

Dated

[REDACT]

Between

NETWORK RAIL INFRASTRUCTURE LIMITED

and

AMEY KEOLIS INFRASTRUCTURE / SEILWAITH AMEY KEOLIS LIMITED

RAIL NETWORK CONNECTION AGREEMENT

**in respect of a connection between the Network Rail Network and the Radyr Line of the
Core Valley Lines Network**

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THIS CONNECTION AGREEMENT is made on [REDACT]

BETWEEN:

- (1) **Network Rail Infrastructure Limited**, a company registered in England under number 02904587 having its registered office at 1 Eversholt Street, London, NW1 2DN (“**Network Rail**”); and
- (2) **Amey Keolis Infrastructure / Seilwaith Amey Keolis Limited**, a company registered in England and Wales under number 11389544 having its registered office at Transport For Wales CVL Infrastructure Depot Ty Trafnidiaeth, Treforest Industrial Estate, Gwent Road, Pontypridd, United Kingdom, CF37 5UT (“**AKIL**”).

WHEREAS:

- (A) It is intended that AKIL will, from the Transfer Date, be the Infrastructure Manager of the Core Valley Lines Network.
- (B) Network Rail is the owner of the NR Network.
- (C) Following the Transfer Date, rail services will operate on the Core Valley Lines Network and then are expected to run onto the NR Network.
- (D) Network Rail and TfW entered into a Transfer Framework Agreement dated 5th November 2018 (the “**Transfer Framework Agreement**”). Clause 12 of the Transfer Framework Agreement requires Network Rail to use reasonable endeavours to agree the terms of certain agreements (“**Required Agreements**”) with the Infrastructure Manager (being AKIL from the Transfer Date) including in respect of connection points between the Core Valley Lines Network and the NR Network.
- (E) This Agreement constitutes a Required Agreement pursuant to Clause 12 of the Transfer Framework Agreement.

IT IS AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Agreement unless the context otherwise requires:

“**access contract**” has the meaning ascribed to it in section 17(6) of the Act;

“**Access Dispute Resolution Rules**” and “**ADRR**” means the rules regulating the resolution of disputes between parties to access contracts entitled “The Access Dispute Resolution Rules”;

“**Act**” means the Railways Act 1993;

“**Affected Party**” means, in relation to a Force Majeure Event, the party claiming relief under Clause 17 by virtue of that Force Majeure Event, and “**Non-affected Party**” shall be construed accordingly;

“**Affiliate**” means, in relation to any company:

- (a) a company which is either a holding company or a subsidiary of such company;
or
- (b) a company which is a subsidiary of a holding company of which such company is also a subsidiary,

and for these purposes “holding company” and “subsidiary” have the meanings ascribed to them in section 1159 of the Companies Act 2006;

“Agreement” means this rail networks connection agreement, including all Schedules and annexes to it;

“Agreement Year” means each yearly period commencing on the Commencement Date and subsequently on each anniversary of such date;

“AKIL Connection Point Assets” means those assets of AKIL which are located in the vicinity of the Radyr Line Connection Point as more particularly described in Part 1(A) of Schedule 1 and/or the Applicable Procedures;

“Allocation Chair” has the meaning ascribed to it in the ADRR;

“Applicable Procedures” means:

- (a) any applicable procedures, timescales or arrangements which have been or are formally agreed in writing by Network Rail and AKIL from time to time; but
- (b) to the extent any of the matters referred to in sub-paragraph (a) include standards in respect of the NR Network set by Network Rail or standards in respect of the Core Valley Lines Network set by AKIL then they shall be notified by the relevant standard-setting infrastructure manager to the other party rather than being formally agreed in writing;

“CVL Services Agreement” means the agreement dated prior to the Transfer Date between AKIL and Network Rail regarding certain services to be provided by Network Rail in respect of the Core Valley Lines Network;

“Core Valley Lines Network” means the railway network known as the Cardiff Core Valley Lines, which connects with Network Rail’s railway network at two separate connection points:

- (i) at the Core Valley Lines’ west boundary, between Ninian Park (exclusive) and Waun-gron Park stations on the Up and Down Treforest lines at 1m 20ch (ELR = RAD); and
- (ii) at the Core Valley Lines’ east boundary, between Cardiff Central (exclusive) and Cardiff Queen Street stations on the Up and Down Llandaff lines at 0m 13ch (ELR = CEJ),

and includes the following railway lines (locations inclusive unless specified otherwise):

- (a) Rhymney to Cardiff Queen Street;
- (b) Coryton branch;

- (c) Ystrad Mynach to Cwmbargoed;
- (d) Merthyr Tydfil to Cardiff Queen Street;
- (e) Aberdare to Cardiff Queen Street;
- (f) Aberdare to Hirwaun (not in use);
- (g) Treherbert to Cardiff Queen Street;
- (h) Radyr to Ninian Park (exclusive);
- (i) Cardiff Queen Street to Cardiff Central (exclusive); and
- (j) Cardiff Queen Street to Cardiff Bay,

and includes any changes or extensions to such Core Valley Lines network, which have been notified to ORR and in respect of which ORR has consented.

“Commencement Date” means the date of signature of this Agreement;

“Competent Authority” means any local, national or supra-national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal or public or statutory person (whether autonomous or not), whether of the United Kingdom or of the European Union which has, in respect of this Agreement, jurisdiction over either Network Rail and/or AKIL and/or the subject matter of this Agreement;

“Confidential Information” means:

- (a) the terms of this Agreement;
- (b) any information, data or document received under or in connection with this Agreement; and
- (b) information relating to the affairs of one party to this Agreement or any of its Affiliates which has been provided by any such person to the other party under or for the purposes of this Agreement,

the disclosure of which is likely materially to compromise or otherwise prejudice the commercial interests of either party, trade secrets, Intellectual Property Rights and know-how of either party and all personal data and sensitive personal data within the meaning of the General Data Protection Regulation;

“Connection Point Assets” means AKIL Connection Point Assets and the Network Rail Connection Point Assets;

“Emergency” means:

- (a) an event or circumstance affecting the NR Network or the Core Valley Lines Network at or in the vicinity of the Radyr Line Connection Point giving rise to an immediate apprehension of damage to property, injury to persons or Environmental Damage, or
- (b) an event or circumstance which materially prevents or materially disrupts the operation of trains on the NR Network or Core Valley Lines Network, the alleviation of which would entail the use or non-use of the Radyr Line Connection Point;

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

“FOI Legislation” has the meaning ascribed to it in Clause 13.8.2;

“Force Majeure Event” means any of the following events (and any circumstance arising as a direct consequence of any of the following events):

- (a) an act of the public enemy or terrorists or war (declared or undeclared), threat of war, revolution, riot, insurrection, civil commotion, demonstration or sabotage;
- (b) acts of vandalism or accidental damage or destruction of machinery, equipment, track or other infrastructure;
- (c) natural disasters or phenomena, including extreme weather or environmental conditions (such as lightning, earthquake, hurricane, storm, fire, flood, drought or accumulation of snow or ice);
- (d) nuclear, chemical or biological contamination;
- (e) pressure waves caused by devices travelling at supersonic speeds;
- (f) discovery of fossils, antiquities or unexploded bombs; and
- (g) strike or other industrial action which is a single circumstance and which also is a strike or industrial action in sectors of the economy other than the railway industry;

“Force Majeure Notice” means a notice to be given by the Affected Party to the other party stating that a Force Majeure Event has occurred;

“Force Majeure Report” means a report to be given by the Affected Party to the other party following the giving of a Force Majeure Notice;

“General Data Protection Regulation” means the General Data Protection Regulation (EU) 2016/679;

“Information” has the meaning ascribed to it in Clause 13.8.3;

“Information Request” has the meaning ascribed to it in Clause 13.8.5;

“Infrastructure Manager” has the meaning ascribed to it in the Railway Regulations;

“Infrastructure Manager Services” has the meaning ascribed to it in the ODP Grant Agreement;

“Initial Condition Statement” means the statement given by Network Rail in relation to the Connection Point Assets as detailed at Part 2 of Schedule 1;

“Innocent Party” means, in relation to a breach of an obligation under this Agreement, the party who is not in breach of that obligation;

“Intellectual Property Rights” and **“IPR”** means patents, trade marks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright (including rights in computer software) and topography rights; know-how, secret formulae and processes, lists of suppliers and customers and other proprietary knowledge and information; internet domain names; rights protecting goodwill and reputation; database rights and all rights and

forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition;

“**Liability Cap**” has the meaning ascribed to it in paragraph 1 of Schedule 3;

“**network**” has the meaning ascribed to it under section 83(1) of the Act;

“**Network Licence**” means a licence granted pursuant to Section 8 of the Railways Act 1993 (as amended by the Transport Act 2000);

“**Network Rail Connection Point Assets**” means those assets of Network Rail which are located in the vicinity of the Radyr Line Connection Point as more particularly described in Part 1(B) of Schedule 1 and/or the Applicable Procedures;

“**Nomination Notice**” means a notice served by the Welsh Ministers on Network Rail and AKIL in accordance with clause 8.2;

“**NR Network**” means the network of which Network Rail is the owner and which is situated in England, Wales and Scotland;

“**ODP Grant Agreement**” means the operator and development partner agreement between Keolis Amey Wales Cymru Limited (“**ODP**”) and the Welsh Ministers dated 4 June 2018;

“**Office of Rail and Road**” has the meaning ascribed to it under section 15 of the Railways and Transport Safety Act 2003, and “**ORR**” shall be construed accordingly;

“**Operational Control**” means the safe management and direction of rolling stock;

“**Performance Order**” has the meaning ascribed to it in Clause 12.3.2;

“**Procedure Agreement**” has the meaning ascribed to it in the ADRR;

“**Radyr Line Connection Point**” means the points at which the railway lines of the NR Network and the Core Valley Lines Network connect at or around the boundary of the Core Valley Lines Network and the NR Network as marked on the Radyr Line Connection Point Plan;

“**Radyr Line Connection Point Plan**” means the plan set out in Schedule 4 to this Agreement;

“**Railway Group Standards**” means all:

- (a) technical standards to which railway assets or equipment used on or as part of the NR Network or the Core Valley Lines Network (as the case may be) must conform; and
- (b) operating procedures with which the operators of railway assets must comply, in each case as issued by the Rail Safety and Standards Board Limited and authorised

pursuant to the Railway Group Standards Code (and references to Railway Group Standard shall be construed accordingly);

“Railway Regulations” means The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016;

“Relevant Dispute” means any difference between the parties arising out of or in connection with this Agreement;

“Relevant Force Majeure Event” means a Force Majeure Event in relation to which an Affected Party is claiming relief under Clause 17;

“Relevant Losses” means, in relation to:

- (a) a breach of this Agreement; or
- (b) in the case of Clause 9, any of the matters specified in Clause 9.3(a), (b) or (c) or Clause 9.4(a), (b) or (c) (each a “breach” for the purpose of this definition),

all costs, losses (including loss of profit and loss of revenue), expenses, payments, damages, liabilities, interest and the amounts by which rights or entitlements to amounts have been reduced, in each case incurred or occasioned as a result of or by such breach;

“Relevant Obligation” means an obligation under this Agreement in respect of which a Force Majeure Event has occurred and the Affected Party has claimed relief under Clause 17;

“rolling stock” has the meaning ascribed to it in section 83(1) of the Act;

“Safety Obligations” means all applicable obligations concerning health and safety (including any duty of care arising at common law, and any obligation arising under statute, statutory instrument or mandatory code of practice) in Great Britain;

“Termination Event” means the termination of:

- (i) the Infrastructure Manager Services under the ODP Grant Agreement;
- (ii) the ODP Grant Agreement; or
- (iii) AKIL otherwise ceasing to be the Infrastructure Manager of the Core Valley Lines Network,

in each case, before the contractual expiry date of the ODP Grant Agreement.

