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 5.1.2 to connect within 15 minutes with services provided by any Train Operator to and from London.*

F5 CARDIFF CENTRAL & CARMARTHEN TO MILFORD HAVEN

1. Weekdays

1.1 Service Pattern

- 1.1.1 *Nine services shall be provided between Carmarthen and Milford Haven calling at Whitland and Haverfordwest.***
- 1.1.2 *Eight services specified in paragraph 1.1.1 in each direction shall call at Clunderwen, Clarboston Road and Johnston.***
- 1.1.3 *Seven services specified in paragraph 1.1.1 in each direction shall be extended to and from Swansea calling at Llanelli.***
- 1.1.4 *Six services specified in paragraph 1.1.3 in each direction shall be extended to and from Cardiff Central.***
- 1.1.5 *Three services specified in paragraph 1.1.3 in each direction may involve one Connection provided that the maximum Journey Times specified in paragraphs 1.2.3 and 1.3.3 are not exceeded. Such Connections may be provided by any Train Operator.***

1.2 Milford Haven Arrivals

- 1.2.1 *An early arrival between 0615 and 0715.***
- 1.2.2 *A late arrival between 2245 and 2400.***
- 1.2.3 *Maximum Journey Time from Cardiff Central 3 hours 20 minutes.***

1.3 Milford Haven Departures

- 1.3.1 *An early departure between 0545 and 0645.***
- 1.3.2 *A late departure between 2000 and 2300.***
- 1.3.3 *Maximum Journey Time to Cardiff Central 3 hours 20 minutes.***

1.4 Additional Services and Variations

- 1.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 1.1.3 to connect within 15 minutes with services provided by any Train Operator to and from London.***
- 1.4.2 *One additional service shall be provided in each direction between Cardiff Central and Haverfordwest calling at Swansea, Llanelli, Carmarthen and Whitland. Such services may involve Connections provided that the overall journey time does not exceed 3 hours 3 minutes.***
- 1.4.3 *One through service specified in paragraph 1.1.3 in each direction shall be provided during the Swansea Peak.***
- 1.4.4 *One service specified in paragraph 1.1.1 may involve one connection not exceeding 25 minutes.***

2. Summer Saturdays

2.1 Service Pattern

- 2.1.1 *Eight services shall be provided between Carmarthen and Milford Haven calling at Haverfordwest.***
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- 2.1.2** *Seven services specified in paragraph 2.1.1 in each direction shall call at Whitland, Clunderwen, Clarboston Road and Johnston.*
 - 2.1.3** *Six services specified in paragraph 2.1.1 in each direction shall be extended to and from Cardiff Central calling at Llanelli and Swansea.*
 - 2.2** *Milford Haven Arrivals*
 - 2.2.1** *An early arrival between 0615 and 0715.*
 - 2.2.2** *A late arrival between 2300 and 2400.*
 - 2.2.3** *Maximum Journey Time from Cardiff Central 3 hours 7 minutes.*
 - 2.3** *Milford Haven Departures*
 - 2.3.1** *An early departure between 0545 and 0645.*
 - 2.3.2** *A late departure between 2000 and 2300.*
 - 2.3.3** *Maximum Journey Time to Cardiff Central 3 hours.*
 - 2.4** *Additional Services and Variations*
 - 2.4.1** *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 2.1.3 to connect within 15 minutes with services provided by any Train Operator to and from London.*
 - 3.** *Winter Saturdays*
 - 3.1** *Service Pattern*
 - 3.1.1** *Nine services shall be provided between Carmarthen and Milford Haven calling at Whitland and Haverfordwest.*
 - 3.1.2** *Eight services specified in paragraph 3.1.1 in each direction shall call at Clunderwen, Clarboston Road and Johnston.*
 - 3.1.3** *Seven services specified in paragraph 3.1.1 in each direction shall be extended to and from Swansea calling at Llanelli.*
 - 3.1.4** *Five services specified in paragraph 3.1.3 in each direction shall be extended to and from Cardiff Central.*
 - 3.1.5** *One service specified in paragraph 3.1.3 in each direction may involve one Connection provided that the maximum Journey Times specified in paragraphs 3.2.3 and 3.3.3 are not exceeded. Such connections may be provided by any Train Operator.*
 - 3.2** *Milford Haven Arrivals*
 - 3.2.1** *An early arrival between 0615 and 0730.*
 - 3.2.2** *A late arrival between 2300 and 2400.*
 - 3.2.3** *Maximum Journey Time from Cardiff Central 3 hours 4 minutes.*
 - 3.3** *Milford Haven Departures*
 - 3.3.1** *An early departure between 0545 and 0645.*
 - 3.3.2** *A late departure between 2000 and 2300.*
 - 3.3.3** *Maximum Journey Time to Cardiff Central 2 hours 55 minutes.*
 - 3.4** *Additional Services and Variations*
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- 3.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 3.1.3 to connect within 15 minutes with services provided by any Train Operator to and from London.*
- 3.4.2 *One additional service shall be provided in each direction between Cardiff Central and Haverfordwest calling at Swansea, Llanelli, Carmarthen and Whitland. Such services may involve Connections provided that the overall journey time does not exceed 3 hours 3 minutes.*
4. **Summer Sundays**
- 4.1 **Service Pattern**
- 4.1.1 *Seven services shall be provided between Carmarthen and Milford Haven calling at Whitland and Haverfordwest.*
- 4.1.2 *Five services specified in paragraph 4.1.1 in each direction shall call at each of Clunderwen, Clarboston Road and Johnston.*
- 4.1.3 *Five services specified in paragraph 4.1.1 in each direction shall be extended to and from Swansea calling at Llanelli.*
- 4.1.4 *Four services specified in paragraph 4.1.3 in each direction shall be extended to and from Cardiff Central.*
- 4.1.5 *One service specified in paragraph 4.1.3 in each direction may involve one Connection provided that the maximum Journey Times specified in paragraphs 4.2.3 and 4.3.3 are not exceeded. Such connections may be provided by any Train Operator.*
- 4.2 **Milford Haven Arrivals**
- 4.2.1 *An early arrival between 1045 and 1300*
- 4.2.2 *A late arrival between 2200 and 2400.*
- 4.2.3 *Maximum Journey Time from Cardiff Central 3 hours 19 minutes.*
- 4.3 **Milford Haven Departures**
- 4.3.1 *An early departure between 0900 and 1000.*
- 4.3.2 *A late departure between 2130 and 2300.*
- 4.3.3 *Maximum Journey Time to Cardiff Central 3 hours.*
- 4.4 **Additional Services and Variations**
- 4.4.1 *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 4.1.3 to connect within 15 minutes with services provided by any Train Operator to and from London.*
5. **Winter Sundays**
- 5.1 **Service Pattern**
- 5.1.1 *Five services shall be provided between Carmarthen and Milford Haven calling at Whitland and Haverfordwest.*
- 5.1.2 *Four services specified in paragraph 5.1.1 in each direction shall call at each of Clunderwen, Clarboston Road and Johnston.*

- 5.1.3** *Three services specified in paragraph 5.1.1 in each direction shall be extended to and from Cardiff Central calling at Llanelli and Swansea.*
 - 5.1.4** *One service specified in paragraph 5.1.3 in each direction may involve one Connection provided that the maximum Journey Times specified in paragraphs 5.2.3 and 5.3.3 are not exceeded. Such Connections may be provided by any Train Operator.*
 - 5.2** *Milford Haven Arrivals*
 - 5.2.1** *An early arrival between 1045 and 1245.*
 - 5.2.2** *A late arrival between 2300 and 2400.*
 - 5.2.3** *Maximum Journey Time from Cardiff Central 3 hours 19 minutes.*
 - 5.3** *Milford Haven Departures*
 - 5.3.1** *An early departure between 1145 and 1345.*
 - 5.3.2** *A late departure between 2130 and 2300.*
 - 5.3.3** *Maximum Journey Time to Cardiff Central 2 hours 45 minutes..*
 - 5.4** *Additional Services and Variations*
 - 5.4.1** *The Franchise Operator shall use reasonable endeavours (except to the extent required to meet the needs of local passengers) to time services specified in paragraph 5.1.3 to connect within 15 minutes with services provided by any Train Operator to and from London.*
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F6 FISHGUARD HARBOUR

1. Daily

1.1 Service Pattern

- 1.1.1** *Two services shall be provided between Swansea or Cardiff Central and Fishguard Harbour.*
 - 1.1.2** *Services to Fishguard Harbour shall be timed to connect with ferry departures from Fishguard Harbour to Rosslare Harbour such that the maximum waiting time for passengers at Fishguard Harbour shall not exceed 1 hour 30 minutes save that between 2100 and 0900 the maximum waiting time shall not exceed 2 hours 30 minutes.*
 - 1.1.3** *Services from Fishguard Harbour shall be timed to connect with ferry arrivals at Fishguard Harbour from Rosslare Harbour such that the maximum waiting time for passengers at Fishguard Harbour shall not exceed 1 hour 10 minutes save that between 0900 and 2100 on Sundays the maximum waiting time shall not exceed 2 hours 45 minutes.*
 - 1.1.4** *Services shall either be through services, or shall be timed to connect with direct services, to and from Reading and London at either Swansea or Cardiff Central such that the maximum waiting time at either Swansea or Cardiff Central shall not exceed 20 minutes. Connecting services to and from Swansea shall call at Cardiff Central.*
 - 1.1.5** *Subject to the provisions of paragraphs 1.1.2 and 1.1.3 services specified in paragraph 1.1.1 shall be provided with a reasonable pattern of services.*
-

F7 BRIDGEND TO SWANSEA (SWANLINE) LOCAL SERVICE

1. Weekdays and Saturdays

1.1 Service Pattern

1.1.1 ^{xii} *A two-hourly service shall be provided between Bridgend and Swansea calling at Pyle, Port Talbot Parkway, Baglan, Briton Ferry, Neath, Skewen and Llansamlet.*

1.1.2 *One service in each direction specified in paragraph 1.1.1 shall be provided during the Swansea Peak.*

1.2 Bridgend Departures

1.2.1 *An early departure no later than 0630.*

1.2.2 *A late departure no earlier than 1845.*

1.2.3 *Maximum Journey Time 50 minutes.*

1.3 Swansea Departures

1.3.1 *An early departure no later than 0800.*

1.3.2 *A late departure no earlier than 1930.*

1.3.3 *Maximum Journey Time 50 minutes.*

1.4 Additional Services and Variations

1.4.1 *The interval between the second departure and the following departure from Bridgend may be extended to 2 hours 20 minutes.*

1.4.2 *The Franchise Operator shall use reasonable endeavours to time services specified in paragraph 1.1.1 to connect with services provided by any Train Operator to and from Cardiff.*

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F8 CARDIFF CENTRAL TO MAESTEG

1. *Weekdays and Saturdays*

1.1 *Service Pattern*

1.1.1 *An hourly service shall be provided between Cardiff Central and Maesteg calling at Pontyclun, Llanharen(if open), Pencoed, Bridgend, Wildmill, Sarn, Tondy, Garth (Mid Glamorgan) and Maesteg (Ewenny Road).*

1.2 *Cardiff Central Departures*

1.2.1 *An early departure no later than 0830.*

1.2.2 *A late departure no earlier than 1900.*

1.2.3 *Maximum Journey Time 59 minutes.*

1.3 *Cardiff Central Arrivals*

1.3.1 *An early arrival no later than 0815.*

1.3.2 *A late arrival no earlier than 2045.*

1.3.3 *Maximum Journey Time 59 minutes.*

1.4 *Additional Services and Variations*

1.4.1 *One additional service shall be provided from Cardiff Central to Maesteg calling at intermediate stations specified in paragraph 1.1.1. Such service shall depart from Cardiff Central between 50 minutes and 2 hours 15 minutes earlier than the early departure specified in paragraph 1.2.1.*

1.4.2 *The interval between arrivals at Cardiff Central specified in paragraph 1.1.1 may be extended once to 1 hour 15 minutes.*

1.4.3 *Pontyclun and Pencoed may be omitted from services specified in paragraph 1.1.1 provided that minimum frequencies specified in paragraph 1.1.1 between Cardiff Central and Bridgend at such stations are maintained.*

G1 SHREWSBURY TO LLANELLI AND SWANSEA

1. Weekdays and Saturdays

1.1 Service Pattern

1.1.1 *Four services shall be provided between Shrewsbury and Swansea calling at Church Stretton, Craven Arms, Broome, Hopton Heath, Bucknell, Knighton, Knucklas, Llangynllo, Llanbister Road, Dolau, Pen-y-bont, Llandrindod, Builth Road, Cilmeri, Garth, Llangammarch, Llanwrtyd, Sugar Loaf, Cyngordy, Llandovery, Llanwrda, Llangadog, Llandeilo, Ffairfach, Llandybie, Ammanford, Pantyffynnon, Pontarddulais, Llangennech, Bynea and Llanelli.*

1.2 .Swansea Arrivals

1.2.1 *An early arrival between 0815 and 1015.*

1.2.2 *A late arrival between 2115 and 2315.*

1.2.3 *Maximum Journey Time 4 hours 03 minutes save that the maximum Journey Time for one journey between Shrewsbury and Swansea may be 4 hours 25 minutes.*

1.3 Shrewsbury Arrivals

1.3.1 *An early arrival between 0815 and 1015.*

1.3.2 *A late arrival between 2130 and 2230.*

1.3.3 *Maximum Journey Time 3 hours 56 minutes.*

1.4 Additional Services and Variations

1.4.1 *A service shall be provided from Swansea to Shrewsbury departing between 1730 and 1830.*

2. Summer Sundays

2.1 Service Pattern

2.1.1 *One service shall be provided between Shrewsbury and Swansea calling at Church Stretton, Craven Arms, Broome, Hopton Heath, Bucknell, Knighton, Knucklas, Llangynllo, Llanbister Road, Dolau, Pen-y-bont, Llandrindod, Builth Road, Cilmeri, Garth, Llangammarch, Llanwrtyd, Sugar Loaf, Cyngordy, Llandovery, Llanwrda, Llangadog, Llandeilo, Ffairfach, Llandybie, Ammanford, Pantyffynnon, Pontarddulais, Llangennech, Bynea and Llanelli.*

2.2 Shrewsbury Departure

2.2.1 *One departure between 1200 and 1400.*

2.2.2 *Maximum Journey Time 4 hours 5 minutes.*

2.3 Swansea Departure

2.3.1 *One departure between 1100 and 1300.*

2.3.2 *Maximum Journey Time 4 hours 3 minutes.*

H1 CARDIFF CENTRAL TO CREWE AND MANCHESTER

1. Weekdays

1.1 Service Pattern

- 1.1.1** Sixteen services shall be provided between Cardiff Central and Crewe calling at Newport, Abergavenny, Hereford and Shrewsbury.
- 1.1.2** Eleven services specified in paragraph 1.1.1 shall be extended to and from Manchester Piccadilly calling at Wilmslow and Stockport.
- 1.1.3** One service specified in paragraph 1.1.1 shall omit to call at Crewe and be extended to and from Holyhead calling at Wrexham General, Chester, Rhyl, Colwyn Bay, Llandudno Junction and Bangor (Gwynedd).
- 1.1.4** Between 0800 and 1900 services departing from Cardiff Central and from Crewe shall be provided at hourly intervals.

1.2 Cardiff Central Departures

- 1.2.1** An early departure no later than 0530.
- 1.2.2** A late departure no earlier than 2130.
- 1.2.3** Maximum Journey Time to Crewe 3 hours 7 minutes provided that a minimum of 70 per cent of services shall have a maximum Journey Time of 2 hours 38 minutes.

1.3 Crewe Departures

- 1.3.1** An early departure no later than 0600.
- 1.3.2** A late departure no earlier than 2115.
- 1.3.3** Maximum Journey Time 3 hours 7 minutes provided that a minimum of 70 per cent of services shall have a maximum Journey Time of 2 hours 39 minutes.

1.4 Additional Services and Variations

- 1.4.1** One service in each direction specified in paragraph 1.1.2 may omit to call at Stockport.

2. Saturdays

2.1 Service Pattern

- 2.1.1** Fifteen services shall be provided between Cardiff Central and Crewe calling at Newport, Abergavenny, Hereford and Shrewsbury.
 - 2.1.2** Ten services specified in paragraph 2.1.1 above shall be extended to and from Manchester Piccadilly calling at Wilmslow and Stockport.
-

- 2.1.3** *One service specified in paragraph 2.1.1 shall be extended to and from Holyhead calling at Chester, Rhyl, Colwyn Bay, Llandudno Junction and Bangor (Gwynedd).*
 - 2.1.4** *Between 0900 and 1900 services departing from Cardiff Central and from Crewe shall be provided at hourly intervals.*
 - 2.2** *Cardiff Central Departures*
 - 2.2.1** *An early departure no later than 0530.*
 - 2.2.2** *A late departure no earlier than 2030.*
 - 2.2.3** *Maximum Journey Time to Crewe 3 hours 30 minutes*
 - 2.3** *Crewe Departures*
 - 2.3.1** *An early departure no later than 0600.*
 - 2.3.2** *A late departure no earlier than 2000.*
 - 2.3.3** *Maximum Journey Time 3 hours 30minutes*
 - 2.4** *Additional Services and Variations*
 - 2.4.1** *One service from Crewe to Cardiff Central may omit to call at Abergavenny.*
 - 3.** *Sundays*
 - 3.1** *Service Pattern*
 - 3.1.1** *Six services shall be provided between Cardiff Central and Crewe calling at Newport, Abergavenny, Hereford and Shrewsbury.*
 - 3.1.2** *Three services specified in paragraph 3.1.1 above shall be extended to and from Manchester Piccadilly calling at Wilmslow and Stockport except that one such service from Manchester Piccadilly may omit to call at Abergavenny.*
 - 3.1.3** *One service specified in paragraph 3.1.1 shall be extended to and from Holyhead calling at Chester, Rhyl, Colwyn Bay, Llandudno Junction and Bangor (Gwynedd).*
 - 3.2** *Cardiff Central Departures*
 - 3.2.1** *An early departure between 1000 and 1200.*
 - 3.2.2** *A late departure between 2000 and 2200.*
 - 3.2.3** *Maximum Journey Time to Crewe 3 hours 17 minutes provided that a minimum of 50 per cent of services shall have a Maximum Journey Time of 2 hours 54 minutes.*
 - 3.3** *Crewe Departures*
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- 3.3.1** *An early departure between 0915 and 1115.*
 - 3.3.2** *A late departure between 1945 and 2145.*
 - 3.3.3** *Maximum Journey Time 3 hours 18 minutes provided that a minimum of 50 per cent of services shall have a Maximum Journey Time of 2 hours 56 minutes.*
-

H2 Cardiff Central to Hereford

1. Weekdays

1.1 Service Pattern

- 1.1.1** Nineteen services shall be provided between Newport and Abergavenny calling at Cwmbran.
- 1.1.2** Eighteen services specified in paragraph 1.1.1 in each direction shall be extended to and from Cardiff Central.
- 1.1.3** Sixteen services specified in paragraph 1.1.2 in each direction shall be extended to and from Hereford.
- 1.1.4** Eleven services specified in paragraph 1.1.1 in each direction shall call at Pontypool and New Inn.
- 1.1.5** The maximum interval permitted between services specified in paragraph 1.1.1 shall be 1 hour 30 minutes, except that one interval between services after 2100 may be extended to 2 hours 15 minutes for services from Newport and 2 hours 40 minutes to services from Abergavenny

1.2 Cardiff Central Departures

- 1.2.1** An early departure no later than 0530.
- 1.2.2** A late departure no earlier than 2330.
- 1.2.3** Maximum Journey Time 1 hour 15 minutes.

1.3 Hereford Departures

- 1.3.1** An early departure no later than 0645.
- 1.3.2** A late departure no earlier than 2300.
- 1.3.3** Maximum Journey Time 1 hour 13 minutes.

1.4 Additional Services and Variations

- 1.4.1** One service specified in paragraph 1.1.2 from Cardiff Central may call at Cwmbran to pick up passengers only provided that the number of services required between Cardiff Central and Cwmbran in paragraph 1.1.2 are provided.
- 1.4.2** All services specified in paragraph 1.1 shall be provided in accordance with the early and late departures specified in paragraphs 1.2 and 1.3.
- 1.4.3** One service specified in paragraph 1.1.2 in each direction shall be provided during the Cardiff Peak and shall call at Pontypool and New Inn.
- 1.4.4** A service specified in paragraph 1.1.3 from Hereford to Newport calling at Abergavenny, Pontypool and New Inn and Cwmbran shall provide a Connection at Newport within 15 minutes with a service to London Paddington arriving at London Paddington between 0900 and 1000.

2. Saturdays

2.1 Service Pattern

- 2.1.1** Seventeen services shall be provided between Newport and Abergavenny calling at Cwmbran.
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- 2.1.2 *Sixteen services specified in paragraph 2.1.1 in each direction shall be extended to and from Cardiff Central.*
 - 2.1.3 *Fifteen services specified in paragraph 2.1.2 in each direction shall be extended to and from Hereford.*
 - 2.1.4 *Ten services specified in paragraph 2.1.1 in each direction shall call at Pontypool and New Inn.*
 - 2.1.5 *The maximum interval permitted between services specified in paragraph 2.1.1 shall be 1 hour 30 minutes.*
 - 2.2 **Cardiff Central Departures**
 - 2.2.1 *An early departure no later than 0530.*
 - 2.2.2 *A late departure no earlier than 2130.*
 - 2.2.3 *Maximum Journey Time 1 hour 13 minutes.*
 - 2.3 **Hereford Departures**
 - 2.3.1 *An early departure no later than 0645.*
 - 2.3.2 *A late departure no earlier than 2130.*
 - 2.3.3 *Maximum Journey Time 1 hour 13 minutes.*
 - 2.4 **Additional Services and Variations**
 - 2.4.1 *One service specified in paragraph 2.1.2 from Cardiff Central may call at Cwmbran to pick up passengers only provided that the number of services required between Cardiff Central and Cwmbran in paragraph 2.1.2 are provided.*
 - 3. **Sundays**
 - 3.1 **Service Pattern**
 - 3.1.1 *Eight services shall be provided between Cardiff Central and Hereford calling at Newport, Cwmbran and Abergavenny.*
 - 3.1.2 *Seven of the services specified in paragraph 3.1.1 shall call at Pontypool and New Inn.*
 - 3.2 **Cardiff Central Departures**
 - 3.2.1 *An early departure no later than 0845.*
 - 3.2.2 *A late departure no earlier than 2000.*
 - 3.2.3 *Maximum Journey Time 1 hour 19 minutes.*
 - 3.3 **Hereford Departures**
 - 3.3.1 *An early departure no later than 1030.*
 - 3.3.2 *A late departure no earlier than 2145.*
 - 3.3.3 *Maximum Journey Time 1 hour 18 minutes.*
-

H3 HEREFORD TO SHREWSBURY

1. Weekdays

1.1 Service Pattern

- 1.1.1 Sixteen services shall be provided between Hereford and Shrewsbury calling at Ludlow.**
- 1.1.2 Thirteen services specified in paragraph 1.1.1 in each direction shall call at Leominster.**
- 1.1.3 Ten services specified in paragraph 1.1.1 in each direction shall call at Craven Arms.**
- 1.1.4 Twelve services specified in paragraph 1.1.1 in each direction shall call at Church Stretton.**
- 1.1.5 Between the early departure specified in paragraphs 1.2.1 and 1.3.1 below respectively and 1900, services departing from Hereford and Shrewsbury shall be provided at hourly intervals provided that one interval of up to 90 minutes in each direction may apply. For the purposes of this service only, "hourly" shall mean intervals not exceeding 1 hour 20 minutes provided that four services are provided in any 4 hour 20 minute period.**

1.2 Hereford Departures

- 1.2.1 An early departure no later than 0645.**
- 1.2.2 A late departure no earlier than 2230.**
- 1.2.3 Maximum Journey Time 1 hour 3 minutes.**

1.3 Shrewsbury Departures

- 1.3.1 An early departure no later than 0630.**
- 1.3.2 A late departure no earlier than 2215.**
- 1.3.3 Maximum Journey Time 1 hour 3 minutes.**

1.4 Additional Services and Variations

- 1.4.1 Departures between the early departures specified in paragraphs 1.2.1 and 1.3.1 and 0900 and between 1600 and 1800 together with the early and late departures specified in paragraphs 1.2 and 1.3 shall call at all stations specified in paragraph 1.1.**
- 1.4.2 The Franchise Operator shall use reasonable endeavours to ensure that services specified in paragraph 1.1 provide a through service between Cardiff Central and Crewe or are timed to connect with services between Cardiff Central and Crewe.**
- 1.4.3 A service specified in paragraph 1.1 from Shrewsbury to Hereford calling at Church Stretton, Craven Arms, Ludlow and Leominster shall provide a Connection within 15 minutes with a service to London Paddington arriving at London Paddington between 0900 and 1000.**

2. Saturdays

2.1 Service Pattern

- 2.1.1 Fifteen services shall be provided between Hereford and Shrewsbury calling at Ludlow.**
-

- 2.1.2 *Twelve services specified in paragraph 2.1.1 in each direction shall call at Leominster.*
 - 2.1.3 *Nine services specified in paragraph 2.1.1 in each direction shall call at Craven Arms.*
 - 2.1.4 *Eleven services specified in paragraph 2.1.1 in each direction shall call at Church Stretton.*
 - 2.1.5 *Between the early departure specified in paragraphs 2.2.1 and 2.3.1 below respectively and 1900, services departing from Hereford and Shrewsbury shall be provided at hourly intervals provided that one interval of up to 1 hour 30 minutes and one interval of up to 1 hour 15 minutes may apply in each direction.*
 - 2.2 **Hereford Departures**
 - 2.2.1 *An early departure no later than 0630.*
 - 2.2.2 *A late departure no earlier than 2145.*
 - 2.2.3 *Maximum Journey Time 1 hour 4 minutes.*
 - 2.3 **Shrewsbury Departures**
 - 2.3.1 *An early departure no later than 0630.*
 - 2.3.2 *A late departure no earlier than 2030.*
 - 2.3.3 *Maximum Journey Time 1 hour 4 minutes*
 - 2.4 **Additional Services and Variations**
 - 2.4.1 *The early and late departures specified in paragraphs 2.2 and 2.3 shall call at all stations specified in paragraph 2.1.*
 - 2.4.2 *The Franchise Operator shall use reasonable endeavours to ensure that services specified in paragraph 2.1 provide a through service between Cardiff Central and Crewe or are timed to connect with services between Cardiff Central and Crewe.*
 - 3. **Sundays**
 - 3.1 **Service Pattern**
 - 3.1.1 *Six services shall be provided between Hereford and Shrewsbury calling at Leominster, Ludlow, Craven Arms and Church Stretton.*
 - 3.2 **Hereford Departures**
 - 3.2.1 *An early departure no later than 1315.*
 - 3.2.2 *A late departure no earlier than 2115.*
 - 3.2.3 *Maximum Journey Time 1 hour 7 minutes.*
 - 3.3 **Shrewsbury Departures**
 - 3.3.1 *An early departure no later than 1200.*
 - 3.3.2 *A late departure no earlier than 2030.*
 - 3.3.3 *Maximum Journey Time 1 hour.*
 - 3.4 **Additional Services and Variations**
 - 3.4.1 *The Franchise Operator shall use reasonable endeavours to ensure that services specified in paragraph 3.1 provide a through service between Cardiff Central and Crewe or are timed to connect with services between Cardiff Central and Crewe.*
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H4 SHREWSBURY TO CREWE

1. Weekdays

1.1 Service Pattern

1.1.1 *Ten services shall be provided between Shrewsbury and Crewe calling at Wem, Whitchurch and Nantwich except that one service in one direction after 2100 may omit to call at Nantwich*

1.1.2 *Nine services specified in paragraph 1.1.1 in each direction shall call at Yorton.*

1.1.3 *Nine services specified in paragraph 1.1.1 in each direction shall call at Prees and Wrenbury.*

1.2 Shrewsbury Departures

1.2.1 *An early departure no later than 0715.*

1.2.2 *A late departure no earlier than 2245.*

1.2.3 *Maximum Journey Time 51 minutes.*

1.3 Crewe Departures

1.3.1 *An early departure no later than 0645.*

1.3.2 *A late departure no earlier than 2300.*

1.3.3 *Maximum Journey Time 52 minutes.*

1.4 Additional Services and Variations

1.4.1 *An additional service shall be provided from Shrewsbury to each of Wem and Whitchurch departing from Shrewsbury between 2345 and 0030.*

1.4.2 *A service specified in paragraph 1.1.1 from Shrewsbury to Crewe shall provide a Connection within 15 minutes.*

2. Saturdays

2.1 Service Pattern

2.1.1 *Nine services shall be provided between Shrewsbury and Crewe calling at Yorton, Wem, Whitchurch and Nantwich.*

2.1.2 *Eight services specified in paragraph 2.1.1 in each direction shall call at Prees and Wrenbury.*

2.2 Shrewsbury Departures

2.2.1 *An early departure no later than 0715.*

2.2.2 *A late departure no earlier than 2245.*

2.2.3 *Maximum Journey Time 53 minutes.*

2.3 Crewe Departures

2.3.1 *An early departure no later than 0645.*

2.3.2 *A late departure no earlier than 2130.*

2.3.3 *Maximum Journey Time 53 minutes.*

3. **Sundays**

3.1 **Service Pattern**

3.1.1 *Four services shall be provided between Shrewsbury and Crewe calling at Wem, Whitchurch and Nantwich.*

3.1.2 *One service specified in paragraph 3.1.1 in each direction shall call at Yorton, Prees and Wrenbury.*

3.2 **Shrewsbury Departures**

3.2.1 *An early departure no later than 1415.*

3.2.2 *A late departure no earlier than 2215.*

3.2.3 *Maximum Journey Time 54 minutes.*

3.3 **Crewe Departures**

3.3.1 *An early departure no later than 1115.*

3.3.2 *A late departure no earlier than 1945.*

3.3.3 *Maximum Journey Time 48 minutes.*

I 1 CARDIFF CENTRAL TO GLOUCESTER

1. Weekdays

1.1 Service Pattern

1.1.1 *Twelve services shall be provided between Cardiff Central and Gloucester calling at Newport, Severn Tunnel Junction, Caldicot, Chepstow and Lydney.*

1.1.2 *The Franchise Operator shall use reasonable endeavours to provide a reasonable pattern of services when combined with services provided by any other Train Operator between Cardiff Central and Gloucester.*

1.2 Cardiff Central Departures

1.2.1 *An early departure between 06.10 and 06.40.*

1.2.2 *A late departure between 23.00 and 23.30.*

1.2.3 *Maximum Journey Time to Gloucester 1 hour 14 minutes.*

1.3 Cardiff Central Arrivals

1.3.1 *An early arrival between 06.40 and 07.10.*

1.3.2 *A late arrival between 23.50 and 00.20.*

1.3.3 *Maximum Journey Time from Gloucester 1 hour 14 minutes. .*

2. Saturdays

2.1 Service Pattern

2.1.1 *Twelve services shall be provided between Cardiff Central and Gloucester calling at Newport, Severn Tunnel Junction, Caldicot, Chepstow and Lydney.*

2.1.2 *The Franchise Operator shall use reasonable endeavours to provide a reasonable pattern of services when combined with services provided by any other Train Operator between Cardiff Central and Gloucester.*

2.2 Cardiff Central Departures

2.2.1 *An early departure between 06.10 and 06.40.*

2.2.2 *A late departure between 23.00 and 23.30.*

2.2.3 *Maximum Journey Time to Gloucester 1 hour 14 minutes. .*

Cardiff Central Arrivals

2.3.1 *An early arrival between 08.45 and 09.15.*

2.3.2 *A late arrival between 23.50 and 00.20.*

2.3.3 *Maximum Journey Time from Gloucester 1 hour 14 minutes.*

3. Sundays

3.1 Service Pattern

3.1.1 *Seven services shall be provided between Cardiff Central and Gloucester calling at Newport, Severn Tunnel Junction, Caldicot, Chepstow and Lydney.*

3.1.2 *The Franchise Operator shall use reasonable endeavours to provide a reasonable pattern of services when combined with services provided by any other Train Operator between Cardiff Central and Gloucester.*

3.2 Cardiff Central Departures

3.2.1 *An early departure between 10.00 and 11.15.*

3.2.2 *A late departure between 21.00 and 23.15.*

3.2.3 *Maximum Journey Time to Gloucester 1 hour 14 minutes.*

3.3 Cardiff Central Arrivals

3.3.1 *An early arrival between 11.30 and 12.30*

3.3.2 *A late arrival between 23.30 and 00.45.*

3.3.3 *Maximum Journey Time from Gloucester 1 hour 14 minutes.*

Part 2 - Cancellations, Capacity and PPM Thresholds (Clause 5.3 and 21.7).

In respect of the Valley Lines Business Unit:

Measure	Value from the Franchise Commencement Date	With effect from 1 April 2007
Total Cancellations		
• Call-in	3.0%	2.0%
• Breach	4.5%	3.5%
• Default	10.0%	10.0%
Cancellations		
• Call-in	5.5%	4.5%
• Breach	8.0%	7.0%
• Default	15.0%	15.0%
Capacity		
• Call-in	97.5%	97.5%
• Breach	95.0%	95.0%
• Default	85.0%	85.0%

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<i>Public Performance Measure (measured at 31 March in each Reporting Year)</i>							
	<i>31 March 2004</i>	<i>31 March 2005</i>	<i>31 March 2006</i>	<i>31 March 2007</i>	<i>31 March 2008</i>	<i>31 March 2009</i>	<i>31 March 2010</i>
• <i>Breach</i>	<i>N/A</i>	<i>85.0%</i>	<i>85.0%</i>	<i>85.0%</i>	<i>88.0%</i>	<i>88.0%</i>	<i>88.0%</i>

<i>Public Performance Measure (measured at 31 March in each Reporting Year)</i>							
	<i>31 March 2011</i>	<i>31 March 2012</i>	<i>31 March 2013</i>	<i>31 March 2014</i>	<i>31 March 2015</i>	<i>31 March 2016</i>	<i>31 March 2017</i>
• <i>Breach</i>	<i>88.0%</i>	<i>88.0%</i>	<i>88.0%</i>	<i>88.0%</i>	<i>88.0%</i>	<i>88.0%</i>	<i>88.0%</i>

<i>Public Performance Measure (measured at 31 March in each Reporting Year)</i>	
	<i>31 March 2018</i>
• <i>Breach</i>	<i>88.0%</i>

In respect of the Wales & Borders Rural and Inter-Urban Business Unit:

<i>Measure</i>	<i>Value from the Franchise Commencement Date</i>	<i>With effect from 1 April 2007</i>
<i>Total Cancellations</i>		

«COPY»

• Call-in	3.0%	2.0%
• Breach	4.5%	3.5%
• Default	10.0%	10.0%
Cancellations		
• Call-in	5.5%	4.5%
• Breach	8.0%	7.0%
• Default	15.0%	15.0%

Public Performance Measure (measured at 31 March in each Reporting Year)							
	31 March 2004	31 March 2005	31 March 2006	31 March 2007	31 March 2008	31 March 2009	31 March 2010
• Breach	N/A	71.9%	71.9%	71.9%	84.0%	84.0%	84.0%

Public Performance Measure (measured at 31 March in each Reporting Year)							
	31 March 2011	31 March 2012	31 March 2013	31 March 2014	31 March 2015	31 March 2016	31 March 2017
• Breach	84.0%	84.0%	84.0%	84.0%	84.0%	84.0%	84.0%

Public Performance Measure (measured at 31 March in each Reporting Year)	
	31 March 2018
• Breach	84.0%

Part 3 — Load Factor Specifications (Clause 6)

This section is not used

Part 4 — Capacity Limits (Clause 6)

This section is not used

Part 5 — Initial Number of Vehicles (Clause 6)

The Initial Number of Vehicles is 172 Vehicles save that where, in circumstances beyond the reasonable control of the Franchise Operator, the Franchise Operator shall cease to have use of:

- (i) Any of the four Vehicles owned by Bridgend County Borough Council and Rhondda Cynon Taff County Council which are provided to the Franchise Operator under the terms of an agreement dated 22 March 1991, between the Board and The Mid Glamorgan County Council; or*
- (ii) One or both of the Vehicles owned by Cardiff City Council which are provided to the Franchise Operator under the terms of an agreement dated 27th March 1992 between the Board and South Glamorgan County Council,*

the Initial Number of Vehicles shall be reduced by the number of Vehicles that the Franchise Operator no longer has use of.

Part 6 - Additional Service Commitment

Train Mileage Commitment

- 1. The total Train Mileage scheduled to be provided in any pair of consecutive Summer and Winter Timetables and applying from the Summer Timetable for 2004 shall be not less than 11,383,276.*
- 2. The total Train Mileage under paragraph 1 excludes the following:*
 - (a) the services the Franchise Operator is required to provide under paragraph 3 of Part III of Schedule 13 in relation to the RPP schemes and any continuation of such schemes pursuant to paragraph 3.1 of Part III of Schedule 13; and*
 - (b) the services the Franchise Operator is required to provide under paragraph 2.1 of Part II of Schedule 13 being those services supported by the Welsh Assembly Government and Local Authorities*

but includes those services set out in Part 2 of Annex 1 to Schedule 13 which the Franchise Operator is required to provide in fulfilment of the Wessex PSR (as defined in Part I of Schedule 13).

Route A2 Chester to Llandudno Junction

Monday to Saturday

- 1.6 One service on Saturdays originating at Crewe, to arrive in Llandudno Junction between 13.15 and 13.45*
-

Sunday

2.6/3.6 One service originating at Bangor, to arrive in Chester between 21.15 and 21.45

Route A7 Through Services Crewe and Chester to Bangor and Holyhead

Monday to Friday

1.9 One service from Chester to Holyhead originating at Manchester Piccadilly shall arrive in Holyhead between 12.15 and 12.45

1.10 One service from Chester to Bangor originating at Manchester Piccadilly shall arrive at Bangor between 20.15 and 20.30

1.11 One service from Holyhead to Chester shall be extended to Manchester Piccadilly to arrive at Manchester Piccadilly between 15.45 and 16.00

1.12 One service from Holyhead to Chester shall be extended to Crewe to arrive at Crewe between 16.50 and 17.10

Sunday

2.7 One service from Bangor to Chester shall be extended to Manchester Piccadilly and arriving at Manchester between 17.45 and 18.15

Flow D2 Aberdare to Cardiff Central via Pontypridd

Saturday

2.19 An additional service shall be provided between Pontypridd and Aberdare, calling at Abercynon North, Penrhiwceiber, Mountain Ash, Fernhill and Cwmbach arriving at Aberdare between 21.00 and 21.15.

Flow D3 Merthyr Tydfil to Cardiff Central via Pontypridd

Monday to Friday

3.17 An additional service shall be provided between Cardiff Queen Street and Abercynon South, calling at Cathays, Llandaf, Radyr, Taffs Well, Trefforest and Pontypridd departing Cardiff Queen Street between 17.10 and 17.30.

Flow D5 Radyr to Cardiff Central via Cathays or Ninian Park

Saturday

An additional service shall be provided between Cardiff Central and Radyr, calling at Ninian Park, Waun-gron Park, Fairwater and Danescourt departing Cardiff Central between 17.30 and 17.45.

Route D6 Coryton to Cardiff Central or Cardiff Bay

Monday to Friday

- 6.2 (iii)** *Two additional services shall be provided between Cardiff Central and Coryton, calling at Cardiff Queen Street, Heath Low Level, Ty Glas, Birchgrove, Rhiwbina and Whitchurch (Glamorgan) departing Cardiff Central between 18.00 and 19.00.*

Route D7 Rhymney to Cardiff Central or Cardiff Bay

Monday to Friday

- 7.35** *An additional service shall be provided between Bargoed and Cardiff Central, calling at Gilfach Fargoed, Pengam, Hengoed, Ystrad Mynach, Llanbradach, Aber, Caerphilly, Cardiff Queen Street and Cardiff Central arriving at Cardiff Central between 17.00 and 17.15.*
- 7.36** *An additional service shall be provided between Caerphilly and Cardiff Queen Street, calling at Lisvane and Thornhill, Llanishen and Heath High Level arriving at Cardiff Queen Street between 17.15 and 17.30.*
- 7.37** *An additional service shall be provided between Cardiff Queen Street and Bargoed, calling at Heath High Level, Llanishen, Lisvane and Thornhill, Caerphilly and Ystrad Mynach arriving at Bargoed between 08.45 and 09.00.*
- 7.38** *Two additional services shall be provided between Cardiff Central and Caerphilly, calling at Cardiff Queen Street, Heath High Level, Llanishen and Lisvane and Thornhill arriving at Caerphilly between 16.30 and 17.10.*
- 7.39** *One service between Cardiff Central and Bargoed shall be extended to Rhymney, calling at Brithdir, Tir-phil and Pontlottyn arriving at Rhymney between 18.10 and 18.20.*
- 7.40** *An additional service between Barry Island and Cardiff Central, calling at Barry, Barry Docks, Cadoxton and Grangetown arriving at Cardiff Central between 17.50 and 18.20*
- 7.41** *An additional service between Cardiff Central and Ystrad Mynach, calling at Cardiff Queen Street, Heath High Level, Llanishen, Lisvane & Thornhill, Caerphilly, Aber and Llanbradach departing Cardiff Central between 18.20 and 18.40.*

Route D9 Cardiff Central to Penarth

Monday to Friday

- 9.6** *An additional service shall be provided between Cardiff Central and Penarth, calling at Grangetown and Dingle Road arriving at Penarth between 09.50 and 10.10.
An additional service shall be provided between Cardiff Central and Penarth, calling at Grangetown and Dingle Road arriving at Penarth between 08.30 and 08.45.*

Flow D10 Cardiff Central to Barry Island

Monday to Friday

- 10.19** *Two additional services shall be provided between Cardiff Central and Barry, calling at Grangetown, Cogan, Eastbrook, Dinas Powys, Cadoxton and Barry Docks arriving at Barry between 07.45 and 08.15.*
-

- 10.20** *Two additional services shall be provided between Cardiff Central and Barry Island, calling at Grangetown, Cogan, Eastbrook, Dinas Powys, Cadoxton, Barry Docks and Barry arriving at Barry Island between 08.00 and 08.45.*
- 10.21** *Two additional services shall be provided between Cardiff Central and Barry Island, calling at Grangetown, Cogan, Eastbrook, Dinas Powys, Cadoxton, Barry Docks and Barry arriving at Barry Island between 19.20 and 19.50.*
- 10.22** *An additional service shall be provided between Barry Island and Cardiff Central, calling at Barry, Barry Docks, Cadoxton, Dinas Powys, Eastbrook, Cogan and Grangetown arriving at Cardiff Central between 21.00 and 21.30.*

Sunday

- 10.23** *Two additional services shall be provided between Cardiff Central and Barry Island, calling at Grangetown, Cogan, Eastbrook, Dinas Powys, Cadoxton, Barry Docks and Barry arriving at Barry Island between 09.15 and 10.30.*

Route F5 **Cardiff Central & Carmarthen to Milford Haven**

Monday to Friday

- 1.1.6** *An additional service shall be provided between Haverfordwest and Carmarthen, calling at Clarbston Road, Clunderwen and Whitland and shall arrive in Carmarthen between 12.15 and 12.45.*

Schedule 4 — Station Standards (Clause 10.3)

1 Communication and Information Systems

Each Station shall have a public address and/or a public information display and/or a freephone link/help point communications system for use in an emergency and so that passengers may obtain information about train delays and cancellations. Such communication links shall be maintained in working order and shall be used effectively by the Franchise Operator's staff to provide, in the event of a delay or cancellation, details of the delay or cancellation and any alternative journey arrangements (and any other relevant information).

²⁶If public telephones are provided within the station lease area the Franchise Operator shall be required to seek the prior written approval of the Authority if it intends to allow the removal of all of the public telephones from within that station.

2 Waiting Accommodation

2.1 Each Station shall have weather proof covered waiting accommodation or other adequate shelter which offers reasonable protection from the weather. Adequate alternative shelter shall be available when such waiting accommodation is temporarily out of use. Seating shall also be provided, where reasonably practicable, in such waiting accommodation and shelter and on station platforms.

2.2 Within 18 months from the Franchise Commencement Date, each platform in normal use at a Station shall have waiting accommodation and seating which complies with the requirements of paragraph 2.1. For the purpose of this paragraph, "normal use" means that the platform is scheduled for use or is reasonably likely to be used by passenger rail services (excluding Charter Services) which call at the Station.

3 Display of Information and Signing

3.1 Each Station shall have information displays and/or signing which provide the following information:

- (a) the name, address and telephone number of the customer services manager (or his equivalent) under whose control the Station rests;
- (b) the location of the nearest public telephone or "freephone" if provided (unless such telephone or "freephone" is located within the Station and is adequately signed);
- (c) the telephone number of the National Rail Enquiry Service (or successor facility);
- (d) the telephone number of an alternative location from which current train running information can be obtained if a public address or "freephone" facility is not provided at the Station;
- (e) wherever appropriate, the location and telephone number of the nearest taxi rank or operator, other public transport services, and, for Stations which are not staffed at all times of the day at which passenger trains are scheduled to call, the nearest person authorised to sell tickets for use on the Passenger Services;

²⁶ New text inserted wef 3rd February 2005

- (f) a list of tickets which may be purchased on trains calling at that Station at times at which such Station is not staffed (if at all);
- (g) arrangements for the issue of season tickets, railcards and other facilities relating to trains calling at such Station and which cannot be purchased at the Station;
- (h) for Stations which have two or more platforms, customer information displays or directional signs indicating the destinations served by trains calling at each platform;
- (i) the nearest station with access for mobility-impaired customers if no such access is provided at the Station; and
- (j) the location of bicycle storage facilities at the Station.

3.2 Within 9 months from the Franchise Commencement Date, each Station shall have information and/or signing which provide the following additional items of information:

- (i) the telephone number and textphone number of National Rail Enquiries (or successor facility), or such other appropriate number as may be approved by the Authority for this purpose, which provides information on rail services for passengers with special needs;
- (ii) the telephone number and textphone number of the Public Transport Information enquiry line (however it may be known) or such other enquiry line as the Authority may approve for this purpose, to facilitate the ability of passengers to transfer easily to other modes of transport;
- (iii) arrangements for the purchase of any tickets when they are not available for purchase from the Station. This shall include arrangements for the issue of season tickets, railcards and other facilities relating to trains calling at such Station which are not normally available for purchase at that station;
- (iv) if no access for mobility impaired customers is provided at the Station, a telephone hotline number for such passengers and/or information as to the nearest station with such access; and
- (v) a map of the locality served by that Station.

4 Regular Cleaning and Maintenance

All Stations shall be kept reasonably clean. Poster displays and other items of an informational nature shall be regularly monitored and shall be replaced promptly in the event of changes to the information shown or on it becoming defaced or maliciously removed.

5 Lighting

Each Station shall have adequate lighting which shall be switched on throughout the hours of darkness during which trains are scheduled to call at the relevant Station (including for a reasonable period of time before and after the first and last scheduled train in order to allow passengers to await the first scheduled train at the Station or depart from the Station following the departure of the last scheduled train).

6 Bicycles

The Franchise Operator will not reduce the amount of any bicycle storage facilities provided at any Station without the Authority's prior written consent. The Franchise Operator will maintain all such bicycle storage facilities to a reasonable standard.

7 Secure Station and Secured Car Park Accreditation

7.1 The Franchise Operator will maintain accredited status under the "Secure Stations Scheme" and/or the "Secured Car Parks Award Scheme" for each Station (as specified in paragraph 7.2 below) which has such accreditation at the Franchise Commencement Date, or which subsequently becomes accredited during the Franchise Term, and will continue to comply, at that Station, with the standards stipulated by the relevant scheme from time to time.

7.2 The Stations which have accredited status at the Franchise Commencement Date are:-

- (a) Secure Stations: Carmarthen
Cardiff Central
- (b) Secured Car Parks: None

Schedule 5 — Fares (Clause 9.1)

Part 1 — Definitions and Construction

1. Definitions

The following definitions shall apply in this Schedule 5 and each Fare Document except to the extent the context otherwise requires:

“Adult Weighting”	means, in respect of any Fare, the Gross Revenue in respect of the sales of such Fare to individuals of the age of sixteen or over for the Financial Year ended 31 March 2003 divided by the Initial Adult Price of such Fare, which weighting is, in respect of any Fare which is included in a Fare Basket, set out in the relevant Fare Document.
“Annual Season Ticket”	means a Season Ticket Fare which is valid in Standard Class Accommodation from (and including) the day it first comes into effect until (but excluding) the day which falls twelve months after such day.
“Child Weighting”	means, in respect of any Fare, the Gross Revenue in respect of the sales of such Fare to individuals under the age of sixteen for the Financial Year ended 31 March 2003 divided by the Initial Child Price of such Fare, which weighting is, in respect of any Fare which is included in a Fare Basket, set out in the relevant Fare Document.
“Commuter Fare”	has the meaning specified in paragraph 1 of Part 3 of this Schedule 5.
“Commuter Fare Basket”	means the group of Commuter Fares determined in accordance with paragraph 2 of Part 3 of this Schedule 5, which Fares are listed in the Commuter Fare Document.
“Commuter Fare Document”	means the document of that name to be produced by the Authority following determination or amendment of the Commuter Fare Basket in accordance with Part 3 of this Schedule 5 as the same may be amended from time to time.
“Compulsory Inter-available Flow”	has the meaning ascribed to that term in the Ticketing and Settlement Agreement.

“Fare”	<p>means, for the purposes of this Schedule 5 only, a Fare (as defined in Clause 1.1 of this Franchise Agreement) which is:</p> <ul style="list-style-type: none">(a) valid for a journey or journeys on railway passenger services which are provided on that part of the network either on which railway passenger services are provided which are required to be included in the Timetable pursuant to Clause 5.1 of this Franchise Agreement or are required to be included in another relevant Train Operator’s passenger timetable under a passenger service requirement imposed on them by the Authority;(b) sold under the Travelcard Agreement referred to in Part 3(a)(iv) of Schedule 1 of this Franchise Agreement; or(c) a Cross-London Ticket (as defined in the Through Ticketing (Non-Travelcard) Agreement referred to in Part 3(a)(v) of such Schedule 1).
“Fare Basket”	<p>means any of the Commuter Fare Basket or the Protected Fare Basket.</p>
“Fare Document”	<p>means any of the “Commuter Fare Document” or the “Protected Fare Document”.</p>
“Fares Setting Round”	<p>has the meaning ascribed to that term in the Ticketing and Settlement Agreement.</p>
“Flow”	<p>has the meaning ascribed to that term in the Ticketing and Settlement Agreement.</p>
“Gross Revenue”	<p>means, in relation to any period and any Fare, the gross revenue (excluding any applicable Value Added Tax) to the Franchise Operator attributable to such Fare over the relevant period, excluding any costs, commissions or other expenses which may be paid or incurred in connection with such Fare.</p>
“Initial Adult Price”	<p>means, in respect of any Fare, the Price of such Fare as shown in the fares manuals and systems of the RSP in February 2003, which Price is, in respect of any Fare which is included in a Fare Basket, set out in the relevant Fare Document.</p>

“Initial Child Price”	means, in respect of any Fare, the Child Price of such Fare as shown in the fares manuals and systems of the RSP in February 2003, which Child Price is, in respect of any Fare which is included in a Fare Basket, set out in the relevant Fare Document.
“Initial Permanent Fare”	has the meaning ascribed to that term in the Ticketing and Settlement Agreement.
“Initial Price”	means an Initial Adult Price or an Initial Child Price, as the case may be.
“Inter-available Fare”	has the meaning ascribed to that term in the Ticketing and Settlement Agreement.
“Lead Operator”	has the meaning ascribed to that term in the Ticketing and Settlement Agreement.
“London Station”	means any station served by the Railway Passenger Services in the Zones and any Zone to or from which a passenger may travel from or to such station.
“Major Flow Operator”	has the meaning ascribed to that term in the Ticketing and Settlement Agreement.
“Monthly Season Ticket”	means a Season Ticket Fare which is valid in Standard Class Accommodation from (and including) the day it first comes into effect until (but excluding) the day which falls one month after such day.
“New Station”	means a station not served by railway passenger services as at February 2003, but which has since that time been, or is subsequently, served by railway passenger service which have been, or are subsequently to be, included in the Timetable or in another relevant Train Operator's timetable. “New Station” may, if the Authority requires, also include any station other than those set out in Part 1 of Schedule 2 of which, with the consent of the Authority, (whether by amendment to this Franchise Agreement or otherwise), railway passenger services operated by the Franchise Operator call.
“Permitted Aggregate Increase”	has the meaning ascribed to that term in paragraph 4 of Part 2 of this Schedule.
“Permitted Individual Increase”	has the meaning ascribed to that term in paragraph 8 of Part 2 of this Schedule.
“Protected Fare”	means a Protected Return Fare or a Protected

Weekly Season Ticket.

