

RAILWAYS ACT 1993

2018 PERIODIC REVIEW

REVIEW NOTICE: FRANCHISED PASSENGER TRACK ACCESS AGREEMENTS

TO:

- (1) the persons whose names are set out in Part 1 of Annex 1 to this Review Notice (the “**Train Operators**”);
 - (2) the persons whose names are set out in Part 2 of Annex 1 to this Review Notice;
 - (3) Network Rail Infrastructure Limited (“**Network Rail**”); and
 - (4) the Secretary of State for Transport, the Scottish Ministers and the Treasury,
- together the “**Addressees**”.

1 General

- 1.1 This review notice (the “**Review Notice**”) is given in accordance with paragraph 4 of Schedule 4A to the Railways Act 1993 (the “**Act**”).
- 1.2 The Office of Rail and Road (“**ORR**”) has undertaken a review of:
 - (a) the amounts payable by Network Rail and each of the Train Operators to each other under each of the track access agreements listed in Part 1 of Annex 1 to this Review Notice (the “**Track Access Agreements**”); and
 - (b) the times at which, and the manner in which, those amounts are payable,(the “**Review**”).
- 1.3 ORR’s conclusions on the Review, and its reasons for those conclusions, are:

(a) set out in a series of documents referenced in the document entitled “**2018 periodic review final determination: Overview of approach and decisions – October 2018**” and published by ORR on 31 October 2018, and in particular those documents referenced in Chapter 1 of that document¹; and

(b) hereby incorporated into this Review Notice.

1.4 By publishing this Review Notice and serving it on each of the Addressees, ORR is initiating the implementation of the Review.

2 Proposed Relevant Changes

2.1 For or in connection with giving effect to ORR’s conclusions on the Review, ORR proposes to direct the parties to each of the Track Access Agreements to amend their Track Access Agreement on the terms specified in Annexes 2 and 3 to this Review Notice (the “**proposed relevant changes**”).

2.2 ORR proposes that, subject to paragraph 3, the proposed relevant changes will come into operation on and from 1 April 2019.

3 Regulated Amendments

3.1 Subject to paragraph 3.2 below, if, before the proposed relevant changes come into operation in relation to any Track Access Agreement, such Track Access Agreement is amended in a manner which is:

(a) approved by ORR under section 22 of the Act; or

(b) directed by ORR under section 22A or section 22C of the Act,

(each a “**regulated amendment**”), then:

(i) the proposed relevant changes shall come into operation in relation to that Track Access Agreement subject to the regulated amendments; and

¹ This further includes all documents referenced and/or linked to in the document entitled “2018 periodic review final determination: Supplementary document: Overview of charges and incentives decisions – October 2018”.

- (ii) if there is any conflict between the proposed relevant changes and the regulated amendments, the regulated amendments shall take precedence.

3.2 The following amendments will not be considered regulated amendments for the purpose of this Review Notice:

- (a) amendments made to any provision within Schedule 7, other than Appendix 7C, of a Track Access Agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2009 issued by ORR on 25 November 2009; and
- (b) amendments made to any provision within Schedule 8 of a Track Access Agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2009 issued by ORR on 25 November 2009.

4 Objections

4.1 Subject to paragraph 4.2, any person specified in paragraph 4(4)(a) or (b) of Schedule 4A to the Act may make objections with respect to:

- (a) any of the proposed relevant changes; or
- (b) the date on which it is proposed that any such proposed relevant changes shall come into operation.

4.2 Any objection made under paragraph 4.1 must be:

- (a) made in writing;
- (b) received by ORR on or before 7 February 2019; and
- (c) addressed to ORR as follows:

Carl Hetherington
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

5 Definitions and Interpretation

5.1 In this Review Notice, unless the context otherwise requires:

- (a) references to “**this Review Notice**” include the Annexes to this Review Notice;
- (b) references to the singular include the plural and *vice versa*;
- (c) words and phrases defined in:
 - (i) the Act;
 - (ii) the Network Code (formerly known as the Railtrack Track Access Conditions 1995 (as amended)); or
 - (iii) each Track Access Agreement,shall have the same meanings in this Review Notice; and
- (d) any general rules of interpretation contained in:
 - (i) Condition A1 of the Network Code; or
 - (ii) each Track Access Agreement,shall also apply to this Review Notice.