“TfW” means Transport for Wales, the company wholly owned by the Welsh Ministers;

“Train Operator” means an operator of trains who has permission to use track under an access contract;

“Transfer Date” means the date on which AKIL becomes Infrastructure Manager of the Core Valley Lines Network;

“Value Added Tax” means value added tax as provided for in the Value Added Tax Act 1994, and any tax similar or equivalent to value added tax or any turnover tax replacing or introduced in addition to them, and “VAT” shall be construed accordingly; and

"Welsh Ministers" means the Welsh Ministers whose principal place of business is at Crown Buildings, Cathays Park, Cardiff, CF10 3NO, or any successor to all or part of their rights and functions.

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any one gender includes the other;
- (c) all headings are for convenience of reference only and shall not be used in the construction of this Agreement;
- (d) reference to an item of primary or secondary legislation is to that item as amended or replaced from time to time;
- (e) reference to a contract, instrument or other document is to that contract, instrument or other document as amended, novated, supplemented or replaced from time to time;
- (f) reference to a party is to a party to this Agreement, its successors and permitted assigns;
- (g) reference to a recital, Clause, annex or Schedule is to a recital, Clause, annex or Schedule of or to this Agreement; reference in an annex or a Schedule to a Part of an annex or a Schedule is to a part of the annex or Schedule in which the reference appears; reference in a Part of an annex or a Schedule to a paragraph is to a paragraph of that part;
- (h) where a word or expression is defined, cognate words and expressions shall be construed accordingly;
- (i) references to the word “person” or “persons” or to words importing persons include individuals, firms, corporations, government agencies, committees, departments, authorities and other bodies incorporated or unincorporated, whether having separate legal personality or not;
- (j) “otherwise” and words following “other” shall not be limited by any foregoing words where a wider construction is possible;
- (k) the words “including” and “in particular” shall be construed as being by way of illustration or emphasis and shall not limit or prejudice the generality of any foregoing words; and
- (l) words and expressions defined in the Act shall, unless otherwise defined in this Agreement, have the same meanings in this Agreement.

1.3 Indemnities

Indemnities provided for in this Agreement are continuing indemnities in respect of the Relevant Losses to which they apply, and hold the indemnified party harmless on an after tax basis.

2 COMMENCEMENT

2.1 Commencement Date

Clauses 1, 2, 10-14, 18 and Schedule 3 shall come into force on the Commencement Date and shall continue in force thereafter.

2.2 Transfer Date

The remaining provisions of this Agreement shall take effect on the Transfer Date and shall continue in force thereafter until termination in accordance with this Agreement.

3 STANDARD OF PERFORMANCE

3.1 General standard

Without prejudice to all other obligations of the parties under this Agreement, each party shall, in its dealings with the other for the purpose of, and in the course of performance of its obligations under, this Agreement, act with due efficiency and economy and in a timely manner with that degree of skill, diligence, prudence and foresight which should be exercised by a skilled and experienced:

- (a) network owner and operator (in the case of Network Rail); and
- (b) Infrastructure Manager (in the case of AKIL).

3.2 Good faith

The parties to this contract shall, in exercising their respective rights and complying with their respective obligations under this Agreement (including when conducting any discussions or negotiations arising out of the application of any provisions of this contract or exercising any discretion under them), at all times act in good faith.

4 PERMISSION TO CONNECT

4.1 Network Rail grants AKIL permission to connect the Core Valley Lines Network to the NR Network at the Radyr Line Connection Point.

4.2 AKIL grants Network Rail permission to connect the NR Network to the Core Valley Lines Network at the Radyr Line Connection Point.

5 OBLIGATIONS IN RESPECT OF THE CONNECTION OF THE CORE VALLEY LINES NETWORK TO THE NR NETWORK

5.1 Obligations of AKIL

5.1.1 AKIL shall not:

- (a) sever the connection of the NR Network to the Core Valley Lines Network at the Radyr Line Connection Point; or
- (b) take any action or omit to take any action at or in the vicinity of the Radyr Line Connection Point which impedes and/or interferes with access to/from the Core Valley Lines Network at or around the Radyr Line Connection Point,

unless it has, except in an Emergency, obtained the prior written consent of Network Rail (whose consent shall not be unreasonably withheld) in respect of such severance, interference, impediment, action or omission and, where applicable, acted in accordance with any Applicable Procedures in relation to the undertaking of any inspection, maintenance, repair or renewal of the Core Valley Lines Network.

5.1.2 In an Emergency, AKIL shall, within a reasonable time of the occurrence of the Emergency and in accordance with any Applicable Procedures, give notice to Network Rail:

- (a) of the circumstances giving rise to the Emergency;
- (b) describing the action taken by AKIL to deal with the Emergency;
- (c) describing the impact of its actions on the Radyr Line Connection Point; and
- (d) giving an indication of the timescale for reinstating the connection and allowing rolling stock access to the NR Network.

5.1.3 AKIL shall:

- (a) reinstate, at its own cost, the connection of the Core Valley Lines Network to the NR Network, where such connection has been severed by AKIL:
 - (i) as soon as reasonably practicable after the date of severance; and
 - (ii) in accordance with applicable Railway Group Standards;
- (b) consult with Network Rail in respect of all planned inspections, maintenance, renewals or enhancements on the Core Valley Lines Network which may impede access to and/or from the NR Network in accordance with any Applicable Procedures, and have due regard to any comments and representations reasonably made by Network Rail in relation thereto;
- (c) be responsible for the Operational Control of all rolling stock movements on the Core Valley Lines Network except to the extent that the parties have agreed in the CVL Services Agreement that Network Rail shall be responsible for such Operational Control;
- (d) ensure that:
 - (i) all persons authorised by AKIL to be on Network Rail's land and/or premises at or in the vicinity of the Radyr Line Connection Point (for any

duration) observe the safety and security requirements of Network Rail relating to the Radyr Line Connection Point as set out in the Applicable Procedures; and

- (ii) where the presence of such persons causes disruption to the operation of the NR Network, AKIL shall use reasonable endeavours to minimise the effects of such disruption.
- (e) use reasonable endeavours to minimise the likelihood of any disruption to the operation of the NR Network arising from:
- (i) the exercise of its rights or performance of its obligations under this Agreement;
 - (ii) any person authorised but AKIL to be at or in the vicinity of the Radyr Line Connection Point.

Without prejudice to the foregoing, where a matter described in sub-clause 5.1.3(e)(i) or 5.1.3(e)(ii) above gives rise to disruption on the NR Network, AKIL shall:

- (a) use reasonable endeavours to minimise the extent of such disruption; and
- (b) act in accordance with good industry practice and any Applicable Procedures in relation to the management and remediation of the consequences of operational disruption;
- (f) promptly provide, in accordance with the Applicable Procedures, Network Rail with any amendments to AKIL's safety and security requirements, that relate to the Radyr Line Connection Point; and
- (g) establish and maintain or procure the establishment and maintenance of adequate security at the Radyr Line Connection Point.

5.2 Obligations of Network Rail

5.2.1 Network Rail shall not:

- (a) sever the connection of the Core Valley Lines Network to the NR Network at the Radyr Line Connection Point; or
- (b) take any action or omit to take any action at or in the vicinity of the Radyr Line Connection Point which impedes and/or interferes with access to/from the NR Network at or around the Radyr Line Connection Point,

unless it has, except in an Emergency, obtained the prior written consent of AKIL (whose consent shall not be unreasonably withheld) in respect of such severance, interference, impediment, action or omission and, where applicable, acted in accordance with any Applicable Procedures in relation to the undertaking of any inspection, maintenance, repair or renewal of the NR Network.

5.2.2 In an Emergency, Network Rail shall, within a reasonable time of the occurrence of the Emergency and in accordance with any Applicable Procedures, give notice to AKIL:

- (a) of the circumstances giving rise to the Emergency;

- (b) describing the action taken by Network Rail to deal with the Emergency;
- (c) describing the impact of its actions on the Radyr Line Connection Point; and
- (d) giving an indication of the timescale for reinstating the connection and allowing rolling stock access to the Core Valley Lines Network.

5.2.3 Network Rail shall:

- (a) re-instate, at its own cost, the connection of the NR Network to the Core Valley Lines Network, where such connection has been severed by Network Rail:
 - (i) as soon as reasonably practicable after the date of severance; and
 - (ii) in accordance with applicable Railway Group Standards;
- (b) consult with AKIL in respect of all planned inspections, maintenance, renewals or enhancements on the NR Network which may impede access to and/or from the Core Valley Lines Network in accordance with any Applicable Procedures, and have due regard to any comments and representations reasonably made by AKIL in relation thereto;
- (c) be responsible for the Operational Control of all rolling stock movements on the NR Network and, to the extent Network Rail has agreed to be responsible for the Operational Control of all rolling stock movements on the Core Valley Lines Network pursuant to the CVL Services Agreement, the Core Valley Lines Network;
- (d) ensure that;
 - (i) all persons authorised by Network Rail to be on AKIL's land and/or premises at or in the vicinity of the Radyr Line Connection Point (for any duration) observe the safety and security requirements of AKIL relating to the Radyr Line Connection Point as set out in the Applicable Procedures; and
 - (ii) where the presence of such persons causes disruption to the operation of the Core Valley Lines Network, Network Rail shall use reasonable endeavours to minimise the effects of such disruption;
- (e) use reasonable endeavours to minimise the likelihood of any disruption to the operation of the Core Valley Lines Network arising from:
 - (i) the exercise of its rights or performance of its obligations under this Agreement; or
 - (ii) any person authorised by Network Rail to be at or in the vicinity of the Radyr Line Connection Point.