- “Protected Fare Basket”** means the group of Protected Fares determined in accordance with paragraph 3 of Part 3 of this Schedule 5, which Fares are listed in the Protected Fare Document.
- “Protected Fare Document”** means the document of that name to be produced by the Authority following determination or amendment of the Protected Fare Basket in accordance with Part 3 of this Schedule 5 as the same may be amended from time to time.
- “Protected Return Fare”** means:
- (a) in respect of a Fare for a Flow for which there was a Saver Return Fare in February 2003, a Return Fare for each such Flow in respect of which the Franchise Operator is entitled from time to time to set the Price or Child Price under the Ticketing and Settlement Agreement, subject to the following additional rights and restrictions:
 - (i) it shall be valid for no less than one month;
 - (ii) it shall be valid all day on a Saturday or Sunday and from no later than 1030 on any other day;
 - (iii) it need not be valid for any journey beginning between 1500 and 1900 on any day other than a Saturday or Sunday where the journey begins from a London Station or any station between London and Reading station, Watford station, Luton station or Stevenage station (inclusively) which in each case is in a direction away from London; or
 - (b) in respect of a Fare for a Flow for which there was no Saver Return Fare in February 2003, a Return Fare for each such Flow in respect of which the Franchise Operator is entitled from time to time to set the Price or Child Price under the Ticketing and Settlement Agreement

except in each case to the extent that a Return Fare for any such Flow is a Commuter Fare.

“Protected Weekly Season Ticket”

means a Weekly Season Ticket for any Flow for which there was a weekly season ticket in the fares manuals and systems of the RSP in February 2003 and for which the Franchise Operator is entitled to set the Price or Child Price of under the Ticketing and Settlement Agreement except to the extent that a Weekly Season Ticket for any such Flow is a Commuter Fare.

“Quarterly Season Ticket”

means a Season Ticket Fare which is valid in Standard Class Accommodation from (and including) the day it first comes into effect until (but excluding) the day which falls three months after such day.

“Railway Passenger Services”

means services for the carriage of passengers by railway which are provided by a person who is bound by the Ticketing and Settlement Agreement, or any part of it, and including the Franchise Operator and any other Train Operator from time to time.

“Return Fare”

means a Fare which entitles the purchaser to make, without further restrictions as to the time of day for which the Fare is valid, a journey in each direction in Standard Class Accommodation between the stations and/or the zones for which such Fare is valid and which expires no earlier than 0200 on the day after the day of the outward journey or, if later, the time the relevant return journey may be completed if commenced before 0200.

“Saver Return Fare”

means a return fare which is shown as a saver fare in the fares manuals and systems of the RSP at the relevant time.

“Season Ticket Fare”

means, for the purposes of this Schedule 5 only, a Fare which entitles the purchaser to make, without further restriction except as to class of accommodation, an unlimited number of journeys in any direction during the period for which, and between the stations and/or the zones for which, such Fare is valid.

“Service Group 1 Station”

means the stations which are served by the Passenger Services in Service Group 1 as set out in Part 1 of Schedule 2.

“Single Fare”

means a Fare which entitles the purchaser to make,

without further restrictions as to the time of day for which the Fare is valid, on any one day one journey in Standard Class Accommodation between the stations and/or the zones for which the Fare is valid.

“Weekly Season Ticket”	means a Season Ticket Fare which is valid in Standard Class Accommodation from (and including) the day it first comes into effect until (but excluding) the day which falls seven days after such day.
“Weighted Adult Price”	means, in respect of any Fare, the Price of such Fare at the relevant time multiplied by the Adult Weighting attributable to such Fare.
“Weighted Child Price”	means, in respect of any Fare, the Child Price of such Fare at the relevant time multiplied by the Child Weighting attributable to such Fare.
“Weighted Initial Adult Price”	means, in respect of any Fare, the Initial Adult Price of such Fare multiplied by the Adult Weighting attributable to such Fare.
“Weighted Initial Child Price”	means, in respect of any Fare, the Initial Child Price of such Fare multiplied by the Child Weighting attributable to such Fare.
“Weighted Initial Price”	means a Weighted Initial Adult Price or a Weighted Initial Child Price.
“Weighted Price”	means a Weighted Adult Price or a Weighted Child Price.
“Weighting”	means an Adult Weighting or a Child Weighting, as the case may be.
“Zone”	means a zone set out in the map in Schedule 2 of the Travelcard Agreement referred to in Part 3(a)(iv) of Schedule 1 on the date such Agreement came into effect.

1. Construction

- (a) In the event of an immaterial inconsistency between the Fares, Weightings or Initial Prices described in or determined in accordance with this Schedule 5 and the Fares, Weightings or Initial Prices described in the relevant Fare Document the relevant Fare Document shall prevail except to the extent that the inconsistency is material in which case this Schedule 5 shall prevail.
- (b) References in this Schedule to a Fare shall, except to the extent the context otherwise requires, be construed as references to the Fare which is or can be Created by the Lead Operator for the Flow to which the Fare relates or, if such

Flow shall not be a Compulsory Inter-available Flow, any Fare which the Franchise Operator has Created or can Create in respect of that Flow as the Authority may specify.

- (c) Any requirement under this Schedule to set a Child Price in respect of a Fare may be satisfied by the Creation of a Fare which is only valid for use by persons under the age of sixteen and the setting of a Price for that new Fare at a level which, if set as a Child Price for the original Fare, would comply with the restrictions on such Child Price under this Schedule.
- (d) Subject to paragraph (b) above, the Authority shall be entitled to include within the definitions of Fare Baskets, Commuter Fares or Protected Fares, Fares to or from any New Station on such basis as it may, after consultation with the Franchise Operator, reasonably determine and references in this Schedule 5 to Fares, Fare Baskets, Commuter Fares and Protected Fares and other relevant definitions shall be construed accordingly.

Part 2 — Fare Regulation

General

1. The Franchise Operator shall comply with its obligations under this Schedule 5, when Creating or setting the Price or Child Price for any relevant Fare or otherwise. By no later than week 17 of each Fares Setting Round the Franchise Operator will provide the Authority with written confirmation from a statutory director of the Franchise Operator of whether the Franchise Operator complied with its obligations under this Schedule 5 during such Fares Setting Round.

Creation of Fares

2. The Franchise Operator shall, to the extent it is entitled to do so under the terms of the Ticketing and Settlement Agreement, ensure that each Commuter Fare and each Protected Fare has been Created.

Restrictions on Fare Baskets

3. The Franchise Operator shall procure that, for each Fare Basket and for each Fare Year during the Franchise Term, the aggregate of all the Weighted Prices of all the Fares in each such Fare Basket shall not exceed an amount equal to $(WIP \times PPAI \times V)$ where:

“WIP” is the aggregate of all the Weighted Initial Prices of all the Fares in that Fare Basket;

“PPAI” is:

- (i) in respect of the Fare Year commencing 1 January 2004, the Permitted Aggregate Increase for that Fare Year; and
- (ii) in respect of each Fare Year commencing on or after 1 January 2005, the product of the Permitted Aggregate Increase for each Fare Year between that Fare Year and the Fare Year which begins on 1 January 2004 (inclusively); and

“V” equals the rate of Value Added Tax on the provision of Passenger Services at the relevant time, expressed as the quotient of the price of a Fare (inclusive of Value Added Tax) divided by the price of a Fare (exclusive of Value Added Tax).

4. ²⁷ ²⁸ The Permitted Aggregate Increase in any Fare Year shall be determined in accordance with the following formula:

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

where:

PAI is the Permitted Aggregate Increase in that Fare Year;

RPI is the quotient of the Retail Prices Index for the July of the calendar year preceding that Fare Year divided by the Retail Prices Index for the July of the calendar year preceding that calendar year;

k equals, subject to paragraph 25, +1.

5. The Franchise Operator shall be deemed not to be in breach of paragraph 3 if and to the extent that such breach results from the Price or Child Price for any relevant Commuter Fare being set by another person (not being an Affiliate of the Franchise Operator) pursuant to the terms of the Ticketing and Settlement Agreement in circumstances where the Franchise Operator does not have a reasonable opportunity, under any procedure for consulting or notifying operators of alterations to the Prices or Child Prices of Fares under the Ticketing and Settlement Agreement or otherwise, to alter some or all of the other Commuter Fares in the relevant Commuter Fare Basket in order to avoid being so in breach. If and to the extent that the Franchise Operator is so in breach, it shall not subsequently increase the Prices or Child Prices of any Commuter Fares in the Commuter Fare Basket which are not set by another such person pursuant to the terms of the Ticketing and Settlement Agreement unless, following such increase, it would, otherwise than under this paragraph 5, comply with the provisions of paragraph 3 in relation to the Commuter Fare Basket.
6. Nothing in paragraph 5 shall require the Franchise Operator to reduce the Price or Child Price of any Commuter Fare at any time where such Price or Child Price has previously been set in a Fares Setting Round.

Restriction on individual Fares in Fare Baskets

7. The Franchise Operator shall for any Fare Year during the Franchise Period, set the Price and Child Price of each Fare in a Fare Basket which it is entitled to set pursuant to the Ticketing and Settlement Agreement (except to the extent that some other person is so

²⁷ Deleted – the position has been reversed by the agreement to a Deed of Amendment dated 06/11/2012, whereby the value of ‘k’ was confirmed to be equal to ‘+1’.

²⁸ As a result of the agreed Deed of Amendment dated 06/11/2012, the value of ‘k’ is equal to ‘+1’ and the original wording is confirmed and restated.

entitled by virtue of the Through-Ticketing Non-Travelcard Agreement referred to in Part 3(a)(v) of Schedule 1 of this Franchise Agreement) at a level which shall not exceed an amount equal to the greater of:

(i) P + £0.10p; and

(ii) (P x PII x V) where:

“P” is the maximum Price or Child Price, as the case may be, for the relevant Fare during the immediately preceding Fare Year as shown in the fares manuals and systems of the RSP;

“PII” is the Permitted Individual Increase in any Fare Year as determined in accordance with paragraph 8 of this Part 2; and

“V” has the value attributed to it in paragraph 3 of this Part 2 of Schedule 5.

The Authority may disregard for the purpose of the definition of “P” in paragraph 7(ii) any Price or Child Price of any Fare which the Authority, acting reasonably, considers was set by the Franchise Operator in order to allow the Franchise Operator to increase the Price or Child Price of such Fare in any subsequent Fare Year by a greater amount than it would otherwise have been entitled to.

8. ²⁹ ³⁰ ^{xiii} The Permitted Individual Increase in any Fare Year shall be determined in accordance with the following formula:

$$PII = \frac{(100 \times RPI) + k + 5}{100}$$

where:

PII is the Permitted Individual Increase in such Fare Year; and

RPI is the quotient of the Retail Prices Index for the July of the calendar year preceding that Fare Year divided by the Retail Prices Index for the July of the calendar year preceding that calendar year.

k has the value attributed to it in paragraph 4 of this Part 2 of Schedule 5.

9. [NOT USED]

²⁹ Deleted – the position has been reversed by the agreement to a Deed of Amendment dated 06/11/2012, whereby the value of ‘k’ was confirmed to be equal to ‘+1’.

³⁰ As a result of the agreed Deed of Amendment dated 06/11/2012, the value of ‘k’ is equal to ‘+1’ and the original wording is confirmed and restated.

Change of Lead Operator / Major Flow Operator

10. The Franchise Operator shall not in respect of any Flow in respect of which it is the Lead Operator, agree to any request under the Ticketing and Settlement Agreement that the identity of the Lead Operator for such Flow be changed without the Authority's prior approval.
11. The Franchise Operator shall inform the Authority if it ceases to be a Major Flow Operator in respect of any Flow for which it is a Major Flow Operator as at the Franchise Commencement Date.
12. The Franchise Operator shall inform the Authority if it becomes the Lead Operator in respect of any Flow. Upon the Franchise Operator becoming the Lead Operator in respect of any Flow the Authority may exercise its rights under paragraph 5 of Part 3 to require the Fares included in any Fare Basket to be revised by reapplying the rules set out in Part 3 of this Schedule 5.

Fares Setting Rounds

13. If the Franchise Operator is in breach of paragraph 3 or 7 (and to the extent not excused under paragraph 5), it shall reduce the Price or Child Price of any relevant Fare at the next Fares Setting Round or, if earlier, at the next available opportunity so as to comply with the requirements of paragraph 3 or 7 (as appropriate) from such date.
14. Where the Franchise Operator is a Lead Operator in respect of a Compulsory Inter-available Flow and a Fare for such Flow is a Commuter Fare, it shall not increase the Price or Child Price of the relevant Fare in a Fares Setting Round after it has initially notified RSP of such Price or Child Price in such Fares Setting Round without the consent of either the Authority or each other Train Operator which provides railway passenger services for such Flow.

Sale of Fares

15. The Franchise Operator shall ensure that the purchaser of any Commuter Fare or any Protected Fare shall be entitled, without further charge, to such rights of access and egress and other similar rights at the commencement and end of the relevant intended journey or journeys as may be reasonably necessary for such purchaser to travel on the Passenger Services. Such obligation shall not preclude the Franchise Operator from charging any purchaser for such additional services as may not be so necessary but which any such purchaser may choose to use (including any car parking, catering or other similar ancillary services).
16. The Franchise Operator shall ensure that no purchaser of any Commuter Fare or any Protected Fare shall be required to incur any cost or take any action beyond the payment of an amount not exceeding the Price or Child Price of such Fare, as the case may be, and, in relation to the issue of a Season Ticket Fare, the completion of such identity card as the Franchise Operator may reasonably require.
17. The Franchise Operator shall not require any purchaser of any Commuter Fare or any Protected Fare to pay any amount in respect of a seat reservation or other similar right which it may be compulsory for such purchaser to have in order to make a journey with such Fare on a Passenger Service provided by the Franchise Operator. Where the Franchise Operator sets a limit on the number of Protected Fares or Commuter Fares that

may be used on any particular train, such limit shall be not less than the number of seats in Standard Class Accommodation on such train or, if greater, the deemed capacity of such train in Standard Class Accommodation according to the Rolling Stock Capacities.

18. The Franchise Operator shall procure that, for any Protected Return Fare or for any Single Fare or Return Fare which is a Commuter Fare, such Fare shall be offered for sale wherever and whenever any other Fare (not being a Season Ticket Fare) for a journey between the same origin and destination stations is offered for sale either by it or its agents (except persons acting in such capacity by virtue of having been appointed under Parts II to VI of Chapter 9 of the Ticketing and Settlement Agreement or by being party to the Ticketing and Settlement Agreement).
19. The Franchise Operator shall procure that, for any Season Ticket Fare which is a Commuter Fare or for any Protected Weekly Season Ticket, such Fare shall be offered for sale at all staffed ticket offices at which Fares for a journey between the same origin and destination stations are sold and otherwise wherever and whenever any Season Ticket Fare is offered for sale either by it or its agents (except persons acting in such capacity by virtue of having been appointed under Parts II to VI of Chapter 9 of the Ticketing and Settlement Agreement or by being party to the Ticketing and Settlement Agreement).

Monitoring

20. The Franchise Operator shall notify, or procure the notification to, the Authority of any proposed increase to the Price and Child Price of any Commuter Fare or Protected Fare and shall provide such details of any such proposal at such times (including before and during each Fares Setting Round) and in such form (including by electronic data transfer) as the Authority may reasonably request from time to time. In particular, the Franchise Operator shall make available, or procure that RSP makes available, to the Authority, for any Fare Setting Round falling during the Franchise Term, such details (including the proposed Prices and Child Prices) of the Initial Permanent Fares for such Fares Setting Round of such Commuter Fares or Protected Fares as the Authority may notify the Franchise Operator. The Franchise Operator shall take such action as the Authority may require following receipt of such details in order to ensure that it will comply with the provisions of this Schedule 5.
21. The Franchise Operator shall provide the Authority with such access as it may require to the Prices and Child Prices of Commuter Fares and Protected Fares from time to time.
22. The Franchise Operator shall provide such information as the Authority may require for the purpose of determining the Gross Revenue of the Franchise Operator in relation to any particular Fare or Fares or in any particular period.

Changes in restrictions and weightings

23. The Franchise Operator may request permission from the Authority from time to time to increase any Prices or Child Prices beyond the levels permitted under this Schedule in connection with any proposed or actual improvement in any aspect of the Passenger Services relating to such Fares. The Authority shall act reasonably in relation to any such request but shall not under any circumstances be obliged to accept any such request in whole or in part.

24. The Franchise Operator may, in the event of significant changes to the pattern of travel on the Passenger Services during the Franchise Period, apply to the Authority for the Weightings attributable to the Fares in any Fare Basket to be altered (by such Weightings being re-calculated using the Gross Revenue in respect of the sales of the relevant Fares for the most recent Financial Year to have ended) to take account of such changes. The Authority shall act reasonably in relation to any such application but shall not under any circumstances be obliged to accept such application in whole or in part.
25. The Authority shall have the power at any time and on more than one occasion to alter the obligations of, and restrictions on, the Franchise Operator under this Schedule 5 for any Fare Year (or any part thereof) (whether by alteration of the value of “k” under paragraph 4 or otherwise) and the Franchise Operator shall accept any such alteration. In the event of such power being exercised the No Net Loss No Net Gain Regime will apply.
26. Where:
- (a) pursuant to Clause 4-7 of the Ticketing and Settlement Agreement the consent of the Authority is requested for the abolition of a Compulsory Inter-available Flow in respect of which any Fares Created would be Protected Fares or included in a Fares Basket (the “Reference Fares”); and
 - (b) a Flow exists which, in the Authority’s opinion, is substantially similar to the Flow to which the request relates (the “Equivalent Flow”),

then the Authority may, as a condition of granting this consent to the abolition of such Flow, by written notice to the Train Operators, deem any Fares Created in respect of the Equivalent Flow which have substantially the same characteristics as the Reference Fares to be to be included in a Fares Basket. The Initial Price of any such Fare shall be the Initial Price of the equivalent Reference Fare (and, for the purpose of paragraph 7 of this Part 2, “P” construed accordingly). However, the Authority shall not issue such a notice unless its provisions have first been approved by the Ticketing and Settlement Scheme Council (as defined in the Ticketing and Settlement Agreement) or a delegate of it.

Financial consequences of breach

27. The Franchisee and Franchise Operator each hereby acknowledges that:
- (a) in the event that Fares are sold for amounts in excess of the Prices or Child Prices which should be set for such Fares in accordance with this Schedule 5, no loss may be suffered by the Authority as a result thereof;
 - (b) the Authority has a duty under section 28 of the Act in certain circumstances to include provision in the Franchise Agreement to secure that the amounts to be charged for certain Fares are reasonable in all the circumstances of the case;
 - (c) such a duty arises where the Authority considers that the interests of persons who use, or who are likely to use, the Passenger Services so require;
 - (d) such persons would be directly affected by the sale of Fares other than in accordance with this Schedule 5; and

- (e) the Authority has agreed to enter into this Franchise Agreement in reliance on the Franchise Operator's acknowledgement and agreement that the Authority shall be entitled to adjust Franchise Payments as provided in paragraph 28 even though it may suffer no loss as a result of any non-compliance with the provisions of this Schedule 5.
28. The parties accordingly agree that the Authority shall be entitled to adjust the Franchise Payments payable under Clause 16 and Schedule 6 by an amount equivalent in its opinion to the sum of:
- (i) any additional gross revenue accruing to it or any person selling Fares on its behalf as a result of the sale of Fares in excess of the Prices or Child Prices set (or which should have been) for such Fares in accordance with Schedule 5; and
 - (ii) any costs incurred by the Authority in determining the amount of such additional revenue.

Such adjustment shall be made without prejudice to any other rights or remedies of the Authority under the Act or this Franchise Agreement in respect of such non-compliance.

Part 3 — Fare Baskets

Commuter Fares

1. For the purpose of this Schedule 5 a "Commuter Fare" means:
- (a) any Weekly Season Ticket, Monthly Season Ticket, Quarterly Season Ticket or Annual Season Ticket; and
 - (b) the unrestricted Single Fare or unrestricted Return Fare,

in each case between each Service Group 1 Station served by the Franchise Operator and any other Service Group 1 Station served by the Franchise Operator.

Commuter Fare Basket

2. Subject to paragraphs 4 and 5 of this Part 3, the Commuter Fare Basket shall include all Commuter Fares excluding those Commuter Fares with the lowest Gross Revenue up to 5% of the total Gross Revenue generated by all Commuter Fares during the Financial Year ended 31 March 2003.

Protected Fare Basket

3. Subject to paragraphs 4 and 5 of this Part 3, the Protected Fare Basket shall include all Protected Fares excluding those Protected Fares with the lowest Gross Revenue up to 5% of the total Gross Revenue generated by all Protected Fares during the Financial Year ended 31 March 2003.

Adjustment of Fare Baskets

4. Following determination of each Fare Basket in accordance with paragraph 2 or 3 of this Part, the Authority may review the Fares included in each Fare Basket to ensure that:

- 4.1 for each Flow in respect of which a Commuter Fare is included in the Commuter Fare Basket in accordance with paragraph 2, there is also included in the Commuter Fare Basket one of each of the other types of Commuter Fare which existed on that Flow in February 2003;
- 4.2 for each Flow in respect of which a Protected Fare is included in the Protected Fare Basket in accordance with paragraph 3, there is also included in the Protected Fare Basket one of each of the other types of Protected Fare which existed on that Flow in February 2003; and
- 4.3 the Franchise Operator's ability to increase the Price or Child Price of any Fare which is excluded from a Fare Basket pursuant to paragraph 2 or 3 of this Part, is effectively regulated by the geographic spread of the Fares which are included in the relevant Fare Basket.

If the Authority is not satisfied as to the matters referred to in paragraphs 4.1, 4.2 and 4.3 the Authority may include any Fare excluded from a Fare Basket by the operation of paragraph 2 or 3 in the relevant Fare Basket.

- 5. The Authority may, by notice in writing served upon the Franchise Operator no later than the commencement of any Fares Setting Round, require the Fares included in any Fare Basket to be revised by reapplying the rules set out in paragraphs 2 or 3 of this Part by reference to the Gross Revenue generated during such revised period as the Authority may specify in such notice and/or by adjusting any Fare Basket in accordance with paragraph 4 of this Part. Any Fare Basket which is revised in accordance with this paragraph shall take effect upon commencement of the next Fare Year to commence after such Fares Setting Round.

Fare Documents

- 6. Following any determination of the Fares to be included in any Fare Basket pursuant to paragraphs 2 or 3 of this Part, or any subsequent adjustment thereof pursuant to paragraphs 4 or 5 of this Part, the Authority shall produce or revise (as appropriate) the relevant Fare Documents showing the Fares included in each Fare Basket.

Schedule 6 — Franchise Payments

Part 1 — Definitions

The following definitions shall apply in this Schedule 6 except to the extent the context otherwise requires:

“Actual Modified EBDIT”	means the Modified EBDIT of the Franchise Operator for the relevant period as shown by the Actual Modified EBDIT Statement.
“Actual Modified EBDIT Statement”	means the statement to be provided by the Franchise Operator pursuant to paragraph 1.2(i) of Part 4 of this Schedule 6 showing the calculation of the Actual Modified EBDIT for the most recent Franchise Operator Year, being in such form as the Authority may require.
“Adjusted EBDIT Excess”	means in relation to any relevant Franchise Operator Year, an amount equal to the lower of the EBDIT Excess and the Rolling EBDIT Excess for that Franchise Operator Year.
“Annual Benefit Share”	means, in relation to any Benefit Share Year, the amount determined in accordance with Part 4 of this Schedule for such Benefit Share Year.
“Annual Franchise Payment”	means an amount attributed to a Franchise Operator Year as set out in Part 3 of this Schedule (as amended from time to time in accordance with the other terms of this Franchise Agreement).
“Benefit Share Payment”	means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 10 of Part 2 of this Schedule for such Reporting Period.
“Benefit Share Year”	means, in relation to a Franchise Operator Year, each period of twelve months (which may fall wholly or partly outside the Franchise Period) beginning four calendar months after the end of such Franchise Operator Year.

“Borrowings”

means, as at any particular time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of the Financial Indebtedness of the Franchise Operator.

For this purpose, any amount outstanding or repayable in a currency other than sterling shall on that day be taken into account:

- (a) if an audited balance sheet of the Franchise Operator has been prepared as at that day, in their sterling equivalent at the rate of exchange used for the purpose of preparing that balance sheet; and
- (b) in any other case, in their sterling equivalent at the rate of exchange that would have been used had an audited balance sheet of the Franchise Operator been prepared as at that day in accordance with Original GAAP.

“CARPP Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 17 of Part 2 of this Schedule 6 for such Reporting Period.

“Composite Index Quotient

a fraction used for indexation in the calculation of Forecast Modified EBDIT in a particular Franchise Operator Year and calculated as equalling CIQ where:

$$\text{CIQ} = (0.9 \times \text{RPIA}) + (0.1 \times \text{AEIA})$$

and where

RPIA: is an adjustment for prices inflation, which shall be a factor determined by dividing the Retail Prices Index for the July of the relevant Franchise Operator Year by the Retail Prices Index for January 2002; and

AEIA: is an adjustment for inflation in average earnings, which shall be a factor determined by dividing the Average Earnings Index for the July of the relevant Franchise Operator Year by the Average Earnings Index for January 2002.

“Cost of Capital”

means in relation to any period the amounts accrued during that period by the Franchise Operator in relation to the capital charges levied on it by Arriva plc (or an Affiliate) for its capital support in relation to the provision by the Franchise Operator of the Performance Bond and the Liquidity Maintenance Facility, in an amount not exceeding 5 per cent per annum of the aggregate capital amount of the Performance Bond and the Liquidity Maintenance Facility.

“CRPP Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 13 of Part 2 of this Schedule 6 for such Reporting Period.

“EBDIT”

means, in relation to any period, the total operating profit of the Franchise Operator for that period calculated in accordance with Original GAAP:

- (a) before taking into account:
 - (i) Interest Expense;
 - (ii) interest receivable (but without double counting any interest receivable taken into account for the purposes of calculating Interest Expense);
 - (iii) Tax (or any refunds or receipts related to Tax or any increase or decrease in provisions for Tax, including deferred Tax); and
 - (iv) any share of the profit of any associated company or undertaking, except dividends received in cash; and
- (b) after adding back all amounts provided for depreciation, amortisation and write downs of goodwill;
- (c) for the avoidance of doubt, after taking into account Franchise Payments (but excluding any amounts attributable to Benefit Share Payments), Incentive Payments and payments accrued under a Supplemental Agreement (even if due after the end of the Franchise Period) but excluding any Benefit Share Payments accrued or paid; and
- (d) after deducting the Cost of Capital.

“EBDIT Excess”

means the amount, if any, in respect of any relevant Franchise Operator Year, by which Actual Modified EBDIT exceeds Forecast Modified EBDIT for that Franchise Operator Year.

“EBDIT Shortfall”

means the amount, if any, in respect of any relevant Franchise Operator Year, by which Actual Modified EBDIT is less than Forecast Modified EBDIT for that Franchise Operator Year.

“Financial Indebtedness”

means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with Original GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any

receivables to the extent they are sold on a non-recourse basis);

- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) shares which are expressed to be redeemable;
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

“Financial Statements” mean the audited financial statements of the Franchise Operator for the relevant Franchise Operator Year as prepared in accordance with the Companies Act 1985 and GAAP.

“Fixed Franchise Payment” means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 4 of Part 2 of this Schedule for such Reporting Period on the basis of the Annual Franchise Payments for any relevant Franchise Operator Year.

“Force Majeure Payment” means an amount determined as such in accordance with paragraph 6 of Part 2 of this Schedule.

“Forecast EBDIT” means the EBDIT for the relevant Franchise Operator Year as derived from the Financial Model and set out in the document in the agreed terms marked “FE”.

“Forecast Modified EBDIT” means the Forecast EBDIT for the relevant Franchise Operator Year but subject to:

- (i) any adjustments required to be made to ensure that it is calculated using the same accounting policies and otherwise on the same basis as the Actual Modified EBDIT for the same Franchise Operator Year, and
- (ii) an adjustment to take account of inflation which shall be calculated by multiplying the Forecast EBDIT adjusted in accordance with sub-paragraph (i) of this definition by the Composite Index Quotient.

“HOWRPP Payment” means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 12 of Part 2 of this Schedule 6 for such Reporting Period.

“IC Completion Date” the date when the Authority confirms that the IC Project has been completed to the satisfaction of the Authority.

“IC Project” has the meaning given to it in paragraph 3.5 of Part III of the Franchise Plan.

“ICRPP Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 14 of Part 2 of this Schedule 6 for such Reporting Period.

“Interest Expense”

means, in relation to any period, the aggregate amount of interest and other finance charges (whether or not paid, payable or capitalised) accrued by the Franchise Operator in that period in respect of Borrowings including:

- (a) the interest element of finance leasing and hire purchase payments;
- (b) commitment fees, commissions, arrangement fees and guarantee fees; and
- (c) amounts in the nature of interest payable in respect of any shares other than equity share capital,

adjusted (but without double counting) by adding back the net amount payable (or deducting the net amount receivable) to the Franchise Operator in respect of that period under any interest or (so far as they relate to interest) currency hedging arrangements; but

- (d) excluding Cost of Capital.

“Modified EBDIT”

means EBDIT, but subject as provided in paragraph 2.2 of Part 4 of Schedule 6.

“NRR1011”³¹

means an amount equivalent to the amount received by the Franchisee from Network Rail in that Reporting Period by way of Network Rail Rebate. For this purpose, “Network Rail Rebate” has the meaning given to it in the Track Access Agreement.

“Original GAAP”

means GAAP as applying for companies in the United Kingdom with a 12 month accounting reference period ending 31 December 2003.

“Rail Passenger Partnership Scheme” or “RPP Scheme”

a scheme to develop rail use and promote modal shift and/or integration with other modes of transport, in relation to which the Authority has agreed to provide funding from the fund known as the Rail Passenger Partnership fund.

“Rolling EBDIT Excess”

means in relation to any relevant Franchise Operator Year the sum of:

- (a) an amount equal to the aggregate of the EBDIT Excess for that Franchise Operator Year and each of the preceding Franchise Operator Years; less
- (b) (i) an amount equal to the aggregate of the EBDIT Shortfall, in each of the Franchise Operator Years preceding that Franchise

³¹ Insert new text wef 23/03/11

Operator Year; and

- (ii) an amount equal to the aggregate of the Adjusted EBDIT Excess applicable in each of the Franchise Operator Years preceding that Franchise Operator Year;

provided that:

- (i) in measuring Rolling EBDIT Excess in the sixth Franchise Operator Year and each subsequent Franchise Operator Year only the four Franchise Operator Years immediately preceding the Franchise Operator Year and that Franchise Operator Year shall be taken into account for the purposes of such sum; and
- (ii) if the result of such sum as is mentioned above is less than zero, the Rolling EBDIT Excess shall be zero.

“Rolling Stock Mandatory Modification Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 9 of Part 2 of this Schedule for the Reporting Period preceding such Reporting Period or, if such Reporting Period ends on the expiry of the Franchise Period, the amount determined for such Reporting Period and the Reporting Period preceding it.

“RWSRPP Payment”

means, the amount determined as such in accordance with paragraph 15 of Part 2 of this Schedule 6.

“RWS Services”

means the services set out in paragraph 3.6.9 of Part III of the Franchise Plan.

“Station Charge Adjustment Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 8 of Part 2 of this Schedule for such Reporting Period.

“Tax”

means corporation tax as defined in section 6 of the Income and Corporation Taxes Act 1988.

“Track Access Adjustment Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 7 of Part 2 of this Schedule for such Reporting Period.

“TCRPP Payment”

means, in relation to any reporting Period, the amount determined as such in accordance with paragraph 11 of Part 2 of this Schedule 6 for such Reporting Period.

“VLRPP Payment”

means, in relation to any Reporting Period, the amount determined as such in accordance with paragraph 16 of Part 2 of this Schedule 6 for such Reporting Period.

“VOGRPP Payment”	means, in relation to any Reporting Period during which the VOGRPP Services set out in paragraph 3.9.8 of the Franchise Plan are provided, the amount determined as such in accordance with paragraph 18 of Part 2 of this Schedule 6 for such Reporting Period.
“VOGRPP Services”	means the services set out in paragraph 3.9.8 of Part III of the Franchise Plan to be provided for the VOGRPP Period (as defined in paragraph 3.9.1 of Part III of the Franchise Plan) and any continuation of such services pursuant to paragraph 3.1 of Part III of the Franchise Plan.

Part 2 — Franchise Payments³²

1 Principal Formula

For each Reporting Period during the Franchise Term, a Franchise Payment shall be made which shall be determined in accordance with the following formula:

$$FP = (FF - (FM + BS)) + TAA + SCA + RSMM + RPP + C + CR2008^{33\ 34} + WOE - NRR10/11^{35}$$

where:

BS	means the Benefit Share Payment for such Reporting Period (if any)
FP	means the Franchise Payment payable in that Reporting Period (which may have a positive or negative value)
FF	means the Fixed Franchise Payment for such Reporting Period (which may have a positive or negative value)
FM	means the sum of any <i>Force Majeure</i> Payments payable in respect of any <i>Force Majeure</i> Event occurring during such Reporting Period (which may have only a positive value)
SCA	means the Station Charge Adjustment Payment (if any) for such Reporting Period (which may have a positive or negative value)
RSMM	means the Rolling Stock Mandatory Modification Payment (if any) for such Reporting Period (which may have a positive or negative value)
TAA	means the Track Access Adjustment Payment (if any) for such Reporting Period (which may have a positive or negative value)
RPP	means any payment due from the Authority to the Franchise Operator for such Reporting Period in respect of any such one or more of the following: TCRPP

³² Insert new text wef 04/05/06

³³ New text inserted wef 18th March 2005

³⁴ Text changed wef 01/04/09

³⁵ Insert new text wef 23/03/11

Payment, HOWRPP Payment, CRPP Payment, ICRPP Payment, RWSRPP Payment, VLRPP Payment, CARPP Payment and VOGRPP Payment

36 37

CR2008³⁸ means the adjustment to the Franchise Payments for such Reporting Period pursuant to Clause 18.1 of the Franchise Agreement in respect of the 2008 Review (which shall have the meaning given in Part 6 of this Schedule 6) calculated in accordance with Part 6 of this Schedule 6.

C means such adjustment (if any) to the Franchise Payments for such Reporting Period as may be made in accordance with the other provisions of this Franchise Agreement except to the extent that any such adjustment has already been made to the Annual Franchise Payments (and which may have a positive or negative value)

and each of FF, FM, BS, SCA, RSMM, TAA, RPP,^{39 40}, CR2008⁴¹, WOE and C shall be deemed to be a “component” of a Franchise Payment for the purposes of paragraph 3.

2 Payment of Franchise Payments

- 1.1** The Authority shall notify the Franchise Operator, no less than 7 days prior to the end of each Reporting Period, of the Franchise Payment payable for such Reporting Period (to the extent that it can be reasonably determined at such time) and of any Adjustment Payment becoming payable for such Reporting Period. Each such notification shall set out in reasonable detail the basis of the determination of the Franchise Payment and any Adjustment Payment.
- 1.2** Any Franchise Payment or Adjustment Payment so notified shall be payable in the absence of manifest error agreed between the parties and shall be payable even if the Authority has made a mistake in calculating the relevant amounts.
- 1.3** The Authority shall pay to the Franchise Operator any Franchise Payment which has a positive value and the Franchise Operator shall pay to the Authority any Franchise Payment which has a negative value.
- 1.4** Each Franchise Payment shall be payable by the relevant person in the amount notified by the Authority under paragraph 2.1 on the last day of the Reporting Period to which the Franchise Payment relates.
- 1.5** Any payment of a Franchise Payment or Adjustment Payment shall be made by automatic electronic funds transfer in pounds sterling to such bank account in the United Kingdom as the payee of such payment may have previously specified to the payer in writing and shall be made so that cleared funds are received in that account on or before the date such payment becomes payable under this Schedule 6.
- 1.6** In the event that there is a dispute as to the amount of a Franchise Payment or Adjustment Payment, such dispute shall be resolved in accordance with the Dispute Resolution Rules

³⁶ New text inserted wef 18/03/05

³⁷ Text deleted wef 01/04/09

³⁸ Insert new text wef 01/04/09

³⁹ New text inserted wef 18/03/05

⁴⁰ Text deleted wef 01/04/09

⁴¹ New text inserted wef 01/04/09

but shall not affect the obligation of any party to pay a Franchise Payment or Adjustment Payment notified under paragraph 2.1.

- 1.7** If following resolution of a dispute as to the amount of a Franchise Payment or an Adjustment Payment under the Dispute Resolution Rules, any amounts are required to be paid by any party, such amounts shall become payable on the next day a Franchise Payment becomes payable under this Schedule 6 which falls no less than 7 days after such resolution or, if there is no such day, 14 days after the date of such resolution.
- 1.8** Without prejudice to any payee's right to receive payment of a Franchise Payment or Adjustment Payment in accordance with this Schedule 6, interest shall accrue on any sum due and owing to the Authority at the Interest Rate calculated on a daily basis if and to the extent that payment is not received in accordance with this Schedule 6 from the Franchise Operator (except to the extent set off by the Authority under Clause 16.2). For the avoidance of doubt, no interest shall accrue on any part of a Franchise Payment which is not received in accordance with this paragraph 2, if and to the extent that it is subsequently payable as an Adjustment Payment under paragraph 3.

3 Adjustment Payments

- 3.1** If any component (or part of a component) of a Franchise Payment is not, or cannot reasonably be, determined more than 7 days before the end of the Reporting Period in which the Franchise Payment becomes payable, then no amount in respect of such component (or part of a component) will be included in the Franchise Payment for such Reporting Period. As soon as such component (or part of a component) has been determined in accordance with this Franchise Agreement, it shall become payable as an Adjustment Payment on the next day on which a Franchise Payment becomes payable under this Franchise Agreement which is no less than 7 days after the date of such determination.
- 3.2** If the Authority determines that there has been a mistake in the calculation or payment of a Franchise Payment or an Adjustment Payment, it shall notify the Franchise Operator of such mistake. The mistake shall be rectified by the payment of an Adjustment Payment of the relevant amount on the next day on which a Franchise Payment becomes payable under this Franchise Agreement which is no less than 7 days after the date of such notification.
- 3.3** If there is no such day on which a subsequent Franchise Payment is to become payable (including because this Franchise Agreement has terminated) the Adjustment Payment will become payable 14 days after the date of determination.
- 3.4** The Authority shall pay to the Franchise Operator any Adjustment Payment which would have increased the positive value or reduced the negative value of a Franchise Payment or an Adjustment Payment and the Franchise Operator shall pay to the Authority any Adjustment Payment which would have reduced the positive value or increased the negative value of a Franchise Payment or an Adjustment Payment.

4 Fixed Franchise Payments

The Fixed Franchise Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:

$$FF = \left(\frac{RPD}{FYD} \times AFP \right)$$

where:

FF means the Fixed Franchise Payment for such Reporting Period

RPD means the number of days in that Reporting Period

FYD is equal to 365, or if February 29 falls during the Franchise Operator Year in which that Reporting Period falls, 366

AFP means the Annual Franchise Payment for the Franchise Operator Year in which that Reporting Period falls, as determined in accordance with Part 3 of this Schedule

except that, where a Reporting Period falls during two Franchise Operator Years, FF shall be determined as if the references to Reporting Period were to each of the two periods within such Reporting Period which fall wholly within one of such Franchise Operator Years and the Fixed Franchise Payment for such Reporting Period shall be the sum of FF as determined for each such period.

5 [Intentionally not used]

6 *Force Majeure* Payments

- 6.1 Subject to paragraph 6.4 a *Force Majeure* Payment shall be determined in respect of each *Force Majeure* Event occurring during a Reporting Period in accordance with the following formula:

$$FM = \left(P - \frac{NP}{2} \right) \times \left(\frac{CTM}{STM} \right)$$

where:

FM is the *Force Majeure* Payment in respect of any *Force Majeure* Event;

P is an amount equal to the Profit of the Franchise Operator during the period of such *Force Majeure* Event;

NP is an amount equal to the Profit which the Franchise Operator would have made during the period of such *Force Majeure* event if such *Force Majeure* Event had not taken place;

STM is the aggregate Train Mileage scheduled to be covered under the Timetable during the period of such *Force Majeure* Event;

CTM is the aggregate Train Mileage which is scheduled to be covered but which is not covered during the period of such *Force Majeure* Event as a result of such *Force Majeure* Event;

provided that where P is less than NP/2 or where CTM/STM is less than 0.05, FM shall be deemed to equal zero.

- 6.2** The Franchise Operator shall provide to the Authority such information as it may reasonably require for the purpose of enabling it to determine the amount of any such *Force Majeure* Payment.
- 6.3** The Authority shall, in computing the Profit of the Franchise Operator for the purposes of this paragraph 6 and where the Franchise Operator has entered into arrangements with Affiliates other than on arm's length terms, be entitled to determine the amount of such Profit as if the Franchise Operator had entered into any such arrangements on arm's length terms. The Authority shall accordingly be entitled, except to the extent that the Franchise Operator is otherwise able to establish to the Authority's reasonable satisfaction, to substitute reasonable arm's length terms in place of such terms on which the Franchise Operator may have entered into any relevant contract or arrangement with any Affiliate.
- 6.4** No *Force Majeure* Payment shall be payable unless the sum of all *Force Majeure* Payments in the relevant Reporting Period would exceed £50,000.

7 Track Access Adjustment Payment

- 7.1** Subject to compliance by the Franchise Operator with its obligations under paragraph 7.2, the Track Access Adjustment Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:

$$^{42}\text{TAA} = L \times \frac{\text{RPD}}{\text{FYD}}$$

where:

TAA means the Track Access Adjustment Payment for that Reporting Period;

L is the value of "L_t" for the Financial Year in which the Reporting Period falls under Part 3 of Schedule 7 of the Track Access Agreement;

P [...]⁴³

RPD means the number of days in that Reporting Period;

FYD means the number of days in the Financial Year in which that Reporting Period falls;

except that, where a Reporting Period falls during two Financial Years, TAA shall be determined as if the references to Reporting Period were to each of the two periods within such Reporting Period which fall wholly within one of such Financial Years and the Track Access Adjustment Payment for such Reporting Period shall be the sum of TAA as determined for each such period.

- 7.2** The Franchise Operator shall notify the Authority upon becoming aware that any Track Access Adjustment Payment may be payable and shall supply such information as the Authority may require in relation thereto. The Franchise Operator shall exercise such rights as it may have under the Track Access Agreement in such manner and take such other action as the Authority may reasonably require in connection with any related payment thereunder (including in relation to any agreement of the amount of any such payment and including submitting any relevant dispute to any relevant dispute resolution procedures). The Franchise Operator shall not, without the consent of the Authority, agree or propose to

⁴² New text inserted wef 18th March 2005

⁴³ Text deleted wef 18th March 2005

agree a value for “L_t” [...] ⁴⁴ under Part 3 [...] ⁴⁵ of Schedule 7 of the Track Access Agreement.

- 7.3** The Franchise Operator shall provide such evidence of payment as the Authority may require (including any certificates) for the purpose of determining the value of L [...] ⁴⁶ under paragraph 7.1 above.
- 7.4** The Franchise Operator shall not amend, agree or propose to amend, the provisions of Part 3 [...] ⁴⁷ of Schedule 7 of the Track Access Agreement without the consent of the Authority.
- 7.5** For the avoidance of doubt, in the event that no value is ascertained for L prior to the date the Franchise Payment for the relevant Reporting Period is determined, then a Track Access Adjustment Payment shall only be determined to the extent such value can be ascertained at such time and, when such value is subsequently ascertained, an Adjustment Payment shall be made to reflect the full Track Access Adjustment Payment for such Reporting Period. ⁴⁸
- 7.6** The value of L when used in the computation in paragraph 7.1 above shall be taken to exclude any input Value Added Tax which is recoverable in respect of the payment it represents by the Franchise Operator under sections 24 to 26 of the Value Added Tax Act 1994. ⁴⁹
- 7.7** References in this paragraph 7 to “L_t” and Part 3 of Schedule 7 of the Track Access Agreement shall be deemed also to be references to such other provisions, and such other algebra under any such other provisions, of any Track Access Agreement as the Authority may reasonably consider have an equivalent effect, or are intended to fulfil the same function, as “L_t” and Part 3 of Schedule 7 of the Track Access Agreement which is in place on the Franchise Commencement Date. ⁵⁰
- 7.8** Prior to the adjustment to the terms of this Franchise Agreement made by the Authority pursuant to Clause 18.1 of the Franchise Agreement in relation to the 2003 Review which shall have the meaning given in Part 6 of this Schedule 6) this paragraph 7 contained a pass through to the Authority of amounts payable by Network Rail to the Franchise Operator in respect of the “Property Allowance Scheme” under Part 4 of Schedule 7 of the Track Access Agreement (as that agreement existed immediately prior to implementation of the 2003 Review). As part of the 2003 Review, the Regulator abolished the Property Allowance Scheme and as part of the adjustments to the terms of the Franchise Agreement made by the Authority pursuant to Clause 18.1 the Authority removed the pass through provisions. ⁵¹

8 Station Charge Adjustment Payment

- 8.1** Subject to compliance by the Franchise Operator with its obligations under paragraph 8.2, the Station Charge Adjustment Payment payable in respect of any Reporting Period shall be the aggregate of the Individual Station Charge Adjustments as determined in

⁴⁴ Text deleted wef 18th March 2005

⁴⁵ Text deleted wef 18th March 2005

⁴⁶ Text deleted wef 18th March 2005

⁴⁷ Text deleted wef 18th March 2005

⁴⁸ Next text inserted wef 18th March 2005

⁴⁹ New text inserted wef 18th March 2005

⁵⁰ New text inserted wef 18th March 2005

⁵¹ New text inserted wef 18th March 2005

accordance with the following formula for each Station and each other station at which the Passenger Services call:

$$ISCA = (L - P) \times \frac{RPD}{FYD}$$

where:

ISCA means the Individual Station Charge Adjustment Payment for the relevant station for that Reporting Period;

L is the value of “L_t” for the Financial Year in which the Reporting Period falls under:

- (a) if the relevant station is not an Independent Station, Condition F11.2 of the Franchise Station Access Conditions relating to such station; or
- (b) if the relevant station is an Independent Station, Condition 42.3 of the Independent Station Access Conditions relating to that Independent Station

in each case, to the extent that value represents an amount payable to or by Network Rail or any other relevant Facility Owner by or to the Franchise Operator on its own behalf under the relevant Station Lease or Access Agreement (and excluding for the avoidance of doubt any amount payable to Network Rail by the Franchise Operator in its capacity as Facility Owner of a station on behalf of a beneficiary which is party to an Access Agreement in respect of that Station);

P is the value of “P_t” for the Financial Year in which the Reporting Period falls under:

- (c) if the relevant station is not an Independent Station, Condition F11.2 of the Franchise Station Access Conditions relating to such station; or
- (d) if the relevant station is an Independent Station, Condition 42.3 of the Independent Station Access Conditions relating to that Independent Station

in each case, to the extent that value represents an amount payable to or by Network Rail or any other relevant Facility Owner by or to the Franchise Operator on its own behalf under the relevant Station Lease or Access Agreement (and excluding for the avoidance of doubt any amount payable to Network Rail by the Franchise Operator in its capacity as Facility Owner of a station on behalf of a beneficiary which is party to an Access Agreement in respect of that Station);

RPD means the number of days in that Reporting Period;

FYD means the number of days in the Financial Year in which that Reporting Period falls except that, where a Reporting Period falls during two Financial Years, the Station Charge Adjustment Payment shall be determined as if the references to Reporting Period were to each of the two periods within such Reporting Period which fall wholly within one of such Financial Years and the Station Charge Adjustment Payment for such Reporting Period shall be the sum of the Station Charge Adjustment Payment as determined for each such period.

- 8.2** The Franchise Operator shall notify the Authority upon becoming aware that any Station Charge Adjustment Payment may be payable and shall supply such information as the Authority may require in relation thereto. The Franchise Operator shall exercise such rights as it may have under any relevant Station Lease or Access Agreement in such manner

and take such other action as the Authority may reasonably require in connection with any related payment thereunder (including in relation to any agreement of the amount of any such payment and including submitting any relevant dispute to any relevant dispute resolution procedures). The Franchise Operator shall not, without the consent of the Authority, agree or propose to agree a value for “L_t” or “P_t” under any relevant Station Lease or Access Agreement.

- 8.3** The Franchise Operator shall provide such evidence of payment as the Authority may require (including any certificates) for the purpose of determining the value of L and P under paragraph 8.1 above.
- 8.4** The Franchise Operator shall not amend, agree or propose to amend, the provisions of any relevant part of a Station Lease or Access Agreement without the consent of the Authority.
- 8.5** For the avoidance of doubt, in the event that no value is ascertained for any of L or P prior to the date for Franchise Payment for the relevant Reporting Period is determined, then a Station Charge Adjustment Payment shall only be determined to the extent such values can be ascertained at such time and, when such values are subsequently ascertained, an Adjustment Payment shall be made to reflect the full Station Charge Adjustment Payment for such Reporting Period.
- 8.6** The values of L and P when used in the computation in paragraph 8.1 above shall be taken to exclude any input Value Added Tax which is recoverable in respect of the payments they represent by the Franchise Operator under sections 24 to 26 of the Value Added Tax Act 1994.
- 8.7** For the purposes of this paragraph 8, “Independent Station” shall mean any of the stations known as Birmingham New Street, London Charing Cross, Edinburgh Waverley, London Euston, Gatwick Airport, Glasgow Central, London King’s Cross, Leeds, London Liverpool Street, London Bridge, Manchester Piccadilly, London Paddington, London Victoria and London Waterloo (excluding Waterloo International).
- 8.8** References in this paragraph 8 to “L_t”, “P_t”, Condition F11.2 of the Franchise Station Access Conditions and Condition 42.3 of the Independent Station Access Condition shall be deemed also to be references to such other provisions, and such other algebra under any such other provisions, of any relevant station access conditions as the Authority may reasonably consider have an equivalent effect, or are intended to fulfil the same function as, “L_t”, “P_t” and Condition F11.2 of the Franchise Station Access Conditions and Condition 42.3 of the Independent Station Access Conditions which are in effect on the Franchise Commencement Date.

9 Rolling Stock Mandatory Modifications

- 9.1** Subject to compliance by the Franchise Operator with its obligations under paragraph 9.4 and Clause 12.6, a Rolling Stock Mandatory Modification Payment shall be payable in respect of each Reporting Period during the Franchise Term or the Initial Lease Periods, whichever is the shorter, in the circumstances set out in this paragraph 9.
- 9.2** For the purpose of this paragraph 9 of Part 2 of Schedule 6:
- (a) “Relevant Rolling Stock” shall mean any rolling stock which was leased to a Train Operator on 16 October 1995 by any of Angel Train Contracts Limited, Eversholt Leasing Limited or Porterbrook Leasing Company Limited or any operationally comparable items of rolling stock which are provided at any time in accordance with the terms of the relevant MOLA (as defined below); and

- (b) “Initial Lease Period” means, in relation to any rolling stock the period ending on the expiry date specified in the lease supplement which related to such rolling stock on 16 October 1995 (as extended in accordance with any such lease supplement) but so that any Initial Lease Period will not last beyond the earlier of the scheduled expiry date of the Previous Franchise Agreement and 31 March 2004.

9.3 The Rolling Stock Mandatory Modification Payment payable in respect of any Reporting Period during the Initial Lease Periods shall be determined in accordance with the following formula:

$$\text{RSMM} = (\text{AMM} - (\text{AR} \times 5/100)) - \text{PRSMM}$$

where:

RSMM equals the Rolling Stock Mandatory Modification Payment for that Reporting Period.

AMM equals (subject as below) the aggregate amount of any payments made by the Franchise Operator under paragraph 11(e) of Schedule 3 of the Master Operating Lease Agreements specified in Part 5 of Schedule 1 of this Franchise Agreement (the “**MOLAs**”) in respect of any Mandatory Modification (as defined in such MOLAs) (“**Mandatory Modification**”) in relation to Relevant Rolling Stock during the respective Initial Lease Periods of such Relevant Rolling Stock in such Reporting Period and any preceding Reporting Period in the Reporting Year in which such Reporting Period falls.

AR equals the aggregate amount of Rent (as defined in each such Rolling Stock Lease) which is payable by the Franchise Operator in respect of Relevant Rolling Stock in the Reporting Year in which such Reporting Period falls.

PRSMM equals the aggregate of any other Rolling Stock Mandatory Modification Payments in any preceding Reporting Period in the Reporting Year in which such Reporting Period falls.

provided always that $(\text{AMM} - (\text{AR} \times 5/100))$ shall never be less than zero.

9.4 The Franchise Operator shall:

- (a) notify the Authority upon becoming aware of any, or the possibility of any, Mandatory Modification, and shall supply such information and invoices as the Authority may require in relation thereto;
- (b) exercise such rights as it may have under the MOLAs and any relevant Rolling Stock Lease in such manner and take such other action as the Authority may reasonably require in connection with any Mandatory Modification (including in relation to any agreement of or consultation on the extent of any Mandatory Modification, the manner in which it is to be carried out and the time at which the Franchise Operator may be obliged to pay for it);
- (c) include such representatives as the Authority may request in any discussion or meeting with any relevant lessor in relation to any Mandatory Modification;
- (d) provide such evidence of payment by it as the Authority may require (including any certificates or invoices) for the purpose of determining the value of AMM and AR under paragraph 9.3 above.

- (e) For the purposes of the calculation in paragraph 9.3 above the amount of any payment made by the Franchise Operator shall be taken after excluding any input Value Added Tax relating to that payment which is recoverable under sections 24 to 26 of the Value Added Tax Act 1994.

10 Benefit Share Payments

- 10.1** The Benefit Share Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:

$$BS = \left(\frac{RPD}{BSD} \times ABS \right)$$

where:

BS means, subject to paragraph 10.2, the Benefit Share Payment for such Reporting Period

RPD means the number of days in that Reporting Period

BSD is equal to 365, or, if 29 February falls during the Benefit Share Year in which that Reporting Period falls, 366.

ABS means the Annual Benefit Share for that Benefit Share Year, as determined in accordance with Part 4 below

except that, where a Reporting Period falls during two Benefit Share Years, BS shall be determined as if the references to Reporting Period were to each of the two periods within such Reporting Period which fall wholly within one of such Benefit Share Years and the Benefit Share Payment for such Reporting Period shall be the sum of BS as determined for each such period.

- 10.2** Where the relevant Reporting Period ends on the date of expiry of the Franchise Period, the Benefit Share Payment for such Reporting Period in respect of any Benefit Share Year already commenced and not finishing on or before the end of such Reporting Period shall be the Annual Benefit Share for that Benefit Share Year less any amounts already taken into account in previous Benefit Share Payments for that Benefit Share Year.
- 10.3** In respect of any Benefit Share Year commencing on or after the expiry of the Franchise Period, the Annual Benefit Share shall be payable in one instalment on the date falling four calendar months after the expiry of the Franchise Period and the provisions of this Schedule 6 shall apply to such payment as if such payment was due to be made in respect of a Reporting Period.
- 10.4** Notwithstanding the provisions of paragraphs 10.2 and 10.3, if the Annual Benefit Share in any Benefit Share Year is amended under paragraph 3 of Part 4 below, any prior payment of Benefit Share Payment shall be recalculated and the difference payable by the Franchise Operator on the next date for payment of a Benefit Share Payment, or if none, within 14 days of notification of such difference by the Authority to the Franchise Operator together with an amount equivalent to interest at the Interest Rate calculated on a daily basis for the period from the date the original lower Benefit Share Payment was made to the date of payment.

11. TCRPP Payment

11.1 The TCRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.

11.2 The TCRPP Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:-

$$\text{TCRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: TCRPP means the TCRPP Payment for that Reporting Period;

TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls.

Payment Period	Amount (in 1 st April 2001 prices)
7 December 2003 – 31 March 2004; or if the Franchise Commencement Date is 1 February 2004, 1 February 2004 – 31 March 2004; or if the Franchise Commencement Date is 29 February 2004, 29 February 2004 – 31 March 2004	£50,288 £26,011 £13,873

At the commencement of the Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2001.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

11.3 If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Taff Corridor Rail Passenger Partnership (TCRPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the TCRPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Taff Corridor Rail Passenger Partnership (TCRPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st April 2004 – 31 st March 2005	£180,000
1 st April 2005 – 31 st May 2005	£40,000
1 st June 2005 – 31 March 2006	£434,274*
1 st April 2006 – 31 st March 2007	£441,136*

1 st April 2007 – 31 st March 2008	£434,662*
1 st April 2008 – 31 st March 2009	£421,450*
1 st April 2009 – 31 st March 2010	£411,258*
1 st April 2010 – 31 st March 2011	£402,698*
1 st April 2011 – 31 st March 2012	£394,128*
1 st April 2012 – 31 st March 2013	£385,624*
1 st April 2013 – 31 st March 2014	£378,404*
1 st April 2014 – 31 st March 2015	£373,072*
1 st April 2015 – 31 st March 2016	£369,682*
1 st April 2016 – 31 st March 2017	£368,758*
1 st April 2017 – 31 st March 2018	£370,392*
1 st April 2018 – 14 th October 2018	£217,110*

* TCRPP Payment is a combined amount for the Taff Corridor and Valley Lines Strengthening schemes

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding such date divided by the Retail Prices Index for January 2002.

- 11.4** If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Taff Corridor Rail Passenger Partnership (TCRPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the TCRPP Payment for any such further periods will be calculated as above.
- 11.5** For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.

12. HOWRPP Payment

- 12.1** The HOWRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.
- 12.2** The HOWRPP Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:-

$$\text{HOWRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: HOWRPP means the HOWRPP Payment for that Reporting Period;

TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls

Payment Period	Amount (in 1 st April 2003 prices)
7 December 2003 – 31 March 2004; or if the Franchise Commencement Date is 1 February 2004, 1 February 2004 – 31 March 2004; or if the Franchise Commencement Date is 29 February 2004, 29 February 2004 – 31 March 2004	£11, 824 £6,256 £3,478
1 st April 2004 – 31 March 2005	£23, 647
1 st April 2005 – 31 March 2006	£23, 647

Except that in respect of the Payment Period commencing on 1st April 2004 and at the commencement of each subsequent Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2003.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

- 12.3** If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Heart of Wales Winter Sundays Rail Passenger Partnership (HOWRPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the HOWRPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Heart of Wales Winter Sundays Passenger Partnership (HOWRPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st April 2006 – 31 st March 2007	£17,670
1 st April 2007 – 31 st March 2008	£17,670
1 st April 2008 – 31 st March 2009	£17,670
1 st April 2009 – 31 st March 2010	£17,670
1 st April 2010 – 31 st March 2011	£17,670
1 st April 2011 – 31 st March 2012	£17,670
1 st April 2012 – 31 st March 2013	£17,670
1 st April 2013 – 31 st March 2014	£17,670
1 st April 2014 – 31 st March 2015	£17,670
1 st April 2015 – 31 st March 2016	£17,670
1 st April 2016 – 31 st March 2017	£17,670
1 st April 2017 – 31 st March 2018	£17,670
1 st April 2018 – 14 th October 2018	£9,355

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding the commencement of that Payment Period divided by the Retail Prices Index for January 2002.

12.4 If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Heart of Wales Winter Sundays Passenger Partnership (HOWRPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the HOWRPP Payment for any such further periods will be calculated as above.

12.5 For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.

13. CRPP Payment

13.1 The CRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.

13.2 The CRPP Payment payable in respect of any Reporting Period shall determined in accordance with the following formula:-

$$\text{CRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: CRPP means the CRPP Payment for that Reporting Period;

TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls

Payment Period	Amount (in 1 st April 2001 prices)
7 December 2003 – 31 March 2004; or	£17,337
if the Franchise Commencement Date is 1 February 2004, 1 February 2004 – 31 March 2004; or	£8,967
if the Franchise Commencement Date is 29 February 2004, 29 February 2004 – 31 March 2004	£4,783

Except that in respect of the Payment Period commencing on 1st April 2003 TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2001.

RPD means the number of days in the part of that Reporting Period which falls within such reporting Period;

PD means the number of days in such Payment Period.

- 13.3** If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Carmarthen – Milford Haven Rail Passenger Partnership (CRPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the CRPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Carmarthen – Milford Haven Rail Passenger Partnership (CRPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st April 2004 – 31 st March 2005	£86,822
1 st April 2005 – 31 st March 2006	£86,418
1 st April 2006 – 31 st March 2007	£86,197
1 st April 2007 – 31 st March 2008	£87,052
1 st April 2008 – 31 st March 2009	£88,176
1 st April 2009 – 31 st March 2010	£89,652
1 st April 2010 – 31 st March 2011	£91,154
1 st April 2011 – 31 st March 2012	£92,683
1 st April 2012 – 31 st March 2013	£94,240
1 st April 2013 – 31 st March 2014	£95,846
1 st April 2014 – 31 st March 2015	£97,460
1 st April 2015 – 31 st March 2016	£99,102
1 st April 2016 – 31 st March 2017	£100,774
1 st April 2017 – 31 st March 2018	£102,476
1 st April 2018 – 14 th October 2018	£55,983

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding such date divided by the Retail Prices Index for January 2002.

- 13.4** If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Carmarthen – Milford Haven Rail Passenger Partnership (CRPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the CRPP Payment for any such further periods will be calculated as above.
- 13.5** For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.

14. ICRPP Payment

- 14.1** The ICRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.

The ICRPP Payment during the period prior to the IC Completion Date shall be the sums specified against each of the IC Milestones as set out below:-

Period Prior to the IC Completion Date

<u>IC Milestones</u>	<u>ICRPP Payment Due</u>
1.	£100,000
2.	£301,932
3.	£348,068

The ICRPP Payment shall be due to be paid in the Reporting Period following each IC Milestone having been achieved to the satisfaction of the Authority.

The IC Milestones are as follows:

1. Completion of the LICC at Cardiff including enhancement of automated information point equipment to include ex-Central Trains services.
2. Completion of a fully operational system with all CIS equipment installed and functioning both visually and audibly in both Welsh and English languages at the stations included in the specification set out at paragraph 3.5.3 of Part III of Schedule 13 but excluding those set out in IC Milestone 3.
3. Installation of CIS equipment at Wrexham General, Barmouth, Yorton, Wem, Prees, Wrenbury and Nantwich.

- 14.2** The ICRPP Payment payable in respect of any Reporting Period during the period from the IC Completion Date to 31st March 2006 shall be determined in accordance with the following formula:-

$$\text{ICRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: ICRPP means the ICRPP Payment for that Reporting Period;

TOT means the amount in the right hand column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls.

Payment Period	Amount in 2002 prices
The IC Completion Date (where this is prior to 1 February 2004) – 31 st March 2004	£55,923
The IC Completion Date (where this is between 1 February and 28 February 2004 (inclusive)) – 31 st March	£30,328

2004 The IC Completion Date (where this is after 28 February 2004 and (inclusive)) – 31 st March 2004	£16,175
1 st April 2004 – 31 st March 2005	£183,000
1 st April 2005 – 31 st March 2006	£181,000

Except that in respect of the Payment Period commencing on the IC Completion Date and at the commencement of each subsequent Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2002.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

15. RWSRPP Payment

15.1 The RWSRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.

15.2 The RWSRPP Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:-

$$\text{RWSRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: RWSRPP means the RWSRPP Payment for that Reporting Period.

TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls.

Payment Period	Amount (in 1st April 2002 prices)
7 December 2003 – 31 March 2004; or if the Franchise Commencement Date is 1 February 2004, 1 February 2004 – 31 March 2004; or if the Franchise Commencement Date is 29 February 2004, 29 February 2004 – 31 March 2004	£2,039 £1,055 £562
1 st April 2004 – 31 st March 2005	£6,300

Except that in respect of the financial year commencing on 1st April 2004 the RWS Payment will be multiplied by the quotient of the Retail Price Index for the month of

February immediately preceding such date divided by the Retail Prices Index for February 2002.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

- 15.3** If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Royal Welsh Show Rail Passenger Partnership (RWSRPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the RWSRPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Royal Welsh Show Rail Passenger Partnership (RWSRPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st April 2005 – 31 st March 2006	£7,265
1 st April 2006 – 31 st March 2007	£7,268
1 st April 2007 – 31 st March 2008	£7,268
1 st April 2008 – 31 st March 2009	£7,276
1 st April 2009 – 31 st March 2010	£7,276
1 st April 2010 – 31 st March 2011	£7,276
1 st April 2011 – 31 st March 2012	£7,276
1 st April 2012 – 31 st March 2013	£7,276
1 st April 2013 – 31 st March 2014	£7,276
1 st April 2014 – 31 st March 2015	£7,276
1 st April 2015 – 31 st March 2016	£7,276
1 st April 2016 – 31 st March 2017	£7,276
1 st April 2017 – 31 st March 2018	£7,276
1 st April 2018 – 14 th October 2018	£4,157

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding such date divided by the Retail Prices Index for January 2002.

- 15.4** If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Royal Welsh Show Rail Passenger Partnership (RWSRPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the RWSRPP Payment for any such further periods will be calculated as above.
- 15.5** For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.

16. VLRPP Payment

16.1 The VLRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.

16.2 The VLRPP Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:-

$$\text{VLRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: VLRPP means the VLRPP Payment for that Reporting Period;

TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls.

Payment Period	Amount (in 1st April 2002 prices)
7 December 2003 – 31 March 2004; or if the Franchise Commencement Date is 1 February 2004, 1 February 2004 – 31 March 2004; or if the Franchise Commencement Date is 29 February 2004, 29 February 2004 – 31 March 2004	£77,967 £40,328 £21,508
1 st April 2004 – 31 st March 2005	£246,000
1 st April 2005 – 31 st May 2005	£40,000

Except that in respect of the Payment Period commencing on 1st April 2003 and at the commencement of each subsequent Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2002.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

16.3 If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Valley Lines Strengthening Rail Passenger Partnership (VLRPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the VLRPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Valley Lines Strengthening Rail Passenger Partnership (VLRPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st June 2005 – 31 st March 2006	£434,274*
1 st April 2006 – 31 st March 2007	£441,136*
1 st April 2007 – 31 st March 2008	£434,562*
1 st April 2008 – 31 st March 2009	£421,450*
1 st April 2009 – 31 st March 2010	£411,258*
1 st April 2010 – 31 st March 2011	£402,698*
1 st April 2011 – 31 st March 2012	£394,128*
1 st April 2012 – 31 st March 2013	£385,624*
1 st April 2013 – 31 st March 2014	£378,404*
1 st April 2014 – 31 st March 2015	£373,072*
1 st April 2015 – 31 st March 2016	£369,682*
1 st April 2016 – 31 st March 2017	£368,758*
1 st April 2017 – 31 st March 2018	£370,392*
1 st April 2018 – 14 th October 2018	£217,110*

* VLRPP Payment is a combined amount for the Valley Lines Strengthening and Taff Corridor schemes

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding such date divided by the Retail Prices Index for January 2002.

- 16.4** If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Valley Lines Strengthening Rail Passenger Partnership (VLRPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the VLRPP Payment for any such further periods will be calculated as above.
- 16.5** For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.

17. CARPP Payment

- 17.1** The CARPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.
- 17.2** The CARPP Payment payable in respect of any Reporting Period shall be determined in accordance with the following formula:-

$$\text{CARPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: CARPP means the CARPP Payment for that Reporting Period;

- 17.3** TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls.

Payment Period	Amount (in 1st April 2002 prices)
7 December 2003 – 31 March 2004; or if the Franchise Commencement Date is 1 February 2004, 1 February 2004 – 31 March 2004; or if the Franchise Commencement Date is 29 February 2004, 29 February 2004 – 31 March 2004	£106,175 £54,918 £29,290
1 st April 2004 – 31 st March 2005	£467,000
1 st April 2005 – 31 st March 2006	£434,000

Except that in respect of the Payment Period commencing on 1st April 2004 and at the commencement of each subsequent Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2003.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

- 17.4** If the Authority exercises the Standard Pattern Timetable Option pursuant to paragraph 12.12 of Part XII of Schedule 13, the Authority may terminate the CARPP Payment from the date of implementation of the services set out in such Option and the Franchise Operator shall be paid a proportion of the amount in the right column of the above table in respect of the Payment Period in the left column of that table in which that termination occurs, calculated on a pro rata basis corresponding to the period from the start of that Payment Period until the date of termination.
- 17.5** If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Cardiff - Aberdare Rail Passenger Partnership (CARPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the CARPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Cardiff - Aberdare Rail Passenger Partnership (CARPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st April 2006 – 31 st March 2007	£444,000
1 st April 2007 – 31 st March 2008	£449,000
1 st April 2008 – 31 st March 2009	£455,000

1 st April 2009 – 31 st March 2010	£463,000
1 st April 2010 – 31 st March 2011	£471,000
1 st April 2011 – 31 st March 2012	£480,000
1 st April 2012 – 31 st March 2013	£488,000
1 st April 2013 – 31 st March 2014	£497,000
1 st April 2014 – 31 st March 2015	£506,000
1 st April 2015 – 31 st March 2016	£515,000
1 st April 2016 – 31 st March 2017	£523,000
1 st April 2017 – 31 st March 2018	£533,000
1 st April 2018 – 14 th October 2018	£294,000

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding such date divided by the Retail Prices Index for January 2002.

- 17.6** If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Cardiff - Aberdare Rail Passenger Partnership (CARPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the CARPP Payment for any such further periods will be calculated as above.
- 17.7** For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.

18. VOGRPP Payment

- 18.1** The VOGRPP Payment shall form part of the component “RPP” defined in paragraph 1 of Part 2 of Schedule 6.
- 18.2** The VOG Payment payable in respect of any Reporting Period during which the VOGRPP Services set out in paragraph 3.9.8 of the Franchise Plan are provided shall be determined in accordance with the following formula:-

$$\text{VOGRPP} = \text{TOT} \times \frac{\text{RPD}}{\text{PD}}$$

where: VOGRPP means the VOGRPP Payment for that Reporting Period;

TOT means the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls.

Payment Period	Amount (in 1st April 2000 prices)
1 st April 2005 - 31 st March 2006	£1,300,000
1 st April 2006 - 31 st March 2007	£1,261,000

1 st April 2007 – 31 st March 2008	£1,201,000
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Except that in respect of the Payment Period commencing on the 1st April 2005 and at the commencement of each subsequent Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of February immediately preceding such date divided by the Retail Prices Index for February 2000.

RPD means the number of days in the part of that Reporting Period which falls within such Payment Period;

PD means the number of days in such Payment Period.

- 18.3** In addition to the amounts specified under paragraph 18.2, the sum of £293,000 shall form part of the Component “RPP” defined in Paragraph 1 of Part 2 of Schedule 6 and shall be payable within six weeks of the Authority being satisfied with the details, supplied to it by the Franchise Operator of the recruitment and training of train crew, who have been recruited and trained to operate the VOGRPP Services.
- 18.4** If the Authority, gives the Franchise Operator notice in accordance with paragraph 3.1 of Schedule 13, that it requires the continuation of the Vale of Glamorgan Rail Passenger Partnership (VOGRPP) Scheme beyond the end of the Payment Period indicated in the last row of the left column of the above table, the VOGRPP Payment for any later Reporting Period in the period contained in the notice to the Franchise Operator by the Authority for continuation of the Vale of Glamorgan Rail Passenger Partnership (VOGRPP) Scheme will be the amount in the right column of the following table in respect of the Payment Period in the left column of that table in which that Reporting Period falls or a proportion thereof calculated on a pro rata basis corresponding to the period notified to the Franchise Operator by the Authority for continuation of the scheme.

Payment Period	Amount (in 1 st April 2002 prices)
1 st April 2008 – 31 st March 2009	£898,842
1 st April 2009 – 31 st March 2010	£906,163
1 st April 2010 – 31 st March 2011	£915,339
1 st April 2011 – 31 st March 2012	£924,567
1 st April 2012 – 31 st March 2013	£933,793
1 st April 2013 – 31 st March 2014	£944,077
1 st April 2014 – 31 st March 2015	£955,361
1 st April 2015 – 31 st March 2016	£967,509
1 st April 2016 – 31 st March 2017	£980,907
1 st April 2017 – 31 st March 2018	£995,696
1 st April 2018 – 14 th October 2018	£551,855

At the commencement of each Payment Period TOT will be multiplied by the quotient of the Retail Prices Index for the month of January immediately preceding such date divided by the Retail Prices Index for January 2002.

- 18.5** If the period notified to the Franchise Operator pursuant to paragraph 3.1 of Schedule 13 is a shorter period than the remainder of the Franchise Period, the Authority may subsequently give further notice to the Franchise Operator to continue the Vale of Glamorgan Rail Passenger Partnership (VOGRPP) Scheme for further periods up until the end of the Franchise Term in accordance with paragraph 3.1 of Schedule 13 and the VOGRPP Payment for any such further periods will be calculated as above.
- 18.6** For the avoidance of doubt, if the Authority gives notice or is deemed to have given notice to the Franchise Operator to withdraw the scheme in accordance with paragraph 3.1 of Schedule 13, the amounts included in the right column of the following table in respect of Payment Periods in the left column of that table which continue beyond the date notified to the Franchise Operator for withdrawal will not be payable.
- 18.7** In any year in which more than 20% but fewer than 50% of the VOGRPP Services fail to run the VOGRPP Payment shall be reduced pro rata.

Part 3 — Annual Franchise Payments

1. The Annual Franchise Payment in each Franchise Operator Year shall be determined in accordance with the following formula:

$$AFP = (RAA \times RPI) + (RAB \times AEI)$$

where:

AFP equals the Annual Franchise Payment in the relevant Franchise Operator Year;

RAA means the Real Amount shown in respect of the relevant Franchise Operator Year in column 2 of the table set out in paragraph 2 (*NB this figure is the non-staff costs to be indexed at RPI*);

RPI is the quotient of the Retail Prices Index for the January which immediately precedes the commencement of the relevant Franchise Operator Year divided by the Retail Prices Index for January 2002;

RAB means the figure shown in respect of the relevant Franchise Operator Year in column 3 of the table set out in paragraph 2 (*NB this figure is the staff costs to be indexed at AEI*); and

AEI is the quotient of the Average Earnings Index for the January which immediately precedes the commencement of the relevant Franchise Operator Year divided by the Average Earnings Index for January 2002.

2.

Column 1	Column 2	Column 3
Franchise Operator Year	RAA £'000	RAB £'000
1	67,498, if the Franchise Commencement Date is 7 December 2003; or	71,020, if the Franchise Commencement Date is 7 December 2003; or

	72,194, if the Franchise Commencement Date is 1 February 2004; or 80,706, if the Franchise Commencement Date is 29 February 2004	81,760, if the Franchise Commencement Date is 1 February 2004; or 101,227, if the Franchise Commencement Date is 29 February 2004
2	64,474	56,190
3	65,856	54,237
4	68,770	52,948
5	69,038	50,422
6	66,894	50,492
7	65,132	50,562
8	63,938	50,632
9	62,359	50,395
10	60,581	50,466
11	58,824	50,536
12	57,105	50,606
13	55,237	50,324
14	53,385	50,395
15	51,497	50,466
16	49,546	50,536

Part 4 - Annual Benefit Share

1 Determination of Annual Benefit Share

1.1 In respect of any Franchise Operator Year where there is an Adjusted EBDIT Excess, the following proportions of the Adjusted EBDIT Excess shall constitute the Annual Benefit Share for the Benefit Share Year relating to such Franchise Operator Year:

- (i) to the extent of any Adjusted EBDIT Excess below 30 per cent. of the Forecast Modified EBDIT, nil; plus
- (ii) to the extent of any Adjusted EBDIT Excess between 30 per cent. and 45 per cent. of the Forecast Modified EBDIT, 30 per cent. of such Adjusted EBDIT Excess; plus
- (iii) to the extent of any Adjusted EBDIT Excess above 45 per cent. of the Forecast Modified EBDIT, 60 per cent. of such Adjusted EBDIT Excess.

provided always that the Forecast Modified EBDIT shall, if greater in any Franchise Operator Year than £17,500,000 be deemed to be £17,500,000 provided that with effect from the start of the second and each subsequent Franchise Operator Year this amount will be increased by the Composite Index Quotient for the relevant Franchise Operator Year.

1.2 In order to determine the Annual Benefit Share at any time, within four months of the end of each Franchise Operator Year, the Franchise Operator shall send to the Authority the following information in respect of that Franchise Operator Year:

- (i) the Actual Modified EBDIT Statement;

- (ii) a statement of the EBDIT Excess or as the case may be the EBDIT Shortfall showing inter alia the calculation of the Forecast Modified EBDIT and of any indexation required under paragraph 1.1 of this Part 4;
- (iii) a statement of the Rolling EBDIT Excess;
- (iv) a copy of the Financial Statements for the relevant Franchise Operator Year (for the avoidance of doubt whether or not the Franchise Operator Year covers the same period as an accounting reference period of the Franchise Operator);
- (v) a reconciliation of the Financial Statements to the Actual Modified EBDIT Statement to include an adjustment between GAAP and Original GAAP and a certificate from the auditors of the Franchise Operator addressed to the Authority confirming in terms reasonably acceptable to the Authority such reconciliation to be correct and accurate and that the Forecast Modified EBDIT has been calculated using the same accounting policies as the Actual Modified EBDIT; and
- (vi) such other information as the Authority may reasonably request.

2 Accounting Policies

2.1 Subject to paragraph 2.2, the Franchise Operator shall ensure that the Actual Modified EBDIT Statement is determined in accordance with Original GAAP as if it were the Financial Statements for the relevant period, determined on such basis provided that the Authority may, subject to paragraph 2.2, specify in writing to the Franchise Operator any accounting principles, policies or practices consistent with Original GAAP which it reasonably requires the Franchise Operator to apply in the preparation of the Actual Modified EBDIT Statement for the relevant Franchise Operator Years.

2.2 In computing the Actual Modified EBDIT or Forecast Modified EBDIT of the Franchise Operator:

- 2.2.1 where the Franchise Operator has entered into transactions or arrangements with Affiliates or its managers or employees or those of an Affiliate other than on arm's length terms (but not, for the avoidance of doubt, the transactions giving rise to the Capital Costs), the Authority shall be entitled to require that such Actual Modified EBDIT or Forecast Modified EBDIT be determined as if the Franchise Operator had not so entered into any such arrangements and to require reasonable arm's length terms to be substituted in place of the terms on which the Franchise Operator may have entered into any such transaction or arrangement;
- 2.2.2 any leases which are of a type that are accounted for as operating or finance leases under the Initial Business Plan, (and which therefore form part of the Forecast Modified EBDIT) shall be accounted for on the same basis when calculating the Actual Modified EBDIT.
- 2.2.3 where the Authority reasonably considers that any particular item or transaction has not been accounted for on a reasonable basis (including where the accounting treatment looks to the form, rather than the substance, of the item or transaction) it shall be entitled to require it to be accounted for on such other basis (which basis shall be consistent with Original GAAP) as it may reasonably determine and notify the Franchise Operator.

3 Authority audit

- 3.1** Without prejudice to the above or to any other powers of the Authority under this Franchise Agreement (including under Clause 15), the Authority and its representatives shall be permitted to inspect at any time the books, records and any other material kept by or on behalf of the Franchise Operator in order to check or audit any item contained in the Financial Statements of the Franchise Operator, the calculation of Actual Modified EBDIT, the consistency of the Financial Statements for any Franchise Operator Year with any preceding Franchise Operator Year and any other matter in connection with the obligations of the Franchise Operator under this Part 4.
- 3.2** The Franchise Operator shall make available to the Authority and its representatives such information and grant such access or procure the grant of such access (including to or from third parties) as they shall reasonably require in connection therewith. In the event that any such exercise reveals any inaccuracy in the amount of the Annual Benefit Share determined under paragraph 1, the Annual Benefit Share shall be amended accordingly.
- 3.3** In the event that any such exercise reveals a material error or mistake in information previously supplied to the Authority, the Franchise Operator shall pay the costs of such exercise.

4 Disputes

Any dispute in connection with the amount of the Adjusted EBDIT Excess shall be resolved in accordance with the Dispute Resolution Rules.

Part 5 – Option Amounts

	Column 1		Column 2		Column 3	
Franchise Operator Year	Real Amounts to be added to the Real Amounts shown in Part 3 of Schedule 6 in the event of the exercise of the Ebbw Valley Option as set out in Schedule 13		Real Amounts to be substituted for the Real Amounts shown in Part 3 of Schedule 6 in the event of the exercise of the Standard Pattern Timetable Option as set out in Schedule 13		Real Amounts to be added to the Real Amounts shown in Part 3 of Schedule 6 in the event of the exercise of the Valley Lines Crowding Relief Option	
	RAA Amount £'000	RAB Amount £'000	RAA Amount £'000	RAB Amount £'000	RAA Amount £'000	RAB Amount £'000
1	0	0	67,498	71,020	0	0
2	337	0	64,655	56,190	1,383	0
3	218	701	65,264	55,676	1,965*	0
4	48	688	67,121	54,893	1,124	0
5	(76)	685	67,303	52,358	1,103	0
6	(166)	687	65,081	52,433	1,067	0
7	(185)	688	63,284	52,508	1,033	0
8	(198)	690	62,084	52,582	999	0

9	(212)	691	60,482	52,350	958	0
10	(227)	693	58,676	52,426	908	0
11	(240)	695	56,896	52,500	850	0
12	(250)	696	55,163	52,575	789	0
13	(258)	698	53,284	52,297	718	0
14	(262)	699	51,429	52,372	643	0
15	(264)	701	49,546	52,448	565	0
16	(239)	702	47,605	52,514	517	0

* The RAA Amount for the third Franchise Operator Year set out in Column 3 shall be reduced by £480,000 if the Valley Lines Crowding Relief Option is exercised after the implementation of the Standard Pattern Timetable Option

	Real Amounts to be added to the Real Amounts shown in Part 3 of Schedule 6 if Clause 18.6(a)(i) applies £'000							
Franchise Operator Year	1		2		3		4	
	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount
	0	0	61	0	125	0	127	0

	Real Amounts to be added to the Real Amounts shown in Part 3 of Schedule 6 if Clause 18.6(a)(i) applies £'000							
Franchise Operator Year	5		6		7		8	
	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount
	127	0	127	0	127	0	126	0

	Real Amounts to be added to the Real Amounts shown in Part 3 of Schedule 6 if Clause 18.6(a)(i) applies £'000							
Franchise Operator Year	9		10		11		12	
	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount
	124	0	121	0	116	0	109	0

	Real Amounts to be added to the Real Amounts shown in Part 3 of Schedule 6 if Clause 18.6(a)(i) applies £'000							
Franchise Operator Year	13		14		15		16	
	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount	RAA Amount	RAB Amount
	101	0	91	0	78	0	63	0

1. The Option Amounts in the above table of this Part 5 are subject to the following conditions in respect of the Date of Notice from the Authority to the Franchise Operator and the Date of Implementation detailed in this Part 5.
2. "Date of Notice" in this Part 5 is the latest date for the Authority to give notice to the Franchise Operator to exercise the relevant Option in order for the Real Amounts stated in the above table in relation to that Option to apply. This shall not prevent the Authority from giving notice at a later date provided that this is no later than the second anniversary of the Franchise Commencement Date.
3. "Date of Implementation" in this Part 5 means the Passenger Change Date falling in the month stated on which the Franchise Operator plans to implement the Option provided that the Authority has given notice of exercise by the Date of Notice for the relevant Option.
4. "Option Amount" in this Part 5 means the RAA amounts and the RAB amounts to be added to or substituted for (as the case may be) the RAA amounts and RAB amounts (as appropriate) in Columns 2 and 3 of the Real Amounts table in paragraph 2 of Part 3 of this Schedule 6 in respect of the relevant Option or combination of Options.
5. If notice to exercise an Option is given by the Authority at a later date than the Date of Notice then the Franchise Operator shall not be bound by the Date of Implementation in the following table or as stated in Schedule 13, but shall propose a revised date for implementation in accordance with paragraph 12.5 of Schedule 13.
6. If an Option is implemented at a date later than the Date of Implementation shown in the following table, either as a result of notice from the Authority being given at a later date than the Date for Notice, otherwise by agreement between the parties or as a result of the actions of Network Rail or other train operators then the Option Amounts stated in this Part 5 for the relevant Options shall be amended as set out in paragraphs 12.5 to 12.9 of Schedule 13.

Option	Date of Notice	Date of Implementation
Ebbw Valley	30 September 2004	June 2005
Valley Lines Crowding Relief	1 March 2004	December 2005
Standard Pattern Timetable	31 July 2004	December 2005

Part 6 – 2008 Review^{52 53}

1. Definitions

1.1 In this Part 6:

- 1.1.1 *“2003 Review” means the Regulator's review of the amounts payable by Network Rail and franchise operators to each other under track access agreements during the period 1 April 2004 to 31 March 2009 in respect of which the Regulator issued a review implementation notice pursuant to paragraph 7 of Schedule 4A of the Railways Act 1993 on 10 March 2004;*
- 1.1.2 *“2006 Review” means the Regulator's review of the performance regime and of the amounts payable by Network Rail and franchise operators to each other under Schedule 8 of the track access agreements in respect of which the Regulator issued a review notice (the “Review Notice”) pursuant to paragraph 4 of Schedule 4A of the Railways Act 1993 on 20 December 2005 specifying those amendments to track access agreements which the Regulator proposed to direct were made, and in respect of which the Regulator subsequently published a review implementation notice pursuant to paragraph 7 of Schedule 4A of the Railways Act 1993 on 29 March 2006 directing that the amendments to track access agreements specified in the Review Notice were made;*
- 1.1.3 *“2008 Review” means the Regulator's review of the amounts payable by Network Rail and franchise operators to each other under the terms of the access agreements during the period from 1 April 2009 to 31 March 2014 in respect of which the Regulator issued a review implementation notice pursuant to paragraph 7 of Schedule 4A of the Railways Act 1993 on 19 March 2009 directing that the amendments to track access agreements specified in the review notice were made;*
- 1.1.4 *“CP2” means the period which was expected to be from 1 April 2001 to 31 March 2006, but which ended on 31 March 2004 as a result of the 2003 Review;*
- 1.1.5 *“CP3” means the period from 1 April 2004 to 31 March 2009;*
- 1.1.6 *“CP4” means the period from 1 April 2009 to the earlier of:*

1.1.6.1 the date on which the Franchise Agreement expires or terminates;

and

1.1.6.2 31 March 2014;

⁵² Insertion of new text wef 18th March 2005

⁵³ Text changed wef 01/04/2009

- 1.1.7 *“Prior Charging Reviews” means the 2003 Review, the 2006 Review and the 2008 Review*
- 1.1.8 *“Reporting Year” means the period commencing 1 April in each calendar year and comprising 13 consecutive Reporting Periods. The last Reporting Year will, where applicable, comprise the actual number of Reporting Periods in that year where that is less than 13;*
- 1.1.9 *“TAA” means the Track Access Agreement;*
- 1.1.10 *the expressions “Capacity Charge”, “Fixed Track Charge”, “Railway Safety Charge” and “Variable Track Usage Charge” will have the meanings given to them in Schedule 7 to the TAA;*
- 1.1.11 *the expression “Access Charge Supplement for Possessions” shall mean the charge of that name referred to in Part 5 of Schedule 4 to the TAA;*
- 1.1.12 *the expression “Access Charge Supplement for Passengers Charter” shall mean the charge of that name referred to in paragraph 14.10 of Schedule 8 to the TAA; and*
- 1.1.13 *the expression “Service Group” will have the meaning set out in Schedule 8 to the TAA.*

2. 2008 Review

For the purposes of the Principal Formula in paragraph 1 of Part 2 of Schedule 6 of the Franchise Agreement:

CR2008 *means an adjustment to the Franchise Payments for such Reporting Period pursuant to Clause 18.1 of the Franchise Agreement in respect of the 2008 Review, calculated according to the following formula:*

$$CR2008 = AFTC + AVC + ACC + ARSC + AS4 + ACSPC$$

Where:

- AFTC** *means the adjustment in relation to Fixed Track Charges calculated in accordance with paragraph 3 of this Part;*
- AVC** *means the adjustment in relation to Variable Track Usage Charges calculated in accordance with paragraph 4 of this Part;*
- ACC** *means the adjustment in relation to Capacity Charges calculated in accordance with paragraph 5 of this Part;*
- ARSC** *means the adjustment in relation to Railway Safety Charges calculated in accordance with paragraph 6 of this Part;*
- AS4** *means the adjustment in relation to Schedule 4 of the TAA*

ACSPC *means the adjustment in relation to the Access Charge Supplement for Passengers Charter calculated in accordance with paragraph 12 of this Part.*

3. Fixed Track Charge

For each Reporting Period commencing on or after 1 April 2009, AFTC referred to in the formula in paragraph 2 of this Part shall be calculated according to the following formula:

$$AFTC = F_{newRP} - F_{RP}$$

Where:

AFTC *means AFTC referred to in paragraph 2 of this Part;*

F_{RP} *means the amount of the Fixed Track Charge which would have been payable after indexation under the TAA in respect of the relevant Reporting Period had the Prior Charging Reviews resulted in unchanged Fixed Track Charges and indexation thereof; and*

F_{newRP} *means the amount of the Fixed Track Charge actually payable after indexation under the TAA in respect of such Reporting Period.*

4. Variable Track Usage Charges

4.1 *For each Reporting Period commencing on or after 1 April 2009, AVC referred to in the formula in paragraph 2 of this Part shall be calculated according to the following formula:*

$$AVC = \Sigma((VCUP_{new} - VCUP_{old}) \times AVM_{RP})$$

Where:

Σ *means the aggregate for all types of vehicles;*

$VCUP_{old}$ *means the Variable Track Usage Charge for vehicles of a particular type (expressed as the price per vehicle mile) which would have applied after indexation had the Prior Charging Reviews resulted in unchanged Variable Track Usage Charges and indexation thereof;*

$VCUP_{new}$ *means the Variable Track Usage Charge for such type of vehicle (expressed as the price per vehicle mile) actually payable after indexation under the TAA; and*

AVM_{RP} *means the assumed number of vehicle miles anticipated to be operated by the Franchise Operator using such type of vehicle in respect of the relevant Reporting Period which, unless otherwise agreed between the Franchise*

Operator and the Authority and subject to correction under paragraph 4.3 of this Part, are as set out in Appendix 1 to this Part 6 of Schedule 6.

4.2 *The assumed vehicle mileages set out in Appendix 1 to this Part 6 of Schedule 6 are based on information as to the Franchise Operator's service proposals available as at 1 April 2009. Without prejudice to any obligation the Franchise Operator may have under the Franchise Agreement (including the Franchise Plan) and to paragraph 4.3 of this Part, the Franchise Operator shall not by virtue of paragraph 4.1 of this Part or Appendix 1 to this Part 6 of Schedule 6 be under any obligation to operate any particular mileage.*

4.3 *AVC specified in paragraph 4.1 of this Part shall be corrected at the end of each Reporting Year by reference to the actual vehicle mileage operated by the Franchise Operator during such Reporting Year in accordance with the following formula:*

$$CF = \Sigma((AVM_{RY} - MO_{RY}) \times (VCUP_{new} - VCUP_{old}))$$

Where:

CF *means the annual correction in respect of the relevant Reporting Year;*

Σ *means the aggregate for all types of vehicles;*

AVM_{RY} *means the assumed number of vehicle miles anticipated to be operated by the Franchise Operator using the relevant vehicle type in respect of the relevant Reporting Year, as set out in Appendix 1 to this Part 6 of Schedule 6;*

MO_{RY} *means the number of vehicle miles actually operated by the Franchise Operator using the relevant vehicle type in respect of the relevant Reporting Year;*

VCUP_{old} *has the meaning set out in paragraph 4.1 of this Part; and*

VCUP_{new} *has the meaning set out in paragraph 4.1 of this Part.*

4.4. *The Franchise Operator shall supply data to the Authority sufficient to calculate CF within 30 days of the end of each Reporting Year.*

4.5 *If CF is a negative number, the Authority shall pay the amount of CF to the Franchise Operator and if CF is a positive number the Franchise Operator shall pay the amount of CF to the Authority. CF shall be payable by way of adjustment to the Franchise Payments payable in the Reporting Period following submission by the Franchise Operator to the Authority of the data pursuant to paragraph 4.4 of this Part (or if, by reason of the termination or expiry of the Franchise Agreement, there are no such Franchise Payments, by way of payment by the Authority or the Franchise Operator as appropriate).*

5. Capacity Charges

5.1 For each Reporting Period commencing on or after 1 April 2009, ACC referred to in the formula in paragraph 2 of this Part shall be calculated according to the following formula:

$$ACC = CC_{newRP} - CC_{RP}$$

Where:

ACC means ACC referred to in paragraph 2 of this Part;

CC_{RP} means the amount of the Capacity Charge which would have been payable or receivable after indexation under the TAA in respect of the relevant Reporting Period had the Prior Charging Reviews resulted in unchanged Capacity Charges and indexation thereof; and

CC_{newRP} means the amount of the Capacity Charge actually payable or receivable after indexation under the TAA in respect of such Reporting Period, and

CC_{RP} and CC_{newRP}, as the case may be, shall be expressed as a positive number where the amount of the Capacity Charge would have been or is payable by the Franchise Operator to Network Rail and a negative number where the amount of the Capacity Charge would have been or is payable by Network Rail to the Franchise Operator.

5.2 The Franchise Operator shall provide to the Authority as soon as practicable after receipt copies of invoices from Network Rail specifying Capacity Charges.

6. Railway Safety Charge

For each Reporting Period commencing on or after 1 April 2009, ARSC referred to in the formula in paragraph 2 of this Part in respect of the relevant Reporting Period shall be calculated according to the following formula:

$$ARSC = \frac{((FTC_{CP4\%} - FTC_{CP2\%}) \times TRSC)}{13}$$

13

Where:

ARSC means ARSC referred to in paragraph 2 of this Part;

FTC_{CP4%} means the percentage of the total Fixed Track Charges payable (after indexation) by all franchise operators during the Reporting Year in which that Reporting Period falls which is payable by the Franchise Operator;

FTC_{CP2%} means the percentage of the total Fixed Track Charges payable by all franchise operators during CP2 which was payable by the Franchise Operator; and

TRSC means the total Railway Safety Charge payable by all franchise operators (after indexation) during the Reporting Year in which that Reporting Period falls.

7. Not used.

8. Not used.
9. Not used.
10. Not used.
11. Schedule 4
- 11.1 For each Reporting Period commencing on or after 1 April 2009, AS4 referred to in the formula in paragraph 2 of this Part shall be calculated in accordance with the following formula:

$$AS4 = ACSP - APMR$$

Where:

AS4 means AS4 referred to in paragraph 2 of this Part;

ACSP shall be an amount equal to $ACSP_{new} - ACSP_{old}$ where:

$ACSP_{new}$ means the amount of the Access Charge Supplement for Possessions payable (after indexation) by the Franchise Operator under the TAA in that Reporting Period; and

$ACSP_{old}$ means the amount of the Access Charge Supplement for Possessions which would have been payable (after indexation) by the Franchise Operator in that Reporting Period had the Prior Charging Reviews resulted in no change to the amount of the Access Charge Supplement for Possessions payable by the Franchise Operator.

APMR shall be an amount equal to $S4_{new} - S4_{old}$ where:

$S4_{new}$ means the amount which the Franchise Operator would have been entitled to receive from Network Rail in that Reporting Period (after indexation) under Schedule 4 of the TAA if such amount had been calculated in accordance with Schedule 4 of the TAA but using the marginal revenue effect element of the Network Rail payment rate which would have applied had the Prior Charging Reviews made no changes to such marginal revenue effect element; and

$S4_{old}$ means the amount which the Franchise Operator would have been entitled to receive from Network Rail in that Reporting Period (after indexation) under Schedule 4 of the TAA as that Schedule existed immediately prior to implementation of the 2003 Review,

provided that where any amounts paid or payable to the Franchise Operator under Schedule 4 of the TAA in respect of any Restriction of Use (which shall have the meaning given in Part 3 of Schedule 4 of the TAA) are, in accordance with paragraph 2.5 of Part 3 of Schedule 4 of the TAA, deducted from the amount payable by Network Rail to the Franchise Operator in respect of such Restriction of Use, $S4_{new}$ and $S4_{old}$ shall be reduced to the extent necessary to ensure that the amount which the Franchise Operator is or would have been entitled to receive from Network Rail under Schedule 4 of the TAA in respect of such Restriction of Use is not included in $S4_{new}$ and $S4_{old}$.

- 11.2 *The Authority and the Franchise Operator shall continue to use the agreed methodology by which $S4_{old}$ referred to in paragraph 11.1 will be calculated.*

12. *Access Charge Supplement for Passengers Charter*

For each Reporting Period commencing on or after 1 April 2009, ACSPC referred to in the formula in paragraph 2 of this Part shall be as calculated in accordance with the following formula:

$$ACSPC = ACSPC_{CP4} - ACSPC_{CP2}$$

Where:

ACSPC means ACSPC referred to in paragraph 2 of this Part;

ACSPC_{CP4} means the Access Charge Supplement for Passengers Charter which is or would have been payable in respect of that Reporting Period in accordance with the Access Charge Supplement for Passengers Charter published by the Regulator as part of the 2008 Review still applied; and

ACSPC_{CP2} means the Access Charge Supplement for Passengers Charter which would have been payable in respect of that Reporting Period had the Prior Charging Reviews resulted in no change to the amount of, or the methodology used for setting, the Access Charge Supplement for Passengers Charter.

13. *Payment Provisions*

13.1 *CR2008 (as defined in paragraph 2 of this Part) is a component of the Franchise Payments to which paragraph 3.1 of Part 2 of this Schedule 6 applies. Accordingly, if any part of CR2008 (each such part being referred to as an “18.1 Adjustment”) is not, or cannot reasonably be, determined more than 7 days before the end of the Reporting Period to which it relates, then, unless paragraph 13.2 applies, no amount in respect of such 18.1 Adjustment shall be included in CR2008, and therefore in the Franchise Payment, for such Reporting Period.*

13.2 *Where any 18.1 Adjustment is not, or cannot reasonably be, determined more than 7 days before the end of the Reporting Period to which it relates, the Authority and the Franchise Operator may agree a good faith best estimate of such 18.1 Adjustment. If such an estimate is agreed:*

13.2.1 *CR2008, and therefore the Franchise Payment, for such Reporting Period, shall be calculated by reference to such estimate; and*

13.2.2 *further adjustment shall be made to the Franchise Payments as soon as reasonably practicable after determination of the actual 18.1 Adjustment to the extent necessary to correct any difference between the estimate so used and the actual 18.1 Adjustment.*

- 13.3** *If no such good faith best estimate is agreed, the relevant 18.1 Adjustment shall become payable in accordance with paragraph 3.1 of Part 2 of this Schedule 6 once it has been determined.*

Appendix 1 to Part 6 of Schedule 6 ⁵⁴

Vehicle Mileages (paragraph 4 of Part 6 Variable Track Usage Charges)

Vehicle Type	Vehicle Class	Assumed Vehicle Miles
<i>DMU</i>	<i>142</i>	<i>3,450,000</i>
<i>DMU</i>	<i>143</i>	<i>3,430,000</i>
<i>DMU</i>	<i>150</i>	<i>3,960,000</i>
<i>DMU</i>	<i>153</i>	<i>5,243,000</i>
<i>DMU</i>	<i>158</i>	<i>7,122,000</i>
<i>DMU</i>	<i>175</i>	<i>8,119,000</i>

⁵⁴ Table changed wef 01/04/2009

Schedule 7— Incentive Regime (Clause 17)

Part 1 — Definitions and Construction

1 Definitions

The following definitions shall apply in this Schedule 7 except to the extent the context otherwise requires:

“Allowable Change” means a change to the Timetable which is caused by:

- (a) any Network Rail Restriction of Use notified to the Franchise Operator or included in the Timetable; or
- (b) a change to the Timetable requested or proposed by the Franchise Operator in respect of which the Franchise Operator has given notice of 84 days or more to passengers, such notice to be given in the manner specified in Clause 7.2; or
- (c) any other matter which may be specified from time to time by the Authority.

“Capacity” means, in respect of any train and any Formation Monitoring Point, the number of seats in Standard Class Accommodation (together with the amount of standing capacity where applicable to such train and such Formation Monitoring Point as calculated in accordance with the Rolling Stock Capacities) on such train which the Franchise Operator provides or (as the case may be) plans to provide under any relevant Train Plan, on such train at such Formation Monitoring Point, provided that to the extent that a Train Plan specifies an aggregate capacity for a number of trains, the Capacity in respect of such trains and any Formation Monitoring Point will be the aggregate of that which the Franchise Operator provides or (as the case may be) plans to provide under any relevant Train Plan, on each of such trains.

“Charge Variation” has the meaning given in Clause 18.1 of this Franchise Agreement.

“Formation Monitoring Point” means the point (not being more than one per train) for each train in each Service Code which the Authority may designate as such by notice to the Franchise Operator from time to time (being the point at which it considers that passenger numbers are likely to be most concentrated for that train in that

	Service Code).
“Maximum Lateness”	means, in respect of any train, the number of minutes specified in the relevant section of Part 4 of this Schedule 7.
“Network Rail Systems”	has the meaning ascribed to that term in paragraph 1(a) of Part 3 of this Schedule 7.
“Pass”	means, in relation to any Formation Monitoring Point, the act of a train arriving at, passing or departing from (as the context may require) such Formation Monitoring Point.
“Restriction of Use”	for the purposes only of the definition of “Network Rail Restriction of Use” , means, in respect of any day, any restriction on use of any relevant section of track notified by Network Rail to the Franchise Operator which necessitates any difference between the Applicable Timetable on that date as compared to the Timetable in respect of that day.
⁵⁵ ⁵⁶	
“2008 Review”⁵⁷	<i>Has the meaning given in Part 6 of Schedule 6 of the Franchise Agreement.</i>
“Service Code”	means the third, fourth and fifth digits of an eight character train service code applied in Network Rail’s performance monitoring system to trains and used to identify them.
⁵⁸ “Service Group”	has the meaning given in Schedule 8 of the Franchise Operator’s track access agreement with Network Rail.
“SFIP Cap”	means, in respect of any train, the value, in pounds and pence, specified in Part 4 of this Schedule 7.
“SFIP Services”	means the Passenger Services described in Part 4 of this Schedule 7.
“SRA Systems”	has the meaning ascribed to that term in paragraph 1(b) of Part 3 of this Schedule 7.
“Systems”	means the SRA Systems and the Network Rail Systems.

2 Construction

⁵⁵ Insertion of new text wef 18th March 2005

⁵⁶ Text deleted wef 01/04/2009

⁵⁷ Insertion of new text wef 01/04/2009

⁵⁸ Insertion of new text wef 18th March 2005

- (a) For the purposes of this Schedule 7, a day shall be deemed to begin at 0200 and end at 0159 on the next day, and all references to a day in this Schedule 7 shall be construed accordingly.
- (b) Subject to paragraph 2(a) above, where any train is scheduled to depart from its point of origin on one day and arrive at its destination point on the following day, any minutes late recorded or deemed in respect of the train on the day shall be treated as occurring on the day on which the train was scheduled to depart from its point of origin.
- (c) References in this Schedule 7 to “trains” do not include Charter Services or other movements of rolling stock outside the Timetable (but which may be included in any relevant working timetable).