Without prejudice to the foregoing, where a matter described in sub-clause 5.2.3(e)(i) or 5.2.3(e)(ii) above gives rise to disruption on the Core Valley Lines Network, Network Rail shall:

- (a) use reasonable endeavours to minimise the extent of such disruption; and

- (b) act in accordance with good industry practice and any Applicable Procedures in relation to the management and remediation of the consequences of operational disruption;
 - (f) promptly provide, in accordance with the Applicable Procedures, AKIL with any amendments to Network Rail's safety and security requirements relating to the Radyr Line Connection Point; and
 - (g) establish and maintain or procure the establishment and maintenance of adequate security at the Radyr Line Connection Point.
- 5.2.4 Network Rail agree that AKIL will not be in breach of this Agreement for failure to keep the connection open in accordance with clause 5.1 to the extent that such failure to keep the connection open as described in clause 5.1 is because Network Rail have failed to:
- (a) rectify any Infrastructure Faults (as defined under the Transfer Framework Agreement) prior to the Transfer Date; or
 - (b) maintain the Connection Point Assets in accordance with the Initial Condition Statement prior to the Transfer Date,
- and any such failure prevents the safe use of the Radyr Line Connection Point.

6 JOINT OBLIGATIONS AND INTERFACE

6.1 Network Rail and AKIL shall:

- (a) review as necessary and in accordance with Railway Group Standards, arrangements for the safe transfer of Operational Control of rolling stock movements from one party to the other, in consultation with Train Operators who have permission to use the Core Valley Lines Network;
- (b) work together to ensure that the interface between the Core Valley Lines Network and the NR Network is and continues to be:
 - (i) compatible, to the extent reasonably necessary to ensure the operation of railway passenger services across the Radyr Line Connection Point; and
 - (ii) compliant with applicable Railway Group Standards, save to the extent that AKIL or Network Rail has been granted any derogations from such Railway Group Standards;
- (c) inspect the condition of the Connection Point Assets in accordance with the Applicable Procedures;
- (d) in accordance with the Applicable Procedures, place and maintain suitable markers at the Radyr Line Connection Point which define the maintenance boundaries between the parties;
- (e) review the validity of the Plan and part 1 of Schedule 1 as necessary and as may reasonably be required by either of the Parties and make such amendments to either or both of them as are appropriate.

7 RIGHT OF ENTRY

- 7.1 AKIL shall be entitled to enter onto the land and/or premises of Network Rail in the vicinity of the Radyr Line Connection Point for the following purposes:
- (a) to inspect, test, maintain, repair and renew those of AKIL Connection Point Assets that are located on Network Rail's land and/or premises; and
 - (b) to carry out remedial procedures in the event of an Emergency,
- provided that at all times (including in an Emergency) in entering and while upon such land and/or premises AKIL shall act in accordance with good industry practice and any Applicable Procedures.
- 7.2 Network Rail shall be entitled to enter onto the land and/or premises of AKIL in the vicinity of the Radyr Line Connection Point for the following purposes:
- (a) to inspect, test, maintain, repair and renew those of the Network Rail Connection Point Assets that are located on Network Rail's land and/or premises;
 - (b) to carry out remedial procedures in the event of an Emergency,
- provided that at all times (including in an Emergency) in entering and while upon such land and/or premises Network Rail shall act in accordance with good industry practice and any Applicable Procedures.
- 7.3 Save as expressly set out in this Agreement and save for any rights of access which a party may have granted to the other party by way of easement, under contract, wayleave and/or other right or as otherwise provided under law:
- (a) AKIL shall not be entitled, for itself or on behalf of any other person, to any right of access to the NR Network; and
 - (b) Network Rail shall not be entitled, for itself or on behalf of any other person, to any right of access to the Core Valley Lines Network.

8 TERMINATION AND TFW STEP-IN

- 8.1 Either party shall be entitled to terminate this Agreement on giving written notice to the other:
- (a) in the event that the ODP Grant Agreement terminates or AKIL otherwise cease to be Infrastructure Manager of the Core Valley Lines Network earlier than the original expiry date of the ODP Grant Agreement for any reason, subject to Clauses 8.2 and 8.3 below where a Nomination Notice has been served; and
 - (b) on the expiry of the ODP Grant Agreement.

8.2 Nomination Notice

The Welsh Ministers may serve upon Network Rail and AKIL written notice between two (2) Business Days and fourteen (14) days before the date of any Termination Event prohibiting either Network Rail or AKIL from terminating this Agreement before the

date of the Termination Event and nominating TfW or another party (the “Nominee”) to exercise a right of step in to this Agreement pursuant to clause 8.3.

8.3 Step-In Right for the Nominee

- (a) If Network Rail and AKIL receive a Nomination Notice, the Nominee shall within 14 days of such Nomination Notice (or such shorter period as expires on the date of the Termination Event) exercise a right to step into the role of AKIL under this Agreement to take effect on the date of the Termination Event by notifying Network Rail and AKIL in writing (such notice to be accompanied by evidence that the Nominee has a Network Licence), whereupon (subject to Clause 8.3(b)), the Nominee shall covenant with Network Rail to observe and perform the obligations of AKIL under this contract and so that from and including the date of exercise of such right:
 - (i) AKIL shall incur no further obligations under this Agreement; and
 - (ii) references to AKIL in this contract shall be deemed to refer to the Nominee.
- (b) Notwithstanding Clause 8.3(a), the Nominee shall not be liable to pay to Network Rail any sum attributable to the period prior to the step in right being exercised pursuant to Clause 8.3(a) and AKIL shall not be liable to pay to Network Rail any sum attributable to the period on and after the step in right being exercised pursuant to Clause 8.3(a).
- (c) If the Nominee does not step into this contract on the date of a Termination Event then either AKIL or Network Rail shall be free to terminate this contract as if a Nomination Notice had not been served.

9 LIABILITY

9.1 Performance Orders in relation to breach

In relation to any breach of this Agreement:

- (a) the Innocent Party shall be entitled to apply under Clause 12.4 for a Performance Order against the party in breach; and
- (b) if a Performance Order is made, the party against whom it has been made shall comply with it.

9.2 Compensation in relation to breach

In relation to any breach of this Agreement the party in breach shall indemnify the Innocent Party against all Relevant Losses.

9.3 AKIL indemnity

AKIL shall indemnify Network Rail against all Relevant Losses resulting from:

- (a) a failure by AKIL to comply with its Safety Obligations but only insofar as they relate to the exercise of its rights or performance of its obligations under this Agreement;
- (b) any Environmental Damage arising in the vicinity of the Radyr Line Connection Point and arising directly from the acts or omissions of AKIL; and
- (c) any damage to the NR Network in the vicinity of the Radyr Line Connection Point and arising directly from AKIL's negligence.

9.4 Network Rail indemnity

Network Rail shall indemnify AKIL against all Relevant Losses resulting from:

- (a) a failure by Network Rail to comply with its Safety Obligations but only insofar as they relate to the exercise of its rights or performance of its obligations under this Agreement;
- (b) any Environmental Damage in the vicinity of the Radyr Line Connection Point and arising directly from any acts or omissions of Network Rail; and
- (c) any damage to the Core Valley Lines Network in the vicinity of the Radyr Line Connection Point and arising directly from Network Rail's negligence.

10 RESTRICTIONS ON CLAIMS

10.1 Notification and mitigation

A party wishing to claim in relation to a breach of this Agreement or under an indemnity provided for in this Agreement:

- (a) shall notify the other party of the relevant circumstances giving rise to that claim as soon as reasonably practicable after first becoming aware of those circumstances (and in any event within 365 days of first becoming so aware); and
- (b) subject to Clause 10.1(c), shall take all reasonable steps to prevent, mitigate and restrict the circumstances giving rise to that claim and any Relevant Losses connected with that claim; but
- (c) shall not be required to exercise any specific remedy available to it under this Agreement.

10.2 Restrictions on claims by Network Rail

Any claim by Network Rail against AKIL in relation to a breach of this Agreement or under an indemnity for Relevant Losses:

- (a) shall exclude payments to any person under or in accordance with the provisions of any access contract;
- (b) shall exclude loss of revenue in respect of permission to use any part of the NR Network under or in accordance with any access contract with any person; and
- (c) shall:

- (i) include Relevant Losses only to the extent that these constitute amounts which Network Rail would not have incurred as network owner and operator but for the relevant breach or negligence; and
- (ii) give credit for any savings to Network Rail which result or are likely to result from the incurring of such amounts.

10.3 Restrictions on claims by AKIL

Any claim by AKIL against Network Rail in relation to a breach of this Agreement or under an indemnity for Relevant Losses

- (a) shall exclude payments to any person under or in accordance with the provision of any access contract;
- (b) shall exclude loss of revenue in respect of permission to use any part of the Core Valley Lines Network under or in accordance with any access contract with any person; and
- (c) shall:
 - (i) include Relevant Losses only to the extent that these constitute amounts which AKIL would not have incurred as network owner and operator but for the relevant breach or negligence; and
 - (ii) give credit for any savings to AKIL which result or are likely to result from the incurring of such amounts.

10.4 Restriction on claims by both parties

Any claim in relation to a breach of this Agreement or under an indemnity for Relevant Losses shall exclude Relevant Losses which:

- (a) do not arise naturally from the breach; and
- (b) were not, or may not reasonably be supposed to have been, within the contemplation of the parties:
 - (i) at the time of the making of this Agreement; or
 - (ii) where the breach relates to a modification or amendment to this Agreement, at the time of the making of such modification or amendment, as the probable result of the breach.

10.5 Limitation on liability

Schedule 3 shall have effect so as to limit the liability of the parties to one another in relation to a breach of this Agreement or under the indemnities in Clause 9 of this Agreement, in each case subject to Clause 18.3.3 of this Agreement.

11 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by and construed in accordance with the laws of England and Wales.

12 DISPUTE RESOLUTION

12.1 Arbitration

12.1.1 A Relevant Dispute shall be referred for resolution in accordance with the ADRR in force at the time of the reference as modified by this Clause 12.

12.2 Not used.

12.3 Performance Orders

12.3.1 Power to order provisional relief

For the purposes of section 39 of the Arbitration Act 1996, should any Relevant Dispute be allocated in accordance with the ADRR to arbitration under Chapter F of the ADRR, the arbitrator shall have power to order on a provisional basis any relief which he would have power to grant in a final award including Performance Orders.

12.3.2 Performance Orders

A Performance Order:

- (a) is an order made under Clause 12.3.3(b), relating to a Relevant Dispute, whether by way of interim or final relief; and
- (b) may be applied for by Network Rail or AKIL in the circumstances set out in Clause 9.1, subject to the qualifications in Clause 17.7,

and an application for a Performance Order shall be without prejudice to any other remedy available to the claimant under this Agreement (whether final or interim or by way of appeal).