Part 2 — Determination of Incentive Payment

Total Incentive Payment

- 1 The Incentive Payment for each Reporting Period during the Franchise Term shall be determined in accordance with the following formula:

$$I = \text{TPIP} - (\text{TTCIP} + \text{TSFIP}) + \text{CP4A}^{59\ 60}$$

Where

- I equals the Incentive Payment for the relevant Reporting Period (and may be either a positive or a negative number);
 - TPIP equals the Total Punctuality Incentive Payment for the relevant Reporting Period, as determined in accordance with paragraph 2 of this Part 2 (and may be either a positive or a negative number);
 - TTCIP equals the Total Timetable Change Incentive Payment (if any) for the relevant Reporting Period, as determined in accordance with paragraph 4 of this Part 2 (and may be only a positive number);
 - TSFIP equals the Total Short Formation Incentive Payment (if any) for the relevant Reporting Period, as determined in accordance with paragraph 5 of this Part 2 (and may be only a positive number).
- ⁶¹
⁶²CP4A ***equals the Control Period 4 Adjustment for the relevant Reporting Period, as determined in accordance with Part 2A of this Schedule 7 (and may be either a positive or a negative number).***

Punctuality Incentive Payment

- 2 The Total Punctuality Incentive Payment in each Reporting Period shall be determined on the basis of the Public Performance Measure in that Reporting Period as follows:

⁵⁹ Insertion of new text wef 18th March 2005

⁶⁰ Text changed wef 01/04/2009

⁶¹ Insertion of new text wef 18th March 2005

⁶² Text changed wef 01/04/2009

- (a) for each Reporting Period for which the Public Performance Measure (specified to 2 decimal places) equals the PPM Benchmark for that Reporting Period, TPIP shall equal zero;
- (b) for each Reporting Period for which the Public Performance Measure (specified to 2 decimal places) is less than the PPM Benchmark for that Reporting Period, TPIP shall be determined in accordance with paragraphs 2.1 to 2.3 below; and
- (c) for each Reporting Period for which the Public Performance Measure (specified to 2 decimal places) is greater than the PPM Benchmark for that Reporting Period, TPIP shall be determined in accordance with paragraph 2.4 below.

Where:

“PPM Benchmark” means, in respect of any Reporting Period, the percentage specified in Part 4 of this Schedule 7 in respect of that Reporting Period.

- 2.1** The Total Punctuality Incentive Payment for each Reporting Period for which the Public Performance Measure is less than the PPM Benchmark for that Reporting Period shall be determined in accordance with the following formula:

$$\text{TPIP} = (\text{APIP} \times \text{PPMF}) \times (-1)$$

Where:

APIP equals the aggregate of the Punctuality Incentive Payment for each train which is included in the Applicable Timetable during that Reporting Period. The Punctuality Incentive Payment in respect of each such train shall be determined in accordance with paragraphs 2.2 and 2.3 below.

PPMF equals the factor to be applied to the APIP which depends on the extent to which the Public Performance Measure is less than the PPM Benchmark for that Reporting Period, and is determined in accordance with the following formula:

$$\text{PPMF} = \frac{(\text{PPMB} - \text{PPMP})}{(100\% - \text{PPMP})}$$

Where

PPMB equals the PPM Benchmark percentage for the Reporting Period; and

PPMP equals the Public Performance Measure percentage (specified to 2 decimal places) for the Reporting Period

Provided that TPIP for any Reporting Period for which the Public Performance Measure is less than the PPM Benchmark for that Reporting Period shall always be a negative number.

- 2.2** The Punctuality Incentive Payment in respect of each train which is included in the Applicable Timetable and is not a cancellation (as defined below) shall be calculated as follows:

- (a) For each train that arrives punctually (as defined below) at its final destination as scheduled in the Applicable Timetable:

$$\text{PIP} = 0$$

- (b) For each train that arrives at the final destination five minutes or more after the scheduled arrival time as shown in the Applicable Timetable:

$$\text{PIP} = (L \times T) \times \text{RPI}$$

2.3 The Punctuality Incentive Payment in respect of each train which is included in the Applicable Timetable but is a cancellation (as defined below) shall be calculated as follows:

- (a) For each train that is a total cancellation:

$$\text{PIP} = \text{TCM} \times T \times \text{RPI}$$

- (b) For each train that is a cancellation but is not a total cancellation:

$$\text{PIP} = \text{CM} \times T \times \text{RPI}$$

Where for the purposes of paragraphs 2.2 and 2.3:

PIP	equals the Punctuality Incentive Payment in respect of a train
L	means, in relation to any train, the number of minutes (not being less than zero and rounded down to nearest whole minute) by which such train arrives at its final destination after the time it was scheduled so to do in the Applicable Timetable, provided that if such number is greater than the Maximum Lateness, the number of minutes shall be deemed to equal the Maximum Lateness
T	equals the value, in pounds and pence, attributed to a minute late for a train as set out in Part 4 of this Schedule 7
RPI	equals the quotient of the Retail Prices Index for the November of the Reporting Year prior to the Reporting Year in which such Reporting Period falls divided by the Retail Prices Index for November 2000.
TCM	means the number of minutes attributed to the total cancellation of a train as set out in Part 4 of this Schedule 7
CM	means the number of minutes attributed to the cancellation (other than the total cancellation) of a train as set out in Part 4 of this Schedule 7
“cancellation”	means a train which is scheduled to be provided under the Applicable Timetable and which: (a) is totally cancelled; or (b) begins its journey after its scheduled departure point in the Applicable Timetable or terminates its journey before its scheduled destination point in the Applicable Timetable
“punctually”	has the meaning set out in sub-paragraph (i) of the definition of Public Performance Measure in Clause 1.1, being arrival at the final destination within four minutes and 59 seconds of the scheduled arrival time as shown in the Applicable Timetable
“total cancellation”	means a train which is scheduled to be provided under the Applicable Timetable and which is cancelled or does not otherwise operate for more than half its scheduled mileage under the Applicable Timetable.

- 2.4** The Total Punctuality Incentive Payment for each Reporting Period for which the Public Performance Measure is greater than the PPM Benchmark for that Reporting Period shall be determined in accordance with the following formula:

$$\text{TIPI} = (\text{PPMP} - \text{PPMB}) \times \text{BR} \times \text{RPI}$$

Where

PPMP means the Public Performance Measure percentage (specified to 2 decimal places) for the Reporting Period;

PPMB means the PPM Benchmark percentage for the Reporting Period;

BR means the bonus rate, being the value, in pounds and pence, attributed to each percentage point increase in the Public Performance Measure (specified to 2 decimal places) above the PPM Benchmark in respect of a Reporting Period, as set out in Part 4 of this Schedule 7; and

RPI equals the quotient of the Retail Prices Index for the November of the Reporting Year prior to the Reporting Year in which such Reporting Period falls divided by the Retail Prices Index for November 2000

Provided that TIPI for any Reporting Period for which the Public Performance Measure is greater than the PPM Benchmark for that Reporting Period shall always be a positive number

Timetable Change Incentive Payment

- 3** The Total Timetable Change Incentive Payment for each Reporting Period shall be the aggregate of the Timetable Change Incentive Payments (if any) determined for each day in that Reporting Period on which the Applicable Timetable is an Amended Timetable. If an Amended Timetable is in effect the Timetable Change Incentive Payment for such day shall be, subject to paragraph 4, determined in accordance with the following formula:

$$\text{TCIP} = [(\text{TC} \times \text{TCM} \times \text{T}) + (\text{C} \times \text{CM} \times \text{T})] \times \text{I} \times \text{RPI}$$

Where

TCIP equals the Timetable Change Incentive Payment for any relevant day

TC is the number (if any) of Passenger Services in the Timetable, looked at by reference to the ultimate destination point of those Passenger Services, in respect of which the same or a comparable service is not scheduled to operate in the Applicable Timetable. For this purpose, a service will be regarded as scheduled to operate if the same or comparable service is scheduled in the Applicable Timetable to operate for more than half the scheduled mileage of the original Passenger Service in the Timetable to which it is being compared. Where the intermediate section of a service is provided by a substitute bus service or other rail service:

- (a) the mileage run by the bus or other rail service shall not be counted as having been run for the purpose of calculating whether the train providing the service has operated for more than half of its scheduled mileage under the

Timetable: but

- (ii) if, after disregarding the mileage run by the substitute bus or other rail service, the service (or comparable service) is scheduled in the Applicable Timetable to operate for more than half the scheduled mileage of the original Passenger Service in the Timetable to which it is being compared, the full service shall be treated as provided for the purposes of calculating TC
- TCM means the number of minutes attributed to the total cancellation of a train as set out in Part 4 of this Schedule 7
- T equals the value, in pounds and pence, attributed to a minute late for a train as set out in Part 4 of this Schedule 7
- C is the number (if any) of Passenger Services in the Timetable in respect of which the same or comparable service in the Applicable Timetable:
 - (a) begins its journey after the scheduled departure point or terminates its journey before the scheduled destination point for the original Passenger Service in the Timetable to which it is being compared; and
 - (b) is not included in the number of total cancellations in the calculation of TC
- CM means the number of minutes attributed to the cancellation (other than the total cancellation) of a train as set out in Part 4 of this Schedule 7
- RPI equals the quotient of the Retail Prices Index for the November of the Reporting Year prior to the Reporting Year in which such Reporting Period falls divided by the Retail Prices Index for November 2000; and
- I equals 1.0 if there are no trains scheduled in the Applicable Timetable for that day, but otherwise equals 0.8.

Reductions in the Timetable Change Incentive Payment

- 4** To the extent that any part of the Total Timetable Change Incentive Payment for any day relates to a difference between the Timetable and Amended Timetable caused by an Allowable Change, then that part of such payment shall be reduced:
- (a) by 100 per cent. where the Allowable Change is a Network Rail Restriction of Use;
 - (b) by 100 per cent. where the Allowable Change is a change to the Timetable requested or proposed by the Franchise Operator falling within paragraph (b) of the definition of “Allowable Change”; and
 - (c) by such proportion as the Authority may decide (having regard to any compensation received therefor by the Franchise Operator under its track access agreement) where the Allowable Change is any other matter.

Short Formation Incentive Payment

- 5 The Total Short Formation Incentive Payment in each Reporting Period shall be the aggregate of the Short Formation Incentive Payment for each train included in the SFIP Services which is included in the Train Plan of the Franchise Operator during that Reporting Period, as determined in accordance with the following formula:

$$\text{SFIP} = (\text{PTC} - \text{ATC}) \times \text{SFV} \times \text{RPI}$$

Where

- SFIP equals the Short Formation Incentive Payment (which, if SFIP is a negative number, shall be deemed to be zero);
- ATC equals the Capacity provided at the Formation Monitoring Point for that train, provided that, if such train does not Pass such Formation Monitoring Point and such train is part of the SFIP Services, SFIP shall be deemed to be zero for such train;
- PTC equals the Capacity planned to be provided at the Formation Monitoring Point for that train in accordance with the Train Plan;
- SFV equals the value, in pounds and pence, attributed to any seat not provided below the Capacity planned to be provided at the Formation Monitoring Point for that train in accordance with the Train Plan, as set out in Part 4 of this Schedule 7;
- RPI equals the quotient of the Retail Prices Index for the November of the Reporting Year prior to the Reporting Year in which such Reporting Period falls divided by the Retail Prices Index for November 2000.

Provided that:

- 5.1 where SFIP for an individual train exceeds the SFIP Cap, SFIP shall be equal to the SFIP Cap;
- 5.2 to the extent that a Train Plan specifies an aggregate capacity for a number of trains, there will be one Short Formation Incentive Payment in respect of all such trains, and in respect of such calculation:
- ATC equals the aggregate Capacity provided at the Formation Monitoring Point for all such trains, provided that, if any of such trains do not Pass such Formation Monitoring Point and such train is part of the SFIP Services, the Capacity of such train shall be deemed to be as provided for that train in the diagram underlying the Train Plan;
- PTC equals the aggregate of the Capacity planned to be provided at the Formation Monitoring Point for all such trains in accordance with the Train Plan;

2. **Part 2A - Control Period 4 Adjustment**^{63 64}

1. ⁶⁵*The Control Period 4 Adjustment for each Reporting Period commencing on or after 1 April 2009 shall be determined in accordance with the following formula:*

$$^{66}\text{CP4A} = \text{RTMRE} - \text{TS8A} + \text{CP2SR}$$

Where:

⁶⁷**CP4A** equals the Control Period 4 Adjustment for the relevant Reporting Period (and may be either a positive or a negative number);

RTMRE is the aggregate of RTMRE for each Service Group for that Reporting Period, where RTMRE is determined in accordance with the following formula:

$$\text{RTMRE} = ((\text{RB-ARL}) - (\text{RB}_2\text{-ARL}_2)) \times P_2 \times \text{MRE}_2 \times \text{RPI}_2 \times \text{BF},$$

provided that if any amount paid or payable to the Franchise Operator under Schedule 8 of the Track Access Agreement in respect of Network Rail's performance in relation to any Service Group in the relevant Reporting Period is deducted from the amount of any compensation payable by Network Rail to the Franchise Operator under Part G of the Track Access Conditions, then RTMRE in respect of the relevant Service Group shall be reduced by the same proportion as the amount so deducted from the Part G compensation payable compared to the total amount which would otherwise have been paid or payable under Schedule 8 of the Track Access Agreement in respect of Network Rail's performance in relation to the relevant Service Group in the relevant Reporting Period. The Franchise Operator shall notify the Authority of any amounts paid or payable under Schedule 8 of the Track Access Agreement which are so deducted and shall supply the Authority with such supporting documentation in relation thereto as the Authority may reasonably require;

TS8A is the aggregate of TS8A for each Service Group for that Reporting Period, where TS8A is determined in accordance with the following formula:

$$\text{TS8A} = ((\text{TB} - \text{ATL}) \times \text{TS8} \times \text{RPI} \times \text{BF}) - ((\text{TB}_2 - \text{ATL}_2) \times \text{TS8}_2 \times \text{RPI}_2 \times \text{BF})$$

CP2SR is the aggregate of CP2SR for each Service Group for that Reporting Period, where CP2SR is determined in accordance with the following formula:

$$\text{CP2SR} = ((\text{RB}_2 - \text{ARL}_2) \times P_2 \times V_2 \times \text{RPI}_2 \times \text{BF}) \times -1$$

where in each case:

ARL is (subject to paragraph 24 of Part 3 of this Schedule 7) the average Network Rail lateness for that Service Group for that Reporting Period (expressed as a

⁶³ Date of change 30/01/2009

⁶⁴ Text changed wef 01/04/2009

⁶⁵ Text changed wef 01/04/2009

⁶⁶ Text changed wef 01/04/2009

⁶⁷ Text changed wef 01/04/2009

number of minutes late) as determined under, and used for the purpose of calculating the Network Rail performance payment under, the Franchise Operator's track access agreement with Network Rail. For the avoidance of doubt, it is acknowledged that the average Network Rail lateness is described as "NRWAML"⁶⁸ in paragraph 9 of Schedule 8 of the Franchise Operator's Track Access Agreement with Network Rail as at immediately after the implementation of the 2008⁶⁹ Review;

$$ARL_2 = (NR \text{ Lateness Performance minutes} + (NR \text{ Reliability Event Performance Minutes} \times TCML_2))$$

(TCML)

Where:

$\left. \begin{array}{l} TCML \\ TCML_2 \end{array} \right\}$ take the values as detailed in Part 2A of this Schedule 7

ATL *is (subject to paragraph 24 of Part 3 of this Schedule 7) the average train operator lateness for that Service Group for that Reporting Period (expressed as a number of minutes late) determined under, and used for the purpose of calculating the train operator performance payment under, the Franchise Operator's Track Access Agreement with Network Rail. For the avoidance of doubt, it is acknowledged that the average train operator lateness is described as "TWAML" in paragraph 10 of Schedule 8 of the Franchise Operator's Track Access Agreement with Network Rail as at immediately after implementation of the 2008⁷⁰ Review;*

$$ATL_2 = (TOC \text{ Lateness Performance Minutes} + (TOC \text{ Reliability Event Performance Minutes} \times TCML_2))$$

(TCML)

Where:

$\left. \begin{array}{l} TCML \\ TCML_2 \end{array} \right\}$ take the values as detailed in Part 2A of this Schedule 7

BF *is (subject to paragraph 24 of Part 3 of this Schedule 7) the value of the relevant 'busyness factor' for that Service Group for that Reporting Period, as determined under and used for the purpose of calculating both Network Rail's and the Franchise Operator's performance payments under the Franchise Operator's Track Access Agreement with Network Rail. For the avoidance of doubt, it is acknowledged that this "busyness factor" is the component described as such in the Franchise Operator's Track Access Agreement with Network Rail as at immediately after the implementation of the 2008⁷¹ Review;*

⁶⁸ Text changed wef 01/04/2009

⁶⁹ Text changed wef 01/04/2009

⁷⁰ Text changed wef 01/04/2009

⁷¹ Text changed wef 01/04/2009

<i>MRE₂</i>	<i>equals the per passenger marginal revenue effect element of the Network Rail payment rate for that Service Group under the Franchise Operator's Track Access Agreement with Network Rail applicable immediately before 1 April 2004, modified to take account of the implementation of the 7th Supplemental Track Access Agreement as set out in paragraph 2 of this Part 2A;</i>
<i>P₂</i>	<i>equals the average number of passengers per day for that Service Group applicable immediately before 1 April 2004 under the Franchise Operator's Track Access Agreement with Network Rail, modified to take account of the 7th Supplemental Track Access Agreement, as set out in paragraph 2 of this Part 2A ;</i>
<i>RB</i>	<i>equals the Network Rail performance point number of minutes late for that Service Group for the time being in force under the Franchise Operator's Track Access Agreement with Network Rail, as set out in paragraph 2 of this Part2A;</i>
<i>RB₂</i>	<i>⁷² equals the Network Rail performance point number of minutes late for that Service Group applicable immediately before 1 April 2004 under the Franchise Operator's track access agreement with Network Rail, as set out in paragraph 2 of this Part;</i>
<i>RPI</i>	<i>equals the quotient of the Retail Prices Index for the November of the Reporting Year prior to the Reporting Year in which such Reporting Period falls divided by the Retail Prices Index for November 2003 (and for the avoidance of doubt shall equal 1 in respect of the Reporting Year commencing 1 April 2004);</i>
<i>RPI₂</i>	<i>equals the quotient of the Retail Prices Index for the November of the Reporting Year prior to the Reporting Year in which such Reporting Period falls divided by the Retail Prices Index for November 2000;</i>
<i>TB</i>	<i>equals the train operator performance point number of minutes late for that Service Group under the Franchise Operator's Track Access Agreement with Network Rail, as set out in paragraph 2 of this Part 2A;</i>
<i>TB₂</i>	<i>equals the train operator performance point number of minutes late for that Service Group under the Franchise Operator's track access agreement with Network Rail applicable immediately before 1 April 2004, modified to take account of the implementation of the 7th Supplemental Track Access Agreement as set out in paragraph 2 of this Part 2A;</i>
<i>TCML₂</i>	<i>means the number of minutes late attributed to cancellations for the relevant Service Group immediately prior to 1 April 2006 in the Track Access Agreement as set out in paragraph 2 of this Part 2A;</i>
<i>TCML</i>	<i>means the number of minutes late attributed to cancellations for the relevant Service Group with effect from 1 April 2006 in the Track Access Agreement as set out in paragraph 2 of this Part 2A;</i>

⁷² Text changed wef 01/04/2009

- TS8** equals the train operator payment rate for that Service Group under the Franchise Operator's Track Access Agreement with Network Rail, as set out in paragraph 2 of this Part 2A;
- TS8₂** equals the train operator payment rate for that Service Group under the Franchise Operator's Track Access Agreement with Network Rail applicable immediately before 1 April 2004, modified to take account of the implementation of the 7th Supplemental Track Access Agreement as set out in paragraph 2 of this Part 2A;
- V₂** equals the value, in pence, attributed to a minute late per passenger for that Service Group applicable immediately before 1 April 2004, as set out in paragraph 2 of this Part2A.

2.⁷³ For the purposes of paragraph 1 of this Part 2A:

These values apply in respect from the period 1st April 2009 until otherwise advised.

Service Group HL02 South, West & Central Wales

<i>Period</i>	<i>RB</i>	<i>RB₂</i>
<i>From 1 April 2009</i>	<i>1.3015 minutes</i>	<i>1.133 minutes</i>
<i>From 1 April 2010</i>	<i>1.2652 minutes</i>	<i>1.133 minutes</i>
<i>From 1 April 2011</i>	<i>1.2117 minutes</i>	<i>1.133 minutes</i>
<i>From 1 April 2012</i>	<i>1.1775 minutes</i>	<i>1.133 minutes</i>
<i>From 1 April 2013</i>	<i>1.1412 minutes</i>	<i>1.133 minutes</i>

<i>MRE₂</i>	<i>5.4p</i>
<i>P₂</i>	<i>5,565</i>
<i>TB</i>	<i>1.0744 minutes</i>
<i>TB₂</i>	<i>1.286 minutes</i>
<i>TS8</i>	<i>£ 1476.50</i>
<i>TS8₂</i>	<i>£ 727.88</i>
<i>V₂</i>	<i>36.1p</i>

<i>TCML</i>	<i>TCML2</i>	<i>Maximum Lateness</i>
<i>90 minutes</i>	<i>60 minutes</i>	<i>270 minutes</i>

Service Group HL03 – Wales to England

<i>Period</i>	<i>RB</i>	<i>RB₂</i>
<i>From 1 April 2009</i>	<i>1.2445 minutes</i>	<i>2.384 minutes</i>
<i>From 1 April 2010</i>	<i>1.2098 minutes</i>	<i>2.384 minutes</i>
<i>From 1 April 2011</i>	<i>1.1594 minutes</i>	<i>2.384 minutes</i>

⁷³ Text changed wef 01/04/2009

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<i>From 1 April 2012</i>	<i>1.1269 minutes</i>	<i>2.384 minutes</i>
<i>From 1 April 2013</i>	<i>1.0927 minutes</i>	<i>2.384 minutes</i>

<i>MRE₂</i>	<i>9.2p</i>
<i>P₂</i>	<i>1,216</i>
<i>TB</i>	<i>0.7002 minutes</i>
<i>TB₂</i>	<i>1.554 minutes</i>
<i>TS8</i>	<i>£737.52</i>
<i>TS8₂</i>	<i>£ 205.96</i>
<i>V₂</i>	<i>36.1p</i>

<i>TCML</i>	<i>TCML2</i>	<i>Maximum Lateness</i>
<i>90 minutes</i>	<i>60 minutes</i>	<i>270 minutes</i>

Service Group HL04 – Cambrian

<i>Period</i>	<i>RB</i>	<i>RB₂</i>
<i>From 1 April 2009</i>	<i>3.3547 minutes</i>	<i>2.003 minutes</i>
<i>From 1 April 2010</i>	<i>3.2618 minutes</i>	<i>2.003 minutes</i>
<i>From 1 April 2011</i>	<i>3.1276 minutes</i>	<i>2.003 minutes</i>
<i>From 1 April 2012</i>	<i>3.0407 minutes</i>	<i>2.003 minutes</i>
<i>From 1 April 2013</i>	<i>2.9498 minutes</i>	<i>2.003 minutes</i>

<i>MRE₂</i>	<i>5.0p</i>
<i>P₂</i>	<i>6,176</i>
<i>TB</i>	<i>2.0956 minutes</i>
<i>TB₂</i>	<i>1.669 minutes</i>
<i>TS8</i>	<i>£ 249.37</i>
<i>TS8₂</i>	<i>£ 252.93</i>
<i>V₂</i>	<i>36.1p</i>

TCML	TCML2	Maximum Lateness
135 minutes	90 minutes	270 minutes

Service Group HL05 op –Cardiff Valleys (off peak)

Period	RB	RB₂
From 1 April 2009	0.4793 minutes	0.685 minutes
From 1 April 2010	0.4648 minutes	0.685 minutes
From 1 April 2011	0.4433 minutes	0.685 minutes
From 1 April 2012	0.4296 minutes	0.685 minutes
From 1 April 2013	0.4150 minutes	0.685 minutes

MRE₂	4.5p
P₂	13,029
TB	0.8480 minutes
TB₂	1.492 minutes
TS8	£ 44.59
TS8₂	£ 357.18
V₂	36.1p

TCML	TCML2	Maximum Lateness
45 minutes	30 minutes	150 minutes

Service Group HL05p – Cardiff Valleys (peak)

Period	RB	RB₂
From 1 April 2009	0.5326 minutes	0.787 minutes
From 1 April 2010	0.5167 minutes	0.787 minutes
From 1 April 2011	0.4931 minutes	0.787 minutes
From 1 April 2012	0.4781 minutes	0.787 minutes
From 1 April 2013	0.4621 minutes	0.787 minutes

MRE_2	4.4p
P_2	3,794
TB	1.0925 minutes
TB_2	2.142 minutes
$TS8$	£ 14.51
$TS8_2$	£ 59.56
V_2	36.1p

$TCML$	$TCML_2$	Maximum Lateness
45 minutes	30 minutes	150 minutes

Service Group HL06 –Marches

Period	RB	RB_2
From 1 April 2009	2.2104 minutes	2.197 minutes
From 1 April 2010	2.1505 minutes	2.197 minutes
From 1 April 2011	2.0627 minutes	2.197 minutes
From 1 April 2012	2.0065 minutes	2.197 minutes
From 1 April 2013	1.9469 minutes	2.197 minutes

MRE_2	11.6p
P_2	5,328
TB	1.5146 minutes
TB_2	2.063 minutes
$TS8$	£ 537.22
$TS8_2$	£ 635.18
V_2	36.1p

$TCML$	$TCML_2$	Maximum Lateness
90 minutes	60 minutes	270 minutes

Service Group HL07 – North Wales Rural

Period	RB	RB₂
From 1 April 2009	1.0559 minutes	0.885 minutes
From 1 April 2010	1.0241 minutes	0.885 minutes
From 1 April 2011	0.9738 minutes	0.885 minutes
From 1 April 2012	0.9486 minutes	0.885 minutes
From 1 April 2013	0.9177 minutes	0.885 minutes

MRE₂	3.0p
P₂	1,413
TB	1.2070 minutes
TB₂	1.115 minutes
TS8	£ 7.96
TS8₂	£ 2.28
V₂	36.1p

TCML	TCML2	Maximum Lateness
90 minutes	60 minutes	270 minutes

Service Group HL08 –Inter Urban North Wales

Period	RB	RB₂
From 1 April 2009	1.0478 minutes	0.929 minutes
From 1 April 2010	1.0195 minutes	0.929 minutes
From 1 April 2011	0.9774 minutes	0.929 minutes
From 1 April 2012	0.9508 minutes	0.929 minutes
From 1 April 2013	0.9222 minutes	0.929 minutes

MRE_2	10.3p
P_2	7,412
TB	0.7736 minutes
TB_2	1.424 minutes
$TS8$	£ 589.51
$TS8_2$	£ 642.30
V_2	36.1p

$TCML$	$TCML2$	Maximum Lateness
45 minutes	30 minutes	180 minutes

Part 3 — Systems and Payment

Systems

- 1 The Authority and Franchise Operator agree that the Incentive Payment in each Reporting Period shall be determined by reference to:
 - (a) such systems as may be used by Network Rail from time to time for recording or monitoring the operation of the Passenger Services and may be selected by the Authority and notified to the Franchise Operator by the Authority from time to time (the “Network Rail Systems”);
 - (b) such systems as the Authority may put in place for determining the amount of Incentive Payments on the basis of the information and data in the Network Rail Systems and the other information and data available to it (the “SRA Systems”);
 - (c) such other systems as the Authority and the Franchise Operator may agree; and
 - (d) such other relevant information, data and records as may be available to the Authority or which the Authority may reasonably require the Franchise Operator to provide to it from time to time, including the information specified in paragraphs 2 and 3 of this Part 3.
- 2 The Franchise Operator shall except where the Authority otherwise agrees, use all reasonable endeavours to procure that there are entered into the Network Rail Systems and/or provided to the Authority:
 - (a) each Timetable and/or Amended Timetable;
 - (b) each Train Plan;
 - (c) each item of rolling stock used in the provision of the Passenger Services which is planned under a Train Plan to Pass a relevant Formation Monitoring Point but does not so Pass at such Formation Monitoring Point (except in circumstances where the whole train of which such rolling stock forms part is part of the SFIP Services and does not Pass such Formation Monitoring Point); and

- (d) such other information and data as the Authority may require to facilitate the proper or efficient determination of Incentive Payments under this Schedule 7.
- 3 The Franchise Operator shall provide such information as the Authority may require in relation to any differences between a Timetable and an Amended Timetable for any day which result from an Allowable Change, such information to include, without limitation:
 - 3.1 where the Allowable Change is a Network Rail Restriction of Use, details of the location, commencement date and time and duration of it, together with details of compensation therefor under the Franchise Operator's track access agreement; and
 - 3.2 evidence of the manner and time of publication to passengers of details of such difference from the Timetable.
- 4 The Franchise Operator shall provide to the Authority the information required under paragraphs 2 and 3 in such form and format as the Authority may require from time to time. The Franchise Operator shall provide to the Authority such further details or information as the Authority may reasonably require in relation to such information.
- 5 The Authority and the Franchise Operator will co-operate with each other to ensure that Incentive Payments payable under this Schedule 7 are determined correctly and efficiently on the basis of the information available to each of them from time to time.

Access and review of systems

- 6 The Franchise Operator and the Authority each agree to use all reasonable endeavours to ensure that each other may have such access to the Network Rail Systems as they may be able to procure during the Franchise Period.
- 7 The Authority agrees to permit the Franchise Operator to inspect the SRA Systems at any reasonable time during the Franchise Period and on reasonable notice if the Franchise Operator has reasonable grounds to believe that a fault in the SRA Systems is resulting in the incorrect determination of the Incentive Payments payable under this Schedule 7.
- 8 If either the Authority or the Franchise Operator notifies the other that it has reasonable grounds to believe that either of the Systems is not satisfying any relevant requirements and it is established, following any investigation or inspection, that such Systems are not satisfying any relevant requirements, the information or determination obtained from the relevant System for any relevant Reporting Periods commencing after the date which is two months prior to such notification may be adjusted in such a manner which is fair and reasonable to correct such information or determination, and any Incentive Payments previously paid under this Schedule 7 may be adjusted accordingly. The parties may refer any dispute relating thereto for resolution in accordance with the Dispute Resolution Rules.
- 9 Any inspection or investigation of any System shall be carried out at the cost of the party conducting the investigation or inspection.

Failure to record or supply information

- 10 If the Franchise Operator fails to comply with its obligations under paragraphs 2, 3 or 4 of this Part 3, the Authority may, if it reasonably considers that Incentive Payments have been incorrectly calculated as a result of such non-compliance (whether as a result of new information or data becoming available or otherwise), require any relevant Incentive Payments which may be affected by such non-compliance to be adjusted in a manner

which is fair and reasonable to reflect the Incentive Payments which, so far as reasonably determinable on the basis of any relevant data (including any new information or data), should have been calculated. The parties may refer any dispute relating thereto for resolution in accordance with the Dispute Resolution Rules.

- 11** In the event that the Systems fail to record the time at which a train that is included in the Applicable Timetable (i) departs from its origin, (ii) arrives at its final destination or (iii) is cancelled, the Punctuality Incentive Payment in respect of that train will be determined:
- (a) in the case of a non report by the Systems at the origin of a train, according to the lateness of the train on arrival at the first reporting point after the origin at which Network Rail may record information regarding the punctuality of the train, or
 - (b) in the case of a non report by the Systems at the final destination of a train, according to the lateness of the train on departure from the last reporting point before the final destination at which Network Rail may record information regarding the punctuality of the train.
- 12** If, as a result of any fault in the Systems or failure to record any or all relevant information, (and where estimated records cannot be determined by the method described in paragraph 11) Incentive Payments cannot be reasonably determined then the parties shall use all reasonable endeavours to determine the relevant Incentive Payment on the basis of such manual information as may have been recorded by Network Rail and other relevant sources, including those of the Franchise Operator or on the basis of information recorded by the Systems for the train at other reporting points. Nothing in this paragraph 12 shall however prevent the Authority from determining any Incentive Payment on the basis of information available to it at any relevant time.

Payment

- 13** ⁷⁴The Authority shall as soon as reasonably practicable after the end of each Reporting Period notify the Franchise Operator of each component of the Incentive Payment payable in respect of such Reporting Period. Each such notification shall set out in reasonable detail the basis of the determination of such Incentive Payment. Nothing in this paragraph 13 shall require the Authority to notify the Franchise Operator of:
- 13.1** (Subject to paragraphs 13.2 and 13.3), any Incentive Payment less than 28 days after the end of each relevant Reporting Period;
 - 13.2** The TTCIP component of any Incentive Payment less than 28 days after the end of the next succeeding Reporting Period; and
 - 13.3** Any of the RTMRE, TS8A or CP2SR components of the Incentive Payment until the elements which the Authority considers necessary to calculate the same have been agreed or determined under and for the purposes of the Franchise Operator's track access agreement with Network Rail, and where applicable notified by the Franchise Operator under Paragraph 24 of this Part 3. Such elements shall include the 'average train operator lateness' described in the definition of "ATL", the 'average Network Rail lateness' described in the definition of "ARL" and the 'busyness factor' described in the definition of "BF", in each case in Part 2A of this Schedule 7.

⁷⁴ Insertion of new text wef 18th March 2005

- 14 Any Incentive Payment (or component thereof) so notified shall be payable in the absence of manifest error agreed between the parties and shall be payable even if the Authority has made a mistake in calculating the relevant amounts.
- 15 The Authority shall pay to the Franchise Operator any Incentive Payment (or component thereof) which has a positive value and the Franchise Operator shall pay to the Authority any Incentive Payment (or component thereof) which has a negative value or, if such Incentive Payment (or component thereof) is payable on the same day as a Franchise Payment and the Authority so elects, shall be paid by way of adjustment to such Franchise Payment.
- 16 Each Incentive Payment (or component thereof) shall become payable by the relevant person on the last day of the Reporting Period immediately succeeding the Reporting Period to which the Incentive Payment (or component thereof) relates or, if the Authority does not notify the Franchise Operator of the relevant Incentive Payment (or component thereof) more than 4 days before the last day of such Reporting Period, 7 days after the Authority shall have notified the Franchise Operator under paragraph 13 or, if the Authority so elects, on the next day a Franchise Payment becomes payable under Schedule 6. For the purposes of this paragraph 16, ⁷⁵if the TTCIP component, or any other component referred to in paragraph 13.3, of any Incentive Payment has not been notified, the remaining parts of that Incentive Payment shall be treated as having been notified.
- 17 Any payment of an Incentive Payment (or component thereof) shall be made by automatic electronic funds transfer in pounds sterling to such bank account in the United Kingdom as the payee of such payment may have previously specified to the payer in writing and shall be made so that cleared funds are received in that account on or before the date such payment becomes payable under this Schedule 7.

Disputes

- 18 In the event that there is a dispute as to the amount of an Incentive Payment ⁷⁶(or any component thereof), the parties shall use their best endeavours to resolve such dispute for 28 days following the date of notification under paragraph 13. If such dispute is not resolved by the end of such period, it shall be resolved in accordance with the Dispute Resolution Rules.
- 19 ⁷⁷The amount of any Incentive Payment (or any component thereof) may not be disputed by the Authority or the Franchise Operator unless the Authority or the Franchise Operator, as the case may be, has notified the other within 28 days of notification of the amount of the Incentive Payment (or component thereof) under paragraph 13 or such dispute arises as a result of a fault in any System or failure to record information under paragraphs 8 or 10. For the avoidance of doubt, the Authority shall be entitled to dispute the amount of an Incentive Payment (or component thereof) of which it may have notified the Franchise Operator under paragraph 13 within 28 days of such notification.
- 20 If following resolution of a dispute under the Dispute Resolution Rules or by agreement between the parties, any amounts are required to be repaid or additional amounts paid or if any adjustments are to be made to previous Incentive Payments under paragraph 8 or 10, such amounts shall become payable on the next day an Incentive Payment becomes

⁷⁵ Insertion of new text wef 18th March 2005

⁷⁶ Insertion of new text wef 18th March 2005

⁷⁷ Insertion of new text wef 18th March 2005

payable under this Schedule 7 which falls no less than 4 days after such resolution or the date of the determination of such adjustment or, if there is no such day, 14 days after the date of such resolution or such date of determination.

- 21 Interest shall accrue on any sum due and owing to the Authority at the Interest Rate calculated on a daily basis if and to the extent that payment is not received by the Authority on the date such payment becomes payable under this Schedule 7.

Miscellaneous

- 22 Except as provided for in paragraph 3 of Part 2, the operation of any bus by the Franchise Operator under the Timetable shall be ignored for the purposes of determining any Incentive Payment, unless that bus is required to be operated in connection with any Closure.

- 23 The Franchise Operator will promptly notify the Authority if schedule 8 to its track access agreement with Network Rail (including, without limitation, appendix I of such schedule) is amended and:-

- 23.1 Within 60 days of service of any notice under this paragraph 23 (subject to paragraph 23.2), the Authority may by notice to the Franchise Operator if the track access agreement with Network Rail is amended with the approval of the Rail Regulator, make such changes to this Schedule 7 as the Authority may consider appropriate in consequence of such amendment. Without limitation, such changes may include such amendment to the value attributed to a minute late per train as the Authority may consider appropriate.

- 23.2 Paragraph 23.1 above is subject to the proviso that where any such changes arise from a Charging Review (as such term is defined in Clause 18.1), any change to this Schedule 7, or any other term of this Agreement, shall be taken into account for the purpose of determining any Net Loss or Net Gain suffered or made by the Franchise Operator for the purposes of, and to the extent provided in, Clause 18.1, as if such changes had been made pursuant to a Charge Variation.

- ⁷⁸24. The following procedure will apply where it is necessary, for the purposes of Part 2A of this Schedule 7, to determine in respect of any Reporting Period the number of minutes late responsibility for which is attributed to Network Rail or to the Franchise Operator and/or to determine the 'busyness factor', in each case under the Franchise Operator's track access agreement with Network Rail.

- 24.1 The Franchise Operator will promptly and in any event within 17 days of the end of that Reporting Period (or, if later, within 5 business days of receiving the 'Day 42' statement referred to in paragraph 24.2 from Network Rail) notify the Authority, in respect of that Reporting Period, of:

24.1.1 the average Network Rail lateness value ("ARL");

24.1.2 the average train operator lateness value ("ATL"); and

24.1.3 the busyness factor ("BF"),

for each Service Group in each case referred to in Part 2A of this Schedule 7, calculated under and for the purpose of the Franchise Operator's track access agreement with Network Rail. In the case of each of ARL and ATL, the value shown must be based on the

⁷⁸ Insertion of new text wef 18th March 2005

number of minutes late which are undisputed (“the Undisputed Minutes”) and must exclude (and show separately) the number of minutes late which are subject to dispute (“Disputed Minutes”). Where there are Disputed Minutes, the Franchise Operator will include in the notice a description of each incident giving rise to Disputed Minutes, and the number of Disputed Minutes referable to each incident.

- 24.2** Unless otherwise agreed by the Authority or if the Franchise Operator has not received the relevant statement from Network Rail, such notice will be accompanied by a copy of the statement supplied by Network Rail to the Franchise Operator under the Franchise Operator’s track access agreement with Network Rail after the end of the relevant Reporting Period, identifying the number of minutes late for which Network Rail and the Franchise Operator are respectively attributed responsibility, and the corresponding “ARL” and “ATL” values and “BF” value referred to in paragraph 24.1. (It is acknowledged that as at immediately after implementation of the **2008 Review**⁷⁹, such statement is known as the ‘Day 42’ statement and is provided by Network Rail under paragraph 11 of Schedule 8 of the Franchise Operator’s track access agreement with Network Rail. If the nature of the statement or Network Rail’s obligation to supply such information is amended, then without limiting paragraph 24.7 below, the Authority shall be entitled to request such other evidence of the attribution of responsibility of minutes late and/or the calculation of average Network Rail lateness and average train operator lateness and/or the calculation of the busyness factor for the purposes of the Franchise Operator’s track access agreement with Network Rail as it considers reasonably necessary for the purposes of determining the amount of the Incentive Payments).
- 24.3** The Franchise Operator shall further notify the Authority of any aspects of the Network Rail (i.e. Day 42) statement referred to in paragraph 24.2 which it disputes. Such notice will be given no later than 2 days after the date by which the Franchise Operator is required to notify Network Rail of any disputes under the Franchise Operator’s track access agreement with Network Rail, and will be accompanied by a copy of any notice given by the Franchise Operator under that track access agreement. Where the dispute concerns the number of minutes late for which either of Network Rail or the Franchise Operator is allocated responsibility under that track access agreement (and the consequential values of “ARL” and “ATL”), such number of minutes shall be regarded as “Disputed Minutes” for the purposes of this paragraph 24 and the Franchise Operator will provide the detail required under paragraph 24.1 in respect of Disputed Minutes, to the extent it has not already done so.
- 24.4** For the purposes of the notification to be given by the Authority under paragraph 13 of this Part 3, the Authority shall be entitled (but not obliged) provisionally to determine and notify any relevant component of the Incentive Payment on the basis of the Undisputed Minutes notified in accordance with paragraph 24.1 or (if applicable) the adjusted number of Undisputed Minutes after taking account of any further Disputed Minutes notified by the Franchise Operator under paragraph 24.3. In such a case, the Incentive Payment (or relevant component) will be subject to further adjustment by the Authority upon the resolution or determination of the dispute in respect of the relevant Disputed Minutes, notwithstanding paragraph 19 of this Part 3. For the avoidance of doubt, it is acknowledged that any adjustment to the respective values of average Network Rail lateness or average train operator lateness will require an adjustment to the TS8A and CP2SR components under Part 2A of this Schedule 7.

⁷⁹ Text changed wef 01/04/2009

24.5 The Franchise Operator shall notify the Authority as soon as is reasonably practicable of the resolution of any dispute in respect of any Disputed Minutes, and provide such evidence of the resulting attribution as the Authority may reasonably require.

24.6 *[NOT USED]*

24.7 It is acknowledged that the calculation of the RTMRE, TS8A and CP2SR components of the Incentive Payment under Part 2A of this Schedule 7 is based on the understanding and agreement that the allocation of responsibility for minutes late, the calculation of the values equivalent to “ARL” and “ATL” and/or the calculation of the busyness factor, and all compensation or payments associated therewith (however described) are determined as between Network Rail and the Franchise Operator solely on the terms of the Franchise Operator’s track access agreement with Network Rail as at immediately after the implementation of the **2008 Review**^{80 81}. Accordingly, the Franchise Operator agrees that (except where directed to do so by the Regulator) the Franchise Operator will not without the Authority’s prior consent (such consent not to be unreasonably withheld):

24.7.1 agree any amendment to such track access agreement; or

24.7.2 enter into any other agreement, compromise, settlement or other arrangement with Network Rail,

which would or might affect the relationship described in this paragraph 24.7 between the components of the Incentive Payment identified in this paragraph 24.7 and such track access agreement.

In any case where the Regulator does so direct or the Authority does so consent, the Authority shall be entitled to make such adjustments to this Schedule 7 as the Authority reasonably considers appropriate to ensure that, in relation to the **2008 Review**⁸², the components of the Incentive Payment identified in this paragraph 24.7 continue to reasonably ensure that the Franchise Operator suffers no Net Loss or makes no Net Gain.

24.8 Where under and in accordance with this paragraph 24, the Authority is entitled to adjust any Incentive Payments already paid, then paragraph 20 of this Part 3 shall apply.

Part 4

T	BR	TCM	CM
£26.32	£71,567	40 minutes	24 minutes

⁸⁰ Date of change 30/1/2009

⁸¹ Text changed wef 01/04/2009

⁸² Text changed wef 01/04/2009

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Maximum Lateness	SFV	SFIP Cap
60 minutes	£4.00	£400

All values are as at the Franchise Commencement Date

PPM Benchmarks

Period	PPMB
From the Franchise Commencement Date to 31 March 2004	78.8%
Year ended 31 March 2005	80.4%
Year ended 31 March 2006	83.5%
Year ended 31 March 2007	85.5%
Year ended 31 March 2008	87.3%
Year ended 31 March 2009	88.5%
Year ended 31 March 2010	88.8%
Year ended 31 March 2011	88.8%
Year ended 31 March 2012	88.8%
Year ended 31 March 2013	88.8%
Year ended 31 March 2014	88.8%
Year ended 31 March 2015	88.8%
Year ended 31 March 2016	88.8%
Year ended 31 March 2017	88.8%
1 April 2017 to expiry of the Franchise Term	88.8%

SFIP Services

means the Passenger Services:-

- 1 arriving at Cardiff Central or Cardiff Queen Street from Pontypridd, Coryton, Caerphilly, Penarth and Barry Island on Weekdays (except services at Christmas or New Year or on a Bank Holiday) between 0730 and 1000; and

- 2 departing from Cardiff Central or Cardiff Queen Street to Pontypridd, Coryton, Caerphilly, Penarth and Barry Island on Weekdays (except services at Christmas or New Year or on a Bank Holiday) between 1600 and 1830,

The Formation Monitoring Point in relation to each of the above services is Cardiff Central save where the service does not go to Cardiff Central where it shall be Cardiff Queen Street.

PART 5

ASSUMED SCHEDULE 8 RATES - CLAUSE 18.3(e)

<u>Service Group</u>	<u>Code</u>	<u>Network Rail Performance Point (2003/4)</u>	<u>Network Rail Payment Rate (at 2001/2 prices)</u>		<u>Train Operator Performance Point</u>	<u>Train Operator Payment Rate (at 2001/2 prices)</u>
			<u>MRE Rate</u>	<u>Societal Rate</u>		
Marches	EL01	2.268	628.87	1,950.02	2.092	563.85
South, West & Central Wales	EL02	1.224	260.87	1,735.53	1.390	807.08
Wales to England	EL03	2.813	341.77	1,341.46	1.401	1,481.63
Cambrian	EL04	2.101	222.76	1,614.88	1.822	203.73
Cardiff Valleys (Off Peak)	EL05 (op)	0.740	584.48	4,703.47	1.554	364.37
Cardiff Valleys (Peak)	EL05 (p)	0.833	166.05	1,369.53	2.168	61.55
North Wales Rural	EL07	0.792	47.15	567.86	1.069	3.42
North Urban N Wales	EL08	1.013	831.35	2,924.17	1.384	415.21

Schedule 8 — Franchise Records (Clauses 15.1 and 15.2)

Part 1 — Financial and Planning Information

- (a) Such accounting records as are required to be kept under section 221 of the Companies Act 1985. Such records shall be prepared on a consistent basis for each consecutive period not exceeding one month.
- (b) Such records shall include an analysis of revenue and costs of commercially identifiable segments of the business of the Franchise Operator both in terms of the activity such as commercial, fleet, operations and general, but also by service group or other suitable analysis of the Franchise Operator's operations.
- (c) Such records shall also include for each period at least the following measures:
 - (i) Revenue analysis by ticket type;
 - (ii) Staff cost analysis by activity and number of employees;
 - (iii) Measures of cost efficiency;
 - (iv) Aged debtor and maintenance stock turnover analyses.
- (d) Such records shall be available no later than one month after the end of each relevant period.
- (e) Such records shall include details of any arrangements or contracts with Affiliates which fall within the terms of Clause 25.5 (including the subject matter of such arrangements, their duration and any associated charges or payment obligations).

Part 2 — Key Assets

- (a) For each tangible Primary Franchise Asset or other asset which is the subject of, or operated under, a Key Contract or other contract the rights and liabilities of the Franchise Operator under which have been designated as a Primary Franchise Asset:
 - (i) all relevant maintenance schedules;
 - (ii) all operating manuals (including any safety related regulations); and
 - (iii) all permits, licences, certificates or other documents required to operate it.
- (b) A printed or electronic list (in a format reasonably acceptable to the Authority) of all assets owned by the Franchise Operator from time to time (excluding, unless otherwise reasonably requested by the Authority, any office furniture and consumable items).

Part 3 — Operational Information

The Franchise Operator shall maintain records of operational performance covering the areas and the information described in paragraphs (a) to (f) below. In the case of (a) and (b) this will be kept for each Business Unit and in the case of (c) only in relation to the Valley Lines Business Unit. In the case of (a), (c) and (d), this will in addition be kept at individual train level and will include reasonable details of the cause of any relevant cancellation, curtailment, diversion or delay or failure to maintain connection. Records shall be kept, in each case, in such form that it is available for review by the Authority by reference to any particular day, week or other longer period and for such lines of route or groups of services as are notified by the Authority from time to time. Such

information shall include details of whether or not any such cancellation, curtailment, diversion or delay is attributable to a *Force Majeure* Event within the terms of Clause 5.4.

(a) **Cancellations**

The Franchise Operator shall notify to the Authority within 2 working days of the occurrence of any instance of 50 per cent. or more of the services in the Applicable Timetable on any line of route or in any service group being the subject of a Cancellation on any day in the Reporting Period. For the purpose of this Schedule 8, a working day is Monday to Friday (inclusive) excluding public holidays.

The Franchise Operator shall notify to the Authority within 10 working⁸³ days of the Reporting Period end:

- (i) The number of services in the Applicable Timetable for that Reporting Period.
- (ii) The number of services in the Applicable Timetable for that Reporting Period which are Total Cancellations.
- (iii) The number of services in the Applicable Timetable for that Reporting Period which are Total Cancellations for which a *Force Majeure* Event claim has been submitted to the Authority.
- (iv) The number of services in the Applicable Timetable for that Reporting Period which are Other Cancellations.
- (v) The number of services in the Applicable Timetable for that Reporting Period which are Other Cancellations for which a *Force Majeure* Event claim has been submitted to the Authority.

If any difference between the Applicable Timetable and the Timetable on any day is attributable to the introduction, removal or alteration of a service by the Franchise Operator or with the agreement of the Franchise Operator in breach of its obligations under Clause 5.2 of the Franchise Agreement, then the Franchise Operator will notify the Authority of that fact within 10 working⁸⁴ days of the Reporting Period end, together with the numbers of services so affected and the numbers of Total Cancellations and Cancellations which would have arisen if the Applicable Timetable on that day had been the Enforcement Timetable.

(b) **Punctuality**

The Franchise Operator shall notify to the Authority within 10 working⁸⁵ days of Reporting Period end the number of services in the Applicable Timetable for that Reporting Period which arrive at their scheduled final destination:

On time

Early

1 to 4.59 minutes late

5 to 9.59 minutes late

10 to 14.59 minutes late

⁸³ Insertion of new text wef 6th April 2004

⁸⁴ Insertion of new text wef 6th April 2004

⁸⁵ Insertion of new text wef 6th April 2004

15 to 19.59 minutes late

20 to 29.59 minutes late

30 to 59.59 minutes late

60 or more minutes late,

measured against their scheduled arrival time in the Applicable Timetable except that any train which is a Cancellation for the purposes of notification under paragraph (a) of this Part 3 shall not be allocated to a punctuality band based on arrival time at destination but will instead be recorded as having arrived at destination 20 to 29.59 minutes late.

(c) **Connections**

⁸⁶ **[NOT USED]**

(d) **Capacity**

The Franchise Operator shall notify to the Authority within 10 working⁸⁷ days of Reporting Period end at each Capacity Monitoring Point:

- (i) The Capacity planned under the Train Plan. For the avoidance of doubt, this shall be the Planned Capacity;
- (ii) The Capacity actually provided under the Train Plan. For the avoidance of doubt, this shall be the Actual Capacity.

(e) **Passenger's Charter**

The Franchise Operator shall notify to the Authority within 10 working⁸⁸ days of Reporting Period end in respect of each Charter Group as defined in Clause 8.1 (and in each case, consistent with the Passenger's Charter Guidelines):

- (i) The number of trains planned in the Reporting Period for the purpose of the Passenger's Charter.
- (ii) The number of such trains run in the Reporting Period as defined in the Passenger's Charter.
- (iii) The percentage of trains run in the Reporting Period as defined in the Passenger's Charter.
- (iv) The Reliability Moving Annual Average as defined in the Passenger's Charter calculated for the Reporting Period.
- (v) The number of trains having a punctuality target in the Reporting Period for the purpose of the Passenger's Charter.
- (vi) The number of trains achieving punctuality target in the Reporting Period as defined in the Passenger's Charter.
- (vii) The percentage of trains achieving punctuality target in the Reporting Period as defined in the Passenger's Charter.

⁸⁶ Date Of Change 1.11.2005

⁸⁷ Insertion of new text wef 6th April 2004

⁸⁸ Insertion of new text wef 6th April 2004

- (viii) The Punctuality Moving Annual Average as defined in the Passenger's Charter calculated for the Reporting Period.

(f) **Train Mileage**

The Franchise Operator shall notify to the Authority within 10 working⁸⁹ days of Reporting Period end:

- (i) the aggregate Train Mileage scheduled in the Timetable for that Reporting Period.
- (ii) the aggregate Train Mileage operated for that Reporting Period.

Part 4 — Reporting Accounts

The Reporting Accounts to be delivered for each Reporting Period during the Franchise Term shall comprise a profit and loss account and supporting analyses (including key performance indicators, staff numbers and payroll costs), a balance sheet, and a cash flow statement, together with a statement of transactions and balances with Affiliates of the Franchise Operator, and a commentary on major trends and variances. The Reporting Accounts shall be in the formats set out in the document in the agreed terms and marked “**RA**” or, by agreement with or at the reasonable request of the Authority, in formats containing the equivalent information.

For the purposes of the formats set out in the document in the agreed terms and marked “**RA**” the following definitions and interpretations shall apply:

- (i) “This Period” means one of the thirteen Reporting Periods in the Reporting Year and is the one for which the Reporting Accounts are being delivered.
- (iii) “Year to Date” means the sum of This Period and all earlier Reporting Periods in the Franchise Operator Year since the commencement of the Franchise Operator Year which includes This Period.
- (iii) “Full Year” means the sum of all Reporting Periods since the commencement of the Franchise Operator Year which includes This Period.
- (iv) “Next Year” means the Franchise Operator Year which next follows the Franchise Operator Year which includes This Period.
- (v) “Variance” means calculated by comparing “Actual” with “Budget” taking Budget as the base.
- (vi) “Change” (as used in the Balance Sheet format) is calculated by comparing Actual for This Period End with Actual at the end of the previous Reporting Period and Forecast for the Full Year and Outlook for Next Year with Actual or Forecast at the end of the immediately previous Franchise Operator Year.
- (vii) Line items of information shown in normal type are requirements in so far as they are relevant; those shown in italics are suggestions for analyses which should and can be tailored to provide information which is relevant and material.
- (viii) Amounts and percentages should be signed as follows:
 - positive - assets, income, cash receipts, favourable variances;
 - negative - liabilities, costs, cash payments, unfavourable variances.

⁸⁹ Insertion of new text wef 6th April 2004

Part 5 - Passenger journeys, miles and earnings information

- (a) For each Reporting Period:
- (i) National Passenger Rail Journeys;
 - (ii) Passenger Rail Train Journeys;
 - (iii) Passenger Miles;
 - (iv) Earnings (separately identifying Farebox income and Other Passenger Revenue).
- (b) The items referred to in paragraphs (a) (i), (ii), (iii) and (iv) above shall be calculated in the manner specified by the Authority from time to time and be presented in a manner and format reasonably acceptable to the Authority.
- (c) Where the records are held in a system operated by RSP or any other system, the Franchise Operator may fulfil its obligations under Clause 15.1(d) by procuring that the Authority shall be granted access to such records in a readily accessible manner and in a format acceptable to the Authority. The Franchise Operator shall in addition provide the Authority with all information necessary to access, retrieve and understand such records (including any additions or adjustments made to the records from time to time). The Franchise Operator shall pay to the Authority the costs incurred by the Authority as a consequence of accessing and retrieving such records in this manner.
- (d) The Franchise Operator shall advise the Authority of any changes made to its systems or process or those of RSP which materially change or affect the continuity of records maintained pursuant to Clause 15.1(d) such advice to include an assessment of the materiality of the change.
- (e) The Franchise Operator shall deliver to the Authority no later than 10 working ⁹⁰days after the end of each Reporting Period, a copy of the records referred to in Clause 15.1(d) relating to such Reporting Period.
- (f) For the purpose of this Part 5 of Schedule 8:
- (i) "Earnings" shall mean all income received from passengers. For the avoidance of doubt Earnings shall not be limited to income from Fares.
 - (ii) "Farebox income" shall mean income from Fares which are valid for travel on the Passenger Services or shall have such other meaning as the Authority may determine from time to time in its reasonable discretion.
 - (iii) "National Passenger Rail Journey" shall mean travel by a passenger from the station where the passenger joins the railway passenger services to the station where the passenger exits the railway passenger services. For the avoidance of doubt a National Passenger Rail Journey may encompass more than one Passenger Rail Train Journey.
 - (iv) "Other Passenger Revenue" shall mean Earnings less Farebox income.
 - (v) "Passenger Rail Train Journey" shall mean travel by a passenger on any one train between stations serviced by the Passenger Services which travel may form the whole or part of a National Passenger Rail Journey.

⁹⁰ Insertion of new text wef 6th April 2004

- (vi) “Passenger Mile” shall mean the transport of a passenger over the distance of one mile on the Passenger Services.

Schedule 9 — Change Assessment Procedures and Accounting

(Clauses 5.1, 6.6, 9.4, 9.5, 9.6, 9.7, 9.8, 11.4, 12.14, 12.15, 12.17, 12.18, 18.1, 18.2, 18.3, 18.6, 18.7, 25.3, 44.4, Schedule 5 and paragraphs 2.12, 12.8, 12.11.5, 12.12.5.1, 12.12.8.2, 12.12.9, 12.13.3, 12.13.5 and 12.14.7 of Schedule 13)

Part 1 — No Net Loss and No Net Gain Regime

Where the No Net Loss No Net Gain Regime is expressed to apply in respect of a Variation under this Franchise Agreement the following shall apply (subject as may be expressly provided elsewhere in this Franchise Agreement in respect of an individual Variation):

1 Definitions

The following definitions shall apply in this Schedule 9 except to the extent the context otherwise requires:

“Below Threshold Variations” any Variation in respect of which it is agreed or determined under paragraph 4.2.2 that the Net Loss or Net Gain is below the Threshold referred to in paragraph 4.2.1 of this Part 1 of Schedule 9.

“Escrow Arrangements” means the terms set out in Part 3 of Schedule 9.

“Financial Model” means the Franchisee's financial models in real terms underlying the Initial Business Plan that have been:

- (a) agreed between the parties; and
- (b) put into escrow under the terms of the Escrow Arrangements; and
- (c) updated from time to time in accordance with the terms of:
 - (i) paragraph 9 of Part 1 of Schedule 9; and
 - (ii) the Escrow Arrangements

and the Financial Model will include:

- (1) the demand, revenue and economic benefits models;
- (2) the operations model;
- (3) MOIRA input and output files; and
- (4) the performance model

such that no part of the Financial Model refers to any input from another electronic model which does not form part of the Financial Model as well as the Record of Assumptions.

“Indicative Financial Model”	a version of the Financial Model showing changes to the Financial Model proposed as a consequence of any Variation and including a revised Record of Assumptions and prepared in accordance with paragraph 9 of this Part 1 of Schedule 9.
“Proposal”	means the proposal to be submitted pursuant to paragraph 4.6.1 of this Part 1 of Schedule 9.
“Record of Assumptions”	<p>a document prepared by the Franchise Operator in the agreed terms providing:</p> <ul style="list-style-type: none">(a) detailed assumptions, explanations of assumptions and parameters underlying the Financial Model;(b) a description of the functioning and structure of the Financial Model; and(c) a description of each input cell, its requirements and its interrelationship with the Financial Model.
“Placed in Escrow”	placing the Financial Model in escrow pursuant to and in accordance with the Escrow Arrangements and other provisions of this Schedule 9.

2 Requirement to make adjustment

The Authority shall make (and the other parties hereby agree to) such adjustments to the terms of this Franchise Agreement as will reasonably ensure, on the basis of, and in accordance with, this Part 1 of Schedule 9, that the Franchise Operator suffers no Net Loss and enjoys no Net Gain as a result of the relevant Variation. For the avoidance of doubt, once the threshold for certain claims under paragraph 4.3 of this Part 1 of Schedule 9 has been exceeded in respect of any Variation then the adjustment in respect of any such Variation shall take account of the whole of the Net Loss or Net Gain (as the case may be) and not just the amount by which the Net Loss or Net Gain exceeds the threshold for those claims at paragraph 4.3.

3 Types of adjustment

The adjustments which the Authority may make under paragraph 2 are:

- 3.1** an adjustment to the Franchise Payments payable under this Franchise Agreement such that the amount of the adjustment in each relevant Reporting Period is equal to a reasonable estimate of the Net Loss or Net Gain expected to be suffered or enjoyed in such Reporting Period as a result of the Variation (with the adjustment reducing Franchise Payments payable by the Authority in the case of a Net Gain and increasing them in the case of a Net Loss);
- 3.2** the inclusion of a provision similar to paragraph 7 of Part 2 of Schedule 6 (such that the financial effects of the Variation result in a direct adjustment to the Franchise Payments as soon as they are known);
- 3.3** the inclusion of a provision whereby the Franchise Payments payable under this Franchise Agreement are adjusted by an estimate of the Net Loss or Net Gain on the basis set out in paragraph 3.1 but then with provision for the actual amount of the Net Loss or Net Gain to be audited or otherwise checked at a later date and for further adjustments to be made to

the extent such audit or other process reveals any inaccuracies (or inaccuracies over a certain materiality threshold);

- 3.4 an adjustment to the other terms of this Franchise Agreement, a reasonable estimate of the Net Loss or Net Gain arising out of which is equal to, in the case of a Net Loss, a reasonable estimate of the Net Loss arising out of the Variation and, in the case of a Net Gain, a reasonable estimate of the Net Gain arising out of the Variation (or which in each case, is so equal when taken together with any adjustment to the Franchise Payments payable under this Franchise Agreement), and for adjustments of this type (or any adjustment under paragraph 3.7 which incorporates an adjustment of this type in part), references to Net Loss and Net Gain in this Part 1 of Schedule 9 shall include, unless the context otherwise requires, the Net Loss or Net Gain resulting from the other adjustments to be made to this Franchise Agreement by the Authority;
- 3.5 an adjustment to the Franchise Payments payable under this Franchise Agreement on the same basis as any of the above paragraphs but with provision for such adjustment to run only for a limited period after which another adjustment will be made under Part 1 of this Schedule 9 based on information available at that time;
- 3.6 such other adjustments as the Authority may determine; or
- 3.7 a combination or all or some or parts of the above as the Authority may determine;

Provided that, without prejudice to the rights of the Authority under the other provisions of this Franchise Agreement (including the right to make a PSR/ASC change under Clause 11), the Authority shall only be entitled to make an adjustment under paragraphs 3.4, 3.6 or 3.7 (where the combination or all of some of the parts include paragraphs 3.4 and/or 3.6) where:

- 3.7.1 the No Net Loss or No Net Gain Regime applies pursuant to Clause 5.1(d), 9.8, 12.14, 12.15, 12.18, 18.1, 18.2, 18.3, 18.6, 18.7, Schedule 5 or paragraphs 2.12, 12.8, 12.11, 12.12, 12.13 and 12.14 of Schedule 13; or
- 3.7.2 the Franchise Operator agrees.

4 Commencement of Process for determining adjustments for Variations

- 4.1 Subject to paragraph 11 of Part 1 of this Schedule 9 where it applies, the process for determining the adjustments to be made to the terms of this Franchise Agreement in consequence of any Variation shall be as set out in this Part 1 of Schedule 9 (and in the case of Variations which are PSR/ASC Changes, also by reference to Clause 11 and Part 2 of this Schedule 9).
- 4.2 The Authority may serve notice on the Franchise Operator before, or within six months after, the date of occurrence or, if later, the date of implementation of the relevant Variation indicating that adjustments are required to be made under paragraph 2 (and no adjustments shall be made unless any such notice is served). Where such notice is served the Authority may require the Franchise Operator to comply with paragraphs 4.2.1 and 4.2.2. Subject to paragraph 4.4, the Authority shall serve such a notice if requested by the Franchise Operator within such time to do so except where it is otherwise provided in paragraphs 4.2.1 and 4.2.2:
 - 4.2.1 Except where paragraph 4.3 applies, the Franchise Operator's right to require the Authority to serve a notice under this paragraph 4.2 shall be conditional upon the

Franchise Operator demonstrating in reasonable detail (including by reference to the Financial Model) that the Net Loss or Net Gain resulting from the Variation will exceed, in the year following the implementation of the Variation, 0.1 per cent. of the annual Turnover of the Franchise Operator as disclosed by its latest available audited accounts ("the Threshold"). Where the Authority is satisfied that the Franchise Operator has demonstrated the above, the parties agree that the application of paragraph 8.2 of this Part 1 of Schedule 9 shall not affect the Authority's satisfaction with such demonstration.

4.2.2 Where the Authority, acting reasonably, is not satisfied that the Franchise Operator has provided the demonstration required by paragraph 4.2.1, the Authority will notify the Franchise Operator and (unless and until any dispute is resolved in favour of the Franchise Operator in accordance with this paragraph 4.2) no notice will be deemed to have been served by the Franchise Operator under paragraph 4.2 in respect of the Variation to which such request relates. If the Franchise Operator disputes the decision of the Authority, the Franchise Operator may refer such dispute for resolution in accordance with the Dispute Resolution Rules within 60 days of such notification from the Authority.

4.2.3 On each occasion where there is a Below Threshold Variation either party may notify the other. With any such notification the Franchise Operator will provide a statement which demonstrates in reasonable detail the aggregate value of the Net Losses and Net Gains resulting from the Below Threshold Variations (including the most recent Variation) which have been made in:

- (a) the period since the Franchise Commencement Date; and
- (b) the preceding period of 12 calendar months,

(whichever is the shorter) but disregarding any Below Threshold Variations which have already been taken into account in relation to any adjustment pursuant to paragraph 4.2.4 below. The statement will separately identify each Below Threshold Variation, and the value attributed to an individual Below Threshold Variation shall be the same value (if any) attributed to it in any previous statement issued under this paragraph. If there is any dispute as to the aggregate value for the purposes of this paragraph 4.2.3, either party may refer such dispute for resolution in accordance with the Dispute Resolution Rules.

4.2.4 If the effect of aggregating the Below Threshold Variations in accordance with paragraph 4.2.3 above is that the aggregated effect of such Below Threshold Variations will result in a Net Loss or Net Gain in excess of the Threshold in the year following the last of the Below Threshold Variations to be implemented, then:-

- (a) either party shall be entitled to require an adjustment to the terms of this Franchise Agreement in respect of each of the Below Threshold Variations, as if they had each exceeded the Threshold; and
- (b) the Authority will be regarded as having served notice under paragraph 4.2 of this Part 1 of Schedule 9; and
- (c) the requirements of paragraph 4.2 shall otherwise be deemed to have been met.

4.2.5 For the purposes of any adjustment to be made pursuant to paragraph 4.2.4 above, and for the avoidance of doubt, the amount of any Net Loss or Net Gain

arising from each relevant Below Threshold Variation will be calculated in accordance with paragraph 6 of this Part 1 of Schedule 9.

4.3 Paragraphs 4.2.1 and 4.2.2 shall not apply in relation to any Variation where the No Net Loss No Net Gain Regime applies pursuant to any of the following Clauses/ Schedules of the Franchise Agreement:

- (a) 9.6;
- (b) 9.7;
- (c) 9.8;
- (d) 12.17;
- (e) 14.3;
- (f) 18.1;
- (g) 18.2;
- (h) 18.3;
- (i) 18.6;
- (j) 25.3;
- (k) 44.4;
- (l) Schedule 5; or
- (m) Schedule 13, paragraphs 2.12, 12.8, 12.11.5, 12.12.8.2, 12.12.9, 12.13.3, 12.13.5 and 12.14.7

but this is without prejudice to any other term or condition within any such Clause/Schedule (including any term or condition which limits or prescribes the extent to which an adjustment is to be made pursuant to the No Net Loss No Net Gain Regime).

4.4 It is acknowledged that in the case of any PSR/ASC Change:-

4.4.1 the consequential adjustment (if any) to be made pursuant to paragraph 2 of Part 1 of this Schedule 9 is required to be agreed or determined as part of the Implementation Plan for the PSR/ASC Change; but

4.4.2 unless it is agreed or determined, at the time when the Implementation Plan is agreed or determined, that the Net Loss or Net Gain resulting from the PSR/ASC Change will exceed the threshold referred to in paragraph 4.2.2, the Franchise Operator shall not be entitled to require any such consequential adjustment.

4.5 Where the Authority serves a notice under paragraph 4.2, the notice:-

4.5.1 shall describe the Variation to which the adjustment relates;

4.5.2 may describe the adjustment(s) which the Authority is contemplating in relation to such Variation;

4.5.3 may specify any specific requirements of the Authority in relation to implementation of the Variation (where the Variation has not already been implemented) and/or the implementation of the adjustment, and/or request the Franchise Operator to make proposals in relation to such implementation. This paragraph 4.5.3 shall not apply

in relation to any PSR/ASC Changes, and the process for the initiation, and implementation of any PSR/ASC Change is described in Clause 11 and Part 2 of this Schedule 9.

4.6 Where the Authority has served a notice under paragraph 4.2 the Franchise Operator will (if it has not already done so) provide the following items as soon as possible and in any event within 28 days of receipt of such notice from the Authority:-

4.6.1 a Proposal showing the Franchise Operator's view of the Net Loss or Net Gain resulting from the Variation calculated in accordance with the provisions of paragraph 5 of this Part 1 and meeting the following requirements:

- (a) all Proposals shall be prepared on a basis which, so far as is possible, is consistent with and uses the same methodology as that of the Financial Model. Use of the same methodology will include applying assumptions as contained in the Record of Assumptions save to the extent otherwise required as a direct result of the Variation;
- (b) all aspects of any Proposal will be reconciled to the Financial Model and/or the Record of Assumptions;
- (c) full reasons and explanation will be provided in respect of any assumptions in a Proposal which are new or varied from those contained in the Record of Assumptions;
- (d) subject to the Authority's rights under paragraph 3 and the contents of the Authority's notice under paragraph 4.2 and any comments notified under paragraph 4.5, the Proposal will show any proposed adjustment to the Franchise Payments to be made in consequence of implementing the Variation and the timing of any such adjustment.

4.6.2 where the Authority has specified a manner of implementing or responding to the Variation (as the case may be) or the adjustment or requested the Franchise Operator's proposals for the implementation of or response to the Variation and/or the adjustment pursuant to paragraph 4.5 of this Part 1 of Schedule 9, such of the following information as the Authority may request (in so far as it is relevant or appropriate to that particular Variation or adjustment):-

- (a) a detailed timetable for implementing or responding to the Variation (as the case may be), including milestones for key events and giving particulars for all lead times and contingencies allowed for in the timetable and all assumptions upon which it is based;
- (b) a detailed description of the effect (if any) of implementing or responding to the Variation (as the case may be) on the timing of the performance of other obligations under this Agreement;
- (c) the impact of the Variation and/or of effecting the proposed Variation (as the case may be) on the provision of the Franchise Services and the Franchise Operator's proposals as to how to minimise such impact;
- (d) a statement of the variation in costs and a statement of the alternative methods by which the Franchise Operator is able to finance the costs of implementing or responding to the Variation (as the case may be) and to the extent applicable;

- (e) (to the extent applicable) the likely costs and terms on which debt financing would be available, and the effect of these on the Franchise Payments;
- (f) a draft of changes (if any) to this Agreement which the Franchise Operator reasonably believes would be required in order to implement or respond to the Variation (as the case may be) in line with the relevant proposal and to reflect the impact of the Variation on the provision of the Franchise Services.

5 Additional Information required for determining adjustments for Variations

- 5.1** Following the delivery of any notice in respect of a Variation under paragraph 4.2, the Franchise Operator shall provide to the Authority, within 28 days of any request or as otherwise may be agreed, such accounts, projections or other documents or information as the Authority may reasonably require in connection with the relevant Variation including information prepared by the Franchise Operator on the basis of such assumptions or principles as the Authority may specify.
- 5.2** The Franchise Operator shall further, whenever the Authority may so require, grant access to, and, where requested, supply copies of, such books, records and other material kept by or on behalf of the Franchise Operator or otherwise as the Authority or its representatives may reasonably require in order to enable them to check, verify or audit accounts, projections or other documents or information prepared by the Franchise Operator.

6 Calculation of the Net Loss or Net Gain arising from Variations

Subject as below, and as expressly provided in this Franchise Agreement in respect of any particular Variation, the Net Loss or Net Gain, as the case may be, shall be measured in each Reporting Period by reference to the Profit or Loss resulting from implementation of or response to the Variation (as the case may be) (prior to any adjustments to Franchise Payments resulting from implementation of the Variation) for the period between the date of coming into effect of the relevant Variation (if later) or its implementation and the end of the Franchise Term. A Proposal shall be prepared in accordance with paragraph 4.6.1 of this Part 1 of Schedule 9 and on the following basis:

- 6.1** In assessing the Net Loss or Net Gain resulting from any Variation, regard will be had only to any Net Loss or Net Gain resulting directly from the Variation. Accordingly, the impact of other changes including (but without limitation) differences between assumptions in the Record of Assumptions and what has in fact occurred will be ignored unless those differences flow directly from the Variation. Without limiting the meaning of this paragraph 6.1, examples of assumptions which would not flow directly from a Variation include those in relation to GDP, the Average Earnings Index, the Retail Prices Index and any other index. For the avoidance of doubt, a Variation triggered under Clause 18.3 in respect of a Wales & Borders Assumption will for these purposes flow directly from the Variation;
- 6.2** Consistently with GAAP save that the Proposal shall be prepared consistently with the Financial Model to the extent that GAAP is inconsistent with the methodology underlying the Financial Model;
- 6.3** No account shall be taken of any activities, actions or omissions of the Franchise Operator which are not permitted under, or would otherwise constitute a breach or contravention of, the terms of this Franchise Agreement (including Schedule 2);

- 6.4** The Net Loss or Net Gain shall be determined on the basis that the Franchise Operator will use all reasonable endeavours to reduce costs arising and to increase any income arising out of the Variation or adjustment to the terms of this Franchise Agreement (subject to any costs and benefits in so doing being taken into account in the Net Loss or Net Gain). In particular the Franchise Operator shall:-
- 6.4.1 in any statement to the Authority of its proposed method of implementing or responding to the Variation, demonstrate the steps which it has taken to minimise the costs of implementation or response;
 - 6.4.2 if reasonably required by the Authority demonstrate that the adjustment the Franchise Operator proposes for the Variation represents at that time the best value for money having regard to the Franchise Operator's obligations under this Agreement;
 - 6.4.3 suggest any alternatives to the requirements (if any) expressed by the Authority which it believes would minimise the cost of achieving the same or similar objectives;
 - 6.4.4 implement each Variation in the most economical manner consistent with the requirements relating to the Variation;
 - 6.4.5 adopt in the preparation of its accounting methods and policies, risk margins which are consistent with those which it applies generally in providing the Franchise Services (except to the extent that the nature of the Variation makes it necessary to adopt a different approach); and
 - 6.4.6 not claim in a Proposal in relation to the implementation of or response to a Variation to be excused from any liability other than on the same grounds and to the same extent *mutatis mutandis* as it would have been excused from liability for performing its obligations under this Agreement (before the Variation took effect).
- 6.5** Except where the Variation is a PSR/ASC Change requested by the Franchise Operator, a Charge Variation under Clause 18.1, an amendment to an Inter-Operator Scheme under Clause 9.7 or any other Variation requested by the Franchise Operator, the calculation of the Net Loss or Net Gain of the Franchise Operator as a result of the relevant Variation shall include the reasonable agreed direct costs of the Franchise Operator (exclusive of any Value Added Tax for which credit is available under sections 25 and 26 of the Value Added Tax Act 1994) in determining the Net Loss to be caused to it as a result of such Variation and the corresponding adjustments to the Financial Model under paragraph 7 of this Part 1.
- 6.6** In computing the Net Gain or Net Loss of the Franchise Operator and where the Franchise Operator has entered into arrangements with Affiliates other than on arm's length terms, the Authority shall be entitled to require that such Net Loss or Net Gain be determined as if the Franchise Operator had not so entered into any such arrangements and to require reasonable arm's length terms to be substituted in place of such terms on which the Franchise Operator may have entered into any relevant contract or arrangement with any Affiliate.
- 6.7** Any Net Loss and Net Gain shall be determined on the basis of such other assumptions (if any) as the Authority may, after consultation with the Franchise Operator, reasonably determine to be fair at the time provided that if the Franchise Operator disagrees that any or all of the assumptions proposed by the Authority is reasonable for the Authority to

determine to be fair, it may refer that issue for determination in accordance with the Dispute Resolution Rules within the timescales specified in paragraph 7.2.

7 Agreement or Determination of Adjustments

- 7.1** The Franchise Operator and the Authority shall use all reasonable endeavours to agree the adjustments to be made to the terms of this Franchise Agreement within three months of any notice from the Authority under paragraph 4.2, the date of implementation of the Variation or the Variation otherwise having effect (whichever is the later);
- 7.2** If not so agreed or if refused by the Authority and if the Franchise Operator disputes any adjustments made (or not made) by the Authority under paragraph 2, the Franchise Operator may refer such dispute for resolution in accordance with the Dispute Resolution Rules within 60 days of any such adjustments being made or refused;
- 7.3** Any adjustments shall be made in respect of each Reporting Period for which there is a Net Loss or a Net Gain, provided that:
- 7.3.1** the Authority shall, to the extent the relevant adjustments have not been agreed or determined within three months of a notice being served by the Authority under paragraph 4.2 or the date of implementation of the Variation or of the Variation otherwise having effect (whichever is the later) and, subject to subparagraph 7.3.2 below not applying, make such provisional adjustments to the terms of this Franchise Agreement as it considers at that time will reasonably ensure, on the basis of, and in accordance with, this Part 1 of Schedule 9, that the Franchise Operator suffers no Net Loss and enjoys no Net Gain as a result of the relevant Variation;
 - 7.3.2** the Authority shall, to the extent the relevant adjustments have not been agreed or determined within six months of any notice under paragraph 4.2 or on the date of implementation of the Variation or the Variation otherwise having effect (whichever is the later), make such final (subject to paragraph 7.2) adjustments to the terms of this Franchise Agreement as it considers will reasonably ensure, on the basis of, and in accordance with, this Part 1 of Schedule 9, that the Franchise Operator suffers no Net Loss and enjoys no Net Gain as a result of the relevant Variation;
 - 7.3.3** to the extent a payment or other adjustment is made (either under this paragraph 7.3 or following settlement of any dispute under paragraph 7.2) after the Reporting Period during which the relevant Net Loss or Net Gain is suffered or enjoyed, no adjustment will be made in respect of such delay;
 - 7.3.4** the Authority shall have no liability in respect of any adjustment under paragraphs 7.3.1 or 7.3.2 which does not reasonably ensure, on the basis of, or in accordance with, this Part 1 of Schedule 9, that the Franchise Operator suffers no Net Loss and enjoys no Net Gain as a result of the relevant Variation.

8 Implementation of Variation

Subject to Part 2 of Schedule 9 in the case of a PSR/ASC Change, the following shall apply in implementing any Variation:

- 8.1** Where all or any part of a Net Loss (but not any Net Gain) is dependent on a particular action, step or omission being made or taken, or being continued to be made or taken, by the Franchise Operator (including, without limitation, the hiring of any rolling stock or the

provision of any Passenger Services), any adjustment under paragraph 2 agreed or determined under paragraph 7 may be expressed to be conditional on the relevant action, step or omission being taken or made, or being continued to be made or taken, as the case may be; and

- 8.2** Where agreed between the parties or where reasonably required by the Authority (including where the parties have been unable to reach agreement on some but not all of a Variation or where the Authority considers that part of a Variation can be implemented in advance of the remainder), there may be more than one Implementation Plan in respect of any one Variation and references to Implementation Plan and Variation in this Franchise Agreement shall be construed accordingly.

9 Agreement or Determination of changes to the Financial Model

- 9.1** Following agreement or determination (in accordance with the preceding provisions of this Part 1) as to the adjustments to be made to the terms of this Franchise Agreement in respect of any Variation, the Franchise Operator will within 28 days, provide to the Authority the Indicative Financial Model in relation to such Variation. Each Indicative Financial Model will incorporate changes resulting directly from the Variation to which it relates and demonstrate the agreed (or determined) Net Loss or Net Gain. The Indicative Financial Model will be prepared so that:-

- 9.1.1 the revisions are consistent with the Proposal and discussions between the Authority and the Franchise Operator and (notwithstanding the foregoing) the adjustments eventually agreed or determined; and
- 9.1.2 only the minimum revisions required for reflecting the relevant adjustments will be made unless the Authority otherwise agrees; and
- 9.1.3 the methodology applied is consistent with and so far as possible the same as that used in preparing the Financial Model; and
- 9.1.4 no changes are made in any assumptions underlying the Financial Model unless agreed with the Authority save to the extent that they are already part of the adjustments agreed in respect of the relevant Variation; and
- 9.1.5 full reasoning for all changes is provided to the Authority; and
- 9.1.6 it includes a revised version of the Record of Assumptions showing any alterations to the assumptions made by the Franchise Operator for the purposes of calculating such changes and the reasons for such alterations including an explanation in reasonable detail of why the same are considered to have been caused or required by the Variation. The revised Record of Assumptions will also track and show all changes which have been made to the Financial Model including the specific cell references which have changed as well as any changes in the logic or methodology whereby the Financial Model operates.

- 9.2** The Indicative Financial Model will be agreed between the parties as soon as possible and, if still in dispute more than 90 days after delivery pursuant to paragraph 9.1, either the Franchise Operator or the Authority may refer such dispute for resolution in accordance with the Dispute Resolution Rules.

- 9.3** Once the Indicative Financial Model together with any revisions thereto have been agreed or determined, the same will be audited to the extent required by the Authority by an

independent auditor appointed by the Authority and the cost of such audit will be borne by the Franchise Operator (except to the extent provided in paragraph 6.6) Any amendments recommended by such auditor will be made to the Indicative Financial Model.

- 9.4** With effect from the date on which the agreed impact of the Variation was established under paragraph 7.1 or 7.2 as the case may be, the Indicative Financial Model so amended will be substituted for and therefore become the Financial Model for all future purposes under this Agreement and will be Placed in Escrow in place of the version of the Financial Model previously Placed in Escrow. Each party will be entitled to retain for its own use a copy of any version of the Financial Model which is Placed in Escrow. The superseded version of the Financial Model shall be marked as superseded but will (unless the parties otherwise agree) be retained in escrow under the Escrow Arrangements.
- 9.5** Each version of the Financial Model Placed in Escrow will be allocated a unique reference number and the Franchise Operator shall also maintain a sequentially numbered register of all potential and actual Variations. All subsequent correspondence between the parties in connection with any potential or actual Variation shall bear the unique reference number allocated to such Variation.
- 9.6** The preceding provisions of this paragraph 9 are subject to the following:-
- 9.6.1 where paragraphs 3.3 or 3.5 apply, there will be two applications of the process contained in this paragraph 9, the first of which will apply to the estimate (under paragraph 3.3) or initial adjustment (under paragraph 3.5) (as the case may be) and the second of which will apply to the further adjustments (under paragraph 3.3 and paragraph 3.5 respectively) when they fall to be made;
- 9.6.2 where paragraph 8.1 applies:-
- (a) the Authority will be entitled to require either that the Financial Model Placed in Escrow is not replaced by the relevant Indicative Financial Model unless or until the relevant conditions are satisfied; or
- (b) if, notwithstanding paragraph (a) and the fact that any conditions have not been satisfied, the Financial Model Placed in Escrow is revised in respect of such a Variation, then the Authority shall be entitled to require that there is a further application of the process in this paragraph 9 to reverse such adjustment if the relevant conditions are not satisfied.
- 9.6.3 Where paragraphs 3.2 or 3.4 apply, and subject to paragraph 9.6.4, there will be no revision to the Financial Model under this paragraph 9 in respect of the relevant Variation ("the Original Variation") unless or until the next Variation occurs which requires the Financial Model to be revised. At that time, revisions to be made under this paragraph 9 will take account of both the Original Variation and the later Variation, and in the case of the Original Variation will be based on an estimate of the future effect of that Variation, having regard to all the information available at that time as to those likely future effects. The process in this paragraph 9.6.3 will be repeated on each subsequent occasion on which a Variation occurs which requires the Financial Model to be revised, (such that on each such occasion, the Financial Model is adjusted for the estimated future effects of the Original Variation).
- 9.6.4 The Authority shall be entitled, by notice to the Franchise Operator, to determine that any Variation has a one-off impact which does not affect the integrity of the

Financial Model for use in determining the adjustment to be made in respect of future Variations. If the Franchise Operator disputes such determination the Franchise Operator will be entitled to refer such dispute for resolution in accordance with the Disputes Resolution Rules.

10 Updating of Business Plan

Where any Variation is implemented and (where relevant) a Change Certificate issued in relation to it, the Franchise Operator shall either:

- 10.1** Submit at its next quarterly review meeting or (where relevant) on provision of the Annual Business Plan in accordance with Clause 15.3(b) changes to the Annual Business Plan arising from such Variations within 6 months of the date of the Change Certificate relating to the Variation; or
- 10.2** If it is not possible for the Franchise Operator to comply with both the timing requirements of paragraph 10.1 above and Clause 15.3(b), the Franchise Operator shall submit to the Authority an additional Annual Business Plan taking account of the Variation within 3 months of the date of the implementation or (where relevant) Change Certificate issued in relation to such Variation, and the provisions of Clause 15.3 will apply, mutatis mutandis, to such additional Annual Business Plan.

11 Changes to the Franchise Agreement

- 11.1** In addition to the Variations expressly provided for in paragraphs (a) – (t) of the definition of “Net Loss” or “Net Gain” in Clause 1.1, nothing shall prevent either party from proposing any other change to the Franchise Agreement.
- 11.2** Unless the parties otherwise agree, paragraphs 6-10 of this Part 1 of Schedule 9 will apply in respect of any such Variation agreed by the parties in response to such a proposal.

Part 2 — Feasibility Study and Implementation Plan

Feasibility Study

- 1** In certain circumstances under this Franchise Agreement, the Authority and Franchise Operator are required to or may prepare a Feasibility Study with respect to, inter alia, the likely financial effect on the Franchise Operator of a Change.
- 2** Each such Feasibility Study shall contain:
 - (a) details of the relevant PSR/ASC Change;
 - (b) a proposed manner of implementation for the PSR/ASC Change and, where the PSR/ASC Change could be implemented in more than one manner, any reasonable alternatives (except that, where the Feasibility Study is being prepared by or at the request of the Authority, it may specify one or more manners of implementation);
 - (c) a statement of the steps which it is reasonably estimated will be necessary to take to implement the proposed Change for each proposed manner of implementation including:
 - (i) a proposed Timetable and Train Plan; and

- (ii) details of any amendments that will be required to the terms of any Access Agreement, Rolling Stock Lease or other relevant agreement to which the Franchise Operator is party; and
 - (iii) any other agreements or consents that may be required, including, without limitation, in connection with the use of alternative or additional rolling stock and/or the enhancement or any other change to the network or other railway facilities;
 - (d) a reasonable estimate of the time within which the Change can be implemented for each of such alternatives (if any) which, for the avoidance of doubt, may be, so far as practicable, at a time falling between two Passenger Change Dates;
 - (e) a proposal for the Net Loss or Net Gain to be incurred or made by the Franchise Operator as a result of the proposed Change (together with all relevant supporting information and calculations). Where the Feasibility Study is prepared by the Franchise Operator such proposal must comply with the requirements in respect of Proposals set out in Part 1 of this Schedule 9.
 - (f) any other matter which the person preparing the Feasibility Study may consider appropriate to include or which, if prepared by the Franchise Operator, the Authority may reasonably request should be so included.
- 3** Where the Feasibility Study has been prepared by the Franchise Operator and whenever the Authority may so require, it shall prepare and deliver or procure the preparation and delivery of such further reports, documents or information relating to the Feasibility Study as the Authority may reasonably consider to be required in order to enable the Authority properly to consider it. The Franchise Operator shall further, whenever the Authority may so require, grant access to, and, where requested, supply copies of, such books, records and other material kept by or on behalf of the Franchise Operator or otherwise as the Authority or its representatives may reasonably require in order to enable them to prepare a Feasibility Study to be prepared by the Authority and to check, verify or audit a Feasibility Study prepared by the Franchise Operator.

4 Implementation Plan

In certain circumstances under the Franchise Agreement and for certain Changes, the Authority and Franchise Operator are required to endeavour to agree or to determine an Implementation Plan. Each such Implementation Plan shall specify:

- (a) the relevant Change;
- (b) the time within which it is reasonably considered the Franchise Operator should be obliged to implement the Change (or times within which each part of the Change should be implemented) having regard to the time within which the Franchise Operator may procure:
 - (i) the consent or agreement of any person whose consent or agreement is necessary to give effect to the Change; and
 - (ii) the completion of such other steps as may be required for the purposes of implementing the Change (including the procuring of any additional or alternative rolling stock, the carrying out of any enhancements or other changes to the network or other railway facilities, the satisfaction of any

safety related requirements, the securing of any additional employees and consultation with such persons and bodies as may be appropriate);

- (c) the consequential adjustment (if any) to be made to the Franchise Payments (or other provisions of this Franchise Agreement) to be determined in accordance with Part 1 of this Schedule 9 (including, without limitation, paragraph 4.2 thereof).

5 Disputes in relation to the Implementation Plan

Where the Authority and Franchise Operator are required to endeavour to agree or to determine an Implementation Plan pursuant to the terms of this Franchise Agreement, the Franchise Operator and the Authority shall use all reasonable endeavours to agree or to determine such Implementation Plan as soon as reasonably practicable. In the event that there is a dispute over any aspect of the Implementation Plan such dispute may be resolved in accordance with the Dispute Resolution Rules. Paragraph 7 of Part 1 of this Schedule 9 shall apply to any dispute arising in respect of paragraph 4(c) of this Part 2.

- 6 For the avoidance of doubt and without prejudice to paragraph 6.4.4 of Part 1 of this Schedule 9 any obligation to comply with or implement an Implementation Plan (or any part thereof) shall not include any obligation to take any action or step which it may have been assumed the Franchise Operator would take in determining the amount of any Net Loss or Net Gain that may be incurred except to the extent that such action or step forms part of the Implementation Plan agreed or determined under paragraph 4 or 5 above.

Part 3 – Escrow Arrangements

- 1 The Franchise Operator shall:

- 1.1 On the date of this Agreement deliver two copies of the Financial Model (each copy in electronic format on CD-ROM and in hard format) to the Authority accompanied by a notice that the same is to be Placed in Escrow;
- 1.2 Within 7 days of an Indicative Financial Model becoming the Financial Model pursuant to paragraph 9.4 of Part 1 of this Schedule 9 deliver two copies of the same (each in both electronic and hard format as required in paragraph 1.1 above) to the Authority accompanied by a notice that the same is to be Placed in Escrow;
- 1.3 Deliver with each deposit of any version of the Financial Model all of the following information to the extent that it is relevant:
 - 1.3.1 the appropriate version of the Record of Assumptions;
 - 1.3.2 details of the Financial Model deposited (including full filename and version details, any details required to access the Financial Model including media type, backup command/software used, compression used, archive hardware and operating system details);
 - 1.3.3 the names and contact details of persons who are able to provide support with accessing and interpreting the Financial Model.

- 2. The Authority shall:

- 2.1 Within 3 days, acknowledge receipt to the Franchise Operator of any version of the Financial Model delivered to it for the purposes of being Placed in Escrow;

- 2.2** Save as provided under paragraph 2.3 below, store each copy of the Financial Model in a different physical location to the other and use reasonable endeavours to ensure that each copy of the Financial Model is at all times kept in a safe and secure environment. In so doing the Authority shall be deemed to have Placed in Escrow the Financial Model for the purposes of this Franchise Agreement;
- 2.3** Notify the Franchise Operator if it becomes aware at any time during the term of this Agreement that any copy of the Financial Model held by it has been lost, damaged or destroyed; in such an event, the Authority shall be permitted to create a new copy of the Financial Model from the other copy thereof that it retains and shall within 7 days notify the Franchise Operator accordingly and afford it the right to make reasonable inspections in order to satisfy itself that a true and faithful copy has been made. Following the making of such a new copy of the Financial Model, the Authority shall retain both copies of the Financial Model in accordance with paragraph 2.2 above
- 2.4** Within 7 days of receipt of a notice from the Franchise Operator that the Financial Model is required for the purposes of preparing an Indicative Financial Model in relation to any Variation, or should the Authority itself so decide, release one copy of the Financial Model to the Franchise Operator and retain one for its own use;
- 2.5** Maintain a record of any release of any copy of any version of the Financial Model made, including details of the version released and the date of release as well as the identity of the person to whom the Financial Model is released;
- 2.6** Have no obligation or responsibility to any person whatsoever to determine the existence, relevance, completeness, accuracy, effectiveness or any other aspect of the Financial Model; and
- 2.7** Not be liable for any loss or damage caused to the Franchise Operator arising from any loss of or damage to the Financial Model.

Schedule 10 — Financial Covenants (Clause 14.2)

Part 1 — Liquidity Maintenance

1 Definitions

In this Schedule 10, except to the extent the context otherwise requires:

“Acceptable Guarantee” means a guarantee from a Bank reasonably acceptable to the Authority in favour of the Franchise Operator in the form of the document in the agreed terms and marked **“DG”**.

“Approved Bank Facility” means an unconditionally committed unsecured loan facility from a Bank reasonably acceptable to the Authority in a form acceptable to the Authority and in respect of which the Authority has received a Facility Certificate.

“Available Assets” means the aggregate of:

- (a) the amount of cash on deposit with a Bank which is accessible by the Franchise Operator on 3 or less Business Days notice and which is not the subject of any Security Interest;
- (b) the total undrawn commitment which can be drawn on 3 or less Business Days notice under any Approved Bank Facility or Guaranteed Parent Facility;
- (c) any cash available from the Franchisee in respect of monies unpaid on shares in issue (whether in respect of nominal value or premium) which sums the Franchise Operator is entitled to call for in full on 3 or less Business Days notice without the need for satisfaction of any conditions, the payment of which is guaranteed by means of an Acceptable Guarantee; and
- (d) any cash available to the Franchise Operator under any other arrangement equivalent or similar to the above, the terms and conditions of which have been approved in advance by the Authority in its absolute discretion.

“Business Day” means a day other than a Saturday or Sunday on which banks are normally open for business in London;

“Cash Outflows” means, in relation to any Reporting Period, the amounts paid by the Franchise Operator during the Reporting Period in respect of operating costs (including payments under any Access Agreement, Property Lease, Rolling Stock Related Contract or Option Related Contract and any Franchise Payments or Incentive Payments), interest and tax;

“Facility Certificate” means a certificate in a form acceptable to the Authority and signed on behalf of the relevant lender:

- (a) confirming the existence of the loan facility;
- (b) confirming the satisfaction of all conditions precedent to the making of advances under such facility;
- (c) confirming the amount available to be drawn under the facility; and

- (d) confirming, and undertaking to the Authority, that the facility can only be withdrawn on 6 months notice to the Authority (including in the event of an intervening insolvency);

“Forecast Cash Outflows” means, in relation to any Reporting Period, the amount due or otherwise reasonably expected to be paid by the Franchise Operator during the Reporting Period in respect of operating costs (including payments under any Access Agreement, Property Lease, Rolling Stock Related Contract or Option Related Contract and any Franchise Payments or Incentive Payments), interest and tax;

“Guaranteed Parent Facility” means an unconditionally committed unsecured loan facility from an Affiliate in a form acceptable to the Authority and in respect of which the Authority has received a Facility Certificate and under which the obligations of the Affiliate are guaranteed by an Acceptable Guarantee;

2 Liquidity Maintenance

2.1 The Franchise Operator shall procure that, at opening of its business on the first Business Day of every Reporting Period, its Available Assets at such time exceed an amount equal to Forecast Cash Outflows less (to the extent the same is payable to the Franchise Operator) any Franchise Payment due to the Franchise Operator, in each case in relation to such Reporting Period.

2.2 The Franchise Operator shall by the Franchise Commencement Date and, thereafter, no less than 7 days prior to the commencement of each Reporting Period, provide a certificate to the Authority confirming:

- (a) the Forecast Cash Outflows for the next Reporting Period;
- (b) the expected Available Assets of the Franchise Operator at the opening of business on the first Business Day of the next Reporting Period;
- (c) the expected minimum and maximum amount (to the nearest £1,000) of Available Assets during the course of the next Reporting Period ; and
- (d) in respect of the Reporting Period last ended before the date of such certificate the actual level of:-
 - (i) Cash Outflows; and
 - (ii) Available Assets at the opening of business on the first Business Day; and
 - (iii) minimum and maximum amounts of Available Assets at any time; and
 - (iv) amounts which were or became due and payable but were not paid though they are not disputed by the Franchise Operator; and
 - (v) amounts which were or became or were alleged by a third party to be or have become due and payable but were not paid because they are disputed by the Franchise Operator. In relation to Cash Outflows referred to in this paragraph (v) the Franchise Operator will confirm the total amount in dispute and provide details of the reasons why any material amounts comprised within such total together with any other amount(s) which comprise a substantial part of such total are disputed.

Provided that where pursuant to this paragraph 2.2 the Franchise Operator is required to provide information in respect of the amount of Available Assets it shall

in addition to the Available Assets include the total of each of the amounts comprising items (a), (b), (c) and (d) of the definition “Available Assets”.

2.3 Where so requested by the Authority, the Franchise Operator shall provide, or procure the provision of, such information as the Authority may require in connection with this paragraph 2. Such information shall be supplied as soon as reasonably practicable and in any event within 48 hours. Such information may include:

- (a) any supporting information for the matters referred to in paragraph 2.2;
- (b) an updated Facility Certificate from the relevant lender dated the date of the first Business Day of the next Reporting Period; and
- (c) the actual Available Assets of the Franchise Operator on the first Business Day of the next Reporting Period.

2.4 Any inaccuracy in information provided under this paragraph 2 which is not wholly immaterial shall constitute a breach of this Franchise Agreement.

3 Realisation of Available Assets

The Franchise Operator shall, to the extent so requested by the Authority and when so requested by it (including following the expiry of the Franchise Period), immediately call and immediately exercise such rights as it may have to call for the release and payment to it from the relevant other parties of the cash and funds represented by the Available Assets and, where appropriate, to enforce any relevant guarantee. To the extent the other party is the Franchisee, the Franchisee shall comply with any such requirement and shall pay the relevant moneys in cash immediately upon such requirement being notified to it.

Part 2 — Other Obligations

1 Except to the extent the Authority may otherwise agree from time to time, the Franchise Operator shall not, and, in relation to paragraph (vi) below, the Franchisee shall not and shall procure that the Franchise Operator shall not:

- (i) incur any liability or financial indebtedness except in the ordinary course of providing and operating the Franchise Services; or
- (ii) make any loan or grant any credit, or have or permit to subsist any loan or any credit, to any person (other than as permitted under paragraph (v) below or to a director or employee in the ordinary course of its business); or
- (iii) create or permit to subsist any Security Interest over any of its assets and property or give any guarantee or indemnity to or for the benefit of any person or otherwise assume liability or become obliged (actually or contingently) in respect of any obligation of any other person, in each case other than in the ordinary course of the business of providing and operating the Franchise Services; or
- (iv) create or permit to subsist any right of set off or other equivalent right or any other circumstance which may, in each case, result in all or part of any uncalled element of the Available Assets not being available, when called, to the Franchise Operator for use in the business of providing and operating the Franchise Services; or
- (v) create or acquire any subsidiary or make or have any investment in any other entity, except for the deposit of cash with a Bank; or

- (vi) purchase, redeem, cancel, waive, amend or alter any of the terms or rights relating to the power of, or the terms on which, the Franchise Operator may call any uncalled element of the Available Assets,

and in this paragraph 1 references to the “calling of” or “uncalled” Available Assets include the drawing of, or any undrawn, Approved Bank Facility or Guaranteed Parent Facility and provided also that nothing in this Schedule 10 shall restrict the Franchise Operator from calling any Available Assets at any time.

- 2 Without the prior consent of the Authority (such consent not to be unreasonably withheld or delayed) the Franchise Operator will not:

- (a) pay during any consecutive period of 13 Reporting Periods any management or similar fees to the Franchisee or any company which is a shareholder in the Franchisee or any Affiliate of any such company in excess of £500,000;
- (b) enter into any contract agreement or commercial arrangement with the Franchisee or any company which is a shareholder in the Franchisee or any Affiliate of such company other than in the ordinary course of providing and operating the Franchise Services on reasonable arms length terms;
- (c) make any material change to its accounting policies (both published accounting policies and methodologies and including, for the avoidance of doubt, material changes to its practices for making provisions or accruals) applied in practice except where required by changes in legislation or regulation;
- (d) dispose of any assets except:
 - (i) disposals in the normal course of providing and operating the Franchise Services not exceeding £500,000 in aggregate in any consecutive period of 13 Reporting Periods;
 - (ii) disposals on normal commercial terms of damaged, obsolete or redundant assets or assets which need to be replaced in the normal course of business;
- (e) other than provided for in the Financial Model (as defined in Schedule 9) enter into any longer term Financial Commitment requiring the Franchise Operator to make aggregate payments in excess of £500,000 in any consecutive period of 13 Reporting Periods or surrender any tax losses for less than the greater of 100% of their face value and their economic value to the recipient; and
- (f) other than as provided in the Financial Model (as defined in Schedule 9) enter into any new or increased capital commitment with an aggregate value in excess of £500,000 in any consecutive period of 13 Reporting Periods.

- 3. Nothing in this Part 2 of Schedule 10 shall prevent the Franchise Operator depositing cash with, making a loan to, or having a deposit of cash or loan with any persons at any time, to the extent that the aggregate amount of any such cash and any such loan is an amount equal to the amount of the distribution which the Franchise Operator could make at that time in accordance with the Companies Act 1985 or paragraph 1(vii) above and the provisions of Clause 25.5 of this Franchise Agreement shall not apply to any such deposit or loan.

Schedule 11 — Franchise Assets and Key Contracts

Part 1 — Primary Franchise Assets (Clause 32.2(a))

- 1 The rights and liabilities of the Franchise Operator under the Universal Licence Agreement between the Board and the Franchise Operator dated 28 May 1995.
- 2 The rights and liabilities of the Franchise Operator under the Sub-licence Deed between the Board and the Franchise Operator dated 28 May 1995.
- 3 The rights and liabilities of the Franchise Operator under the Master Software Licence between the Board and the Franchise Operator dated 28 May 1995.
- 4 The rights and liabilities of the Franchise Operator under the Computer Services Agreement between the Board and the Franchise Operator dated 28 May 1995.

Part 2 — Specified Franchise Assets (Clause 32.8)

[None]

Part 3 — Key Contracts (Clause 27)

The following contracts shall be Key Contracts:

- (1) Any Access Agreement to which the Franchise Operator may be a party other than in its capacity as Facility Owner.
- (2) Any Property Lease including the Property Leases listed in Part 4 of Schedule 1.
- (3) Any Rolling Stock Related Contract.
- (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 Franchise Operator 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 Authority is required to such subcontracting or delegation under Clause 5.9).
- (6) Any contract or arrangement for the leasing, subleasing, hiring or licensing by another Train Operator to the Franchise Operator of rolling stock used by the Franchise Operator in the provision of the Passenger Services.
- (7) Any contract or arrangement with a Train Operator (other than an Access Agreement) for the provision to the Franchise Operator 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.
- (8) 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.
- (9) Any contract or arrangement for the supply of spare parts.

- (10) Any contract or arrangement for the maintenance of track and structure.
- (11) Any Option Related Contract.
- (12) Any licences of Marks to the Franchise Operator.
- (13) Agreement dated 30 September 1994 relating to the provision of business telecommunications services between BR Telecommunications Limited and the Board (for Cardiff Valley TOU).
- (14) Agreement dated 30 September 1994 relating to retail telecommunications maintenance between BR Telecommunications Limited and the Board (for Cardiff Valley TOU).
- (15) Agreement dated 28 May 1995 relating to computer services between the Business Systems Division of the Board and the Previous Franchise Operator.
- (16) Master Software Licence dated 28 May 1995 between the Board and the Previous Franchise Operator.
- (17) Sub-licence Deed dated 28 May 1995 relating to third party software between the Board and the Previous Franchise Operator.
- (18) Agreement dated 27 February 1996 relating to the provision of computer services between Railtrack and the Previous Franchise Operator.
- (19) Railtrack Software Sub-licence dated 28 May 1995 between the Board and the Previous Franchise Operator.

Schedule 12 — Handover Packages (Clause 25.2)

(a) **Key Personnel**

A list of key personnel to include all directors (statutory or otherwise) and all managers with responsibility for a department/function within the business. This must include Operations, Commercial, Personnel and Public Affairs departments (or in each case their nearest equivalents). This list must include the name, address, home, office and mobile telephone numbers; and a brief description of the person's role and responsibilities in the business.

(b) **Property**

A list of all property owned, leased, operated or occupied by the Franchise Operator which shall include the address, telephone number and contact telephone number of each property. Where applicable, the list will also include the name, address and telephone number of the lessor and/or the party which has granted authority to use or occupy the property, and any relevant reference numbers applicable to that lease or occupation.

(c) **Contracts**

A printed or electronic list (in a format acceptable to the Authority) of all contracts (sales, purchase or otherwise including leases and licences) between the Franchise Operator and any other party showing the name, address and telephone number of the counterparty; the contract reference number of the Franchise Operator and the counterparty (if any); contract price/value, term and expiry date. This requirement applies to all contracts unless otherwise agreed by the Authority.