12.3.3 Duties of the arbitrator in relation to Performance Orders

Without prejudice to any additional remedies that may be ordered by the arbitrator under Clause 12.4, where a dispute is allocated in accordance with the ADRR to arbitration and a party has applied for a Performance Order, the parties shall agree in a Procedure Agreement that:

- (a) the arbitrator shall decide as soon as possible whether the application is well founded or not; and
- (b) if the arbitrator decides that the application is well founded, it shall be required to make an interim or final declaration to that effect and, in that event, the arbitrator may also make any interim or final order directing any party to do or to refrain from doing anything arising from such declaration which it considers just and reasonable in all the circumstances.

12.4 Remedies

The powers exercisable by the arbitrator as regards remedies shall include:

- (a) the powers specified in sections 48(3) to (5) of the Arbitration Act 1996;

- (b) the powers specified in the ADRR;
- (c) the power to make Performance Orders; and
- (d) the power to order within the same reference to arbitration any relief specified in Clause 12.4(a), (b) and (c) consequent upon, or for the breach of, any interim or final Performance Order previously made.

12.5 Exclusion of applications on preliminary points of law

Any recourse to any Court for the determination of a preliminary point of law arising in the course of the arbitration proceedings is excluded.

13 CONFIDENTIALITY

13.1 General Obligation

Subject to Clauses 13.2, 13.5 and 13.8 to 13.11 the parties shall:

13.1.1 at all times keep all Confidential Information confidential to the party receiving it (with the degree of care and the security measures that such party would apply to its own confidential information) and shall not copy or reproduce it in any manner or disclose such Confidential Information to any other person unless written authority to disclose the Agreement, information, data or documents has been obtained from the other Party.

- (a) in order for the Party concerned to perform its obligations under this Agreement and, in the case of AKIL, to perform its obligations under the ODP Grant Agreement; or
- (b) in order for the Party concerned to carry out its duties as Infrastructure Manager and which duty requires such Party to share such information with third parties;

13.1.2 procure that its Affiliates and their respective officers, employees and agents shall keep confidential and not disclose to any person any Confidential Information, except with the disclosing party's prior written consent (not to be unreasonably withheld). If Network Rail requests (giving reasons for such request in sufficient detail for AKIL to be able to properly consider the request) that any information and/or data should be kept confidential and not disclosed (other than permitted under this Clause 13):

- (a) AKIL shall duly consider Network Rail's request; and
- (b) if AKIL considers that any such information should not be kept confidential, AKIL shall notify Network Rail,

whereupon, within 14 days of such notification, either party shall be entitled to refer the matter to the dispute resolution procedure under Clause 12. Pending the outcome of such resolution, the relevant information and/or data shall be deemed to be Confidential Information and shall not be disclosed other than as permitted under this Clause 13.

13.2 Permitted Disclosure

Each party receiving Confidential Information shall, without requiring the prior written consent of the disclosing party, but subject to Clause 13.3 below, be entitled to disclose Confidential Information:

- 13.2.1 where, and solely to the extent that, such disclosure is reasonably required by the receiving party in relation to and/or in order to perform its obligations pursuant to this Agreement, including the disclosure of any Confidential Information to any employee, consultant, agent, officer or subcontractor (of any tier);
- 13.2.2 to its professional advisers who are bound to such party by a duty of confidence which applies to any Confidential Information disclosed;
- 13.2.3 to any Affiliate of either party or the ODP;
- 13.2.4 which is disclosed to such party by a third party which is not in breach of any undertaking or duty as to confidentiality whether express or implied;
- 13.2.5 to the extent it has become available to the public other than as a result of any breach of an obligation of confidence;
- 13.2.6 to any professional advisers (save as provided for in Clause 13.2.2) or consultants of such party engaged by or on behalf of such party and acting in that capacity;
- 13.2.7 to any insurer or insurance broker from whom such party is seeking insurance or in connection with the making of any claim under any policy of insurance;
- 13.2.8 to any lender, security trustee, bank or other institution from whom such party is seeking or obtaining finance or credit support for such finance, or any advisers to any such entity, or any rating agency from which such party is seeking a rating in connection with such finance or credit support;
- 13.2.9 to the extent required by the Act, any licence under section 8 of the Act held by the party in question, any other applicable law, the rules of any recognised stock exchange or regulatory body or any written request of any governmental or regulatory authority having the force of law;
- 13.2.10 under the order of court or tribunal of competent jurisdiction (including the Allocation Chair of any relevant forum specified in the ADRR);
- 13.2.11 to the Health and Safety Executive;
- 13.2.12 for the purpose of the examination and certification of a party's accounts;
- 13.2.13 in relation to disclosure by Network Rail or AKIL, in order, and solely to the extent required, to fulfil its network licence obligations or role as Infrastructure Manager or, to the extent that the Confidential Information relates to the NR Network or the Core Valley Lines Network respectively, to, and solely to the extent required, assist in the planning or execution of other maintenance, renewal or enhancement projects; and
- 13.2.14 in the case of AKIL, disclosure of this Agreement on the website of AKIL, the ODP, the Welsh Ministers, TfW or the ORR (subject to any agreed redactions in respect of commercially sensitive information) or in connection with any consultation process.

13.3 Obligations arising from disclosure

- 13.3.1 Where disclosure is permitted under Clauses 13.2.1, 13.2.3, 13.2.6, 13.2.7 and/or 13.2.8, the party making such disclosure shall ensure that the recipient of the

information is subject to and equivalent obligation of confidentiality as that contained in this Agreement and shall use reasonable endeavours to ensure that any such recipient complies with such obligations.

- 13.3.2 If a party who has received information becomes required, in circumstances contemplated by Clauses 13.2.9 and 13.2.11, to disclose any information such party shall give to the other party such notice as is practical in the circumstances of such disclosure and shall consult and co-operate with the other party, having due regard to the other party's views, and take such steps as the other party may reasonably require in order to enable it to mitigate the effects of, or limit or avoid the requirements for, and such disclosure.

13.4 Commercial Exploitation

Subject to Clauses 13.2.2 to 13.2.11 (other than Clause 13.2.3), no party shall make use of, or exploit commercially for its own purposes, any Confidential Information issued or provided by or on behalf of another party in connection with this Agreement otherwise than for the purposes of this Agreement, except with the written consent of the party by whom or on whose behalf the information was provided. A receiving party shall immediately inform the disclosing party of the full circumstances of any breach whatsoever of the obligations in respect of Confidential Information.

13.5 Disclosure to Public Bodies

Nothing in this Clause 13 shall be deemed to prohibit, prevent or hinder, or render either party liable for, the disclosure of any information by that party to TfW, the ORR, Parliamentary Commissioner for Administration, a Minister of the Crown or any department of the Government of the United Kingdom, the European Commission, Parliament, the Scottish Parliament, the National Assembly for Wales, the Welsh Ministers, the Mayor of London, the Greater London Authority, the Secretary of State 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.

13.6 Register of Confidential Information

Each party shall keep a record of the Confidential Information disclosed to it and shall keep such Confidential Information (and any copies thereof) securely and so that it is easily locatable and identifiable. If this Agreement is terminated, each party shall at the other party's option;

- 13.6.1 return forthwith to the other party all Confidential Information (and any copies thereof) then within its possession or control; or
- 13.6.2 destroy forthwith such Confidential Information (and any copies thereof) using a secure and confidential method of destruction; or
- 13.6.3 unless reasonably requested to return or destroy it, retain such Confidential Information (and any copies thereof). If a party retains any such Confidential Information (and any copies thereof), the provisions of this Clause 13 shall remain in

full force and effect in relation to such Confidential Information (and any copies thereof) notwithstanding the termination or expiry of this Agreement, and, in relation to Clauses 13.6.1 and 13.6.2 shall confirm to the other party, on request, that such action has been taken.

13.7 Ownership of Confidential Information

13.7.1 All Confidential Information shall be and shall remain the property of the party which supplied it to the other party.

13.7.2 Save as required by any unavoidable legal requirement or unavoidable direction of a Competent Authority, neither party shall issue any press release in relation to the matters contemplated by this Agreement without the prior written consent of the other party (not to be unreasonably withheld or delayed) as to both the content and the timing of the issue of the press release.

13.8 Freedom of Information Act

For the purposes of Clauses 13.8 to 13.11:

13.8.1 “**Assisting Party**” means the party assisting and cooperating with the FOIA Party;

13.8.2 “**FOI Legislation**” means the Freedom of Information Act 2000 (“**FOIA**”), all regulations made under it and the Environmental Information Regulations 1992 and any amendment or re-enactment of any of them, and any guidance issued by the Information Commissioner, the Department for Constitutional Affairs, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

13.8.2 “**FOIA Party**” means the party which is subject to the provisions of the FOIA;

13.8.4 “**Information**” means information recorded in any form held by the Assisting Party on behalf of the FOIA Party; and

13.8.5 “**Information Request**” means a request for any information under the FOI Legislation.

13.9 Acknowledgement

The Assisting Party acknowledges that if and for so long as the other party (the “**FOIA Party**”) is subject to the provisions of FOIA:

13.9.1 the FOIA Party is subject to the FOI Legislation and the Assisting Party agrees to assist and co-operate with the FOIA Party to enable the FOIA Party to comply with its obligations under the FOI Legislation, including providing to the FOIA Party of all information it may reasonably request; and

13.9.2 it may be obliged under the FOI Legislation to disclose the Information without consulting or obtaining consent from the Assisting Party.

13.10 Freedom of Information Act Obligations

Without prejudice to the generality of Clause 13.9, the Assisting Party shall:

13.10.1 transfer to such person as may be notified by the FOIA Party to the Assisting Party each Information Request relevant to this Agreement, as soon as practicable and in any event with 2 Working Days of receiving such Information Request; and

13.10.2 in relation to the Information held by the Assisting Party on behalf of the FOIA Party, provide the FOIA Party with details about and/or copies of all such Information that the FOIA Party requests and such details and/or copies shall be provided within 5 Working Days of a request from the FOIA Party (or such other period as the FOIA Party may reasonably specify), and in such form as the FOIA Party may reasonably specify.

13.11 Confidential Information and Information Requests

The FOIA Party, having regard to its statutory duties, shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation, save that, where any Information Request relates to Confidential Information, disclosed by the Assisting Party under this Agreement, the FOIA Party shall, where practicable, in advance of making any disclosure under the FOI Legislation and shall, acting reasonably, take due account of all reasonable representations by the Assisting Party that such Confidential Information is exempt information. The Assisting Party shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless authorised in writing to do so by the FOIA Party.

14 ASSIGNMENT

14.1 Prohibition on Assignment, Novation and Transfer

Subject to Clause 14.2, neither party may assign, its rights or novate or otherwise transfer any of its rights or obligations under this Agreement:

14.1.1 without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed); and

14.1.2 without the approval of the ORR in accordance with Clause 14.3.

14.2 Assignment, Novation and Transfer to Affiliates

Subject to Clause 14.3, either party shall be entitled to assign its rights or novate or otherwise transfer its rights and obligations under this Agreement to any Affiliate of that party without any further consent required from the other party; provided that if such Affiliate is to cease to be an Affiliate of the assigning party, the assigning party shall procure that the Affiliate shall assign, novate or otherwise transfer back to the assigning party its rights and obligations under this Agreement.

14.3 Approval of the ORR

No such novation, assignment or transfer of this Agreement pursuant to Clause 14.1 or Clause 14.2 shall have effect unless approved by the ORR and effected in accordance with the conditions (if any) of its approval.

15 REVIEW OF THE OPERATION OF THIS AGREEMENT

15.1 The following matters shall be reviewed by Network Rail and AKIL on or before: (1) the fifth anniversary of the Commencement Date; and (2) each five year anniversary of the Commencement Date thereafter:

- (a) the validity of the Radyr Line Connection Point Plan and Schedule 1;
- (b) the operation of this Agreement including:
 - (i) whether it is operating effectively and as anticipated by Network Rail and AKIL;
 - (ii) the principle that no sums are paid by either party to the other under this Agreement; and
 - (iii) not used.

15.2 If as a consequence of any review contemplated by Clause 15.1, Network Rail and AKIL agree that any amendments should be made to this Agreement, such amendments, Clause 18.2 shall apply.

16 NOT USED

17 FORCE MAJEURE EVENTS

17.1 Nature and extent of relief for Force Majeure Event

Relief for a Force Majeure Event under this Clause 17:

- (a) extinguishes the obligation of the Affected Party to indemnify the other party under Clause 9.2 in respect of Relevant Losses sustained as a result of the failure of the Affected Party to perform a Relevant Obligation; but
- (b) is not available in respect of any other obligation to do or refrain from doing any other thing provided for in this Agreement.

17.2 Entitlement to relief in respect of Force Majeure Event

An Affected Party is entitled to relief in the event of a Force Majeure Event if and to the extent that:

- (a) performance of the Relevant Obligation has been prevented or materially impeded by reason of a Force Majeure Event;
- (b) it has taken all reasonable steps, taking account of all relevant circumstances (including as to whether the event in question could reasonably have been anticipated):
 - (i) to avoid the occurrence of the Force Majeure Event; and
 - (ii) to minimise, and where practicable avoid, the effects of the Force Majeure Event on its ability to perform the Relevant Obligation; and
- (c) except in the case of paragraph (g) of the definition of Force Majeure Event, none of the Affected Party, its officers, employees or agents caused the Force Majeure Event.

17.3 Procedure for claiming relief

Without prejudice to Clause 17.2, an Affected Party is only entitled to claim relief for a Force Majeure Event under this Clause 17 if it complies with the obligations to give Force Majeure Notices, Force Majeure Reports and provide other information under Clause 17.4 and to perform its obligations under Clause 17.5.

17.4 Force Majeure Notices and Reports

17.4.1 Force Majeure Notice

In relation to any Relevant Force Majeure Event:

- (a) as soon as reasonably practicable after the Affected Party becomes aware, or ought reasonably to have become aware, that such Force Majeure Event qualifies for relief under this Clause 17 (and, in any event, within 72 hours of becoming aware of such circumstances), the Affected Party shall give a Force Majeure Notice; and
- (b) the Force Majeure Notice shall include detailed particulars (to the extent available) of the Relevant Force Majeure Event and its consequences, its effects on the Affected Party, the Relevant Obligations, the likely duration of such consequences and effects and the remedial measures proposed by the Affected Party to avoid or remove the Relevant Force Majeure Event or to mitigate its consequences and effects.

17.4.2 Force Majeure Report

Following the giving of a Force Majeure Notice:

- (a) the Affected Party shall give a Force Majeure Report as soon as practicable, and in any event within 7 days of service of the Force Majeure Notice; and
- (b) the Force Majeure Report shall constitute a full report on the Relevant Force Majeure Event, amplifying the information provided in the Force Majeure Notice and containing such information as may reasonably be required by the Non-affected Party, including the effect which the Relevant Force Majeure

Event is estimated to have on the Affected Party's performance of the Relevant Obligations.

17.4.3 Other information

The Affected Party shall promptly give the Non-affected Party all other information concerning the Relevant Force Majeure Event and the steps which could reasonably be taken, and which the Affected Party proposes to take, to avoid or remove the Relevant Force Majeure Event or to mitigate its consequences and effects as may reasonably be requested by the Non-affected Party from time to time.

17.5 Mitigation

The Affected Party shall, promptly upon becoming aware of the occurrence of a Force Majeure Event in respect of which it intends to claim relief, use all reasonable endeavours to:

(a) minimise the effects of such Force Majeure Event on the performance of the Relevant Obligations; and

(b) minimise the duration of such Force Majeure Event,

and shall keep the Non-affected Party fully informed of the actions which it has taken or proposes to take under this Clause 17.5.

17.6 Duration of relief for Force Majeure Event

The right of an Affected Party to relief under Clause 17.1 shall cease on the earlier of:

(a) the date on which its performance of the Relevant Obligations is no longer prevented or materially impeded by the Relevant Force Majeure Event; and

(b) the date on which such performance would no longer have been prevented or materially impeded if the Affected Party had complied with its obligations under Clause 17.5.

17.7 Availability of Performance Order

If and to the extent that a breach of this Agreement has been caused by a Relevant Force Majeure Event, the Non-affected Party shall not be entitled to a Performance Order except to secure performance by the Affected Party of its obligations under this Clause 17.

18 MISCELLANEOUS

18.1 Non waiver

18.1.1 No waiver

No waiver by either party of any failure by the other to perform any obligation under this Agreement shall operate or be construed as a waiver of any other or further default, whether of a like or different character.

18.1.2 Failure or delay in exercising a right or remedy

The failure to exercise or delay in exercising a right or remedy under this 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 Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

18.2 Variations

18.2.1 Amendments to be in writing and to be approved

No amendment of any provision of this Agreement shall be effective unless such amendment is in writing and signed by, or on behalf of, the parties and, subject to Clause 18.2.2, has been approved by the Office of Rail and Road.

18.2.2 Office of Rail and Road approval needed

Modifications of the following do not require the approval of the Office of Rail and Road under section 22 of the Act:

- (a) modifications effected by virtue of any of the Schedules to this Agreement unless the relevant provision expressly states that it requires the approval of the Office of Rail and Road;
- (b) not used; and
- (c) modifications effected by virtue of Clause 18.4.2.

Any amendment made to the Radyr Connection Point Plan requires the Office of Rail and Road's approval under section 22 of the Act.

18.2.3 Conformed copy of Agreement

Network Rail shall produce and send to AKIL and to the Office of Rail and Road a conformed copy of this Agreement within 28 days of the making of any amendment or modification to this Agreement.

18.3 Entire Agreement and exclusive remedies

18.3.1 Entire Agreement

Subject to Clause 18.3.3:

- (a) this Agreement contains the entire agreement between the parties in relation to the subject matter of this Agreement;
- (b) each party acknowledges that it has not been induced to enter into this Agreement in reliance upon, nor has it been given, any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as expressly set out in this Agreement and, to the extent that this is not the case, the relevant party unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation to any such matter; and
- (c) neither party shall have any right to rescind or terminate this Agreement either for breach of contract or for misrepresentation or otherwise, except as expressly provided for in this Agreement.

18.3.2 Exclusive remedies

Subject to Clause 18.3.3 and except as expressly provided in this Agreement:

- (a) neither party shall have any liability (including liability arising as a result of any negligence, breach of contract or breach of statutory obligation) to the other in connection with the subject matter of this Agreement; and
- (b) the remedies provided for in this Agreement shall be the sole remedies available to the parties in respect of any matters for which such remedies are available.

18.3.3 Fraud, death and personal injury

Without prejudice to the generality of this Clause 18.3, nothing in this Agreement shall exclude, restrict or limit, or purport to exclude, restrict or limit:

- (a) any liability which either party would otherwise have to the other party, or any right which either party may have to rescind this Agreement, in respect of any statement made fraudulently by the other party before the execution of this Agreement;
- (b) any right which either party may have in respect of fraudulent concealment by the other party;
- (c) any right which either party may have in respect of a statement of the kind referred to in section 146 of the Act, whether or not proceedings have been instituted in that respect; or

- (d) any liability which either party may have towards the other party for death or personal injury resulting from its negligence or the negligence of any of its officers, employees or agents.

18.4 Notices

18.4.1 Giving of notices

Any notice to be given under this Agreement:

- (a) shall be in writing; and
- (b) shall be duly given if signed by or on behalf of a person duly authorised to do so by the party giving the notice and delivered by hand at, or by sending it by prepaid first class post or by facsimile transmission or (in the case of service on Network Rail only) by Email (with, in the case of facsimile transmission or Email, confirmation copy by prepaid first class post) to, the relevant address or Email address or facsimile number set out in Schedule 2.

For the purposes of this Clause 18.4.1, delivery by hand shall include delivery by a reputable firm of couriers.

18.4.2 Right to modify communication details

A party shall be entitled to modify in any respect the communication particulars which relate to it and which are set out in Schedule 2 by giving notice of such modification:

- (a) to the other party as soon as reasonably practicable; and
- (b) to the Office of Rail and Road within 14 days of such modification.

18.4.3 Deemed receipt

A notice shall be deemed to have been given and received:

- (a) if sent by hand or recorded delivery, at the time of delivery; or
- (b) if sent by prepaid first class post from and to any place within the United Kingdom, three working days after posting unless otherwise proven; or
- (c) if sent by facsimile (subject to confirmation of uninterrupted transmission by a transmission report) before 1700 hours on a working day, on the day of transmission and, in any other case, at 0900 hours on the next following working day; or
- (d) if sent by Email (subject to confirmation of receipt of delivery) before 1700 hours on a working day, on the day of transmission and, in any other case, at 0900 hours on the next following working day.

18.4 If Schedule 2 specifies any person to whom copies of notices shall also be sent:

- (a) the party giving a notice in the manner required by this Clause 18.4 shall send a copy of the notice to such person at the address for sending copies as specified in Schedule 2, or to such other person or address as may, from time to time,

have been notified by the party to be notified to the notifying party under this Clause 18.4.4; and

(b) such copy notice shall be sent immediately after the original notice.

18.5 Counterparts

This Agreement may be executed in two counterparts which, taken together, shall constitute one and the same document. Either party may enter into this Agreement by signing either of such counterparts.