(d) **Systems**

A list of the electronic systems in use by the Franchise Operator together with the name, office address and telephone number of the person responsible for administration of each system.

(e) **Daily Operations**

A printed or electronic list (in a format acceptable to the Authority) of all assets owned or operated by the Franchise Operator which are essential to the effective operation of the business.

(f) **Insurance**

A list of the names, addresses and telephone numbers of all insurers providing insurance to the Franchise Operator together with the relevant policy numbers and other references.

Schedule 13 — Franchise Plan (Clause 14.1)

Part I – Preliminary

1.1 Reasonable Endeavours

Where in this Franchise Plan, the Franchise Operator is obliged to use all reasonable endeavours to do or to procure that something is done by a certain date then, without prejudice to such obligation, if the same is not achieved by the date specified the Franchise Operator shall be required to consult with the Authority and to use all reasonable endeavours to do or procure that the thing in question is done as soon as possible thereafter.

1.2 Time of the Essence

Subject to the provisions of Clause 21.14 of the Franchise Agreement, time shall be of the essence in respect of the obligations in this Franchise Plan.

1.3 Third Party Consents / Agreements

Where, in accordance with this Franchise Plan, the Franchise Operator is obliged to obtain any third party consent and/or enter into any agreement or arrangement with a third party prior to complying with any obligation hereunder, the Franchise Operator shall use all reasonable endeavours to procure such third party consent and/or enter into such agreements or arrangements within such timescales (if any) as are set out in this Franchise Plan in relation to such obligations.

1.4 Expenditure

For the avoidance of doubt, all amounts which the Franchise Operator has committed (whether unconditionally or otherwise) pursuant to this Franchise Plan 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 improvement or maintenance programme. Where any category of expenditure described in this Franchise Plan is referred to in more than one expenditure commitment set out in this Franchise Plan, expenditure on such category shall not be counted more than once in assessing compliance by the Franchise Operator with such expenditure commitments.

1.5 Continuing Provision of Franchise Plan Services and Facilities

Where the Franchise Operator is obliged under this Franchise Plan to provide, implement or install something, (whether a service, a facility or otherwise) the Franchise Operator shall ensure that once the same is provided, implemented or installed, that it continues to be provided and made available (and, where relevant, effectively maintained) for the remainder of the Franchise Term unless the contrary is expressly stated.

1.6 Definitions

In this Franchise Plan except to the extent that the context otherwise requires:

“**Cardiff Peak**” shall have the meaning assigned to that term in the Passenger Service Requirement;

“**Ebbw Valley Option**” means the Option for the re-opening of the Ebbw Valley branch-line as set out at paragraph 12.11;

“**ERTMS**” means the European Rail Traffic Management System (comprising ETCS, GSM-R and ETML) being developed to provide an interoperable European rail network pursuant to Directive 96/48EU;

“**Journey Time**” shall have the meaning assigned to that term in the Passenger Service Requirement;

“**Off-Peak**” shall have the meaning assigned to that term in the Passenger Service Requirement;

“**Peak**” shall have the meaning assigned to that term in the Passenger Service Requirement and “**Morning Peak**” and “**Evening Peak**” shall be as defined therein;

“**RPP Document**” means the document in the agreed terms containing copies of the offer letters for the RPP schemes as referred to in paragraphs 3.3, 3.4, 3.6, 3.7, 3.8 and 3.9;

“**Service Group 1**” means the Passenger Services as set out in Part 1 of Schedule 2;

“**Service Group 2**” means the Passenger Services as set out in Part 1 of Schedule 2;

“**Standard Pattern Timetable**” means the description of the Passenger Services as set out in Annex 4 specifying the number of trains per hour on each of the route sections identified, maximum Journey Times and stopping patterns and certain principles upon which this service description will be developed into a timetable pursuant to the Standard Pattern Timetable Option;

“**Standard Pattern Timetable Option**” means the Option for the operation of the Passenger Services at regular intervals set out at paragraph 12.12;

“**Subsidy Reduction Option**” means the Option to be developed by the Franchise Operator pursuant to paragraph 12.14 comprising a package of service reductions and other cost reduction measures so as to achieve a net reduction in Franchise Payments of between 9% and 11%;

“**Summer**” means, except where expressly indicated otherwise or as otherwise agreed with the Authority, the period in any calendar year from and including the last Sunday in May until and including the last Saturday in September during that year;

“**Valley Lines Crowding Relief Option**” means the Option for the provision of additional strengthening to Passenger Services in Service Group 1 during the Peak and the extension of certain station platforms as set out in paragraph 12.13;

“Wessex PSR”⁹¹

Part II – Passenger Services

2 Passenger Services

- 2.1** The Franchise Operator shall comply with its obligations in Clause 5 of the Franchise Agreement as if the requirements of Annex 1 were specified in Part 1 of Schedule 3 to the Franchise Agreement, such requirements being additional to those services otherwise required to be provided by the Franchise Operator pursuant to Part 1 of Schedule 3.
- 2.2** The Franchise Operator's obligations under paragraph 2.1 in respect of the services specified in column 1 of the table in Annex 1 shall continue for the then current period agreed with the relevant third party as at the Franchise Commencement Date, subject to the provisions set out in that column.
- 2.3** In relation to the services specified in parts 3 and 4 of Annex 1, if requested by the Welsh Assembly Government or the appropriate Local Authority or otherwise by the Authority by no later than the time stated in column 5 of the table, the Franchise Operator shall use all reasonable endeavours to negotiate with the Welsh Assembly Government or the appropriate Local Authority with a view to agreeing the continuation of such services (provided that in such negotiations, the Franchise Operator shall not seek to provide such services on terms less favourable to the other party than the terms existing as at the Franchise Commencement Date, or for an amount more than that stated in column 4 of the table). Subject to agreement of terms, the obligations shall continue for the duration of that agreement. If this is a shorter period than the remainder of the Franchise Period, the provisions of this paragraph 2.3 shall apply *mutatis mutandis* upon the expiry of such shorter period.
- 2.4** If the Welsh Assembly Government or the appropriate Local Authority does not require the continued provision of the services or (subject to the Franchise Operator having complied with its obligations in paragraph 2.3) the parties are unable to agree on terms, then the requirement to run the services as set out in paragraph 2.1 and in parts 3 and 4 of Annex 1 shall cease.
- 2.5** **[NOT USED]**⁹²
- 2.6** The Franchise Operator shall introduce and thereafter operate from the first reasonably practicable Passenger Change Date following the Franchise Commencement Date a revised Timetable for Passenger Services to and from Fishguard Harbour station as set out in paragraph 2.7 below and the Franchise Operator shall comply with its obligations in Clause 5 of the Franchise Agreement and in paragraph 2.7 as if the railway passenger services set out in paragraph 2.7 were included in the Passenger Service Requirement.
- 2.7** The Franchise Operator shall operate the following services to and from Fishguard Harbour:-
- (i) a service from Cardiff Central to Fishguard Harbour arriving at Fishguard Harbour at approximately 01.10; and
 - (ii) a service from Fishguard Harbour to Cardiff Central departing from Fishguard Harbour at approximately 01.35.

⁹¹ DATE OF CHANGE 14.2.2006

⁹² DATE OF CHANGE 14.2.2006

These services shall replace the following services:-

- (x) the service in the Summer 2003 Timetable operated from London Waterloo to Fishguard Harbour, which arrives at Fishguard Harbour at 02:25; and
- (y) the service in the Summer 2003 Timetable operated from Fishguard Harbour to Liverpool, which departs from Fishguard Harbour at 01.35.

- 2.8** The Authority accepts and confirms that in operating the passenger services set out in paragraph 2.7(i) and (ii) the Franchise Operator shall not be in breach of the Passenger Service Requirement as at the date of the Franchise Agreement.
- 2.9** The Franchise Operator may from time to time propose changes to the timing of the trains to be operated in accordance with paragraph 2.7(i) and (ii) above in order to facilitate convenient connections with ferry services at Fishguard Harbour and the Authority shall not unreasonably refuse its consent to such changes provided that arrival at and departure from Fishguard Harbour station is between 00.00 and 05.00.
- 2.10** The Franchise Operator shall introduce from the Passenger Change Date in September 2004 and thereafter operate revised passenger services to North Wales in accordance with the requirements set out in Annex 2.
- 2.11** The Franchise Operator shall comply with its obligations in Clause 5 of the Franchise Agreement and in paragraph 2.10 as if the railway passenger services set out in Annex 2 were included in the Passenger Service Requirement.
- 2.12** If at any time after signature of the Franchise Agreement, the Authority requires a change to the railway passenger services which the Franchise Operator has committed to provide under paragraph 2.10, the Authority shall be entitled by notice to the Franchise Operator to require the railway passenger services in Annex 2 to be varied and the No Net Loss No Net Gain Regime shall apply. For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of this paragraph 2.12, whether the Franchise Operator would incur a Net Loss or a Net Gain.
- 2.13 Integrated Transport**
- 2.13.1** Subject to the continued support of other participants on substantially similar terms to those applying immediately prior to the Franchise Commencement Date (which the Franchise Operator will use all reasonable endeavours to obtain), the Franchise Operator shall continue as a minimum to support and participate in the integrated transport schemes existing immediately prior to the Franchise Commencement Date (including, without limitation, multi-modal ticketing schemes) to the same extent such schemes are supported and participated in by the Previous Franchise Operator immediately prior to the Franchise Commencement Date. These shall include without limitation the rail bus links and bus “add-ons” set out in the table in Annex 3. In relation to the Chester bus link, this support shall include financial payments to Chester City Council at a similar level to those made by the Previous Franchise Operator immediately prior to the Franchise Commencement Date.

2.13.2 The Franchise Operator shall, subject to securing the agreement of the relevant partner operators and transport authorities, procure the introduction of thirty new integrated transport schemes (as set out in the table below) in addition to those referred to in paragraph 2.13.1 within two years from the Franchise Commencement Date and shall support and continue to participate in the same for the Franchise Term without any additional cost to the Authority. Without limiting its obligations hereunder, if the Franchise Operator is not able to procure the introduction of any of the proposed schemes within this period, it shall investigate and propose to the Authority replacement schemes within the same region representing an equivalent or greater commitment by the Franchise Operator, to be introduced as soon as reasonably practicable after notification to the Authority and in any event within such 2 year period. For the purposes of this paragraph 2.13.2, integrated ticketing means the ability for a passenger to purchase a ticket valid for a through journey on part or all of the bus link and linked rail journey to or from the station set out in the table below. In relation to some schemes, part of the journey may be made on bus or train. Prior to the introduction of each scheme the Franchise Operator will inform the Authority of the locations for the sale of integrated tickets for that scheme.

From (Station)	To	Local Authority Sponsor/Administrator/ Contracting Authority (where applicable)	Description
Bangor	Llangefni	Anglesey CC	Integrated ticketing
Bangor	Caernarfon		Integrated ticketing
Bangor	Llanddona	Anglesey CC	Integrated ticketing
Bangor	Beaumaris	Anglesey CC	Integrated ticketing
Bangor	Amlwch	Anglesey CC	Integrated ticketing
Bangor	Pwllheli		Integrated ticketing
Bangor	Llanberis (National Park)		Integrated ticketing
Bangor	Porthmadog		Integrated ticketing
Bangor	Nantlle		Integrated ticketing
Llandudno	Eglwysbach	Conwy CC	Integrated ticketing
Llandudno Junction	Denbigh	Conwy CC	Integrated ticketing
Llanrwst	Penmachno	Conwy CC	Integrated ticketing
Llanrwst	Pen y Pass (National	Conwy CC	Integrated

	Park)		ticketing
Rhyl	Chester		Integrated ticketing
Rhyl	Denbigh - Ruthin - Corwen	Denbighshire CC	Integrated ticketing
Barmouth	Wrexham		Integrated ticketing
Porthmadog	Dolgellau	Gwynedd CC	Integrated ticketing
Blaenau Ffestiniog	Dolgellau	Gwynedd CC	Integrated ticketing
Machynlleth	Dolgellau	Gwynedd CC	Integrated ticketing
Machynlleth	Aberystwyth		Integrated ticketing
Aberystwyth	Cardigan	Ceredigion CC	Integrated ticketing
Aberystwyth	Ponterwyd	Ceredigion CC	Integrated ticketing
Aberystwyth	Devils Bridge	Ceredigion CC	Integrated ticketing
Aberystwyth	Pontrhydfendigaid	Ceredigion CC	Integrated ticketing
Aberystwyth	Tregaron - Lampeter		Integrated ticketing
Machynlleth	Newtown	Powys CC	Integrated ticketing
Wrexham	Oswestry		Integrated ticketing
Shrewsbury	Oswestry		Integrated ticketing
Welshpool	Oswestry		Integrated ticketing
Shrewsbury	Llanidloes	Powys CC	Integrated ticketing

Part III – RPP Schemes

3. RPP Schemes

3.1 The Franchise Operator's obligations in respect of each RPP scheme set out in this paragraph 3 shall continue:-

3.1.1 for the period specified in the applicable paragraph; and

3.1.2 thereafter provided either that:-

(a) the Authority has given notice to the Franchise Operator that it requires such obligations to continue in accordance with the following provisions:-

- (i) in relation to the services set out in paragraphs 3.2, 3.7, 3.8 and 3.9, the Franchise Operator shall give notice to the Authority by no later than 6 months prior to commencement of the timetable development period during which the Franchise Operator would have to bid in order to secure the rights to continue the provision of the services asking the Authority to confirm whether or not it requires such services to continue. The Authority shall give notice to the Franchise Operator no later than whichever is the earlier of (a) one month after receiving the Franchise Operator's notice and (b) one month prior to the date on which the Franchise Operator's obligations under this Franchise Agreement to provide the services are due to expire, confirming whether or not it requires such services to continue to be provided. If prior to expiry of the Valley Lines Strengthening scheme the Authority wishes to give notice to extend that scheme, it must also give notice to the Franchise Operator to continue the Taff Corridor scheme for the same period; or
- (ii) in relation to the services set out in paragraphs 3.3, 3.4 and 3.6, the Franchise Operator shall give notice to the Authority by no later than 3 months prior to commencement of the timetable development period during which the Franchise Operator would have to bid in order to secure the rights to continue the provision of the services asking the Authority to confirm whether or not it requires such services to continue. The Authority shall give notice to the Franchise Operator no later than whichever is the earlier of (a) one month after receiving the Franchise Operator's notice and (b) one month prior to the date on which the Franchise Operator's obligations under this Franchise Agreement to provide the services are due to expire, confirming whether or not it requires such services to continue to be provided; or
- (iii) in relation to other services, the Franchise Operator shall give notice to the Authority by no later than 6 months prior to expiry of the existing scheme. The Authority shall give notice to the Franchise Operator no later than whichever is the earlier of (a) one month after receiving the Franchise Operator's notice and (b) one month prior to the date on which the Franchise Operator's obligations under this Franchise Agreement to provide the services are due to expire, confirming whether or not it requires such services to continue to be provided.

The Franchise Operator shall at the Authority's request provide such information as the Authority may reasonably require in a timely manner and so as to enable the Authority to determine within the timescales for the Authority to give notice set out in sub-paragraphs 3.1.2(a)(i)-(iii) whether or not the services should be continued.

If the Authority gives the Franchise Operator notice that it requires the continuation of a scheme, the Franchise Operator's obligations shall continue for the period notified to the Franchise Operator. The Franchise Operator will be paid the amount comprised in the relevant 'RPP' component ("the Relevant

RPP Component”) of the Franchise Payment in Part 2 of Schedule 6 for the agreed period provided that in relation to the Taff Corridor and Valley Lines Strengthening schemes the price will be a combined price for the two schemes as set out in paragraphs 11.3 and 16.3 of Part 2 of Schedule 6. If this is a shorter period than the remainder of the Franchise Period, the provisions of this paragraph 3.1 shall apply *mutatis mutandis*.

If the Authority fails to give notice in accordance with sub-paragraphs 3.1.2(a)(i)-(iii) above, save as may otherwise be agreed by the Authority and the Franchise Operator, the Authority shall be deemed to have given notice to withdraw the services; or

- (b) subject to the Authority also consenting, a third party offers by the times stated in sub-paragraphs 3.1.2(a)(i)-(iii) above for the Franchise Operator to give notice by in relation to the relevant scheme and thereafter commits in favour of the Franchise Operator to pay the Franchise Operator an amount equivalent to the Relevant RPP Component and/or a third party offers by the time stated in sub-paragraphs 3.1.2(a)(i) -(iii) above for the Franchise Operator to give notice by and thereafter commits in favour of the Franchise Operator to pay the Franchise Operator part of the Relevant RPP Component and the Authority agrees by the relevant time stated in sub-paragraphs 3.1.2(a)(i)-(iii) above for the Authority to give notice by to pay the difference between the amount committed and the Relevant RPP Component, in which case:-
 - (i) the amount of the difference between the amount committed by the third party and the Relevant RPP Component will be substituted for the amount comprised in the relevant ‘RPP’ component of the Franchise Payment in Part 2 of Schedule 6; and
 - (ii) the obligations shall continue for the duration of the third party’s commitment to make such payments. If this is a shorter period than the remainder of the Franchise Period, then the Authority shall have the option to require such services to continue and the provisions of this paragraph 3.1 shall apply *mutatis mutandis*.

3.2 Taff Corridor RPP Funding

3.2.1 Interpretation

In this paragraph 3.2, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“**Taff Corridor Rail Passenger Partnership (TCRPP) Scheme Application**” means the application for Rail Passenger Partnership Scheme funding made on 11th May 2001 by the Previous Franchise Operator to the Authority.

“**TCRPP Period**” means the period commencing on the Franchise Commencement Date and ending on the 30th November 2004.

“**Services**” means the services to be strengthened by the Franchise Operator pursuant to the Taff Corridor Rail Passenger Partnership (TCRPP) Scheme Application and set out in paragraph 3.2.10.

3.2.2 Notification of Certain Events

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the Taff Corridor Rail Passenger Partnership (TCRPP) Scheme Application occurring at any stage during the TCRPP Period.

Provision of Services

- 3.2.3 Unless otherwise agreed by the Authority, the Franchise Operator shall for the duration of the TCRPP Period ensure that the Services are strengthened by additional rolling stock to provide seating capacity on each Service of no less than 204.
- 3.2.4 Any failure to provide the strengthening referred to in paragraph 3.2.3 shall not be a breach of the Franchise Agreement unless the Authority notifies the Franchise Operator that it is exercising its rights under paragraph 3.2.5 to treat such failure as a breach of the Franchise Agreement.
- 3.2.5 The Authority may, in its absolute discretion, by notice to the Franchise Operator following any failure on more than six occasions in the period of three consecutive Reporting Periods commencing on the Franchise Commencement Date and each subsequent period of three consecutive Reporting Periods thereafter to provide any of the Services:
- (i) elect or treat such failure as a breach of the Franchise Agreement; or
 - (ii) terminate the payment of the component “TCRPP” of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator’s obligations under this paragraph 3.2 shall also terminate on such date.
- 3.2.6 The Franchise Operator may from time to time make proposals to the Authority in relation to specific days or periods to not strengthen some or all of the services set out at paragraph 3.2.10 and to use the additional Vehicles instead to strengthen other services. The Authority may at its discretion accept or reject such proposals. If the Authority accepts such a proposal, the Franchise Operator shall be obliged to strengthen the other service contained in its proposal as if it was included in paragraph 3.2.10 and in so operating that service shall be deemed to have complied in full with its obligations under this paragraph 3.2.

Monitoring Systems

- 3.2.7 The Franchise Operator shall provide to the Authority by no later than one month following the end of each Reporting Period during the TCRPP Period, a report in respect of the preceding Reporting Period containing a detailed summary of the performance of the Services setting out the number of Services which have been strengthened in accordance with paragraph 3.2.3.
- 3.2.8 Each three months the Franchise Operator shall provide to the Authority a report detailing the season ticket and standard ticket revenue upon Passenger Services (including the Services strengthened in accordance with paragraph 3.2.3) between Treherbert and Cardiff Central during the period to which the report relates.

3.2.9 The Franchise Operator shall provide, as required by the Authority and not less than once each year during the Franchise Term, passenger count information relating to passengers travelling upon all of the Services who:

- (i) alight any such service at Cardiff Central between the hours of 06.00 and 09.00; and
- (ii) board any such service at Cardiff Central between the hours of 1615 and 1915.

3.2.10 *Services*

Services to be strengthened Mondays – Fridays (excluding bank and public holidays and 27th – 31st December) at the following times or their equivalents under subsequent Timetables

07:49 Treherbert – Cardiff Central

17:00 Cardiff Central – Treherbert

3.3 Heart of Wales Winter Sundays RPP Funding

1.1.1 *Interpretation*

In this paragraph 3.3, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“Heart of Wales Renewal Rail Passenger Partnership (HOWRPP) Scheme Application” means the application for the Rail Passenger Partnership Scheme funding made on 19th May 2003 by the Previous Franchise Operator to the Authority.

“HOWRPP Period” means the period commencing on the Franchise Commencement Date and ending on the 31st May 2006.

“HOW Offer Letter” means a letter to the Previous Franchise Operator from the Authority dated 28th February 2002 relating to the original Heart of Wales Rail Passenger Partnership Scheme Application made on 24th April 2001 and set out in the RPP Document.

“Services” means the services to be provided by the Franchise Operator pursuant to the Heart of Wales Renewal Rail Passenger Partnership (HOWRPP) Scheme Application and set out in paragraph 3.3.7.

3.3.2 *Notification of Certain Events*

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the Heart of Wales Renewal Rail Passenger Partnership (HOWRPP) Scheme Application occurring at any stage during the HOWRPP Period.

3.3.3 *Provision of Service*

Unless otherwise agreed by the Authority, the Franchise Operator shall use all reasonable endeavours to provide the Services for the duration of the HOWRPP Period.

The Services shall during the HOWRPP Period be included in all relevant Timetables and Train Plans.

Notwithstanding any other provision in this paragraph 3.3 the Franchise Operator shall not be obliged to comply with its obligations under this paragraph 3.3 if the Authority has exercised its right under paragraphs 3.3.6.2 and 3.3.6.3.

3.3.4 *Monitoring Systems*

The Franchise Operator shall provide to the Authority by no later than the frequencies detailed below a report containing a detailed summary of the performance of the Services and containing the following information:-

- (i) details in relation to the Services for that Reporting Period of the number of trains planned to run which did not run in that Reporting Period and the reasons for such trains not running to be provided monthly;
- (ii) all data produced relating to single and return journeys for relevant stations on the line between Shrewsbury and Swansea on a monthly basis but to be provided quarterly.

3.3.5 The Franchise Operator and the Authority shall hold annual reviews of actual performance against contractual performance, the first review to occur during July 2004 and each subsequent July during the HOWRPP Period.

3.3.6 *Failure to Observe Provisions of HOW Offer Letter*

The Authority may, in its absolute discretion, by notice to the Franchise Operator, following any failure on more than six occasions in the period of three consecutive Reporting Periods commencing on the Franchise Commencement Date and each subsequent period of three consecutive Reporting Periods thereafter to provide any of the Services:-

- 3.3.6.1 elect to treat such failure as a breach of the Franchise Agreement; or
- 3.3.6.2 terminate the payment of the component HOWRPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.3 shall also terminate on such date; or
- 3.3.6.3 reduce the component HOWRPP of the said Franchise Payment on a date specified by the Authority by the sum of £350 (adjusted in the same way as the component HOWRPP of the said Franchise Payment may have been adjusted in accordance with Part 2 of Schedule 6 to the Franchise Agreement, having regard to any change in the Retail Prices Index) in respect of any of the Services which has not run.

3.3.7 *Services*

One service shall be provided in each direction on Sundays for the duration of the Winter timetable between Shrewsbury and Swansea calling at scheduled stopping and request stop stations, subject to engineering works.

3.4 **Carmarthen – Milford Haven RPP Funding**

3.4.1 *Interpretation*

In this paragraph 3.4, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“Carmarthen Rail Passenger Partnership (CRPP) Scheme Application” means the application for Rail Passenger Partnership Scheme funding made on 28th June 2001 by the Previous Franchise Operator to the Authority.

“CRPP Period” means the period commencing on the Franchise Commencement Date and ending 31st March 2004.

“CMH Offer Letter” means a letter to the Previous Franchise Operator from the Authority dated 28th February 2002 relating to the Carmarthen Rail Passenger Partnership (CRPP) Scheme Application and set out in the RPP Document.

“Services” means the services to be provided by the Franchise Operator pursuant to the Carmarthen Rail Passenger Partnership (CRPP) Scheme Application and set out in paragraph 3.4.12.

3.4.2 *Notification of Certain Events*

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the Carmarthen Rail Passenger Partnership (CRPP) Scheme Application occurring at any stage during the CRPP Period.

Provision of Services

3.4.3 Unless otherwise agreed by the Authority, the Franchise Operator shall use all reasonable endeavours to provide the Services for the duration of the CRPP Period.

3.4.4 Provided that the Franchise Operator's bid for the Services has been accepted by Network Rail Infrastructure Limited the Services shall during the CRPP Period be included in all relevant Timetables and Train Plans.

3.4.5 The Services shall be included within the performance regime in Schedule 7 to the Franchise Agreement.

3.4.6 Notwithstanding any other provision in this paragraph 3.4 the Franchise Operator shall not be obliged to comply with its obligations under this paragraph 3.4 if the Authority has exercised its rights under paragraph 3.4.11.2.

3.4.7 *Monitoring Systems*

The Franchise Operator shall provide to the Authority by no later than one month following the end of each Reporting Period a report in respect of the preceding

Reporting Period, containing a detailed summary of the performance of the Services and containing the following information:-

- 3.4.7.1 details in relation to the Services for that Reporting Period of the number of trains planned to run and which did not run in that Reporting Period and the reasons for such trains not running;
 - 3.4.7.2 certification that the Services have been included in the Timetable and in all relevant Train Plans for each Reporting Period;
 - 3.4.7.3 all data produced relating to patronage of and revenue raised by the Services and costs incurred in providing the Services.
- 3.4.8 The Franchise Operator and the Authority shall hold annual reviews of actual performance against contractual performance, the first review to occur during November 2004.
- 3.4.9 The Franchise Operator shall for each Franchise Year during the CRPP Period report to the Authority on the number of passengers travelling on the Services.

3.4.10 *Review of Services*

The Authority may review the provision of the Services at any time and if, in its reasonable opinion, the patronage levels set out in the Carmarthen Rail Passenger Partnership (CRPP) Scheme Application have not been achieved, the Authority may require the Franchise Operator to cease operation of the Services and cease payment of the CRPP Payment as defined in Schedule 6. Notice of such a decision must be sufficient to enable the Franchise Operator to make the necessary timetable changes only at the next Passenger Change Date.

3.4.11 *Failure to Observe Provisions of CMH Offer Letter*

The Authority may, in its absolute discretion, by notice to the Franchise Operator, following any failure on more than eighteen occasions in the period of three consecutive Reporting Periods commencing on the Franchise Commencement Date and each subsequent period of three consecutive Reporting Periods thereafter to provide any of the Services:-

- (i) elect to treat such failure as a breach of the Franchise Agreement; or
- (ii) terminate the payment of the component CRPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.4 shall also terminate on such date.

3.4.12 *Services*

Services shall be provided from Mondays to Saturdays inclusive between Carmarthen and Milford Haven in the direction of Milford Haven to provide a connection with the 17.30 London Paddington to Carmarthen Service or such other train as the Franchise Operator and the Authority may from time to time agree.

3.5 Inform Cymru RPP Funding

3.5.1 Interpretation

In this paragraph 3.5, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“ICRPP Payment” has the meaning given to it in Schedule 6.

“ICRPP Period” means the period commencing on the Franchise Commencement Date and ending on expiry of the Franchise Term.

“IC Project” means the project relating to the development and installation of a highly automated passenger information system in order to present to passengers real time train information both visually and audibly in accordance with the specification in paragraph 3.5.3 as carried out by the Previous Franchise Operator prior to the Franchise Commencement Date.

3.5.2 Obligations to maintain IC Project

3.5.2.1 The Franchise Operator shall maintain the equipment and facilities provided under the IC Project as further described in paragraph 3.5.3 for the duration of the ICRPP Period. To the extent that any installation works in respect of the IC Project due to have been completed by the Previous Franchise Operator prior to the Franchise Commencement Date have not been so completed, the Franchise Operator agrees to carry out such works and the agreed proportionate amount of the ICRPP Payment in respect of such works (corresponding to IC Milestones 1, 2 and 3 as appropriate, as set out in paragraph 14.1 of Part 2 of Schedule 6) which would have formed part of the component “RPP” included in the franchise payments payable to the Previous Franchise Operator under the Previous Franchise Agreement will be added to the ICRPP Payment set out at paragraph 14 of Part 2 of Schedule 6 which forms part of the first Franchise Payment payable to the Franchise Operator in the Reporting Period following completion of such works to the satisfaction of the Authority.

3.5.2.2 The Authority may, in its absolute discretion, by notice to the Franchise Operator, following any significant failure to observe or perform any obligation contained in this paragraph 3.5 (where failure is not remedied within 14 days following notice of such failure from the Authority or such other period as may reasonably be agreed by the Authority or where the Franchise Operator has not proposed a remedial plan to the Authority in such period which is acceptable to the Authority acting reasonably) or if the component ICRPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 of the Franchise Agreement is used for anything other than the carrying out of the IC Project, terminate the payment of the said component ICRPP of the Franchise Payment from a date specified by the Authority in which case the

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Franchise Operator's obligations under this paragraph 3.5 shall also terminate on such date.

3.5.3 Specification for the IC Project

Specification in More Detail 1

Aberdovey, Abererch, Barmouth, Borth, Caersws, Dovey Junction, Fairbourne, Harlech, Llandecwyn, Machynlleth, Newtown, Penlelig, Penrhyndeudraeth, Porthmadog, Pwllheli, Twywn, Tygwyn and Welshpool

Calls for information to be diverted to ring the LICC at Cardiff. Passengers to be given announcement about next train(s) or other announcement about train services.

Emergency calls to ring 999.

Specification in more detail 2

Caersws, Criccieth, Dyffryn Ardudwy, Llanaber, Llanbedr, Llandanwg, Llyngwrl, Minfford, Morfa Mawddach, Pensarn, Penychain, Pontypool, Pwllheli, Ruabon, Talsarnau, Talybont, Tonfanau.

BT payphone **1 calls to be diverted to ring the LICC at Cardiff. Passengers to be given announcement about next train(s) or other announcement about train services.

Specification in More Detail 3

Aberystwyth

To have an LED display on platform giving details of next three departures plus CRT summary screens on platform and in waiting areas.

To have broadcast public address on platform

To have induction loop in booking hall and buffet/waiting room.

Local staff input to be provided.

Specification in More Detail 4

Ammanford, Knighton, Llandrindod, Llandovery, Pantyffynon

To have CRT display handy to main entrance giving a summary of departures.

Existing Information Points to function as hitherto.

Specification in More Detail 5

Barmouth

To have CRT type displays on each platform giving details of departures from both platforms.

To have broadcast public address on each platform

Help Points to remain in operation.

Specification in More Detail 6

Bridgend, Cardiff Central, Neath, Newport, Port CIS to be controlled by LICC.

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Talbot, Swansea

Specification in More Detail 7

Chirk, Ruabon

To have an automated broadcast public address.

Specification in More Detail 8

Gobowen

To have an automated broadcast public address

To have automated visual displays for real time automation.

Specification in More Detail 9

Harlech, Twywn

To have an LED sign on each platform giving details of the next three departures.

To have a broadcast public address.

Help Points to remain in operation.

Specification in More Detail 10

Machynlleth

To have an LED display on each platform giving details of next three departures plus CRT summary screen at principal entrance and waiting area.

To have a broadcast public address on platforms.

To have induction loop in booking hall/waiting room.

Local staff input to be provided.

Help Points to remain in operation.

Specification in More Detail 11

Nantwich, Prees, Wem. Wrenbury, Yorton

Two Information Points to be maintained.

Specification in More Detail 12

Newton

To have an LED display on each platform giving details of next three departures.

To have a broadcast public address on platforms.

Help points to remain in operation.

Specification in More Detail 13

Pwllheli

To have a CRT display on the concourse giving details of departures.

To have a broadcast public address.

Help Point and Payphone **1 facility to remain in operation.

Specification in More Detail 14

Shrewsbury

To have an automated colour system giving LED displays on each platform supplemented by CRT summaries in booking hall and principal waiting areas.

CRT summaries to provide the trail from one train to another for passengers changing trains.

To have an automated broadcast public address.

An induction loop to be provided in waiting room/buffet.

Local input to be retained.

The system to extend to platform 3 and train crew mess rooms.

Specification in More Detail 15

Wrexham General

To have an LED sign on each platform giving details of up to the next three trains.

To have CRT summaries at key locations to provided overall station departure information.

To have a broadcast public address.

To have induction loops in the two waiting rooms.

3.6 Royal Welsh Show RPP Funding

3.6.1 Interpretation

In this paragraph 3.6, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“RWS Rail Passenger Partnership (RWSRPP) Scheme Application” means the application for Rail Passenger Partnership Scheme funding made on 13th March 2002 by the Previous Franchise Operator to the Authority.

“RWSRPP Period” means the period commencing on the Franchise Commencement Date and ending on the 31st March 2005.

“RWS Offer Letter” means a letter to the Previous Franchise Operator from the Authority dated 8th October 2002 relating to the RWS Rail Passenger Partnership (RWSRPP) Scheme Application and set out in the RPP Document.

“Services” means the services to be provided by the Franchise Operator pursuant to the RWS Rail Passenger Partnership (RWSRPP) Scheme Application and set out in paragraph 3.6.9.

3.6.2 *Notification of Certain Events*

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the RWS Rail Passenger Partnership (RWSRPP) Scheme Application occurring at any stage during the RWSRPP Period.

3.6.3 *Provision of Services*

3.6.3.1 Unless otherwise agreed by the Authority, the Franchise Operator shall use all reasonable endeavours to provide the Services for the duration of the RWSRPP Period.

3.6.3.2 The Services shall during the RWSRPP Period be included in all relevant Timetables and Train Plans.

3.6.3.3 Notwithstanding any other provision in this paragraph 3.6 the Franchise Operator shall not be obliged to comply with its obligations under this paragraph 3.6 if the Authority has exercised its right under paragraph 3.6.7.

3.6.4 *Monitoring Systems*

The Franchise Operator shall provide to the Authority by no later than one month following the end of each Reporting Period in which the Services are to run, a report containing a detailed summary of the performance of the Services and containing the following information:-

3.6.4.1 details in relation to the Services of the number of trains planned to run and which did not run in that Reporting Period and the reasons for such trains not running;

3.6.4.2 certification that the Services have been included in the Timetable and in all relevant Train Plans;

3.6.4.3 all data produced relating to patronage of and revenue raised by the Services and costs incurred in providing the Services.

3.6.5 The Franchise Operator and the Authority shall hold annual reviews of actual performance against contractual performance, the first review to occur during November 2004.

3.6.6 The Franchise Operator shall for each Franchise Year report to the Authority on the number of passengers travelling on the Services.

3.6.7 *Failure to Observe Provisions of RWS Offer Letter*

The Authority may, in its absolute discretion, by notice to the Franchise Operator, following any significant failure to observe or perform the provisions of the RWS Offer Letter or following any breach of a representation contained in the RWS Offer Letter:-

3.6.7.1 terminate the payment of the component RWSRPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.6 shall also terminate on such date.

3.6.7.2 reduce the component RWSRPP of the said Franchise Payment on a date specified by the Authority by the sum of £300 (adjusted in the same way as the component RWSRPP of the said Franchise Payment may have been adjusted in accordance with Part 2 of Schedule 6 to the Franchise Agreement, having regard to any change in the Retail Prices Index) in respect of any of the Services which has not run.

3.6.8 *Experimental Services*

The Services shall be experimental services for the purposes of section 48 of the Railways Act 1993.

3.6.9 *Services*

The following services on each of the four days on which the Royal Welsh Show is held in any year:-

A return service from Cardiff Central to Llandrindod Wells departing Cardiff Central at approximately 0705 hours and arriving at Llandrindod Wells at approximately 1016 and departing from Llandrindod Wells at approximately 1745 hours and arriving at Cardiff Central at approximately 2111 and calling (in both directions) at Bridgend, Port Talbot, Pontarddulais, Ammanford, Llandybie, Ffairfach, Llandeilo, Llangadog, Llanwrda, Llandovery, Cyngordy, Sugar Loaf, Llanwrtyd, Llangammarch, Garth, Cilmeri and Builth Road.

3.7 Valley Lines Strengthening RPP Funding

3.7.1 *Interpretation*

In this paragraph 3.7 the following definitions shall, except where the context otherwise requires, have the following meanings:-

“Valley Lines Rail Passenger Partnership (VLRPP) Scheme Application” means the application for Rail Passenger Partnership Scheme funding made on 15th January 2002 by the Previous Franchise Operator to the Authority.

“VLRPP Period” means the period commencing on the Franchise Commencement Date and ending on 31st May 2005.

“VL Offer Letter” means a letter to the Previous Franchise Operator from the Authority dated 4th February 2003 relating to the Valley Lines Rail Passenger Partnership Scheme Application and set out in the RPP Document.

“Services” means the services to be strengthened by the Franchise Operator pursuant to the Valley Lines Rail Passenger Partnership (VLRPP) Scheme Application and set out in paragraph 3.7.5.

3.7.2 *Notification of Certain Events*

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the Valley Lines Rail Passenger Partnership (VLRPP) Scheme Application occurring at any stage during the VLRPP Period.

3.7.3 *Provision of Service*

3.7.3.1⁹³ Unless otherwise agreed by the Authority, the Franchise Operator shall for the duration of VLRPP Period ensure that the Services provide seating capacity as outlined in Annex 1 of ‘VL Offer Letter’ amended as follows:-

The Services outlined in Annex 1 shall provide no less than 204 seats per Service with the exception of the 08.17 Rhymney – Cardiff which shall provide no less than 132 seats.

3.7.3.2 A failure to provide any of the Services shall not be a breach of the Franchise Agreement unless the Authority notifies the Franchise Operator that it is exercising its right under paragraph 3.7.3.3 to treat such failure as a breach of the Franchise Agreement.

3.7.3.3 The Authority may, in its absolute discretion, by notice to the Franchise Operator following any failure on more than fifteen occasions in the period of three consecutive Reporting Periods commencing on the Franchise Commencement Date and each

⁹³ New text inserted wef 4th February 2005

subsequent period of three consecutive Reporting Periods thereafter to provide any of the Services:

- (a) elect or treat such failure as a breach of the Franchise Agreement; or
- (b) terminate the payment of the component “VLRPP” of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.7 shall also terminate on such date.

3.7.3.4 The Franchise Operator may from time to time make proposals to the Authority in relation to specific days or periods to not strengthen some or all of the services set out at paragraph 3.7.5 and to use the Vehicles instead to strengthen other services. The Authority may at its discretion accept or reject such proposals. If the Authority accepts such a proposal, the Franchise Operator shall be obliged to strengthen the other service contained in its proposal as if it was included in paragraph 3.7.5 and in so operating that service shall be deemed to have complied in full with its obligations under this paragraph 3.7.

3.7.4 *Monitoring Systems*

3.7.4.1 The Franchise Operator shall provide to the Authority by no later than one month following the end of each Reporting Period during the VLRPP Period, a report in respect of that Reporting Period containing a detailed summary of the performance of the Services setting out the number of Services which have been strengthened in accordance with paragraph 3.7.3.1.

3.7.4.2 The Franchise Operator shall provide, as required by the Authority, train specific passenger count information relating to passengers travelling upon the Services and journey data from the CAPRI/LENNON system on key passenger flows not less than once each year during the Franchise Term.

3.7.5 *Services*

Services to be strengthened Mondays – Fridays (excluding bank and public holidays and 27th – 31st December) at the following times or their equivalents under subsequent Timetables

07:01 Rhymney – Cardiff

17:43 Cardiff – Rhymney

07:43 Barry Island – Aberdare (at least as far as Cardiff Central)

07:09 Treherbert – Cardiff

08:17 Rhymney – Cardiff

16:02 Cardiff – Rhymney

The strengthening of the 07:01 Rhymney – Cardiff and 17:43 Cardiff – Rhymney services will not take place during the four days of the Royal Welsh Show in any year that the RPP funding is provided for that service.

3.8 Cardiff – Aberdare RPP Funding

3.8.1 Interpretation

In this paragraph 3.8, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“Cardiff - Aberdare Rail Passenger Partnership (CARPP) Scheme Application” means the application for Rail Passenger Partnership Scheme funding made on 9th October 2002 by the Previous Franchise Operator to the Authority.

“CA Offer Letter” means a letter to the Previous Franchise Operator from the Authority dated 11th June 2003 relating to the Cardiff-Aberdare Rail Passenger Partnership (CARPP) Scheme Application and set out in the RPP Document.

“CARPP Payment” has the meaning given to it in Schedule 6.

“CARPP Period” means the period commencing on the Franchise Commencement Date and ending on the 31st March 2006 or the date of implementation of the Standard Pattern Timetable Option whichever is the earlier.

“Services” means the services to be provided by the Franchise Operator pursuant to the Cardiff – Aberdare Rail Passenger Partnership (CARPP) Scheme Application and set out in paragraph 3.8.7.

3.8.2 Notification of Certain Events

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the Cardiff - Aberdare Rail Passenger Partnership (CARPP) Scheme Application occurring at any stage during the CARPP Period.

3.8.3 Provision of Service

3.8.3.1 Unless otherwise agreed by the Authority, the Franchise Operator shall use all reasonable endeavours to provide the Services for the duration of the CARPP Period. If the Franchise Operator is able to show to the Authority's reasonable satisfaction that for valid operational reasons it is not possible to provide the Services, the Franchise Operator will consult with the Authority and the Welsh Assembly Government in relation to the services which can be provided and the Authority and the Franchise Operator shall negotiate in good faith to agree a revised specification for the Services and an adjustment of the CARPP Payment provided that the amount of the CARPP Payment may not be increased. If the Authority and the Franchise Operator are not able to agree on a revised specification,

the Authority shall terminate the payment of the component CARPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.8 shall also terminate on such date. The provisions of this paragraph 3.8 shall apply *mutatis mutandis* to the revised specification.

3.8.3.2 The Services shall during the CARPP Period be included in all relevant Timetables and Train Plans.

3.8.3.3 Notwithstanding any other provision in this paragraph 3.8 the Franchise Operator shall not be obliged to comply with its obligations under this paragraph 3.8 if:

- (a) the Authority has exercised its right under paragraph 3.8.6; or
- (b) the Authority has exercised the Standard Pattern Timetable Option pursuant to paragraph 12.12, from the date of implementation of the services set out in such Option in which case the Authority may terminate the payment of the component CARPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement.

3.8.4 *Monitoring Systems*

The Franchise Operator shall provide to the Authority by no later than the frequencies detailed below, a report containing a detailed summary of the performance of the Services and containing the following information:-

3.8.4.1 details in relation to the Services for each Reporting Period of the number of trains planned to run and which did not run in that Reporting Period and the reasons for such trains not running to be provided on a monthly basis; and

3.8.4.2 all data produced relating to originating journeys for stations between Aberdare and Abercynon North exclusive on a month by month basis but to be provided quarterly.

The Franchise Operator and the Authority shall hold annual reviews of actual performance against contractual performance, the first review to occur during November 2004.

3.8.5 *Review of Services*

The Authority may review the provision of the Services at any time and if, in its reasonable opinion, the patronage levels set out in the Cardiff-Aberdare Rail Passenger Partnership (CARPP) Application have not been achieved, the Authority may require the Franchise Operator to cease operation of the Services and thus

payment of the CARPP Payment. Notice of such a decision must be sufficient to enable the Franchise Operator to make the necessary timetable changes only at the next Passenger Change Date.

3.8.6 *Failure to Observe Provisions of CA Offer Letter*

The Authority may, in its absolute discretion, by notice to the Franchise Operator, following any failure on more than twenty-two occasions in any one Reporting Period to provide any of the Services:-

- 3.8.6.1 elect to treat such failure as a breach of the Franchise Agreement; or
- 3.8.6.2 terminate the payment of the component CARPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.8 shall also terminate on such date.

3.8.7 *Services*

Additional Passenger Services to be provided:

Additional Service	Current Services (per day) Mon-Fri	Additional Services (per day) Mon-Fri	Current Services Saturday	Additional Services Saturday
Cardiff – Aberdare	14	8	13	11
Cardiff – Mountain Ash	14	3	13	3
Aberdare – Cardiff	17	8	16	10
Mountain Ash – Cardiff	17	3	16	3
TOTAL	62	22	58	27

3.9 **Vale of Glamorgan RPP Funding**

- 3.9.1 In this paragraph 3.9, the following definitions shall, except where the context otherwise requires, have the following meanings:-

“Vale of Glamorgan Rail Passenger Partnership (VOG) Scheme Application” means the application for Rail Passenger Partnership Scheme funding made on 27th March 2001 by the Vale of Glamorgan and Bridgend County District Councils to the Authority.

“VOGRPP Period” means the period commencing on 1st April 2005 and ending on the 31st March 2008.

“VOG Offer Letter” means a letter to the Previous Franchise Operator from the Authority dated 22nd September 2003 relating to the Vale of Glamorgan Rail Passenger Partnership Scheme Application and set out in the RPP Document.

“**Services**” means the services to be provided by the Franchise Operator pursuant to the Vale of Glamorgan Rail Passenger Partnership (VOG) Scheme Application and set out in paragraph 3.9.8.

3.9.2 *Notification of Certain Events*

The Franchise Operator shall without delay inform the Authority in writing of the occurrence of a material change in the facts advanced in support of the Vale of Glamorgan Rail Renewal Passenger Partnership (VOG) Scheme Application occurring at any stage during the VOG Period.

3.9.3 *Provision of Service and Recruitment and Training of Train Crew*

3.9.3.1 Unless otherwise agreed by the Authority, the Franchise Operator shall use all reasonable endeavours to provide the Services for the duration of the VOGRPP Period. The Franchise Operator will not be in breach of any of its obligations under this paragraph 3.9 to the extent that the network infrastructure required to operate the services and/or to allow the opening of the planned new stations has not been completed;

3.9.3.2 Provided that the Franchise Operator's bid for the Services has been accepted by Network Rail Infrastructure Limited, the Services shall during the VOGRPP Period be included in all relevant Timetables and Train Plans.

3.9.3.3 Notwithstanding any other provision in this paragraph 3.9, the Franchise Operator shall not be obliged to comply with its obligations under this paragraph 3.9 in respect of any Service in relation to which the Authority has exercised its right under paragraph 3.9.7.

3.9.3.4 The Franchise Operator shall recruit and train sufficient train crew to operate the Services and shall provide to the Authority such details of the recruitment and training as the Authority may request.

Monitoring

3.9.4 The Franchise Operator shall provide to the Authority by no later than the frequencies detailed below a report containing a detailed summary of the performance of the Services and containing the following information:-

3.9.4.1 details in relation to the Services for each Reporting Period of the number of trains planned to run and which did not run in that Reporting Period and the reasons for such trains not running by Reporting Period; and

3.9.4.2 all data produced relating to single and return journeys for Rhose and Llantwit Major on a Reporting Period basis, but to be provided quarterly.

3.9.5 The Franchise Operator and the Authority shall hold annual reviews of actual performance against contractual performance, the first review to occur during May 2006 and each subsequent May during the VOGRPP Period.

3.9.6 The Franchise Operator shall provide train specific passenger count information relating to passengers travelling upon the Services and journey data from the CAPRI/LENNON system on key passenger flows, as required by the Authority, not less than once each year during the Franchise Term.

3.9.7 *Failure to Observe Provisions of VOG Offer Letter*

The Authority may, in its absolute discretion, by notice to the Franchise Operator, following any failure on more than forty-five occasions in any one Reporting Period to provide any of the Services:-

3.9.7.1 elect to treat such failure as a breach of the Franchise Agreement; or

3.9.7.2 terminate the payment of the component VOGRPP of the Franchise Payment which is payable to the Franchise Operator in accordance with Part 2 of Schedule 6 to the Franchise Agreement, from a date specified by the Authority in which case the Franchise Operator's obligations under this paragraph 3.9 shall also terminate on such date.

3.9.8 *Services*

The Services will operate between Cardiff Central and Bridgend with intermediate stops at least of Barry, Rhoose and Llantwit Major.

Services to be operated in both directions between the hours and at the frequencies set out below:

06.00 hrs and 24.00 hrs on Mon – Sat (excluding bank and public holidays and 27th – 31st December) - hourly

and between

08.00 hrs and 24.00 hrs on Sun (excluding bank and public holidays and 27th – 31st December) - two hourly

Overall journey time with the stopping pattern indicated above should not exceed 55 mins unless Network Rail insert pathing time.

The hourly frequency can be flexed to be between 50 mins and 70 mins and the 2 hourly frequency can be flexed to be between 1¾ and 2¼ hours

3.10 Provision of the Accounts

In addition and without prejudice to the Franchise Agreement the audited accounts to be delivered to the Authority pursuant to Clause 15.2(a) shall contain a separate entry which relates to the funding provided for under each paragraph of this Part III of the Franchise Plan and Schedule 6 of the Franchise Agreement.

3.11 Provision of information

For the avoidance of doubt, the Authority's rights and the Franchise Operator's obligations under the following provisions of the Franchise Agreement:-

- 3.11.1 Clause 15.9 (Further information)
- 3.11.2 Clause 15.10 (Right of Audit or Inspection)
- 3.11.3 Clause 15.11 (Access to third parties)

shall apply *mutatis mutandis* in relation to the monitoring of the Franchise Operator's obligations under this Part III.

Part IV

4. Continuation of Current Franchise Plan Commitments

- 4.1 The Franchise Operator shall ensure, or shall procure, that at each Station where, as part of the implementation of the commitment in paragraph 6.1 of the Franchise Plan of the Previous Franchise Agreement, closed-circuit television systems were provided and substantially remain in operation as at the Franchise Commencement Date, such closed-circuit television systems will, at all times when Passenger Services are scheduled to call at those Stations, be adequately maintained in an operational condition and connected to a manned monitoring point providing a suitable response. The Franchise Operator shall not be considered to be in breach of this obligation to the extent that the Franchise Operator cannot fulfil it without the assistance of a third party and that assistance is not forthcoming despite all reasonable endeavours of the Franchise Operator to obtain it.
- 4.2 The Franchise Operator shall ensure that where immediately prior to the Franchise Commencement Date a conductor (or other member of customer services staff) on a Passenger Service was provided (or was due to have been provided) with a means of two-way communication with a service control and/or security centre, the conductors (or other member of customer service staff) on any equivalent Passenger Service will continue to be provided with the same, and it will be maintained in operational condition.
- 4.3 The Franchise Operator shall or shall procure that on each of the following Passenger Services in both directions on-train catering facilities will be provided at the times and for the parts of such services specified below. For the avoidance of doubt, this obligation shall apply to Passenger Services where the scheduled time of departure from the origin station is within the times set out below. Such on-train catering facilities shall include as a minimum the provision of hot and cold drinks, sandwiches and snacks.

Carmarthen-Cardiff-Manchester: scheduled departures on Mondays-Saturdays between 06.30 and 18.00 and on Sundays between 12.00 and 18.00.
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Manchester-North Wales: scheduled departures on Mondays-Saturdays between 08.00

and 18.00 and on Sundays between 14.00 and 18.00.
⁹⁴ <i>Cardiff–Holyhead: scheduled departures on Mondays-Saturdays between 08.00 and 18.00, not beyond Llandudno Junction (towards Holyhead) unless connecting with a ferry in Summer and not in Winter</i>
Birmingham–Aberystwyth: scheduled departures on Mondays-Saturdays between 09.00 and 18.00 and on Sundays between 14.00 and 18.00.

- 4.4 The Franchise Operator shall continue to trade (in respect of the provision of train maintenance and staff services but not head office services) with Wales & West Passenger Trains Limited (and any successor operator) until 1 October 2006 at the same levels and otherwise on the same terms as those applicable immediately prior to the Franchise Commencement Date subject to reaching any alternative agreement (including as to earlier termination of such services) with Wales & West Passenger Trains Limited.