18.6 Survival

Those provisions of this Agreement which by their nature or implication are required to survive expiry or termination of this Agreement (including the provisions of Clauses 9 (Liability), 10 (Restrictions on Claims); 11 (Governing Law), 13 (Confidentiality) , 17 (Force Majeure Events) and Schedule 3 (Limitation on liability) shall so survive and continue in full force and effect, together with any other provisions of this Agreement necessary to give effect to such provisions.

18.7 Contracts (Rights of Third Parties) Act 1999

18.7.1 Application to third parties

Save as provided in this Clause 18.7 or as expressly provided elsewhere in this Agreement, no person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

18.7.2 Application to the Office of Rail and Road

The Office of Rail and Road shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce directly such rights as have been granted to it under this Agreement.

18.7.3 Application to the Welsh Ministers

The Welsh Ministers shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce directly such rights as have been granted to them under this Agreement.

SCHEDULE 1: CONNECTION POINT ASSETS

PART 1 CONNECTION POINT ASSETS

Part 1(A) – AKIL Connection Point Assets

The assets highlighted blue at Appendix 1.

Part 1(B) – Network Rail Connection Point Assets

The assets highlighted green at Appendix 1.

The connecting network is identified in the Radyr Line Connection Point Plan set out at Schedule 4.

PART 2 Initial Condition Statement

Prior to the Transfer Date, Network Rail has maintained the AKIL Connection Point Assets and the Network Rail Connection Point Assets in accordance with the applicable Railway Group Standards and Network Rail's asset management and operational obligations under its Network Licence and Network Rail confirm that as at the Transfer Date the assets are suitable for the current traffic then operating and are "fully maintained" as detailed in the column entitled "Asset Status" at Appendix 1.

APPENDIX 1

CONNECTION POINT ASSETS DETAILS

Telecoms assets

Ellipse Asset Number	Asset Desc 1	EL R	Asset Start Mileage	Asset End Mileage	Asset Status
18704992	C-6107-DGLA-A-02:C-6107-DGLA-A-03	RA D	000.1551	001.0610	FM - Fully Maintained
18636757	LOC C-6107-DGLA-A-03	RA D	001.0610	001.0610	FM - Fully Maintained
18704993	C-6107-DGLA-A-03:C-6107-DGLA-A-04	RA D	001.0610	001.1367	FM - Fully Maintained
18636756	LOC C-6107-DGLA-A-04	RA D	001.1367	001.1367	FM - Fully Maintained
18704994	C-6107-DGLA-A-04:C-6107-DGLA-A-05	RA D	001.1367	002.0043	FM - Fully Maintained
18636755	LOC C-6107-DGLA-A-05	RA D	002.0043	002.0043	FM - Fully Maintained
18704995	C-6107-DGLA-A-05:C-6107-DGLA-A-06	RA D	002.0043	002.0974	FM - Fully Maintained
18644160	F-3292-3302-A-01	RA D	002.0324	002.0324	FM - Fully Maintained
18688710	F-3292-3302-A-01:F-3292-3302-A-02	RA D	002.0324	002.1368	FM - Fully Maintained
6455038	WAUN GRON PARK-01PL-PA-UNIT-001	RA D	002.0550	002.0550	FM - Fully Maintained
6455040	WAUN GRON PARK-02PL-PA-UNIT-002	RA D	002.0550	002.0550	FM - Fully Maintained
6455037	WAUN GRON PARK-01PL-CIS-DSLED-001	RA D	002.0550	002.0550	FM - Fully Maintained
6455039	WAUN GRON PARK-02PL-CIS-DSLED-002	RA D	002.0550	002.0550	FM - Fully Maintained
18620821	WAUN GRON PARK-02ME-CIS-CABINET-001	RA D	002.0550	002.0550	FM - Fully Maintained
10403099	WAUN GRON PARK STATION	RA D	002.0550	002.0550	FM - Fully Maintained
18636754	LOC C-6107-DGLA-A-06	RA D	002.0974	002.0974	FM - Fully Maintained
18704996	C-6107-DGLA-A-06:C-6107-DGLA-A-07	RA D	002.0974	002.1255	FM - Fully Maintained
18636753	LOC C-6107-DGLA-A-07	RA D	002.1255	002.1255	FM - Fully Maintained
18704997	C-6107-DGLA-A-07:C-6107-DGLA-A-08	RA D	002.1255	003.0266	FM - Fully Maintained
18666517	FAIRWATER-01PL-PA-UNIT-001	RA D	002.1277	002.1277	FM - Fully Maintained
18666518	FAIRWATER-02PL-PA-UNIT-002	RA D	002.1277	002.1277	FM - Fully Maintained
18666519	FAIRWATER-01PL-CIS-DSLED-001	RA D	002.1277	002.1277	FM - Fully Maintained
18666520	FAIRWATER-02PL-CIS-DSLED-002	RA D	002.1277	002.1277	FM - Fully Maintained
2907253	FAIRWATER-01PL-HELP-POINT-001	RA D	002.1277	002.1277	FM - Fully Maintained
10402263	FAIRWATER STATION	RA D	002.1277	002.1277	FM - Fully Maintained
18644161	F-3292-3302-A-02	RA D	002.1368	002.1368	FM - Fully Maintained

18688711	F-3292-3302-A-02:F-3292-3302-A-03	RA D	002.1368	003.0612	FM - Fully Maintained
18636759	LOC C-6107-DGLA-A-08	RA D	003.0266	003.0266	FM - Fully Maintained
18704998	C-6107-DGLA-A-08:DGLA	RA D	003.0266	003.0919	FM - Fully Maintained
18666513	DANESCOURT-01PL-PA-UNIT-001	RA D	003.0330	003.0330	FM - Fully Maintained
18666514	DANESCOURT-02PL-PA-UNIT-002	RA D	003.0330	003.0330	FM - Fully Maintained
18666515	DANESCOURT-01PL-CIS-DSLED-001	RA D	003.0330	003.0330	FM - Fully Maintained
18666516	DANESCOURT-02PL-CIS-DSLED-002	RA D	003.0330	003.0330	FM - Fully Maintained
10402235	DANESCOURT STATION	RA D	003.0330	003.0330	FM - Fully Maintained
2908092	DANESCOURT-01PL-HELP-POINT-001	RA D	003.0440	003.0440	FM - Fully Maintained
18644162	F-3292-3302-A-03	RA D	003.0612	003.0612	FM - Fully Maintained
18688712	F-3292-3302-A-03:F-3292-3302-A-04	RA D	003.0612	003.1581	FM - Fully Maintained
17246057	DANESCOURT TEH (FTN):ODF:#01:A02F	RA D	003.0919	003.0919	FM - Fully Maintained
17350417	DANESCOURT TEH (FTN):MDF:	RA D	003.0919	003.0919	FM - Fully Maintained
10354531	DANESCOURT TEH (FTN):METH:	RA D	003.0919	003.0919	FM - Fully Maintained
17350420	DANESCOURT TEH (FTN):1640:#01	RA D	003.0919	003.0919	FM - Fully Maintained
17350419	DANESCOURT TEH (FTN):1511:MAXC:#01	RA D	003.0919	003.0919	FM - Fully Maintained
18234542	DANESCOURT TEH (FTN):FTN:BAT	RA D	003.0919	003.0919	FM - Fully Maintained
18234541	DANESCOURT TEH (FTN):TRANS (FTN):CHA	RA D	003.0919	003.0919	FM - Fully Maintained
17350418	DANESCOURT TEH (FTN):#01	RA D	003.0919	003.0919	FM - Fully Maintained
10402236	DANESCOURT TEH (FTN)	RA D	003.0919	003.0919	FM - Fully Maintained
10354433	DANESCOURT TEH (FTN)::	RA D	003.0919	003.0919	FM - Fully Maintained
18644163	F-3292-3302-A-04	RA D	003.1581	003.1581	FM - Fully Maintained
18837766	F-3292-3302-A-04:F-3292-3302-A-11	RA D	003.1581	004.1083	FM - Fully Maintained
18636760	LOC C-STUB-3301-A-02	RA D	003.1694	003.1694	FM - Fully Maintained
18704999	C-STUB-3301-A-02:C-STUB-3301-A-01	RA D	003.1694	004.0468	FM - Fully Maintained
18636761	LOC C-STUB-3301-A-01	RA D	004.0468	004.0468	FM - Fully Maintained
18705000	C-STUB-3301-A-01:3301	RA D	004.0468	004.0806	FM - Fully Maintained
17335361	GSM-R:995:VR726	RA D	004.0670	004.0670	FM - Fully Maintained
9217084	LLANDAFF STN REB F/G:ODF:#01:A01F	RA D	004.0806	004.0806	FM - Fully Maintained
9217085	LLANDAF STATION FTN #01	RA D	004.0806	004.0806	FM - Fully Maintained
9217086	LLANDAF STATION FTN #01	RA D	004.0806	004.0806	FM - Fully Maintained

9217082	LLANDAF STATION FTN	RA D	004.0806	004.0806	FM - Fully Maintained
9217083	LLANDAF STATION FTN	RA D	004.0806	004.0806	FM - Fully Maintained
9217097	LLANDAF STATION FTN #01	RA D	004.0806	004.0806	FM - Fully Maintained
9217098	LLANDAF STATION FTN #01	RA D	004.0806	004.0806	FM - Fully Maintained
9217099	LLANDAF STATION FTN #02	RA D	004.0806	004.0806	FM - Fully Maintained
9217092	LLANDAF STATION FTN	RA D	004.0806	004.0806	FM - Fully Maintained
9217106	LLANDAF STATION GSMR POLE	RA D	004.0806	004.0806	FM - Fully Maintained
18711489	LLANDAFF STN REB (FTN/GSM-R):FA	RA D	004.0806	004.0806	FM - Fully Maintained
9217094	LLANDAFF STN REB F/G:FTN/GSM-R:BAT	RA D	004.0806	004.0806	FM - Fully Maintained
9217096	LLANDAF STA- TION:FTN/GSMR:CHA1	RA D	004.0806	004.0806	FM - Fully Maintained
9217089	LLANDAF STA- TION:FTN/GSMR:CHA2	RA D	004.0806	004.0806	FM - Fully Maintained
9217090	LLANDAF STA- TION:FTN/GSMR:CHA3	RA D	004.0806	004.0806	FM - Fully Maintained
9217103	LLANDAFF STN REB F/G:#1:20M:115D:2T	RA D	004.0806	004.0806	FM - Fully Maintained
9217104	LLANDAFF STN REB F/G:#2:20M:175D:2T	RA D	004.0806	004.0806	FM - Fully Maintained
9217105	LLANDAFF STN REB F/G:#3:20M:310D:2T	RA D	004.0806	004.0806	FM - Fully Maintained
9217095	LLANDAF STATION FTN GSMR BTS	RA D	004.0806	004.0806	FM - Fully Maintained
9217101	LLANDAF STATION GSMR #01	RA D	004.0806	004.0806	FM - Fully Maintained
9217102	LLANDAF STATION GSMR #02	RA D	004.0806	004.0806	FM - Fully Maintained
18859471	LLANDAFF STN REB F/G:GSM- R ANT ARRAY	RA D	004.0806	004.0806	FM - Fully Maintained
18855112	LLANDAFF STN REB F/G:GSM- R FDR ARRAY	RA D	004.0806	004.0806	FM - Fully Maintained
9217100	LLANDAF STATION FTN #01	RA D	004.0806	004.0806	FM - Fully Maintained
18245477	LLANDAFF STN REB F/G:08528114	RA D	004.0806	004.0806	FM - Fully Maintained
9217091	LLANDAFF STATION REB (FTN/GSM-R)	RA D	004.0806	004.0806	FM - Fully Maintained
9217081	LLANDAF STATION FTN	RA D	004.0806	004.0806	FM - Fully Maintained
18837767	3301:F-3292-3302-A-11	RA D	004.0806	004.1083	FM - Fully Maintained
18849696	3301:RAD(1100)/CAM(1100) JN	RA D	004.0806	004.1104	FM - Fully Maintained
18837072	F-3292-3302-A-11	RA D	004.1083	004.1083	FM - Fully Maintained
18848918	F-3292-3302-A-11:F-3292-3302- A-12	RA D	004.1083	004.1088	FM - Fully Maintained
18848456	F-3292-3302-A-12	RA D	004.1088	004.1088	FM - Fully Maintained
18848919	F-3292-3302-A- 12:RAD(1100)/CAM(1100) JN	RA D	004.1088	004.1104	FM - Fully Maintained
18848920	F-3292-3302-A- 12:RAD(1100)/CAM(1100) JN	RA D	004.1088	004.1104	FM - Fully Maintained

Supply Point assets

Ellipse Asset Number	Asset Desc 1	EL R	Asset Start Mileage	Asset End Mileage	Asset Status
18833872	NINIAN PARK FTN DNO	RA D	000.0748	000.0748	FM - Fully Maintained
18833337	NINIAN PARK FTN	RA D	000.0748	000.0748	FM - Fully Maintained
18699900	RD0M071-BY0M066	RA D	000.0776	000.0722	FM - Fully Maintained
18700176	FSP: RD0M071	RA D	000.0776	000.0776	FM - Fully Maintained
18700177	FSP: RD0M071 A	RA D	000.0776	000.0776	FM - Fully Maintained
18700178	FSP: RD0M071 B	RA D	000.0776	000.0776	FM - Fully Maintained
18699898	RD0M071-CASE A	RA D	000.0776	000.0776	FM - Fully Maintained
18699899	RD0M071-CASE B	RA D	000.0776	000.0776	FM - Fully Maintained
1823276	CANTON DEPOT SUB MAINS	RA D	000.0994	000.0994	FM - Fully Maintained
18699894	RD0M101-PC0M039	RA D	000.1105	000.0427	FM - Fully Maintained
18700171	FSP: RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18700172	REB: RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18700280	REB: RD0M101: PEN CURVE NTH	RA D	000.1105	000.1105	FM - Fully Maintained
18699887	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18699888	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18699889	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18699890	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18699891	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18699892	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
18699893	RD0M101-REB RD0M101	RA D	000.1105	000.1105	FM - Fully Maintained
9270000	FSP: T3: NINIAN PARK RR	RA D	000.1283	000.1283	FM - Fully Maintained
18699886	RD0M114-RD0M101	RA D	000.1531	000.1105	FM - Fully Maintained
18700167	FSP: RD0M114	RA D	000.1531	000.1531	FM - Fully Maintained
18700168	FSP: RD0M114 A	RA D	000.1531	000.1531	FM - Fully Maintained
18700169	FSP: RD0M114 B	RA D	000.1531	000.1531	FM - Fully Maintained
18700170	FSP: RD0M114 C	RA D	000.1531	000.1531	FM - Fully Maintained
18699883	RD0M114-CASE A	RA D	000.1531	000.1531	FM - Fully Maintained
18699884	RD0M114-CASE B	RA D	000.1531	000.1531	FM - Fully Maintained
18699885	RD0M114-CASE C	RA D	000.1531	000.1531	FM - Fully Maintained

18699882	RD0M141-RD0M114	RA D	000.1542	000.1531	FM - Fully Maintained
18700164	FSP: RD0M141	RA D	000.1542	000.1542	FM - Fully Maintained
18700165	FSP: RD0M141 A	RA D	000.1542	000.1542	FM - Fully Maintained
18700166	FSP: RD0M141 B	RA D	000.1542	000.1542	FM - Fully Maintained
18699879	RD0M141-CASE A	RA D	000.1542	000.1542	FM - Fully Maintained
18699880	RD0M141-CASE B	RA D	000.1542	000.1542	FM - Fully Maintained
18699881	RD0M141-CASE	RA D	000.1542	000.1542	FM - Fully Maintained
18699878	RD0M158 CASE A-RD0M141	RA D	000.1728	000.1542	FM - Fully Maintained
18700162	FSP: RD0M158 A	RA D	000.1728	000.1728	FM - Fully Maintained
18700163	FSP: RD0M158 B	RA D	000.1728	000.1728	FM - Fully Maintained
18699877	RD0M158 CASE A-CASE B	RA D	000.1728	000.1728	FM - Fully Maintained
18700238	LOC RD1M056	RA D	001.0612	001.0612	FM - Fully Maintained
18699972	RD1M056-RD1M125	RA D	001.0612	001.1367	FM - Fully Maintained
18700239	LOC RD1M125	RA D	001.1367	001.1367	FM - Fully Maintained
18699973	RD1M125-RD2M004	RA D	001.1367	002.0044	FM - Fully Maintained
18700240	LOC RD2M004	RA D	002.0044	002.0044	FM - Fully Maintained
18699974	RD2M004-RD2M056	RA D	002.0044	002.0612	FM - Fully Maintained
18700241	LOC RD2M056	RA D	002.0612	002.0612	FM - Fully Maintained
18699975	RD2M056-RD2M089	RA D	002.0612	002.0973	FM - Fully Maintained
18700242	LOC RD2M089	RA D	002.0973	002.0973	FM - Fully Maintained
18699976	RD2M089-RD2M115	RA D	002.0973	002.1258	FM - Fully Maintained
1623541	FSP: S2/106: WAUNGRON	RA D	002.1056	002.1056	FM - Fully Maintained
18700243	LOC RD2M115	RA D	002.1258	002.1258	FM - Fully Maintained
18699977	RD2M115-RD3M025	RA D	002.1258	003.0273	FM - Fully Maintained
18700244	LOC RD3M025	RA D	003.0273	003.0273	FM - Fully Maintained
18699978	RD3M025-RD3M079	RA D	003.0273	003.0864	FM - Fully Maintained
1623543	FSP: S3/63: DANESCOURT	RA D	003.0570	003.0570	FM - Fully Maintained
2728750	S3/155-S3/63:RADYR-SOUTH BRANCH	RA D	003.0570	003.1520	FM - Fully Maintained
18700245	LOC RD3M079	RA D	003.0864	003.0864	FM - Fully Maintained
18698832	DANESCOURT DNO FOR FTN	RA D	003.1047	003.1047	FM - Fully Maintained
1741315	FSP: S3/155: DANESCOURT	RA D	003.1520	003.1520	FM - Fully Maintained

2728749	S4/1-S3/155: RADYR-SOUTH BRANCH	RA D	003.1520	004.0001	FM - Fully Maintained
1749858	FSP: S4/1: RADYR QUARRY	RA D	004.0001	004.0001	FM - Fully Maintained
2728748	S4/50-S4/1: RADYR-SOUTH BRANCH	RA D	004.0001	004.0495	FM - Fully Maintained
1741313	FSP: S4/50: RADYR QUARRY	RA D	004.0495	004.0495	FM - Fully Maintained
2728747	S4/74-S4/50: RADYR-SOUTH BRANCH	RA D	004.0495	004.0761	FM - Fully Maintained
1741311	FSP: S4/74: RADYR QUARRY	RA D	004.0761	004.0761	FM - Fully Maintained
2728931	RADYR REB PSP-S4/74: RADYR-SOUTH BRANCH	RA D	004.0761	004.1458	FM - Fully Maintained
18833800	LLANDAFF STATION FTN DNO	RA D	004.0809	004.0809	FM - Fully Maintained
18833274	LLANDAFF STATION FTN	RA D	004.0809	004.0809	FM - Fully Maintained
18833916	RADYR JUNCTION FTN DNO	RA D	004.1103	004.1103	FM - Fully Maintained
18833377	RADYR JUNCTION FTN	RA D	004.1103	004.1103	FM - Fully Maintained

S&T assets

Ellipse Asset Number	Asset Desc 1	EL R	Asset Start Mileage	Asset End Mileage	Asset Status
10297419	AWS:CF2512(SY) FAIR-WATER	RA D	002.1176	002.1176	FM - Fully Maintained
18260707	LST:CF2512(SP) FAIR-WATER	RA D	002.1340	002.1340	FM - Fully Maintained
10297970	SIG:CF2512(CO) FAIR-WATER	RA D	002.1365	002.1365	FM - Fully Maintained
10297811	TDE:KSY/KSZ(AX) FAIR-WATER	RA D	002.1618	002.1618	FM - Fully Maintained
10297810	TDE:KEB/KEA(AX) FAIR-WATER	RA D	003.0007	003.0007	FM - Fully Maintained
1264125	TRC:DC1(21) DANESCOURT S3/63	RA D	003.0014	003.0837	FM - Fully Maintained
17754459	SIG:VR626BR(BS) DANESCOURT	RA D	003.0414	003.0414	FM - Fully Maintained
10297808	TDE:KEA(AX) FAIRWATER	RA D	003.0586	003.0586	FM - Fully Maintained
10297809	TDE:KSZ(AX) FAIRWATER	RA D	003.0787	003.0787	FM - Fully Maintained
10297965	SIG:CF2509(CO) FAIR-WATER	RA D	003.0899	003.0899	FM - Fully Maintained
1264103	TRC:DC2(21) RADYR QUARRY [S4/50]	RA D	003.1520	004.0526	FM - Fully Maintained
1634376	TRC:CB(B) RADYR QUARRY S4/74	RA D	003.1521	004.0694	FM - Fully Maintained
9267065	SIG:VR621(SL) RADYR QUARRY S4/1	RA D	004.0005	004.0005	FM - Fully Maintained
10297408	TPW:VR624(OSS) FAIR-WATER	RA D	004.0269	004.0285	FM - Fully Maintained
1263797	SIG:VR624(CO) Radyr Quarry [S4/50]	RA D	004.0513	004.0513	FM - Fully Maintained
1702060	AWS:VR624(SY) RADYR	RA D	004.0513	004.0513	FM - Fully Maintained
1641421	TPW:VR624(TS) RADYR QUARRY	RA D	004.0513	004.0513	FM - Fully Maintained

1264101	TRC:DD(21) RADYR QUARRY [S4/74]	RA D	004.0526	004.0690	FM - Fully Maintained
19004029	TRC:CE(21) DANESCOURT S3/63	RA D	003.0570	003.0863	FM - Fully Maintained
1266426	SIG:VR626(CO) Danescourt [S3/63]	RA D	003.0792:	3.0792	FM - Fully Maintained
1702061	AWS:VR626(SY) DANESCOURT	RA D	003.0792:	3.0792	FM - Fully Maintained
10297412	AWS:CF2509(SY) FAIR-WATER	RA D	003.1095:	003.1095:	FM - Fully Maintained

Telecoms Assets

Diagram entitled "Amey Keolis/Network Rail Telecoms Boundaries (Rev 10, 21/10/2019)" with regards to the Connection Point.