Part V

5. Customer Services

- 5.1 The Franchise Operator shall continue to provide bi-lingual signage, passenger information and communication at the same levels as those applicable immediately prior to the Franchise Commencement Date. The Franchise Operator shall in addition on and from the Franchise Commencement Date provide a Welsh edition of the Passenger's Charter.
- 5.2 The Franchise Operator shall no later than the Passenger Change Date falling in Summer 2004:-
- 5.2.1 provide a Welsh language customer service phone-line during normal office hours (between 0900 and 1700 Monday to Friday excluding bank and public holidays); and
- 5.2.2 ensure that all signage, timetables and other passenger information and publicity are provided in the Welsh and English languages;
- 5.2.3 ensure the provision of bi-lingual recorded station announcements at Stations in Wales where suitable public address equipment is in place immediately prior to the Franchise Commencement Date or is subsequently fitted (whether on renewal or as part of a station development or otherwise) from the date of such fitting.
- 5.3 In relation to the Franchise Operator's obligations to provide information and materials in the ⁹⁵***Welsh language Board*** under paragraphs 5.1 and 5.2 above, the Franchise Operator shall consult with and seek to obtain endorsement of such materials and information by the Welsh Language Society.

Part VI

6. Stations

⁹⁴ date of change 14.2.2006

⁹⁵ Date of Change 14.2.2006

- 6.1** The Franchise Operator shall operate, maintain and (where renewal is not the obligation of Network Rail) renew (in each case in relation to the particular items which have been upgraded or funded):
- 6.1.1 any facilities upgraded as part of the programme of station improvements funded by the Welsh Assembly Government and outlined in two letters to the Previous Franchise Operator from the Welsh Assembly Government both dated 28 February 2003 and associated annexes; and
 - 6.1.2 any facilities upgraded as part of the Authority's Modern Facilities at Stations scheme (or equivalent) at Trefforest Station;
 - 6.1.3 any CCTV equipment funded by Flintshire County Council at Caergwle, Hope, Buckley and Hawarden Stations (or as elsewhere agreed).
- 6.2⁹⁶** *In relation to car parks at the following Stations: Abergavenny, Bangor, Bridgend, Cardiff Central, Carmarthen, Chester A & B, Colwyn Bay, Hereford, Llandudno Junction, Ludlow, Neath, Newport, Port Talbot, Severn Tunnel, Shrewsbury, Swansea, Tenby and Wrexham General, the Franchise Operator shall:*
- 6.2.1** *obtain all necessary consents and approvals to make improvements to such car parks (to include the provision of improved security at each such car park) by no later than 31 March 2006;*
 - 6.2.2** *incur capital expenditure of not less than £0.4 million in carrying out such improvements, such improvements to be made as soon as reasonably practicable after obtaining all necessary consents and approvals; and*
 - 6.2.3** *use all reasonable endeavours to obtain Park Mark Safer Parking Award ("PMSPA") by 1 July 2006 and, if successful, will maintain such accredited status for the remainder of the Franchise Term.*
- 6.3** The Franchise Operator will cooperate with stakeholders including local authorities, Network Rail and the British Transport Police to improve passenger security in Stations and Station car parks and provide to the Authority an annual report detailing the contact it has had with stakeholders and what actions have been taken as a result.
- 6.4** The Franchise Operator shall introduce a scheme within 12 months of the Franchise Commencement Date under which individual passengers ("Station Adopters") will be encouraged to adopt their local Station (including by the offer by the Franchise Operator of free travel on the Passenger Services). Subject to any changes to the proposed scheme agreed by the Authority, the scheme will provide for Station Adopters to:
- 6.4.1 inspect and report on the condition of adopted Stations; and
 - 6.4.2 report their journey experiences

⁹⁶ Date of Change 3.1.2006

to local management at regular intervals. The Franchise Operator commits to address concerns raised by Station Adopters quickly and cost efficiently. The Franchise Operator shall use all reasonable endeavours to procure the adoption of 70 per cent of the Stations within five years from the Franchise Commencement Date.

- 6.5** The Franchise Operator shall seek tenants for unused Station premises for use as retail facilities and/or for community use with the aim of encouraging more activity around Stations. The Franchise Operator shall use all reasonable endeavours to procure that commercial or community occupation of unused Station premises increases at a rate which on average shows one Station showing increased occupation per year in any period of thirty-six consecutive months during the Franchise Term and continues to show increased occupation thereafter save that the Franchise Operator shall be deemed to have satisfied this requirement once fifteen Stations show increased occupation.

Part VII

7. NPS Benchmarks

7.1⁹⁷ [NOT USED]

Part XIII

8. Rolling Stock

- 8.1** The Franchise Operator will replace the three sets of Class 37 locomotives and mark 2 loco-hauled carriages diagrammed for use on the Passenger Services in Service Group 1 immediately prior to the Franchise Commencement Date with seven Class 150 units, by the Passenger Change Date in December 2004.^{xiv}
- 8.2** If the Franchise Operator is unable to achieve replacement of such Vehicles in accordance with paragraph 8.1 despite using reasonable endeavours to do so in accordance with paragraph 8.1 it shall promptly advise the Authority the reason why this was not achieved and:-
- 8.2.1 continue to operate said locomotives and carriages; and
- 8.2.2 use all reasonable endeavours to achieve such replacement by the next Passenger Change Date.
- 8.3** In addition to its obligations under paragraph 8.2, for each consecutive period of 12 months from December 2004 or part thereof that it fails to achieve such replacement the Franchise Operator shall expend not less than £25,000 (or in relation to a part year a proportionate amount calculated on a pro rata basis) on providing additional passenger benefits (to include, without limitation, expenditure on waiting shelters and/or ticket office refurbishment and/or additional CCTV and/or lighting improvements and/or passenger facilities on Vehicles) on the routes on which such Vehicles operate. The Franchise Operator shall provide a report to the Authority as soon as reasonably practicable following the expenditure and in any event within one month of the expenditure being incurred detailing where expenditure has been made.

⁹⁷ Date of Change 7.12.2005

- 8.4** If paragraph 8.2 applies and provided that the Franchise Operator has complied with its obligations under paragraph 8.3, it shall not be considered to be in breach of its obligations under paragraph 8.1 and paragraph 8.1 shall be read as if the new date proposed under paragraph 8.2.2 had been substituted for the date previously stated.
- 8.5** The Franchise Operator will introduce by the Passenger Change Date in May 2004 recording of passenger loadings by conductors on all Passenger Services passing through not less than 11 key route sections in each direction, such measurement to be carried out not less than 12 times during each year of the Franchise Term (to be spread evenly throughout the year) on all of the Passenger Services passing through the 11 key route sections on a particular day. The Franchise Operator shall make such recordings and analysis available to the Authority upon request. From the Franchise Commencement Date and thereafter, the key route sections will be:

Cardiff-Bridgend (excluding Service Group 1)
Swansea-Llanelli
Newport-Abergavenny
Shrewsbury-Crewe
Crewe-Stockport
Shrewsbury-Wolverhampton
Shrewsbury-Welshpool
Crewe-Chester
Manchester-Warrington
Chester-Prestatyn
Newport-Bristol

or such other key route sections as may be agreed between the Authority and the Franchise Operator from time to time.

- 8.6** In addition (and without prejudice to the Franchise Operator's obligations under Clause 6.2 of the Franchise Agreement), the Franchise Operator will measure loads on Passenger Services in Service Group 1 during the Peak not less than twice during each year of the Franchise Term (once during the Winter and once in Summer) on a consistent basis and provide an annual summary report and recommendations to the Authority and Welsh Assembly Government on proposed actions to be taken to deal with any overcrowding.
- 8.7** Without prejudice to the Franchise Operator's obligations under Clause 6 of the Franchise Agreement, the Franchise Operator shall use all reasonable endeavours to allocate Rolling Stock Units in the provision of the Passenger Services in such a way as to minimise overcrowding, to the extent permitted by operational constraints. For the avoidance of doubt, upon the expiry of the arrangements for the sub-leasing by the Franchise Operator of certain of its fleet of Class 175 rolling stock, this obligation will include the obligation to diagram 3 car 175 Units on the busiest Passenger Services taking into account the passenger counts to be carried out pursuant to paragraph 8.5 and other relevant factors as may otherwise be agreed by the Authority.
- 8.8** Without prejudice to the Franchise Operator's obligations under Clause 6 of the Franchise Agreement, the Franchise Operator shall:

- 8.8.1 until their replacement under paragraph 8.1, continue to use the loco-hauled sets in use on the Passenger Services in Service Group 1 immediately prior to the Franchise Commencement Date to best advantage to reduce overcrowding in Summer, when not required for Passenger Services in Service Group 1 and subject to operational constraints, at no lower level of use than made of them by the Previous Franchise Operator in the Summers of 2002 and 2003. The Franchise Operator shall use one of these loco-hauled sets, or another train of equivalent capacity, to supplement Passenger Services in Service Group 2 on Summer Saturdays when overcrowding would otherwise be excessive taking into account the passenger counts to be carried out pursuant to paragraphs 8.5 and 8.6 and other relevant factors as may otherwise be agreed by the Authority. The Franchise Operator shall prioritise the use of all such Vehicles which are not diagrammed on Passenger Services where crowding is above the Authority's capacity standards of 0.45m² per person; and
- 8.8.2 after replacement of the loco-hauled sets under paragraph 8.1 use to best advantage to reduce overcrowding in Summer no less number of Vehicles than used under paragraph 8.8.1, when not required for Passenger Services in Service Group 1 and subject to operational constraints. This shall include the use of a train to supplement Passenger Services in Service Group 2 on Summer Saturdays when overcrowding would otherwise be excessive taking into account the passenger counts to be carried out pursuant to paragraphs 8.5 and 8.6 and other relevant factors as may otherwise be agreed by the Authority. The Franchise Operator shall prioritise the use of all such Vehicles which are not diagrammed on Passenger Services where crowding is above the Authority's capacity standards of 0.45m² per person.

Part IX

9. Fares

- 9.1 The Franchise Operator agrees not to introduce a charge for the reservation of space for bicycles on the Passenger Services at any time during the Franchise Term.

Part X

10. Special Events at the Millennium Stadium

- 10.1 Without prejudice to the Franchise Operator's obligations under Clause 6 of the Franchise Agreement, in relation to events at the Millennium Stadium in Cardiff, the Franchise Operator will:
- 10.1.1 use all reasonable endeavours to plan and provide sufficient additional capacity and/or additional Passenger Services;
- 10.1.2 co-ordinate with appropriate third parties, including (without limitation) the event organisers, the Police, British Transport Police, the Local Authority, other transport operators and transport authorities and including active participation in Cardiff City's 'Special Events Liaison Group' (or any group which replaces this), the provision of the Passenger Services set out in paragraph 10.1.1 above; and

10.1.3 as Station Facility Owner for Cardiff Central Station, make appropriate staffing, security and safety arrangements for the safe management of crowds at Cardiff Central Station,

in each case as appropriate to (i) the nature and timing of the event; and (ii) the anticipated attendance level.

Part XI

11. ERTMS

11.1 In full expectation that the proposed trial of ERTMS equipment on the line between Machynlleth Station and Dovey Junction will proceed, the Franchise Operator agrees in principle and subject as hereinafter provided to participate in a programme which will include, without limitation, procurement, train fitment, testing, obtaining approvals, training and operation ("ERTMS Trial"). The Franchise Operator agrees at the Authority's request to enter into good faith negotiations with the Authority and the National ERTMS Project Team regarding the scope and terms of the Franchise Operator's participation in the ERTMS Trial (including as to the costs payable to the Franchise Operator) on the basis of the Authority's specification for the ERTMS Trial dated 15th May 2003 and the Franchisee's proposal in response (including as to the costs payable) dated 9th June 2003 ("ERTMS Proposal") as set out in the agreed terms and marked "ERTMS", with the aim of concluding such negotiations and entering into a formal agreement recording such terms by not later than 30th April 2004 or such later date as the parties may agree. The parties acknowledge and agree that the Authority's specification for the ERTMS Trial will need to be amended and the Franchise Operator agrees to negotiate such changes in good faith on the basis of the ERTMS Proposal and with the intent that there is a clear linkage between the ERTMS Proposal and the terms agreed including as to the costs payable to the Franchise Operator. Following agreement of scope and terms, the Franchise Operator will participate in the ERTMS Trial in accordance with such terms.

Part XII

12. Options

12.1 Save as otherwise expressly provided for in relation to a particular Option as set out in this Schedule 13, the Authority may exercise itself or on behalf of a third party any of the Options set out in this paragraph 12 by giving the Franchise Operator notice in writing on or before the second anniversary of the Franchise Commencement Date. Save with regard to the Subsidy Reduction Option which cannot be exercised following the exercise of the Standard Pattern Timetable Option or the Valley Lines Crowding Relief Option, the Authority may exercise each of the Options separately and independently of the other Options or in any combinations save that (unless otherwise expressly provided for in relation to a particular Option) the amounts to be substituted for the "Real Amount" in Part 3 of Schedule 6 in respect of the relevant Option or combination of Options shall be those applicable to the Option or combination that results from all such exercises if that combination is shown in Part 5 of Schedule 6 or as otherwise determined pursuant to paragraph 12.5.

12.2 If the Authority exercises the Valley Lines Crowding Relief Option on or before the date shown in respect of it in Part 5 of Schedule 6, the amounts shown in respect of that Option, for the period from the start of the Franchise Operator Year in which the Option was implemented, shall be substituted for the "Real Amount" in Part 3 of Schedule 6, with effect from the start of that Franchise Operator Year.

- 12.3** If more than one exercise is made in any Franchise Operator Year, the amounts to be substituted for the “Real Amount” from the start of that Franchise Operator Year shall be those applicable to the combination that results from all such exercises if that combination is shown in Part 5 of Schedule 6 or shall be as otherwise determined pursuant to paragraph 12.5.
- 12.4** If the “Real Amount” for any Franchise Operator Year is adjusted under this paragraph 12, the Authority shall promptly recalculate the Franchise Payments that should have been made during that Franchise Operator Year to date and compare them with those that have actually been paid during that Franchise Operator Year. If this calculation shows that any balance is due to or from the Franchise Operator, the next Franchise Payment to be made following the recalculation shall be adjusted by the amount of the balance, without interest, unless the next Franchise Payment is due to be made during the 7 days following completion of the calculation. In that event the adjustment shall be made to the next following Franchise Payment (again without interest) in accordance with paragraph 3 of part 2 of Schedule 6.
- 12.5** If the Authority wishes to exercise an Option or combination of Options after the date shown in respect of it in Part 5 of Schedule 6, and/or if it wishes to exercise a combination of Options that is not shown in Part 5 of Schedule 6, the Authority may serve notice on the Franchise Operator specifying the Option or combination and a proposed exercise date and requiring it to propose the amounts which would be substituted for the “Real Amount” in Part 3 of Schedule 6 if the Option or combination is exercised before such date for exercising the Option or combination of Options and/or alternative combination of Options, as if these had been included in Part 5 of Schedule 6 to be determined on the basis set out in paragraph 12.6. The Franchise Operator shall propose such amounts and any revised dates for implementation of the Option or combination of Options as may be applicable within 28 days of receiving such notification.
- 12.6** The basis for calculating appropriate changes to the “Real Amount” shall be to maintain the cost margin that the Franchise Operator would have received if the Option or combination of Options had been exercised by the relevant date, or (if applicable) if the Authority had exercised the combination of Options shown in Part 5 of Schedule 6 that is closest to that combination that the Authority wishes to exercise, having regard to:
- 12.6.1 the amounts shown in Part 5 of Schedule 6 in respect of the combination of Options that is closest to that selected; and
- 12.6.2 the Financial Model and Record of Assumptions (as defined in Schedule 9) and in particular, those items in them that are affected by the delay in exercise or difference in combination

and on the basis that the Franchise Operator shall apply open book accounting principles and provide the Authority with such information as it might reasonably request. For the purposes of this paragraph 12.6, “cost margin” means the Franchise Operator’s reasonable agreed direct costs in providing the Option plus a margin of 5% on such costs plus an amount equal to any additional Cost of Capital (as defined in Schedule 6) resulting from the implementation of the Option or combination of Options consistent with the assumptions and methodology set out in the Financial Model.

- 12.7** The Authority shall notify the Franchise Operator within 14 days of receiving the Franchise Operator's proposals whether it accepts the amounts proposed to be substituted for the "Real Amount" in Part 3 of Schedule 6. If the Authority notifies the Franchise Operator that it does not agree with the Franchise Operator's proposals, the Franchise Operator and the Authority shall if the Authority requires it enter into negotiations in good faith to agree on the appropriate changes to the "Real Amount" as soon as practicable on the basis set out in paragraph 12.6.
- 12.8** If the Authority and the Franchise Operator are unable to agree the amounts to be substituted for the "Real Amount" within a further period of 2 months of any notice under paragraph 12.7 the amounts shall be determined on the basis of the No Net Loss No Net Gain Regime. For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of this paragraph 12.8, whether the Franchise Operator would incur a Net Loss or a Net Gain. The Franchise Operator and the Authority recognise that not all the provisions of Schedule 9 will be appropriate in the circumstances and will agree an appropriate process to apply. In accordance with the provisions of paragraph 7.2 of Part 1 of Schedule 9, if the Authority and the Franchise Operator are not able to reach agreement within 3 months, the dispute may be referred to an expert to be agreed upon by the parties or (in default of agreement within 10 business days to be selected at the instance of either party by the President for the time being of the Institute of Chartered Accountants. The expert shall determine which provisions of Schedule 9 should be applied. The expert shall act as an expert and not as an arbitrator and shall be entitled to appoint such technical expert or experts as he considers necessary to assist in determining the matter referred to him. The parties agree to follow the procedure and/or requirements laid down by the expert and the decision of the expert (which shall be given by him in writing stating his reasons) shall be final and binding on the parties. The costs of the expert shall be borne in equal proportions by the Authority and the Franchise Operator. If the dates for exercise of the Option and/or any implementation dates are no longer valid, the Franchise Operator shall propose revised dates as part of the process under Schedule 9 or the Dispute Resolution Rules as applicable.
- 12.9** Upon agreement of the amounts to be substituted for the "Real Amount", and if the Authority exercises the relevant Option or combination by the new date, such amounts shall then be substituted for the "Real Amount" in Part 3 of Schedule 6, with effect from the start of the Franchise Operator Year in which the exercise was made. For the avoidance of doubt, the Authority shall not be obliged to exercise any Option following the process set out in paragraphs 12.5 – 12.9.
- 12.10** If the Authority exercises an Option or combination of Options on or before the date shown in respect of it in Part 5 of Schedule 6, the Franchise Operator shall implement it on the Passenger Change Date falling in the month stated in Part 5 of Schedule 6.
- 12.11 Ebbw Valley Option**
- 12.11.1 If the Authority requires the Franchise Operator to implement this Option, it shall specify the Passenger Change Date from which the revised railway passenger services are to be operated (being the next Passenger Change Date from which it will be reasonably practicable for the Franchise Operator to do so) and the Franchise Operator shall:-

- (a) comply with its obligations under Clause 5.1 of the Franchise Agreement as if the railway passenger services set out in Annex 5 (as may be amended pursuant to paragraph 12.11.2(a)) were included in the Passenger Service Requirement provided that the provisions of Clauses 5.1(b)(i), 5.1(c) and 5.1(d) shall not apply in respect of the Franchise Operator's obligations under this paragraph 12.11.1, except to the extent provided in paragraph 12.11.6;
- (b) to the extent that it does not have the necessary quantity and quality of rights in order to meet its obligations under paragraph 12.11.1(a) under the Initial Track Access Agreement (or any Track Access Agreement which replaces the Initial Track Access Agreement or any subsequent Track Access Agreement entered into), use reasonable endeavours to negotiate prior to and during the next timetable development period after being given notice by the Authority pursuant to this paragraph 12.11.1:-
 - (i) with Network Rail to obtain the necessary quantity and quality of rights to entitle it to bid for the train slots necessary to run the railway passenger services set out in Annex 5; and
 - (ii) with Network Rail and other operators to obtain such train slots;
and thereafter shall bid for such train slots.
- (c) use all reasonable endeavours to take a lease from Network Rail (or such other person as may be the owner and/or Facility Owner) and thereby become the Facility Owner of the following new stations:

Ebbw Vale Parkway
Rogerston
Risca
Crosskeys
Newbridge
Llanhilleth

Subject to paragraph 12.11.2(a), such stations shall be 'Stations' and such leases 'Station Leases' and all the Franchise Operator's obligations under the Franchise Agreement shall apply to such stations as if they were Stations and as if the leases were Station Leases and, for the avoidance of doubt, the Franchise Operator shall include such stations within its maintenance, security and cleaning arrangements applicable to other Stations. The Franchise Operator also agrees to include such stations within its station adoption scheme as set out at paragraph 6.4.

12.11.2 The Franchise Operator's obligations under paragraph 12.11.1 are subject to the following:-

- (a) the Franchise Operator will not be in breach of any of its obligations under this paragraph 12.11 to the extent that:-

- (i) the rights which the Franchise Operator is able to obtain (having used its reasonable endeavours under paragraph 12.11.1(b)) are insufficient in quality or nature to enable it to meet those obligations. In those circumstances, the Franchise Operator shall agree with the Welsh Assembly Government whether the Welsh Assembly Government requires it to run a reduced level of passenger services consistent with the rights it has obtained and any consequent adjustment to the amounts (as agreed pursuant to paragraph 12.11.2(c)) to be paid to the Franchise Operator for provision of the reduced services. Subject to that agreement being reached and to the terms of it, the provisions of this paragraph 12.11 shall apply *mutatis mutandis* to such reduced services; and/or
 - (ii) the network infrastructure required to operate the services and/or to allow the opening of the new stations referred to in paragraph 12.11.1© has not been completed;
- (b) the Class 175 Hire Agreement having been terminated with the effect that the Class 175 Rolling Stock Units hired to FNW are available to the Franchise Operator for deployment in the Wales & Borders franchise; and
- (c) the Franchise Operator reaching agreement with the Welsh Assembly Government on the terms for the provision of the services. The Franchise Operator agrees to use all reasonable endeavours to negotiate with the Welsh Assembly Government in good faith with a view to agreeing the amounts to be paid to the Franchise Operator for provision of the services, which shall be no more than the amount stated in Part 5 of Schedule 6. The amount stated in Part 5 of Schedule 6 is exclusive of any additional Track Access charges or station lease or access charges which may be payable by the Franchise Operator in respect of the services which would have to be negotiated with the Welsh Assembly Government as part of the amount to be paid for the provision of the services.

12.11.3 If the Welsh Assembly Government or the Authority wishes at any time after the implementation of this Option for the service to be extended to Newport or for the addition of new stations to be maintained and operated by the Franchise Operator then, without prejudice to any other rights of the Authority or obligations of the Franchise Operator under the Franchise Agreement, the Franchise Operator will negotiate in good faith with the Welsh Assembly Government or the Authority (as appropriate) to agree the basis (including as to the amount payable) for provision of such additional services.

12.11.4 The Franchise Operator's obligations under this paragraph 12.11 shall continue for the period of three years from the first implementation of the services or for the duration of funding provided by the Welsh Assembly Government, whichever is the shorter. Not less than twelve months prior to the scheduled expiry of the Franchise Operator's agreement with the Welsh Assembly Government or any earlier notice from the Welsh Assembly Government that it does not intend to continue funding the services after this date, the Franchise Operator shall enter into negotiations with the Authority in good faith to determine whether (and, if so, on what basis) the Authority requires such services to continue to be provided. The Franchise Operator shall, at the Authority's

request, provide such information as the Authority may reasonably require in a timely manner to enable the Authority to review the provision of the services and to determine whether or not it requires the services to be continued.

12.11.5 Subject to paragraph 12.11.6, if the Authority gives the Franchise Operator notice that it requires the continuation of the services, the Franchise Operator's obligations under this paragraph 12.11 shall continue for the period notified to the Franchise Operator. The Franchise Operator shall enter into negotiations in good faith with the Authority with a view to agreeing the amounts which should be substituted for the "Real Amount" in Part 3 of Schedule 6, having regard to:

- (a) the amount then being paid by the Welsh Assembly Government for the services;
- (b) any proposed changes to the services;
- (c) whether the Standard Pattern Timetable Option had been exercised by the Authority;
- (d) the Financial Model and Record of Assumptions (as defined in Schedule 9)

and on the basis that the Franchise Operator shall apply open book accounting principles. The amount so agreed shall then be substituted for the "Real Amount" in Part 3 of Schedule 6, with effect from the date on which funding from the Welsh Assembly Government ceases. If the parties are unable to reach agreement on the amounts which should be paid for the provision of the services, and the Authority still requires the continuation of the services, the No Net Loss No Net Gain Regime shall apply so as to ensure that the Franchise Operator incurs no Net Loss and makes no Net Gain as a result of the continued provision of the services.

For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of this paragraph 12.11.5, whether the Franchise Operator would incur a Net Loss or a Net Gain.

12.11.6 If the Authority has required continuation of the services under paragraph 12.11.5, then Clauses 5.1(b)(i) and 5.1(c) of the Franchise Agreement shall apply in respect of those services on any subsequent expiry of a Track Access Agreement, save that the Authority shall, as an alternative to its rights under Clause 5.1(c)(i)(y), have the right to require that the services are discontinued from a date specified by the Authority. The No Net Loss No Net Gain Regime shall apply :-

- (a) provided the Franchise Operator has complied with its obligations under Clause 5.1(c) of the Franchise Agreement, in respect of any variation required to the services previously to be provided under paragraph 12.11.5, as a consequence of the alternative rights obtained in accordance with Clause 5.1(c)(i)(y); or
- (b) in respect of such discontinuance of the services

as the case may be.

12.11.7 The passenger services set out in Annex 5 shall be designated as experimental services for the purposes of section 48 of the Railways Act 1993.

12.12 Standard Pattern Timetable Option

12.12.1 The Franchise Operator shall, from signature of the Franchise Agreement and, in each case (and without prejudice to the following provisions of this paragraph 12.12.1), within a timescale consistent with the introduction of the Standard Pattern Timetable with effect from the Passenger Change Date in December 2005:-

12.12.1.1 develop the Standard Pattern Timetable in accordance with the principles set out in Annex 4 into a format consistent with the Passenger Service Requirement taking account of any preliminary outputs of paragraphs 12.12.1.2 and 12.12.1.3 below with the aim of completing this by 31 March 2004;

12.12.1.2 revise the Standard Pattern Timetable in consultation with the Authority and Network Rail to take account of changes to the timetables of passenger services operated by other franchise operators which are considered likely (i) to be effected either prior to, at the same time or after the introduction of the Standard Pattern Timetable Option under this paragraph 12.12 and (ii) to affect the Franchise Operator's ability to deliver the Standard Pattern Timetable including, without limitation:-

- (a) changes to the timetable of passenger services operated by Great Western Trains Company Limited (or any successor operator) which as at the date of this Franchise Agreement are considered likely to be effected from the Passenger Change Date in December 2004; and
- (b) changes to the timetable of passenger services operated by West Coast Trains Limited (or any successor operator) in North Wales which as at the date of this Franchise Agreement are considered likely to be effected from the Passenger Change Date in September 2004;

12.12.1.3 consult with the Welsh Assembly Government and the Rail Passengers' Committee for Wales over the services described in the Standard Pattern Timetable (as they may have been revised in accordance with paragraph 12.12.1.2), and incorporate any proposed amendments.

12.12.2 The Franchise Operator shall inform the Authority of any non-compliance with the principles set out in Annex 4 resulting from the outputs of paragraph 12.12.1 above and of any change to the economic benefits which would be derived from the proposed timetable and provide a fully worked up version of the Standard Pattern Timetable, reflecting any such changes, in the same format as the Passenger Service Requirement ("Revised SPT") to the Authority for it to review together with a list of the

changes to the Passenger Service Requirement which would be required in order for the Franchise Operator to operate the passenger services described in the Revised SPT for the remainder of the Franchise Period without being in breach of its obligations in this Franchise Agreement ("Required PSR Changes"). The Franchise Operator shall use all reasonable endeavours to provide this by 31st May 2004. The Authority shall give notice to the Franchise Operator within 28 days of receipt of the Revised SPT that:-

- (a) the Revised SPT is satisfactory in which case the provisions of paragraphs 12.12.3 – 12.12.6 inclusive shall apply; or
- (b) further development work is required in which case the Franchise Operator shall carry out such further development work as the Authority may reasonably require as soon as reasonably practicable following notice from the Authority and the provisions of this paragraph 12.12.2 shall apply *mutatis mutandis* to any revised version of the Revised SPT provided by the Franchise Operator; or
- (c) the Authority reasonably considers that the Revised SPT does not comply with the description and principles set out in Annex 4 in all material respects and/or that the net benefits resulting from the Revised SPT are not effectively equivalent to the net benefits which would be derived from the operation of a timetable based on the description of services and developed in accordance with the principles set out in Annex 4 and that the Authority does not require the Franchise Operator to carry out any further work to implement the Revised SPT in which case the provisions of paragraph 12.12.7 shall apply and the provisions of paragraphs 12.12.3–12.12.6 inclusive shall not apply.

12.12.3 Following the Authority's review of the Revised SPT under paragraph 12.12.2, the Authority may carry out such consultation as it considers appropriate in the circumstances as to the Required PSR Changes. At the end of such consultation, the Authority will inform the Franchise Operator what changes, if any, are reasonably required by the Authority to the Revised SPT in response to the issues raised by such consultation and the Franchise Operator will provide a revised version of the Revised SPT incorporating the required changes to the Authority as soon as practicable thereafter ("the Option SPT").

12.12.4 At the same time as the Authority's consultation under paragraph 12.12.3, the Franchise Operator shall use reasonable endeavours to ascertain from Network Rail the availability and likely terms (in Network Rail's reasonable opinion) of obtaining the rights necessary to run the passenger services set out in the Revised SPT. The Franchise Operator's obligations under this paragraph 12.12.4 shall cease if the Authority gives notice pursuant to paragraph 12.12.5.2 that it does not wish to exercise the Option SPT.

12.12.5 On the basis of the outcome of the process described in paragraphs 12.12.1-12.12.3, and subject to the satisfaction of the condition precedent in paragraph 12.12 6:-

- 12.12.5.1 if the Authority reasonably considers that the Option SPT complies with the principles set out in Annex 4 in all material respects and/or that the net benefits resulting from the Option SPT are effectively equivalent to the net benefits which would be derived from the operation of a timetable based on the Standard Pattern Timetable and that the No Net Loss No Net Gain adjustment referred to in paragraph 12.12.8.2 to take account of any differences between the Standard Pattern Timetable and the Option SPT due to changes resulting from the outputs of paragraphs 12.12.1-12.12.3 above is likely to be equal to or less than 10% of the difference between the aggregate value of (i) the relevant amounts set out in Part 5 of Schedule 6 and (ii) the Real Amounts which they replace, it will by notice to the Franchise Operator exercise the Option (and thereby require the Franchise Operator to implement the Option SPT); or
- 12.12.5.2 if the Authority reasonably considers that the Option SPT does not comply with the principles set out in Annex 4 in all material respects in respect of the Standard Pattern Timetable and/or that the net benefits resulting from the Option SPT are not effectively equivalent to the net benefits which would be derived from the operation of a timetable based on the Standard Pattern Timetable and/or that the adjustment to the relevant amounts set out in Part 5 of Schedule 6 pursuant to paragraph 12.12.8.2 is likely to be more than 10% of the difference between the aggregate value of (i) the relevant amounts and (ii) the Real Amounts which they would replace, then the Authority may, at its discretion: by notice to the Franchise Operator, elect: (a) not to exercise the Option; or (b) to exercise the Option (and thereby require the Franchise Operator to implement the Option SPT), in which case the provisions of paragraph 12.12.8 shall apply and the Franchise Payments will be adjusted pursuant to paragraph 12.12.8.2.

12.12.6 The Franchise Operator shall use best endeavours to negotiate prior to and during the next timetable conference:-

- (a) with Network Rail to obtain the necessary quantity and quality of rights to entitle it to bid for the train slots necessary to run the passenger services set out in the Option SPT; and
- (b) with Network Rail and other operators to obtain such train slots;

and thereafter shall bid for such train slots. For the purpose of this paragraph 12.12.6, "next timetable conference" means February 2005. It shall be a condition precedent to the implementation of the Option, that the Franchise Operator obtains such rights and slots and accordingly, unless and except to the extent otherwise agreed by the Authority and the Franchise Operator, paragraphs 12.12.8.1 and 12.12.8.2 shall not take effect unless that condition is satisfied.

12.12.7 If the Authority:

- (a) elects not to exercise the Option pursuant to paragraph 12.12.5.2; or

- (b) gives notice to the Franchise Operator pursuant to paragraph 12.12.2(c) that it does not require the Franchise Operator to carry out any further work to implement the Revised SPT; or
- (c) gives notice to the Franchise Operator to exercise the Subsidy Reduction Option at any time prior to implementation of the Option SPT,
- (d) then the Authority shall make an additional Adjustment Payment to the Franchise Operator of an amount equivalent to 75% of the Franchise Operator's reasonable agreed direct costs reasonably incurred in developing the Revised SPT and Option SPT pursuant to its obligations in paragraphs 12.12.1-12.12.4 above. Such Adjustment Payment shall be paid on the next day on which a Franchise Payment becomes payable which is not fewer than 7 days after the date on which the amount of such direct costs has been agreed or determined.

12.12.8 If the Authority exercises the Option pursuant to paragraphs 12.12.5.1 or 12.12.5.2, it shall specify the Passenger Change Date from which the Option SPT is to be implemented (being the next Passenger Change Date from which it will be reasonably practicable for the Franchise Operator to do so) and (subject to paragraph 12.12 6):-

12.12.8.1 the Franchise Operator shall comply with its obligations under Clause 5.1 of the Franchise Agreement as if the railway passenger services provided for in the Option SPT were included in the Passenger Service Requirement provided that the provisions of Clauses 5.1(b)(i), 5.1(c) and 5.1(d) shall not apply in respect of the Franchise Operator's obligations under this paragraph 12.12.8, except to the extent provided in paragraph 12.12.9);

12.12.8.2 the Franchise Payments shall be adjusted with effect from the Passenger Change Date on which the Option SPT is implemented by deleting the values for "RA" in Part 3 of Schedule 6 of the Franchise Agreement for the Franchise Operator Year in which the Option SPT is implemented and for each of the following Franchise Operator Years in the Franchise Period and replacing them with the relevant amounts. For the purpose of this paragraph 12.12, "the relevant amounts" means the appropriate amount for each Franchise Operator Year set out in Part 5 of Schedule 6, as further adjusted by the No Net Loss No Net Gain Regime to take account of any differences between the Standard Passenger Timetable and the Option SPT including as to the date of implementation of the Option SPT if this is after the date specified by the Authority provided that this is not due to any failure or delay on the part of the Franchise Operator to comply with its obligations under this paragraph 12.12. If the Franchise Payments have been previously adjusted pursuant to Clause 18.6(a)(i) of the Franchise Agreement, the relevant amounts shall be reduced by a proportionate amount consistent with the amounts set out in Part 5 of Schedule 6 to take account of the additional savings to the Franchise Operator to the extent not already taken into account under paragraph 12.12.5.2.

12.12.9 If the Authority has exercised the Option and paragraph 12.12.8 has taken effect, then:-

- (a) Clauses 5.1(b)(i) and 5.1(c) of the Franchise Agreement shall apply in respect of the Option SPT Services on any subsequent expiry of a Track Access Agreement; and
- (b) provided the Franchise Operator has complied with its obligations under Clause 5.1(c) of the Franchise Agreement, then the No Net Loss No Net Gain Regime shall apply in respect of any variation required to the Option SPT services as a consequence of the alternative rights obtained in accordance with Clause 5.1(c)(i)(y).

For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of this paragraph 12.12, whether the Franchise Operator would incur a Net Loss or a Net Gain.

12.13 Valley Lines Crowding Relief Option

12.13.1 Provided that the Authority gives notice to the Franchise Operator by no later than 1st March 2004, the Franchise Operator shall no later than the Passenger Change Date in December 2005:-

- (a) use all reasonable endeavours to obtain all necessary consents and approvals for and, subject to obtaining any necessary consents or approvals, in consultation with Network Rail provide or procure the provision of extensions to the following platforms to a length sufficient to permit trains of a maximum of 120 metres in length to call:

Barry Island
Eastbrook Up
Eastbrook Down
Cardiff Bay
Heath High Level Up
Heath High Level Down
Lisvane & Thornhill Up
Lisvane & Thornhill Down
Aber Up
Aber Down
Llanbradach Down
Bargoed Up
Bargoed Down

Save that if the Authority gives notice to exercise the Standard Pattern Timetable Option prior to completion of the Barry Island, Eastbrook Up and Eastbrook Down platform extensions, the Franchise Operator shall not be required to extend such platforms under this particular paragraph and provided this Option is implemented during or before the third Franchise Operator Year the reduced RAA Amount set out in Column 3 of Part 5 of Schedule 6 in respect of such Franchise Operator Year shall apply;

- (b) increase by not less than four Rolling Stock Units of Classes 150 or 158, or such other class as the Authority may reasonably agree, its planned train fleet (as shown in Annex 6) ("the Additional Units"); and
- (c) operate the Additional Units on Passenger Services in Service Group 1 to increase train capacity in each of the Morning Peak and Evening Peak, and include details of the proposed services in the relevant Train Plan. The Franchise Operator shall deploy the Additional Units in accordance with paragraph 8.7 of this Schedule 13, taking account of the results of its measurement of loads in accordance with paragraph 8.6 and any guidance received from the Authority or the Welsh Assembly Government.

12.13.2 If the Authority gives notice to the Franchise Operator after 1st March 2004 but no later than the second anniversary of the Franchise Commencement Date, the Franchise Operator shall:-

- (a) provide or procure the provision of extensions to platforms in accordance with sub-paragraph 12.13.1(a) above by a date no more than X days after 31 December 2005, where X is the number of days between and including 2 March 2004 and the date on which the notice was given; and
- (b) provide, operate and deploy the Additional Units in accordance with sub-paragraphs 12.13.1(b) and (c) above by the first reasonably practicable Passenger Change Date or other suitable date after December 2005, and

advise the Authority of the revised delivery date(s) applicable under sub-paragraphs 12.13.2(a) and (b) for the introduction of the additional strengthened services and extensions to platforms. The revised delivery date(s) shall be substituted for the date in paragraph 12.13.1 and the provisions of this paragraph 12.13 shall apply *mutatis mutandis*.

12.13.3 If the Franchise Operator is unable to introduce the Additional Units or provide the platform extensions pursuant to paragraph 12.13.1 by the date specified in paragraph 12.13.1 or any revised delivery date(s) pursuant to paragraph 12.13.2 it shall:-

- (a) inform the Authority as soon as it becomes aware that the planned date(s) will not be achieved;
- (b) advise the Authority the reasons for the delay, the steps it is taking to resolve these and the new planned delivery date(s); and
- (c) for each consecutive period of 12 months from the date specified in paragraph 12.13.1 (or any revised delivery date pursuant to paragraph 12.13.2) or part thereof that it fails to achieve such introduction and provision, expend not less than £25,000 (or in relation to a part year a proportionate amount calculated on a pro rata basis) on providing additional passenger benefits (to include, without limitation, expenditure on waiting shelters and/or ticket office refurbishment and/or additional CCTV and/or lighting improvements and/or passenger facilities on Vehicles) on the routes

contained in Service Group 1. The Franchise Operator shall provide a report to the Authority as soon as reasonably practicable following the expenditure and in any event within one month of the expenditure being incurred detailing where such expenditure has been made; and

the No Net Loss No Net Gain Regime shall apply to any saving made by the Franchise Operator from the relevant Option Amount set out in Part 5 of Schedule 6 for the period until the Option is implemented except that adjustments shall only be made in respect of the Net Gain arising from the delay in implementation (or a proportion of such Net Gain as is determined by the Authority) and not any Net Loss. For the purpose of this adjustment, any sums expended by the Franchise Operator under paragraph 12.13.3(c) shall be disregarded.

12.13.4 If paragraph 12.13.3 applies and provided that the Franchise Operator has complied with its obligations under paragraph 12.13.3, it shall not be considered to be in breach of its obligations under this paragraph 12.13 as long as it has used all reasonable endeavours to comply with such obligations and to reduce any delays in non compliance with the delivery dates to the shortest period possible and any revised delivery dates shall be substituted for the date in 12.13.1 and the provisions of this paragraph 12.13 shall apply *mutatis mutandis*.

12.13.5 The above arrangements have been agreed in the expectation that the Franchise Operator will utilise Class 150 Rolling Stock Units that would otherwise have been used elsewhere in its network and that it will instead use Class 158 Rolling Stock Units in the locations from which it takes the Class 150 Rolling Stock Units. If the Authority is able to make arrangements for a Class 150 Rolling Stock Unit or Units to be made available to the Franchise Operator to replace some or all of the Class 158 Rolling Stock Units, then the No Net Loss No Net Gain Regime shall apply from the time the Franchise Operator utilises such Units in respect of any Net Loss or Net Gain suffered or made (as applicable).

12.13.6 In the event that consultation with the Authority, Network Rail, the Welsh Assembly Government or relevant local authorities indicates that a jointly funded station improvement scheme would deliver benefits additional to those proposed by extending platforms under this paragraph and if the Authority agrees, then the Franchise Operator shall be permitted to substitute participation in such joint scheme for the relevant extension works proposed under this paragraph provided that:-

- (a) the scheme results in platforms of sufficient length for 120m long trains to call at the relevant platform(s) from those set out at paragraph 12.13.1(a); and
- (b) the Franchise Operator contributes to such joint scheme no less than £2,500,000 (or, if the Authority has exercised the Standard Pattern Timetable Option, no less than £2,000,000) no later than would have been required by its own platform extension proposal. For the avoidance of doubt, the Franchise Operator's total aggregate liability under this paragraph 12.13.6(b) to expend money on platform extensions shall be limited to £2,500,000 or £2,000,000 (as applicable) however many jointly funded station improvement schemes the Franchise Operator participates in and whatever their scope.

In the event that such a joint scheme is not completed by the date specified in paragraph 12.13.1 it shall be disregarded for the purposes of paragraph 12.13.6 and the Franchise Operator shall not be considered to be in breach of its obligations under this paragraph 12.13 in relation to the relevant works if it has complied with its own obligations under such joint scheme.

12.13.7 If and when requested to do so, the Franchise Operator shall make proposals to the Authority as to the extension of the other station platforms included in its BAFO Proposal and if the Franchise Operator and the Authority agree terms for such extensions, shall implement them.

12.13.8 For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of this paragraph 12.13, whether the Franchise Operator would incur a Net Loss or a Net Gain.

12.14 Subsidy Reduction Option

12.14.1 If the Authority considers it may wish to exercise this Option, the Authority may serve notice on the Franchise Operator and the Franchise Operator will develop a proposed package of service reductions and other cost reduction measures ("Reduction Proposal") and provide the same to the Authority within 4 months of receipt of such notice, in accordance with paragraph 12.14.2 and meeting the following requirements:

- (a) which would in principle reduce the values for "RA" in Part 3 of Schedule 6 of the Franchise Agreement by between 9% and 11% of such amounts over the remaining part of the Franchise Period from the start of the Franchise Operator Year in which the Option is first begun to be implemented until the end of the Franchise Period;
- (b) so that the reduction referred to in paragraph 12.14.1(a) is achieved as soon as reasonably practicable within operational, regulatory and other constraints as detailed pursuant to paragraph 12.14.2(a) below; and
- (c) on the basis of and consistent with the Franchisee's proposals dated 16 June 2003 as set out in response to the Authority's request for a Subsidy Reduction Option dated 9 June 2003, set out in the agreed terms marked "SRO".

12.14.2 The Reduction Proposal shall include:

- (a) a detailed timetable for implementing the Option, including milestones for key events and giving particulars for all lead times and contingencies allowed for in the timetable including all requirements for changes to and/or derogations from the Passenger Service Requirement and/or Additional Service Commitment and any changes to the Franchise Operator's fleet of vehicles and allowing appropriate time for all such contingencies and all assumptions upon which it is based;

- (b) the impact of effecting the proposed Option on the provision of the Franchise Services and the Franchise Operator's proposals as to how to minimise such impact;
- (c) a statement of the variation in costs and the amounts to be substituted for the "Real Amount" in Part 3 of Schedule 6;
- (d) a draft of changes (if any) to the Franchise Agreement which the Franchise Operator reasonably believes would be required in order to implement the Option in line with the Reduction Proposal and to reflect the impact of the Option on the provision of the Franchise Services including any changes required to the RPP schemes.

12.14.3 Following receipt of the Reduction Proposal, the Authority shall within 28 days notify the Franchise Operator whether the Reduction Proposal is acceptable or if any service reductions, other cost reduction measures or any other aspects of the Reduction Proposal are not acceptable. If the Authority notifies the Franchise Operator that any service reductions, other cost reduction measures or any other aspects of the Reduction Proposal are not acceptable, the Franchise Operator shall develop and enter into good faith negotiations with the Authority to agree, within a further period of 28 days (or such other period as the Franchise Operator and the Authority may agree), alternative reduction proposals so as to satisfy the requirement in paragraph 12.14.1(a). In seeking agreement, each party shall act reasonably having regard to the matters notified by the Authority.

12.14.4 The Authority may carry out such consultation as it considers appropriate in the circumstances in relation to changes to and/or derogations from the Passenger Service Requirement and/or Additional Service Commitment which would be required in order for the Franchise Operator to vary the services as set out in the Reduction Proposal. Following such consultation, the Authority will inform the Franchise Operator what changes, if any, are reasonably required by the Authority to the Reduction Proposal in response to the issues raised by such consultation and the Franchise Operator shall, as soon as reasonably practicable having regard to the changes required, inform the Authority of any changes which are required to the amounts to be substituted for the "Real Amount" in Part 3 of Schedule 6 as set out in the Reduction Proposal and any other changes required to the Reduction Proposal. The provisions set out in paragraphs 12.14.3 and 12.14.4 shall apply *mutatis mutandis* to any revised proposals provided by the Franchise Operator. For the avoidance of doubt, the provisions of Clause 11.1 of the Franchise Agreement shall not apply to any changes to the Passenger Service Requirement or Additional Service Commitment contained in the Reduction Proposal.

12.14.5 Following agreement of the Reduction Proposal pursuant to paragraph 12.14.3 and any consultation process pursuant to paragraph 12.14.4, the Authority shall give notice to the Franchise Operator whether it wishes to exercise the Option.

12.14.6 If the Authority gives the Franchise Operator notice to exercise the Option, the Franchise Operator will undertake the actions set out in the Reduction Proposal and:-

- (a) subject to any changes to the Franchise Agreement agreed under paragraph 12.14.5 as part of the Reduction Proposal, the Franchise Operator shall comply with its obligations under Clause 5.1 of the Franchise

Agreement as if the railway passenger services provided for in the Reduction Proposal (as amended pursuant to paragraphs 12.14.3 and/or 12.14.4) were included in the Passenger Service Requirement provided that:-

- (i) Clause 5.1(d) of the Franchise Agreement shall not apply in respect of the Franchise Operator's obligations under this paragraph 12.14.6(a); but
 - (ii) it is acknowledged that the changes to the Franchise Agreement to be agreed in respect of a Reduction Proposal may include alternative provisions in place of Clauses 5.1(b)(i), 5.1(c) and 5.1(d); and
- (b) the Franchise Payments shall be adjusted by deleting the relevant values for "RA" in Part 3 of Schedule 6 of the Franchise Agreement for the Franchise Operator Year in which the Option is implemented and for each of the following Franchise Operator Years in the Franchise Period and replacing them with the relevant amounts set out in the Reduction Proposal (as amended pursuant to paragraphs 12.14.3 and/or 12.14.4).

12.14.7 If the Franchise Operator is not able to implement or is delayed in implementing the Option in accordance with the Reduction Proposal to the extent that:

- (a) the Franchise Operator cannot fulfil its obligations without the assistance or consent of a third party and that assistance or consent is not forthcoming despite all reasonable endeavours of the Franchise Operator to obtain it; or
- (b) this is due to any failure by the Authority to consent on a timely basis to timetable bids or other measures necessary for implementation of the Option; or
- (c) this is due to a legal challenge being brought or threatened by a third party challenging the legality of implementation of the Option save that, in the event of any disagreement between the parties as to the validity of any challenge, the matter may be referred to leading counsel with experience in the relevant field for the purpose of obtaining his advice on the likely success of such action, the costs of obtaining his advice to be borne equally by the parties

or the delay is due to other reasons beyond the reasonable control of either party (having regard to the timetable and process set out in the Reduction Proposal), then to the extent the Franchise Operator is not able to comply due to the reasons set out in this paragraph 12.14.7 and not due to any failure on its part:-

- (i) it shall not be considered to be in breach of its obligations under this paragraph 12.14; and
- (ii) the Franchise Payments shall be adjusted pursuant to paragraph 12.14.6(b) to reflect the extent that reductions are actually introduced and the No Net Loss No Net Gain Regime shall apply to further adjust the Franchise Payments in this respect.

For the avoidance of doubt, the financial threshold referred to in paragraph 4.2.1 of Part 1 of Schedule 9 shall not be relevant in determining for the purposes of this

paragraph 12.14.7, whether the Franchise Operator would incur a Net Loss or a Net Gain.

12.14.8 If the Authority elects not to exercise the Option pursuant to paragraph 12.14.5, then the Authority shall make an additional Adjustment Payment to the Franchise Operator of an amount equivalent to 75% of the Franchise Operator's reasonable agreed direct costs reasonably incurred in developing the Reduction Proposal pursuant to its obligations in paragraphs 12.14.1-12.14.4 above. Such Adjustment Payment shall be paid on the next day on which a Franchise Payment becomes payable which is not fewer than 7 days after the date on which the amount of such direct costs has been agreed or determined.

12.14.9 Where the Authority and Franchise Operator are required to endeavour to agree or to determine something pursuant to this paragraph 12.14, the Franchise Operator and the Authority shall use all reasonable endeavours to agree or to determine such matter as soon as reasonably practicable. In the event of any dispute in relation to the amounts which are to be substituted for the "Real Amounts" the dispute may be resolved at either party's request in accordance with the Dispute Resolution Rules.

ANNEX 1

Passenger Services

Column 1	Column 2	Column 3	Column 4	Column 5
Service Description	Passenger Services	Duration	Amount	Date
1. Cardiff to/from London Waterloo	Service corresponding in terms of quantum, calling pattern and approximate timings to that required under the Summer and Winter Timetables for 2002 and 2003	Until commencement of the Summer Timetable for 2004.	Not applicable	Not applicable
2. ⁹⁸				
3. Welsh Assembly Government supported services	Timings are subject to minor variation. Monday to Saturday excluding Christmas Day and Boxing Day: 05:23 Holyhead – Cardiff to additionally serve Wrexham General 07:41, Ruabon 07:48 and Chirk 07:55 17:14 Cardiff – Holyhead to additionally serve Chirk 19:32, Ruabon 19:38 and	Not applicable	Franchise Operator Year: 1: £685,000 2: £686,000 3: £685,000 4: £664,000 5: £662,000 6: £664,000	Not less than 6 months prior to expiry of the current services

⁹⁸ Date of deletion 14.2.2006

	<p>Wrexham General 19:53</p> <p>09:23 Shrewsbury – Chester – additional service serving Chirk 09:48, Ruabon 09:56 and Wrexham General 10:05</p> <p>10:30 Chester – Shrewsbury – additional service serving Wrexham General 10:46, Ruabon 10:53 and Chirk 10:59</p> <p>11:33 Shrewsbury – Chester – additional service serving Chirk 11:57, Ruabon 12:03 and Wrexham General 12:10</p> <p>12:33 Chester –</p> <p>Cardiff – additional service serving Wrexham General 12:49, Ruabon 12:56, Chirk 13:02, Abergavenny 14:41, Newport 15:01 and Cardiff Central 15:19</p> <p>Sundays excluding Christmas Day and Boxing Day</p> <p>10:35 Holyhead – Cardiff – additional service serving Bangor 11:03, Llandudno Jn 11:21, Colwyn Bay 11:27, Rhyl 11:37, Prestatyn 11:43, Flint 11:56, Shotton 12:02, Wrexham General 12:35, Ruabon 12:42, Chirk 12:49, Abergawenny 14:05, Newport 14:49, Cardiff Central 15:06</p>		<p>7: £669,000</p> <p>8: £674,000</p> <p>9: £680,000</p> <p>10: £686,000</p> <p>11: £695,000</p> <p>12: £705,000</p> <p>13: £717,000</p> <p>14: £731,000</p> <p>15: £747,000</p> <p>16: £771,000</p>	
4. Local Authority Supported Services				
4.1 Flintshire	Service corresponding in	Not applicable	Franchise	Not less than 1

	<p>terms of quantum, calling pattern and approximate timings to the service supported by Local Authorities as at the Franchise Commencement Date and required under the Summer and Winter Timetables for 2002 and 2003</p> <p>being for Wrexham – Bidston:</p> <p>19:02 Wrexham Central – Bidston additional service Monday to Friday excluding Christmas Day and Boxing Day</p> <p>19:02 Wrexham Central – Bidston additional service on Saturday excluding Christmas Day and Boxing Day</p> <p>21:27 Wrexham Central – Bidston additional service Monday to Friday excluding Christmas Day and Boxing Day</p> <p>21:27 Wrexham Central – Bidston – additional service on Saturdays excluding Christmas Day and Boxing Day</p> <p>20:25 Bidston – Wrexham Central additional service Monday to Friday excluding Christmas Day and Boxing Day</p> <p>20:25 Bidston – Wrexham Central additional service on Saturdays excluding Christmas Day and Boxing Day</p>		<p>Operator Year:</p> <p>1: £107,000</p> <p>2: £108,000</p> <p>3: £108,000</p> <p>4: £107,000</p> <p>5: £109,000</p> <p>6: £111,000</p> <p>7: £114,000</p> <p>8: £117,000</p> <p>9: £120,000</p> <p>10: £124,000</p> <p>11: £127,000</p> <p>12: £130,000</p> <p>13: £133,000</p> <p>14: £137,000</p> <p>15: £140,000</p> <p>16: £145,000</p>	<p>month prior to expiry of the current services</p>
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4.2 Conwy	<p>22:26 Bidston – Wrexham Central additional service Monday to Friday excluding Christmas Day and Boxing Day</p> <p>22:26 Bidston – Wrexham Central additional service on Saturdays excluding Christmas Day and Boxing Day</p> <p>and the services in the Summer and Winter Timetables for 2002 and 2003 operated on Sundays in each direction</p> <p>The services operated on the Conwy Valley branch on Summer Sundays in each direction</p>	Not applicable	£4,000 each Franchise Operator Year	Not less than 1 month prior to expiry of the current services
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The amounts set out in column 4 shall be subject to indexation in accordance with the formula set out in Part 3 of Schedule 6.