SCHEDULE 2: CONTACT DETAILS

1A. Network Rail's address for service of notices is:

Network Rail Infrastructure Limited
1 Eversholt Street,
London
NW1 2DN
Email: notices@networkrail.co.uk

All written notices to be marked:

“URGENT: ATTENTION THE COMPANY SECRETARY AND SOLICITOR”
and copied to:

The Managing Director
Network Rail Wales Route
St Patrick's House
17 Penarth Road
Cardiff
CF10 5ZA
Tel: [REDACT]
Email [REDACT]

1B. Network Rail's address for service of invoices or other statements of amounts payable, if different from paragraph 1A above, is:

Network Rail Infrastructure Limited Accounts Receivable
PO Box 4150
Square One,
2nd Floor,
4 Travis Street,
Manchester
M1 2NY

All invoices/statements of amounts payable to be marked:

“URGENT: ATTENTION THE COMPANY SECRETARY AND SOLICITOR”
and copied to: National Receivables Manager
Email: accountqueries@networkrail.co.uk

2A. AKIL's address for the service of notices, invoices or other statements of amounts payable is:

Amey Keolis Infrastructure/Seilwaith Amey Keolis Limited
3rd Floor
10 Furnival Street
London
EC4A 1AB

Email: secretariat@amey.co.uk

All written notices to be marked: "URGENT: COMPANY SECRETARY"
and copied to:

Infrastructure Management Director
Transport For Wales CVL Infrastructure Depot Ty Trafnidiaeth
Treforest Industrial Estate
Gwent Road
Pontypridd
United Kingdom
CF37 5UT

or such other replacement details as may be advised in writing from time to time to Network |Rail.

SCHEDULE 3: LIMITATION ON LIABILITY

1 Definitions

In this Schedule:

“**Liability Cap**” means:

- (a) in relation to the first Agreement Year, the sum of [REDACT]; and
- (b) in relation to any subsequent Agreement Year, the sum calculated in accordance with the following formula:

$$C_n = C_1 \times \left[\frac{CPI_n}{CPI_1} \right]$$

where:

- (i) C_1 is the sum of [REDACT];
- (ii) C_n is the Liability Cap in the nth subsequent Agreement Year;
- (iii) CPI_n is the Consumer Prices Index published or determined with respect to the first month of the subsequent Contract Year n; and
- (iv) CPI_1 is the Consumer Prices Index published or determined with respect to the month in which this contract became effective under Clause 2.1.

2 Application

The limitations on liability contained in this Schedule apply in the circumstances set out in Clause 10.5.

3 Limitation on Network Rail’s liability

In relation to any claim for indemnity made by AKIL to which this Schedule 3 applies:

- (a) Network Rail shall not be liable to make payments in relation to such claims which are admitted in writing or finally determined in any Agreement Year to the extent that its liability for such claims exceeds the Liability Cap for such Agreement Year; and
- (b) to the extent that its liability for such claims exceeds the Liability Cap for such Agreement Year, any claim for payment of a sum which exceeds such Liability Cap shall be extinguished and Network Rail shall have no further liability for it.

4 Limitation on AKIL’s liability

In relation to any claims for indemnity made by Network Rail to which this Schedule 3 applies:

- (a) AKIL shall not be liable to make payments in relation to such claims which are admitted in writing or finally determined in any Agreement Year to the extent that its liability for such claims exceeds the Liability Cap for such Agreement Year; and

- (b) to the extent its liability for such claims exceeds the Liability Cap for such Agreement Year, any claim for payment of a sum which exceeds such Liability Cap shall be extinguished and AKIL shall have no further liability for it.

5 Disapplication of limitation

To the extent that any Relevant Losses:

- (a) result from a conscious and intentional breach by a party; or
- (b) are in respect of obligations to compensate any person for liability for death or personal injury, whether resulting from the negligence of a party or the negligence of any of its officers, employees or agents or from a failure by a party to comply with the safety and security requirements provided in accordance with Clauses 5.1.3(g) and 5.2.3(g),

such Relevant Losses:

- (i) shall not be subject to the limitation of liability in this Schedule 3; and
- (ii) shall not be taken into account when calculating the amount of Relevant Losses in respect of claims admitted or finally determined in an Agreement Year for the purposes of the limitations of liability in this Schedule 3.

6 Exclusion of legal and other costs

The limits on the parties' liabilities provided for in paragraphs 3 and 4 shall not apply to costs incurred in recovering any amount under a relevant claim, including legal, arbitral and other professional fees and expenses.

7 Exclusion of certain Relevant Losses

A party shall have no claim for Relevant Losses to the extent that such Relevant Losses result from its own negligence or breach of this Agreement.

8 Continuing breaches

Nothing in this Schedule 3 shall prevent a party making a new claim for indemnity in respect of a continuing breach of contract which:

- (a) is a continuing breach of contract which continues for more than 12 months; or
- (b) is a continuing breach of contract which continues beyond a period within which it might reasonably be expected to have been remedied; or
- (c) is a breach of a Performance Order in relation to a breach of contract,

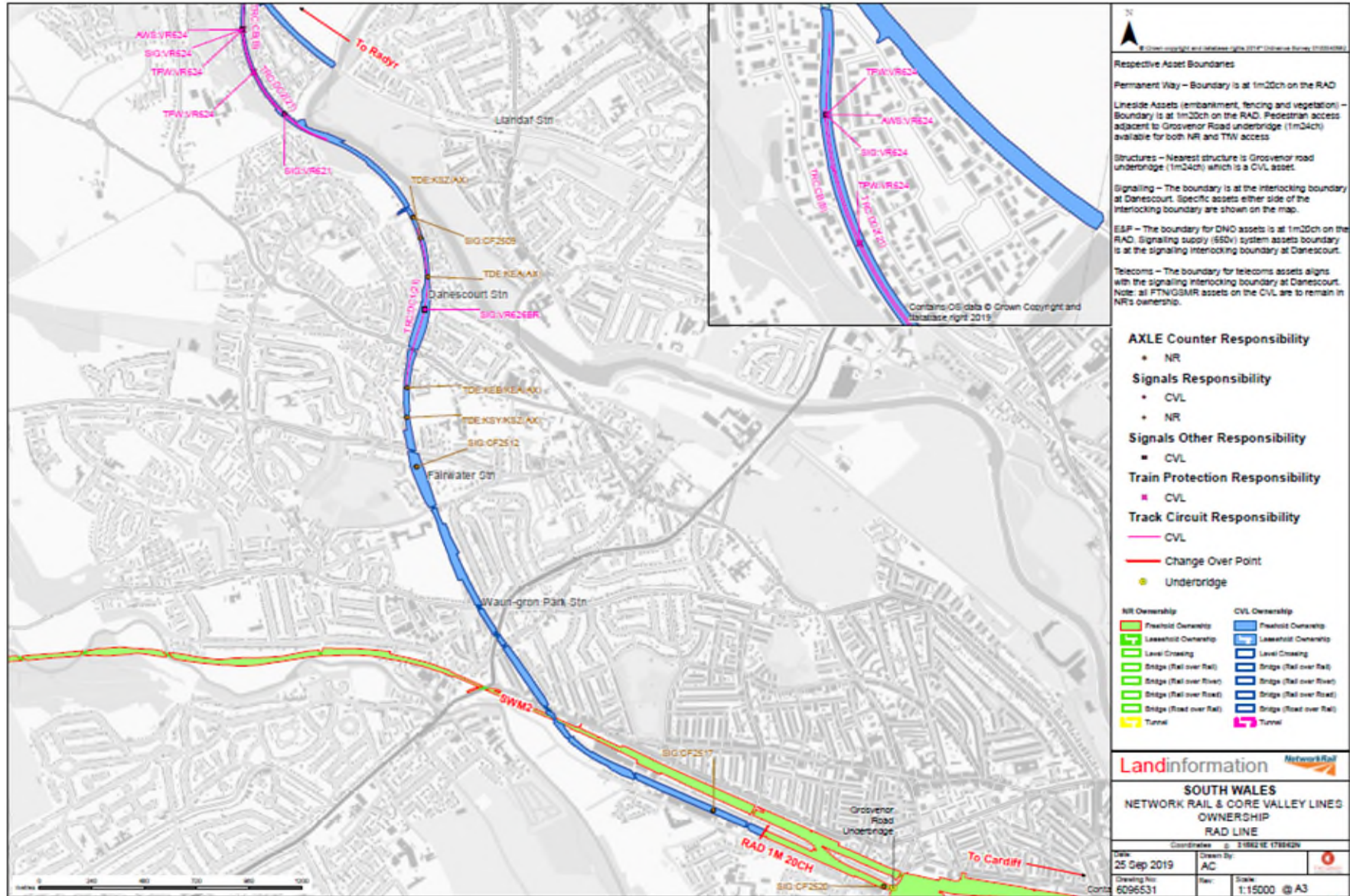
but any such new claim shall not include any sum which was the subject matter of a previous claim and was extinguished by virtue of paragraph 3(b) or 4(b).

9 Final determination of claims

For the purpose of this Schedule 3, a determination of a claim for Relevant Losses by a Court or other tribunal shall be treated as final when there is no further right of

appeal or review from such determination or in respect of which any right of appeal or review has been lost, whether by expiry of time or otherwise.

SCHEDULE 4: RADYR LINE CONNECTION POINT PLAN



This contract was signed by Network Rail and AKIL as first dated above.

SIGNED BY [REDACT]

Print name [REDACT]

Duly authorised on behalf of
NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED BY [REDACT]

Print name [REDACT]

Duly authorised on behalf of
AMEY KEOLIS INFRASTRUCTURE / SEILWAITH AMEY KEOLIS LIMITED