ANNEX 2

Revised Services to be provided to North Wales

Weekdays

- 1.1 Between 06.00 and 22.30 an hourly service will operate between Crewe, Chester, Bangor and Holyhead. There may be five instances in each direction where there is an interval between services of up to 120 minutes.
- 1.2 As part of the obligation set out in paragraph 1.1 above, between 07.00 and 23.00 an hourly service will operate between Manchester Piccadilly and Llandudno, via Warrington Bank Quay and Chester.
- 1.3 As part of the obligation set out in paragraph 1.1 above, between 07.00 and 23.00 two trains per hour will operate between Crewe and Chester.
- 1.4 Two additional services between Wrexham and Chester shall operate so as to provide a connection to a London service within 20 minutes of arrival in respect of the Wrexham to Chester service and a service from Chester to Wrexham within 20 minutes from the arrival of a service from London.
- 1.5 Except in relation to paragraph 1.4 above, it should be assumed that all services above operate in both directions and between the times shown.
- 1.6 Such services may be provided by combining services specified in routes A2, A3, A4, B2 and C1 of part 1 of Schedule 3.

Saturdays

- 2.1 Between 06.00 and 22.30 an hourly service will operate between Crewe, Chester, Bangor and Holyhead. There may be five instances in each direction where there is an interval between services of up to 120 minutes.
- 2.2 As part of the obligation set out in paragraph 2.1 above, between 07.00 and 23.00 an hourly service will operate between Manchester Piccadilly and Llandudno, via Warrington Bank Quay and Chester.
- 2.3 As part of the obligation set out paragraph 2.1 above, between 07.00 and 23.00 two trains per hour will operate between Crewe and Chester.
- 2.4 Two additional services between Wrexham and Chester shall operate so as to provide a connection to a London service within 20 minutes of arrival in respect of the Wrexham to Chester service and a service from Chester to Wrexham within 20 minutes from the arrival of a service from London.
- 2.5 Except in relation to paragraph 2.4 above, it should be assumed that all services above operate in both directions and between the times shown.

- 2.6** Such services may be provided by combining services specified in routes A2, A3, A4, B2 and C1 of part 1 of Schedule 3.

Sundays

It should be assumed that the service as currently operated continues

ANNEX 3⁹⁹

Integrated Transport Schemes

Sponsor	Rail Head	To	Bus Franchise Operator	Service
ATW	Caerphilly	H043 Caerphilly Bus	Stagecoach in South Wales	Services to most areas of Caerphilly operate from the Bus station adjacent to the Railway station. These services are operated by Stagecoach in South Wales.
ATW	Aberdare	K328 Aberdare Bus	Stagecoach in South Wales	Services to most areas of Aberdare operate from the Bus station which is a short walk from the Railway station.
ATW	Ystrad Rhondda	H451 Maerdy Bus H548 Tylorstown Bus	Thomas Coaches	Service RL2 supported by Rhondda Cynon Taff Council operates between Ystrad Rhondda station, Penrhys, Ferndale and Maerdy.
ATW	Maesteg	L221 Caerau Bus Link	RH&DT Edwards trading as Bridgend Bus Co.	Service supported by Bridgend Council operates between Maesteg and Caerau Central Square.
ATW	Rhymney	H344 Tredegar Bus H346 Rhymney Bridge Bus	Clarke's Coaches	Service 20 operates between Rhymney station, Rhymney Bridge, Ashvale and Tredegar.
ATW	Treherbert	H326 Blaenrhondda Bus	Stagecoach in South Wales	Service 120 and 130 operate between Treherbert (Marquis of Bute public house a short walk from the Railway station) and Tynewydd, Blaenrhondda and Blaencwm.
ATW	Barry	H376 Cowbridge Bus	Veolia Travel	Service X45 operates on Sundays only between Barry, Cardiff International Airport.
ATW	Cardiff stations	K275 Cardiff Cap Card	Cardiff Bus	Through ticket allows unlimited travel on all Cardiff Bus services within the City of Cardiff and unlimited travel on rail services operated by Valley Lines within the area bounded by Radyr, Coryton, Lisvane &

⁹⁹ Date of Change 01/02/2011

Sponsor	Rail Head	To	Bus Franchise Operator	Service
				<i>Thornhill and Grangetown.</i>
ATW	Ystrad Mynach	J770 Blackwood	Clarke's Coaches	Service RL5 supported by Caerphilly Council operates between Ystrad Mynach and Blackwood
ATW	Pontypridd	J791 Pontypridd Bus	Veolia	Services to Rhydfelin (Circular), Oaklands, Glantaff Estate, Hawthorn, Caerphilly
ATW	Haverfordwest	H686 St Davids Bus H687 Fishguard Town H688 Goodwick Bus	Richard Bros	Through ticketing valid on services between Haverfordwest Railway station and St Davids, Fishguard Town and Goodwick. Services 411 and 412 operate hourly.
ATW	Carmarthen	H509 Aberaeron Bus H510 Aberystwyth Bus H508 Lampeter Bus H511 Machynlleth Bus H507 Llanybydder Bus	Arriva Cymru Stagecoach in South Wales	Onward connections available to Llanybydder, Lampeter, Aberaeron, Aberystwyth and Machynlleth via the Traws Cambria coach link Monday to Friday.
ATW	Carmarthen	K905 St Clears Bus K906 Laugharne Bus K907 Pendine Bus	First Cymru	Through ticketing on the Dylan Thomas Bus link allows onward connections on the almost hourly service to St Clears, Laugharne and Pendine.
ATW	Aberystwyth	J860 Aberaeron & New Quay	Arriva Cymru	Through-ticketing to Aberaeron & New Quay.
ATW	Swansea	K243 Ystradgynlais Bus K266 Ystalyferra Bus	First Cymru	Through ticketing available on various services operating within the area.
ATW	Newport	J659 Risca, J658 Aberbeeg J660 Brynmawr J661 Ebbw Vale J662 Blackwood, J663 Tredegar J723 Abercarn	StageCoach	Through-ticketing applies from Newport to all these locations in the South East Wales Valleys.

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Sponsor	Rail Head	To	Bus Franchise Operator	Service
		<i>J725 Abertillery J721 Llanhilleth J729 Tredegar v Cardiff</i>		
<i>ATW</i>	<i>Newport</i>	<i>J664 Penhow Bus J665 Caerwent Bus</i>	<i>Veolia Bus Cymru</i>	<i>74, Through-ticketing applies from Newport</i>
<i>ATW</i>	<i>Bangor</i>	<i>H759 Caernarfon</i>	<i>Arriva Cymru</i>	<i>Through ticketing available to Caernarfon</i>
<i>ATW</i>	<i>Gobowen</i>	<i>K342 Oswestry Bus link</i>	<i>Arriva Midlands North</i>	<i>Through tickets allowing travel to Oswestry approximately 10 minutes from Gobowen station</i>
<i>ATW</i>	<i>Chirk</i>	<i>J532 Ceiriog Valley Bus link</i>	<i>Bryn Melyn/ GHA/ Arriva/ Tanat Valley</i>	<i>Through tickets allowing travel down the Ceiriog Valley</i>

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ANNEX 4**Standard Pattern Timetable***Definitions and Interpretation*

In respect of services in the Cardiff Peak, references to Cardiff shall mean either of Cardiff Central or Cardiff Queen Street.

References to “day” shall mean the period of time between and including the first train and the last train of each day and references to “trains per day” and to shorter time periods within each day shall be construed accordingly. Any train services designated as “Night Trains” shall be disregarded for this purpose.

References to the number or frequency of train services between two places shall mean the number or frequency in each direction unless stated otherwise.

The services to be operated on Bank Holidays (as defined in the Passenger Service Requirement) shall be those shown for Saturdays, save that no services are required to be operated on each 25th and 26th December. In addition the Franchise Operator may reduce or omit services after 19.00 on each 24th and 31st December and before 10.00 on 1st January.

Service Group 1Service frequency

Route section	Minimum number of seats per Peak	Trains per hour				Trains per day	
		Monday to Friday Cardiff Peak	Monday to Friday between the morning and evening periods of Cardiff Peak	Saturday before 18.15	Monday to Saturday after 18.15	Sundays Winter	Sundays Summer
	To be provided on services that arrive at Cardiff between 0730 and 1000 or depart Cardiff between 1600 and 1830						
Cardiff – Caerphilly	1200	4*	4*	4*	2	6	6
Caerphilly –	-	4*	4*	4*	1	6	6

Bargoed							
Bargoed – Rhymney	-	1	1	1	1	6	6
Cardiff – Coryton	-	2	2	2	2 trains in 3 hours	0	0
Cardiff – Pontypridd via Cathays	1300	6*	6*	6*	3	19	19
Pontypridd – Porth	-	2	2	2	1	7	7
Porth – Treherbert	-	2	2	2	1	7	7
Pontypridd – Aberdare	-	2*	2*	2*	1	6	6
Pontypridd – Merthyr Tydfil	-	1	1	1	1	6	6
Cardiff – Cardiff Bay	-	4	4	4	2	7	7
Cardiff – Penarth	600	4	4	4	2	6	6
Cardiff – Barry	900	4	4	4	2	19	26
Barry – Barry Island	-	3	3	3	1	12	19
Barry – Bridgend	-	1	1	1	1	7	7
Cardiff – Maesteg via Pencoed	-	1	1	1	1	0	0
Cardiff – Radyr via Ninian Park	-	2	2	2	2 trains in 3 hours	0	0

*The Authority accepts and acknowledges that the Franchise Operator may only be able to obtain contingent rights for the quantum of service on these route sections higher than that operated in the Summer 2003 Timetable. Without prejudice to the general application of Clause 5.1 and the exercise by Network Rail of its Initial Flexing Rights or of such other rights as it may have from

time to time under the Track Access Conditions, the Franchise Operator may, following consultation with Network Rail, omit up to the following number of services from the general frequency shown so as to provide paths for freight services that are reasonably expected to operate between successive Passenger Change Dates and in so doing shall be deemed not to be in breach of said Clause 5.1:

two per day between Aberdare and Cardiff Central
three per day between Bargoed and Cardiff Central and
three per day between Penarth and Cardiff Central.

In each case these shall be in each direction and on Mondays to Saturdays.

The Franchise Operator may omit not more than six train services on Mondays to Fridays to permit the coupling or uncoupling of Vehicles to satisfy passenger loadings in the Cardiff Peak.

The provision of services between Bridgend and Barry is subject to the completion at no cost to the Franchise Operator of the station and infrastructure works associated with the Vale of Glamorgan RPP Scheme as set out in paragraph 3.9.

Maximum Journey Times

Route	Maximum Journey Time, minutes	
	out	return
Cardiff Central – Rhymney	61	58
Cardiff Central – Coryton	23	19
Cardiff Queen Street – Treherbert via Cathays	61	57
Cardiff Central – Aberdare via Cathays	58	64
Cardiff Central – Merthyr Tydfil via Cathays	60	59
Cardiff Queen Street – Cardiff Bay	4	4
Cardiff Central – Penarth	15	14
Cardiff Central – Barry Island	29	29
Cardiff Central – Bridgend via Barry	55	56
Cardiff Central – Maesteg via Pencoed	55	54
Cardiff Central – Radyr via Ninian Park	19	18

Stopping patterns

All services are to stop at all intermediate stations between the stations stated, except that:

- (i) Gilfach Fargoad Station is to be served by request only, with a maximum interval between services of 65 minutes, save that not more than three intervals each of a maximum of 125 minutes shall be permitted each day and subject to the Franchise Operator continuing to be permitted to serve this station with trains of greater length than the platforms.
- (ii) Trefforest Estate Station is to be served by at least four trains in any period of 120 minutes with a maximum interval between services of 45 minutes before 18.15 and by at least two trains in any period of 120 minutes with a maximum interval of 90 minutes after 18.15.
- (iii) Stops on the first arrival at Aberdare may be omitted or made request stops if so required by line opening and closing times between Treherbert and Aberdare.

Service Group 2

Within Service Group 2, Interurban Services and Stopping Services are those listed as such in the following tables of Maximum Journey Times and Stopping Patterns.

Service frequency

Services	Trains per hour			
	Monday to Friday Peak (if applicable)	Monday to Friday Off Peak	Saturdays	Sundays
Carmarthen – Swansea – Cardiff – Shrewsbury – Manchester	1	1	1	1 every 2 hours
Cardiff – Shrewsbury – Chester – Holyhead	1 every 2 hours	1 every 2 hours	1 every 2 hours	1 per day
Birmingham – Shrewsbury – Chester – Holyhead	1 every 2 hours	1 every 2 hours	1 every 2 hours	1 every 2 hours
Birmingham – Shrewsbury – Aberystwyth	1 every 2 hours	1 every 2 hours	1 every 2 hours	3 per day in Winter, 5 per day in Summer
Llandudno – Chester – Manchester	1, plus 1 extra Chester to Manchester in Morning Peak and 1 extra Manchester to Chester in Evening Peak	1	1	1 every 2 hours
Chester – Crewe	2	2	2	2
Cardiff – Bristol – South West	N/A	3 per day, plus 1 to Bristol only	3 per day, plus 1 to Bristol only	2 per day
Milford Haven – Carmarthen	1 every 2 hours, plus 1 extra train	1 every 2 hours	1 every 2 hours	5 per day in Winter, 7 per day in Summer
Pembroke Dock – Carmarthen – Swansea	1 every 2 hours	1 every 2 hours	1 every 2 hours	2 per day in Winter plus 1 Carmarthen-Tenby, 4 per day in Summer plus 1 Carmarthen-Pembroke Dock

Swansea – Cardiff (stopping service)	1 every 2 hours	1 every 2 hours (evenings no less than 1 every 4 hours)	1 every 2 hours (evenings no less than 1 every 4 hours)	No service
Cardiff-Gloucester (stopping service)	2 every 3 hours with not more than 2 hour interval	2 every 3 hours with not more than 2 hour interval	2 every 3 hours with not more than 2 hour interval	6 per day
Shrewsbury – Crewe (stopping service)	1 every 2 hours	1 every 2 hours (evenings no less than 1 every 4 hours)	1 every 2 hours (evenings no less than 1 every 4 hours)	4 per day
Pwllheli – Machynlleth	N/A	6 per day, plus 1 Barmouth- Machynlleth of which 2 will be through services to Birmingham attached to Aberystwyth- Birmingham services	6 per day, plus 1 Barmouth- Machynlleth of which 2 will be through services to Birmingham attached to Aberystwyth- Birmingham services	1 per day in Winter, 3 per day in Summer of which 1 per day in Summer will be through services to Birmingham attached to Aberystwyth- Birmingham services
Llandudno – Blaenau Ffestiniog	N/A	6 per day	6 per day	No service
Fishguard Harbour – Swansea (Night Train Cardiff)	N/A	1 to connect with the day- time ferry and 1 Night Train to connect with the night-time ferry arriving at and departing from Fishguard Harbour between 00.00 and 05.00.	1 to connect with the day- time ferry and 1 Night Train to connect with the night-time ferry arriving at and departing from Fishguard Harbour between 00.00 and 05.00.	1 to connect with the day- time ferry and 1 Night Train to connect with the night-time ferry arriving at and departing from Fishguard Harbour between 00.00 and 05.00.

Shrewsbury – Llanelli via Builth Road	N/A	4 per day	4 per day	1 per day in Summer only
Wrexham – Bidston	1	1 (not after 18.15)	1 (not after 18.15)	No service

Maximum Journey Times

Route	Service type	Maximum Journey Time	
		out	return
Carmarthen – Swansea – Cardiff – Shrewsbury – Manchester	Interurban	5 hrs 07 min	5 hrs 06 min
Cardiff – Shrewsbury – Chester – Holyhead	Interurban	4 hrs 55 min	4 hrs 50 min
Birmingham – Shrewsbury – Chester – Holyhead	Interurban	3 hrs 55 min	3 hrs 49 min
Birmingham – Shrewsbury – Aberystwyth	Interurban	2 hrs 49 min	2 hrs 47 min
Llandudno – Chester – Manchester	Interurban	2 hrs 10 min	2 hrs 14 min
Chester – Crewe	Interurban	25 min	25 min
Cardiff – Bristol – Plymouth	Interurban	3 hrs 45 min	3 hrs 40 min
Milford Haven – Carmarthen	Stopping	1 hr	1 hr
Pembroke Dock – Carmarthen – Swansea	Stopping	1 hr 20 min	1 hr 24 min
Swansea – Cardiff (stopping service)	Stopping	1 hr 06 min	1 hr 10 min
Cardiff – Gloucester (stopping service)	Stopping	1 hr 10 min	1 hr 15 min
Shrewsbury – Crewe (stopping service)	Stopping	49 min	49 min
Machynlleth – Pwllheli	Stopping	2 hrs 27 min	2 hrs 14 min
Llandudno – Blaenau Ffestiniog	Stopping	1 hr 08 min	1 hr 11 min
Fishguard Harbour – Swansea	Stopping	1 hr 51 min	1 hr 51 min
Shrewsbury – Llanelli via Builth Road	Stopping	3 hrs 41 min	3 hrs 48 min
Wrexham – Bidston	Stopping	58 min	58 min

Stopping patterns – Interurban services in Service Group 2

Service	Stations served
Carmarthen – Swansea – Cardiff – Shrewsbury – Manchester	Carmarthen, Pembrey & Burry Port, Llanelli, Swansea, Neath, Port Talbot Parkway, Bridgend, Cardiff Central, Newport (Gwent), Cwmbran, Pontypool & New Inn (1 every 2 hours), Abergavenny, Hereford, Leominster, Ludlow, Craven Arms (1 every 2 hours), Church Stretton (1 every 2 hours), Shrewsbury, Wilmslow, Stockport, Manchester Piccadilly.
Cardiff – Shrewsbury – Chester – Holyhead	Cardiff Central, Newport (Gwent), Abergavenny, Hereford, Ludlow, Craven Arms (selected trains only), Church Stretton (selected trains only), Shrewsbury, Gobowen, Chirk, Ruabon, Wrexham General, Chester, Prestatyn, Rhyl, Colwyn Bay, Llandudno Junction, Conwy (selected trains only), Penmaenmawr (selected trains only), Llanfairfechan (selected trains only), Bangor (Gwynedd), Holyhead. In addition and taken with the Birmingham-Holyhead service at least 6 trains per day shall stop on request at each of Llanfairpwll, Bodorgan, Ty Croes, Rhosneigr and Valley.
Birmingham – Shrewsbury – Chester – Holyhead	Birmingham New Street, Wolverhampton, Telford Central, Wellington (Shropshire), Shrewsbury, Gobowen, Chirk, Ruabon, Wrexham General, Chester, Prestatyn, Rhyl, Colwyn Bay, Llandudno Junction, Conwy, Penmaenmawr, Llanfairfechan, Bangor (Gwynedd), Holyhead. In addition

	and taken with the Cardiff-Holyhead service at least 6 trains per day shall stop on request at each of Llanfairpwll, Bodorgan, Ty Croes, Rhosneigr and Valley..
Birmingham – Shrewsbury – Aberystwyth	Birmingham New Street, Wolverhampton, Telford Central, Wellington (Shropshire), Shrewsbury, Welshpool, Newtown (Powys), Caersws, Machynlleth, Dovey Junction, Borth, Aberystwyth.
Llandudno – Chester – Manchester	Llandudno, Deganwy, Llandudno Junction, Colwyn Bay, Abergele & Pensarn, Rhyl, Prestatyn, Flint, Shotton, Chester, Helsby, Frodsham, Runcorn East, Warrington Bank Quay, Earlestown, Newton-le-Willows, Manchester Oxford Road, Manchester Piccadilly.
Chester – Crewe	Chester, Crewe.
Cardiff – Bristol – South West	Cardiff Central, Newport (Gwent), Bristol Temple Meads, Weston-super-Mare, Bridgwater, Taunton, Tiverton Parkway, Exeter St Davids, Dawlish, Teignmouth, Newton Abbott, Totnes, Ivybridge, Plymouth, Saltash, St Germans, Liskeard, Bodmin Parkway, Lostwithiel, Par, St Austell, Truro, Redruth, Camborne, Hayle, St Erth, Penzance.

Stopping patterns – Stopping Services in Service Group 2

All services which are not shown as Interurban Services in the above table are to stop at all intermediate stations between the stations stated, except that:

- (i) Milford Haven-Carmarthen, request stops at Johnston (all trains), Clarboston Road (not less than four trains per day) and Clunderwen (not less than four trains per day).
- (ii) Pembroke Dock-Swansea, request stops at Lamphey, Penally, Saundersfoot, Kilgetty, Narberth and Gowerton.
- (iii) Fishguard Harbour-Swansea, calls at Fishguard Harbour, Whitland, Carmarthen, Llanelli and Swansea.
- (iv) Machynlleth-Pwllheli, station calls and request stops as stated in the timetables for Summer and Winter 2003.
- (v) Shrewsbury-Llanelli, station calls and request stops as stated in the timetables for Summer and winter 2003.

Principles for development of Standard Pattern Timetable

1. First and last trains to be generally as per the Passenger Service Requirement as at the date of the Franchise Agreement unless otherwise stated, but one or both may be moved up to 30 minutes earlier or later to fit the standard repeating pattern, save that the time between the first train and the last train shall not be reduced by more than 15 minutes.
2. Trains to be timed to operate at a standard repeating pattern, so far as reasonably practicable, taking account of the stopping patterns listed above.
3. Trains to maintain the aggregate train mileage as per the Additional Service Commitment as at the date of the Franchise Agreement.
4. Trains to be timed complying so far as possible (having regard to the other requirements of this Annex 4) to the Passenger Service Requirement as at the date of the Franchise Agreement and, where reasonably practicable, to continue to provide for current journey opportunities and, where advised by the Authority, current capacity requirements.
5. No requirement for infrastructure works.

6. To allow for future expansion either by adding additional services or improving frequencies, in some cases requiring infrastructure works.

ANNEX 5

Services to be provided under the Ebbw Valley Option

1. Weekdays and Saturdays

1.1 Service Pattern

- 1.1.1 Eighteen services shall be provided in each direction between Cardiff Central and Ebbw Vale Parkway calling at, Rogerston, Risca, Crosskeys, Newbridge and Llanhilleth.

1.2 Cardiff Central Departures

- 1.2.1 An early departure between 0620 and 0650
- 1.2.2 A late departure between 2320 and 2350
- 1.2.3 Maximum Journey Time 1 hour 10 minutes (*n.b. all but 2 services are to be planned to take under 1 hour*)

1.3 Ebbw Vale Parkway Departures

- 1.3.1 An early departure between 0550 and 0620
- 1.3.2 A late departure between 2255 and 2325
- 1.3.3 Maximum Journey Time 1 hour and 10 minutes (*n.b. all but 2 services are to be planned to take under 55 minutes*)

ANNEX 6

Planned Train Fleet

	From:							
	The Franchise Commencement Date		Passenger Change Date in Summer 2004		Passenger Change Date in Winter 2004		The 175 Termination Date	
Vehicle Type	Units	Vehicles	Units	Vehicles	Units	Vehicles	Units	Vehicles
142	14	28	14	28	14	28	14	28
143	16	32	16	32	13	26	12	24
150	6	12	6	12	13	26	18	36
153	12	12	12	12	12	12	12	12
158	37	74	37	74	37	74	16	32
175/0	4	8	5	10	5	10	11	22
175/1	6	18	9	27	9	27	16	48
LHCS	6	24	4	16	0	0	0	0
Totals	101	208	103	211	103	203	99	202

Schedule 14 — Aspirations for Enhancements (Clause 14.1)

Part 1 - Definitions and Interpretation

In this Schedule 14, except to the extent the context otherwise requires:

“Additional Aspiration” means any aspiration notified by the Franchise Operator under paragraph 2.1, or the Authority under paragraph 2.2, of Part 2 of this Schedule 14.

“Aspiration” means:

- (a) the Initial Aspirations (if any); and
- (b) the Additional Aspirations (if any).

“Development Proposal” means a costed and developed Aspiration prepared by the Franchise Operator in accordance with paragraph 3 of Part 2 of this Schedule 14.

“Initial Aspirations” means each of the matters specified in Part 3 of this Schedule 14 (if any).

Part 2 - Identification and development of Aspirations

1 Initial Aspirations

The Initial Aspirations are potential enhancements to the Franchise Services proposed by the Franchise Operator. The Authority may by notice to the Franchise Operator require the Franchise Operator to submit Development Proposals in respect of any of the Initial Aspirations, on the terms set out in Part 3 of this Schedule 14. Except where otherwise indicated in Part 3 of this Schedule 14:

- (a) the Authority may serve notices at different times relating to any one or more of the Initial Aspirations; and
- (b) paragraph 3 of this Part 2 will apply in respect of any such Development Proposals, unless otherwise required or agreed by the Authority.

2 Aspirations

2.1 The Franchise Operator will from time to time notify the Authority of potential enhancements to the Franchise Services which the Franchise Operator considers are suitable to be developed into Development Proposals.

2.2 The Authority may from time to time notify the Franchise Operator of potential enhancements to the Franchise Services which the Authority wishes the Franchise Operator to develop into Development Proposals.

2.3 The Authority may at any time request any further information which it reasonably considers necessary for the evaluation of any Additional Aspiration. The Franchise Operator shall deliver such information to the Authority as soon as reasonably practicable or within such other period as the Authority may agree.

- 2.4** If requested to do so by the Authority, the Franchise Operator will meet with the Authority to discuss any Additional Aspiration and whether it is to be developed into a Development Proposal.
- 2.5** The Authority may by notice require the Franchise Operator to submit a Development Proposal in respect of any Additional Aspiration, subject to the parties agreeing the costs of the Development Proposal and how those costs are to be funded. The Franchise Operator will not unreasonably withhold its agreement. Paragraph 3 of this Part 2 will apply in respect of any such Development Proposals, unless otherwise required or agreed by the Authority.
- 2.6** Nothing in this paragraph 0 will prevent the Franchise Operator from developing an Additional Aspiration into a Development Proposal at its own cost.

3 Development Proposals

- 3.1** Development Proposals will be developed and submitted within the time:-
- (a) specified in Part 3 of this Schedule 14 (in the case of the Initial Aspirations); or
 - (b) otherwise agreed by the parties; or
 - (c) if not so specified or agreed, within a reasonable time, having regard to the nature and extent of the aspiration).
- 3.2** Development Proposal will be prepared by the Franchise Operator as a draft amendment to the Franchise Plan and the then current Annual Business Plan, and will:
- (a) contain a proposed manner of implementation for such Development Proposal and, where such Development Proposal could be implemented in more than one manner, any reasonable alternatives (except to the extent the Authority specifies one or more manners of implementation in which case at least such manners shall be included);
 - (b) where applicable, be based upon capital cost estimates at a level of certainty equivalent to at least Network Rail Level 4 (within the meaning of that term as at the Franchise Commencement Date) or, if having used its reasonable endeavours within the time available, the Franchise Operator is not able to attain such level of certainty, the most up-to-date capital cost estimates available;
 - (c) contain a statement of the steps which it is reasonably estimated will be necessary to implement such Development Proposal for each proposed manner of implementation including where relevant:
 - (i) any consents that may be required;
 - (ii) the Franchise Operator's proposals for funding such Development Proposal (including the length of time reasonably anticipated to be required in order to secure such funding);
 - (iii) details of any amendments that will be required to the terms of any Access Agreement, Rolling Stock Lease or other relevant agreement to which the Franchise Operator is a party;
 - (iv) details of its Timetable and Train Plan at all relevant times.

- (d) contain a reasonable estimate of the time in which such Development Proposal (and any steps constituting such Development Proposal) can be implemented for each of such alternatives (if any);
 - (e) contain the Franchise Operator's proposed adjustments to the Franchise Payments, Thresholds, NPS Benchmarks, PPM Benchmarks in Part 4 of Schedule 7 and the Operational Performance Targets as a result of such Development Proposal (together in each case with all relevant supporting information and calculations);
 - (f) contain an audit trail which shall include details of any moves in the cost of such Development Proposal since it was proposed as an Aspiration, the cause of such cost moves and, to the extent required by the Authority, demonstrate there has been appropriate market testing;
 - (g) contain any proposed consequential amendments to the Franchise Agreement; and
 - (h) contain any other matter which the Franchise Operator may consider appropriate to include, or which the Authority may reasonably request should be so included;
- 3.3** The Authority may at any time request any further information or calculations which it reasonably considers necessary for the evaluation of any Development Proposal. The Franchise Operator shall deliver such information or calculations to the Authority as soon as reasonably practicable or within such other period as the Authority may agree.
- 3.4** The Franchise Operator shall ensure that its obligations under this paragraph 3 are carried out using the standard of skill and care and diligence of a professionally qualified and competent rail infrastructure provider and/or operator of passenger rail services (as appropriate) experienced in the design and construction of public transport infrastructure and/or the development and provision of services for the carriage of passengers by railway (as appropriate), and shall act in accordance with and take account of the statutory requirements and the mandatory standards applicable to the rail industry from time to time.
- 3.5** The Franchise Operator agrees that, for the purpose of agreeing and reviewing any estimate of costs made pursuant to this paragraph 3, it shall allow the Authority (including the Authority's accountants and other professional advisors) full access (including the right to take copies) to its financial and other relevant records. The Franchise Operator agrees that it will at all times during the currency of the Franchise Agreement maintain accurate and up to date financial and other records of all costs and other matters relevant to the provisions of this paragraph 3.

4 Inclusion of Development Proposals in Franchise Agreement

Following submission of any Development Proposal and any further information or calculations, the Authority may require the Franchise Operator to meet with the Authority:

- 4.1** without limiting paragraph 4.2, to discuss whether the parties consider such Development Proposal to be suitable to be included in the Franchise Agreement and to be undertaken by the Franchise Operator; and
- 4.2** if the Authority wishes the Development Proposal to be included in the Franchise Agreement, to discuss the terms on which the Development Proposal might be so included.

Part 3 – Initial Aspirations

1. Aberystwyth-Birmingham hourly service.

The provision of a service between Aberystwyth and Birmingham on an hourly basis instead of two-hourly as required under Schedule 3 Part 1, either with the associated infrastructure improvements to permit this or in cooperation with the provision of such infrastructure improvements by the Authority or others.

2. Cardiff-Rhymney half-hourly service.

The provision of a service between Cardiff and Rhymney on a half-hourly basis instead of generally hourly as required under Schedule 3 Part 1, either with the associated infrastructure improvements to permit this or in cooperation with the provision of such infrastructure improvements by the Authority or others.

3. Cardiff-Merthyr Tydfil half-hourly service.

The provision of a service between Cardiff and Merthyr Tydfil on a half-hourly basis instead of hourly as required under Schedule 3 Part 1, either with the associated infrastructure improvements to permit this or in cooperation with the provision of such infrastructure improvements by the Authority or others.

4. Cardiff-Maesteg half-hourly service.

The provision of a service between Cardiff and Maesteg on a half-hourly basis instead of hourly as required under Schedule 3 Part 1, either with the associated infrastructure improvements to permit this or in cooperation with the provision of such infrastructure improvements by the Authority or others.

5. Additional platform at Cardiff Central station.

Alterations to Passenger Services in respect of train capacity, timetable or performance associated with the provision of an additional platform to the south of platform 7 at Cardiff Central station either with the provision of such platform or in cooperation with the provision of such platform by the Authority or others.

6. New station at Llanharan.

The provision of Passenger Services to and operation of a new station at Llanharan, between Cardiff and Bridgend, either with the provision of such new station or in cooperation with the provision of such station by the Authority or others.

7. New station at Brackla.

The provision of Passenger Services to and operation of a new station at Brackla, between Cardiff and Bridgend, either with the provision of such new station or in cooperation with the provision of such station by the Authority or others.

8. New station at Energlyn.

The provision of Passenger Services to and operation of a new station at Energlyn, between Cardiff and Rhymney, either with the provision of such new station or in cooperation with the provision of such station by the Authority or others.

9. Llandudno Junction-Blaenau hourly service.

The provision of a service between Llandudno Junction and Blaenau Ffestiniog on an hourly basis instead of two-hourly as required under Schedule 3 Part 1, either with the associated infrastructure improvements to permit this or in cooperation with the provision of such infrastructure improvements by the Authority or others.

10. Bus links.

The provision of bus services connecting with train services and marketed as an integral network with the Passenger Services between some or all of:

Aberystwyth to Carmarthen
Bangor to Porthmadog
Bangor to Pwllheli and
Abergavenny to Port Talbot.

11. Heart of Wales Line improvement.

A revised service replacing that required under Schedule 3 Part 1 developed in consultation with the Heart of Wales Partnership.

12. Wales to Manchester Airport.

The provision of improved information and/or more convenient interchange, to make services between Wales and Manchester Airport more attractive.

13. Bangor-Llangefni new service on reopened line.

The provision of new services between Bangor and Llangefni, additional to those required under Schedule 3 Part 1 and operation of such new stations provided as part of this proposal, either with the provision of such new infrastructure and stations or in cooperation with the provision of such infrastructure and stations by the Authority or others.

The Authority may not require a Development Proposal in respect of this Aspiration prior to the First Phase End Date except with the prior consent of the Franchise Operator.

14. Bangor-Caernarfon new service on reopened line.

The provision of new services between Bangor and Caernarfon, additional to those required under Schedule 3 Part 1 and operation of such new stations provided as part of this proposal, either with the provision of such new infrastructure and stations or in cooperation with the provision of such infrastructure and stations by the Authority or others.

The Authority may not require a Development Proposal in respect of this Aspiration prior to the First Phase End Date except with the prior consent of the Franchise Operator.

Schedule 15 — “Efficient Operator” Performance Reviews

Part 1 – Definitions

1 In this Schedule 15, except to the extent the context otherwise requires:

“Customer Satisfaction Targets”	means the targets in respect of customer satisfaction in connection with the Franchise Services, as set out in Part 3 of this Schedule 15 (as may be reset from time to time in accordance with Clause 8.4(h)).
“First Performance Review Date”	means 31 March 2008.
“Key Criteria”	means the criteria described in paragraph 2 of Part 2 of Schedule 15.
“Operational Performance Targets”	means the targets in respect of the operational performance of the Passenger Services for each of the Valley Lines Business Unit and the Wales & Borders Rural and Inter-Urban Business Unit, as set out in Part 3 of Schedule 15 or as re-set from time to time pursuant to this Franchise Agreement.
“Operational Performance Target Milestones”	means those milestones in respect of the operational performance of the Passenger Services for each of the Valley Lines Business Unit and the Wales & Borders Rural and Inter-Urban Business Unit, as set out in Part 3 of Schedule 15, or as re-set from time to time pursuant to this Franchise Agreement.
“Performance Review Date”	means the First Performance Review Date, the Second Performance Review Date or any interim Performance Review Date imposed by the Authority under paragraph 3(b) of Part 2 of this Schedule 15 (as appropriate).
“Performance Review Period”	means the period between Performance Review Dates (except in the case of the first Performance Review Period, which shall mean the period commencing on the Franchise Commencement Date and ending on the First Performance Review Date).
“Second Performance Review Date”	means 31 March 2013.
“Secondary Criteria”	means the criteria described in paragraph 4 of Part 2 of Schedule 15.

Part 2 – Performance Review Provisions

- 1 Following the end of each Performance Review Period the Authority will review and assess the performance of the Franchise Operator to determine whether the Franchise Agreement is to continue or be terminated under Clause 20.4. This is the Authority's "Efficient Operator" review. It will be carried out in accordance with the following provisions of this Part 2.
- 2 If, in respect of a Performance Review Period, the Franchise Operator has satisfied each of the Key Criteria, then the Authority will not be entitled to terminate this Franchise Agreement, in accordance with Clause 20.4, on or following the Performance Review Date in respect of that Performance Review Period. The Franchise Agreement will continue into the next Phase (subject and without prejudice to its other terms). The Key Criteria are:-
 - (a) the Operational Performance Targets have been achieved;
 - (b) the level of customer satisfaction demonstrated by the results of the most recent Spring and Autumn National Passenger Surveys undertaken prior to the Performance Review Date equals or exceeds the Customer Satisfaction Targets;
 - (c) the Franchise Operator and the Franchisee have complied with each and all of their respective obligations under this Franchise Agreement:-
 - (i) save where the Authority reasonably considers any breach(es) to have been both minor and infrequent; and
 - (ii) disregarding any breach caused by the Franchise Operator's performance against any Threshold (on the basis that, for the purpose of the Efficient Operator review, operational performance is assessed by reference to the Operational Performance Targets);
 - (d) the Authority is reasonably satisfied both that (1) the Franchise Operator will be able to comply with its obligations under the Franchise Agreement for the remainder of the Franchise Term and (2) such compliance will not result in a situation entitling the Franchise Operator to request a viability review under Clause 19.1, in each case having regard to:
 - (i) the Franchise Operator's most recent Annual Business Plan and any updated or additional financial and economic projections provided to the Authority by the Franchise Operator pursuant to Clause 15.2 and Schedule 8; and
 - (ii) the success (or otherwise) with which the Franchise Operator has developed and implemented the Initial Business Plan, subsequent Annual Business Plans and supporting Action Plans.
- 3 If the Key Criteria are not satisfied, then the Authority may determine:-
 - (a) to exercise its right to serve notice reducing the Franchise Term under Clause 20.4 of this Franchise Agreement;
 - (b) to grant the Franchise Operator an additional period to satisfy the Key Criteria or comply with such other specific requirements as the Authority may specify. In this case the Authority will specify particular requirements in respect of those areas where the Key Criteria have not been satisfied, to be met by an interim

Performance Review Date during the next Performance Review Period. If the Authority specifies such an interim Performance Review Date:

- (i) the Authority shall not (subject to paragraph 3(b)(ii) below) serve notice reducing the Franchise Term under Clause 20.4 of this Franchise Agreement in relation to the original Performance Review Date; and
 - (ii) the provisions of this Part 2 will apply at the interim Performance Review Date, mutatis mutandis as if that date was the original Performance Review Date (and as if the matters to be taken into account under paragraph 2 were the specific requirements notified by the Authority under paragraph 3(b)); or
- (c) that this Franchise Agreement will continue into the following Phase. In this case the Authority shall not be entitled to serve notice reducing the Franchise Term under Clause 20.4 of this Franchise Agreement in relation to such Performance Review Date.

Without prejudice to Clause 35.5 or any other provision of this Franchise Agreement, failure to meet those Key Criteria in paragraphs 2(a), (b) and (d) of this Part 2 will not of itself constitute a breach of this Franchise Agreement.

4 The Authority, in considering what determination to make in relation to paragraph 3, will take into account the following factors:-

- (a) where applicable, the extent by which the Franchise Operator has, at the relevant Performance Review Date, failed to achieve any Operational Performance Targets;
- (b) where applicable, the extent by which the level of customer satisfaction in respect of the Franchise Services shown by the results of the most recent Spring and Autumn National Passenger Surveys undertaken prior to the Performance Review Date, is lower than the relevant Customer Satisfaction Targets;
- (c) where applicable, the nature and extent of any breach(es) by the Franchise Operator or the Franchisee of this Franchise Agreement;
- (d) as regards any failure to achieve any of the Key Criteria:-
 - (i) the extent to which it appears to the Authority (in its reasonable opinion) that the Franchise Operator's and/or Franchisee's ability to achieve the Key Criteria has been affected by:
 - (x) any Force Majeure Event(s);
 - (y) the level of performance of Network Rail; or
 - (z) the performance by the Franchise Operator of its obligations under the Franchise Plan (provided that the Franchise Operator has used all reasonable endeavours to perform such obligations in a manner consistent with the achievement of the Operational Performance Targets and the Customer Satisfaction Targets);
 - (ii) the level of performance of other franchise operators or franchisees in relation to any similar or comparable targets, milestones benchmarks or obligations applicable to such franchise operators;

- (iii) the action taken by the Franchise Operator to manage and mitigate the effects of that failure;
- (e) the Franchise Operator's ability to plan, develop and manage its business effectively, as reflected in the way and success (or otherwise) with which it has developed and implemented:-
 - (i) its Annual Business Plans and associated Action Plans, and/or
 - (ii) any proposals required to address customer satisfaction levels below NPS Benchmarks under Clause 8.4;
- (f) the extent to which the Franchise Operator has developed and/or maintained good working relationships with stakeholders including Rail Passenger Councils, other passenger representatives, Local Authorities and regional or other government bodies;

together with any other matters which the Authority may consider appropriate to take into consideration from time to time (collectively “**the Secondary Criteria**”).

- 5 The Franchise Operator shall provide such information and attend such meetings as the Authority may request in relation to the matters to be determined by the Authority under this Part 2. Such meetings may include such meetings with third parties as the Authority considers appropriate.
- 6 Subject to paragraph 7, the Authority will notify the Franchise Operator of its determination under paragraphs 2 and (where applicable) 3 of this Part 2 within 3 calendar months after the relevant Performance Review Date.
- 7 The Authority shall be entitled, by notice to the Franchise Operator, to extend the 3 month period referred to in paragraph 6 by not more than 90 days. The Authority shall only give such a notice if it is satisfied on reasonable grounds that the information available to it for the purposes of the determination it has to make is insufficient in any material respect or that its conclusions are likely to be incomplete or unsatisfactory in any material respect if the period is not extended.
- 8 The rights of the Authority under this Schedule 15 are in addition and without prejudice to any other rights which the Authority may have whether pursuant to this Franchise Agreement or otherwise, including such rights and powers as it may have pursuant to the Act.

Part 3 – Targets and Milestones

(a) *Operational Performance Targets and Operational Performance Target Milestones*

Valley Lines Business Unit^{100 101}

	APPM	TDM	TCR
Milestone – Reporting Year 2004/5	86.6%	146,375	1.36
Milestone – Reporting Year	87.4%	165,594	1.30

¹⁰⁰ Date of change 19/02/2009

¹⁰¹ Date of change 17/01/2012

2005/6			
Milestone – Reporting Year 2006/7	87.8%	160,159	1.11
Target – First Performance Review Date	89.0%	146,833	0.99
Milestone – Reporting Year 2008/9	90.1%	132,937	0.84
Milestone – Reporting Year 2009/10	90.5%	126,997	0.77
Milestone – Reporting Year 2010/11	90.6%	126,997	0.77
Milestone – Reporting Year 2011/12	90.6%	126,997	0.77
Target – Second Performance Review Date	90.8%	126,997	0.77
Milestone – Reporting Year 2013/14	90.8%	126,997	0.77
Milestone – Reporting Year 2014/15	90.8%	126,997	0.77
Milestone – Reporting Year 2015/16	90.8%	126,997	0.77
Milestone – Reporting Year 2016/17	90.8%	126,997	0.77
Milestone – Reporting Year 2017/18	90.8%	126,997	0.77
Milestone – Reporting Year 2018/19	90.8%	68,544	0.77

Wales & Borders Rural and Inter-Urban Business Unit^{102 103}

	APPM	TDM	TCR
Milestone – Reporting Year 2004/5	76.2%	387,916	1.41
Milestone – Reporting Year 2005/6	79.6%	355,672	1.35
Milestone – Reporting Year 2006/7	82.6%	285,353	1.16
Target – First Performance Review Date	85.0%	237,475	1.03
Milestone – Reporting Year 2008/9	86.3%	218,948	0.88
Milestone – Reporting Year 2009/10	86.7%	207,425	0.81
Milestone – Reporting Year 2010/11	86.8%	207,425	0.81
Milestone – Reporting Year 2011/12	86.8%	207,425	0.81
Target – Second Performance Review Date	86.8%	207,425	0.81
Milestone – Reporting Year 2013/14	86.8%	207,425	0.81
Milestone – Reporting Year 2014/15	86.8%	207,425	0.81
Milestone – Reporting Year 2015/16	86.8%	207,425	0.81
Milestone – Reporting Year 2016/17	86.8%	207,425	0.81
Milestone – Reporting Year 2017/18	86.8%	207,425	0.81

¹⁰² Date of change 19/02/2009¹⁰³ Date of change 17/01/2012

Milestone – Reporting Year 2018/19	86.8%	111,952	0.81
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Where:-

1. APPM is the average Public Performance Measure calculated in accordance with the following formula:-

$$APPM = \frac{PST}{TST} \times 100$$

where:

APPM is the average Public Performance Measure;

PST means the total aggregate number of trains during the Measurement Period which arrive at their scheduled final destination punctually, within the meaning, and consistent with the definition, of the Public Performance Measure; and

TST means the total aggregate number of trains scheduled to run under every Applicable Timetable during the Measurement Period.

2. TDM is the number of TOC Delay Minutes. For this purpose “TOC Delay Minutes” means the total number of “Minutes Delay” (as defined in, and calculated in accordance with, Schedule 8 of the Franchise Operator’s Track Access Agreement with Network Rail as at the Franchise Commencement Date, as described in Part 2 of Schedule 1) in the relevant Measurement Period, responsibility for which is allocated to the Franchise Operator in accordance with Schedule 8.
3. TCR is the TOC Cancellation Rate and is the total number of Total Cancellations in the relevant Measurement Period, responsibility for which is allocated to the Franchise Operator in accordance with Schedule 8 of the Track Access Agreement referred to in paragraph 2 above

and “Measurement Period” means the 13 Reporting Periods immediately preceding the relevant Performance Review Date (in the case of an Operational Performance Target) or the end of the relevant Reporting Year (in the case of an Operational Performance Target Milestone).

(b) Customer Satisfaction Targets

1. Except to the extent otherwise indicated below, the Customer Satisfaction Targets are the NPS Benchmarks as at the relevant Performance Review Date.
2. The Franchise Operator’s performance against the Customer Satisfaction Target shall be calculated as follows:-
 - (a) the results obtained by the Franchise Operator under the last Autumn and Spring National Passenger Surveys carried out before the relevant Performance Date will be aggregated. This means that the results of those surveys will be treated as if they were a single survey (rather than by taking the average of the scores of each of the two surveys).

- (b) The aggregate scores derived from paragraph 1 will be compared with the Customer Satisfaction Targets. Where the Customer Satisfaction Targets are the NPS Benchmarks, those Benchmarks will be aggregated in accordance with the principle outlined in paragraph 2(a) above.

3. *Customer Satisfaction Targets*

Where the Customer Satisfaction Targets are different from the relevant NPS Benchmarks, they are set out below:-

Factor	Target
Station facilities and services	32%

Derogation Page

~~i By virtue of a derogation the Authority has granted the Franchise Operator a derogation against the deadline to produce pocket timetables for the December 2011 timetable. This derogation applies only to those pocket timetables that contain information relating to the North South Express services. Start date: 12/11/2011 End date: 09/12/2011~~

~~ii By virtue of a derogation the Authority has granted the Franchise Operator a derogation against the deadline to produce pocket timetables for the May 2012 timetable. This derogation applies only to those pocket timetables that contain information relating to the North South Express services. Start date: 16/03/2012 End date: 11/05/2012~~

~~iii By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation allowing ATW to increase the percentage of staff to 25% to cater for the hire of staff to deliver Wessex services. Start date 31st December 2004. End date 31st March 2006.~~

~~iv By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation allowing ATW to increase the percentage of staff to 25% to cater for the hire of staff to deliver Wessex services. Start date 13th December 2004. End date 31st March 2006.~~

~~v By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation to exceed the maximum journey time on the 0720 Pwllheli departure (Head code 2G25EA). This is granted to facilitate services that provide good arrival times for school students travelling to Harlech. Start date: 02/04/2012 End date: 31/05/2013~~

~~vi By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation on the requirement for an arrival at Machynlleth between 2045 hrs and 2200 hrs (SX) and between 2045 hrs and 2215 hrs (SO). This is granted in recognition that amended sectional running times have been applied to the route following ERTMS commissioning requiring changes to achieve a robust timetable. Start date: 02/04/2012 End date: 31/05/2013~~

~~vii By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation approving the diversion of the 10.36 Cardiff Central to Treherbert service from 11 September to 10 December 2011 to allow the running of a railhead adhesion train. Start date: 11/09.2011 End date: 10/12/2011~~

~~viii By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation approving the diversion of the 10.36 Cardiff Central to Treherbert service from 11 September to 10 December 2011 to allow the running of a railhead adhesion train. Start date: 11/09.2011 End date: 10/12/2011~~

~~ix By virtue of a derogation the Authority has granted the Franchise Operator the following: A derogation approving the diversion of the the following services to allow the running of a railhead adhesion train:~~

~~Monday to Friday~~

~~10.36 Cardiff Central to Treherbert~~

~~11.17 Treherbert to Cardiff Central~~

Saturdays

~~12.36 Cardiff Central to Treherbert~~

~~13.17 Treherbert to Cardiff Central~~

~~The maximum journey time allowed for these diverted services shall be 1 hour 25 minutes.~~

~~Start date: 15/09/2012 End date: 08/12/2012~~

^x ~~By virtue of a derogation the Authority has granted the Franchise Operator the following:
A derogation approving the diversion of the 10.36 Cardiff Central to Treherbert service from
11 September to 10 December 2011 to allow the running of a railhead-adhesion train. Start
date: 11/09/2011 End date: 10/12/2011~~

^{xi} ~~By virtue of a derogation the Authority has granted the Franchise Operator the following:
A derogation approving the diversion of the the following services to allow the running of a
railhead-adhesion train:~~

Monday to Friday

~~10.36 Cardiff Central to Treherbert~~

~~11.17 Treherbert to Cardiff Central~~

Saturdays

~~12.36 Cardiff Central to Treherbert~~

~~13.17 Treherbert to Cardiff Central~~

~~The maximum journey time allowed for these diverted services shall be 1 hour 25 minutes.~~

~~Start date: 15/09/2012 End date: 08/12/2012~~

^{xii} ~~By virtue of a derogation the Authority has granted the Franchise Operator the following: A
derogation against Schedule 3, Route F7, Paragraph 1.1.1 based on the associated increase in
capacity and service pattern for morning commuting into Cardiff.
Start Date: 11/12/2011 End Date: 10/12/2012~~

^{xiii} ~~By virtue of a derogation the Authority has granted the Franchise Operator the following: A
derogation against Clause 8 of Schedule 5, from fares regulation for individual fares between Pyle
and Valley Lines Zonal Stations. Start Date: 4 September 2011 End Date: 1 January 2012~~

^{xiv} ~~By virtue of a derogation the Authority has granted the Franchise Operator the following:
Permission to retain the three sets of Class 37 locomotives and mark 2 loco-hauled carriages.
Start Date Passenger Change Date December 2004. End Date Passenger Change Date
December 2005.~~