John Larkinson
Chief Executive
FOR AND ON BEHALF OF
THE OFFICE OF RAIL AND ROAD
Dated 20 December 2018



ANNEX 1

TRAIN OPERATORS AND TRACK ACCESS AGREEMENTS

Part 1 – Train Operators

Train Operator (collectively, the “Train Operators” and each a “Train Operator”)	Train Operator Company Number	Original Date of Track Access Agreement
Abellio East Anglia Limited	07861414	10 December 2004
Abellio ScotRail Limited	SC450732	3 March 2016
Arriva Rail London Limited	04165861	9 November 2007
Arriva Rail North Limited	04337712	3 March 2016
The Chiltern Railway Company Limited	03007939	5 February 2004
East Midlands Trains Limited	05340682	2 March 2016
First Greater Western Limited	05113733	4 March 2016
First MTR South Western Trains Limited	07900320	20 May 2004
First Transpennine Express Limited	09111801	3 March 2016
Govia Thameslink Railway Limited	07934306	2 March 2016
Keolis Amey Operations / Gweithrediadau Keolis Amey Limited	11389531	5 February 2004
London North Eastern Railway Limited	04659712	3 March 2017
London & South Eastern Railway Limited	04860660	6 December 2007
Merseyrail Electrics 2002 Limited	04356933	17 July 2003
MTR Corporation (Crossrail) Limited	08754715	21 November 2018
Serco Caledonian Sleepers Limited	SC477821	5 March 2015
Trenitalia c2c Limited	07897267	3 March 2017
West Coast Trains Limited	03007940	1 September 2011
West Midlands Trains Limited	09860466	3 March 2016
XC Trains Limited	04402048	8 August 2017

Part 2 – Other addressees

Rail for London Limited

Merseyside Passenger Transport Executive

Welsh Government

ANNEX 2

STANDARD AMENDMENTS

Explanatory Note:

In order to give effect to the ORR's conclusions on the Review, this Annex 2 sets out the standard form proposed relevant changes to be made to Schedules 4, 7, 8 and 9 and the clauses of each Track Access Agreement (the "standard amendments").

In some Track Access Agreements, some of the provisions which are to be amended are not in standard form. Where this is the case, these are identified in this Annex 2, which sets out how the standard amendments will need to be modified. In certain instances, bespoke modifications are set out in Part 1 of Annex 3 to this Review Notice.

In certain instances, where it is appropriate because of the nature of the amendments, the standard amendments in the form of a new schedule for a particular Train Operator (e.g. Schedule 7 for Abellio ScotRail Limited) are set out in this Annex 2.

In certain instances, the publication of certain proposed relevant changes would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of each Train Operator and/or Network Rail for the purpose of section 71(2) of the Act; they are therefore not being published. Where this is the case, such proposed relevant changes will be attached to Part 2 of Annex 3 to this Review Notice and will be sent only to the parties to the relevant Track Access Agreement, the Secretary of State for Transport, the Scottish Ministers and the Treasury, and where appropriate any relevant addressees listed in Part 2 of Annex 1 to this Review Notice.

The following amendments shall be made to the Track Access Agreements, subject to any modifications set out in Annex 3:

1 Consequential and other amendments to the clauses of each Track Access Agreement

1.1 In clause 1.1 (Definitions) of each Track Access Agreement, delete the definition of “access charges review” and replace it with the following definition:

“**access charges review**” has the meaning ascribed to it by Schedule 4A to the Act;”

1.2 In clause 16 (Payments, interest and VAT) of each Track Access Agreement, delete clause 16.1.2 and replace it with the following:

“16.1.2 *Delivery of invoices*

All invoices issued under Schedule 7, or statements of amounts payable under Schedule 4, Schedule 5 or Schedule 8, or under the Network Code, or under the Traction Electricity Rules, shall be delivered by hand at, or sent by prepaid first class post, or by facsimile transmission (with confirmation copy by prepaid first class post) or by email (where both parties agree) to the address for service for the recipient specified in Schedule 1 and shall be deemed to have been received by the addressee in accordance with clause 18.4.3.”

1.3 In clause 18.4 (Notices) of each Track Access Agreement, delete sub-clause 18.4.1(b) and replace it with the following:

“(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, recorded delivery, or by facsimile transmission (with confirmation copy by prepaid first class post) or by email (where the parties agree) to the relevant address or email address or facsimile number as set out in Schedule 1.”

2 Schedule 4 to each Track Access Agreement

2.1 In Schedule 4 to each Track Access Agreement, in paragraph 1.1 (Definitions) of Part 3:

(a) insert the following new definition in alphabetical order:

“**CPI**” shall have the meaning ascribed to it in Schedule 7;”;

- (b) insert the following new definition in alphabetical order:

“**Performance Monitoring System**” shall have the meaning ascribed to it in Schedule 8;”;

- (c) delete the definition of “Restriction of Use” and replace it with the following definition:

“**Restriction of Use**” means, in respect of any day, any difference from the normal capability of all or any part of the Routes (where the normal capability of the Routes is expressed in the Applicable Timetable Planning Rules relevant to that day notified to each Timetable Participant on or before D-26) which results in:

- (a) a difference between the Applicable Timetable on that day as compared with the New Working Timetable in respect of that day; and/or
- (b) a difference between the New Working Timetable on that day as compared with the Corresponding Day Timetable in respect of the Corresponding Day;”;

- (d) delete the definition of “RoU Variable Costs” and replace it with the following definition:

“**RoU Variable Costs**” means any Train Operator costs which vary as a result of a Restriction of Use or where applicable an Over-run arising directly from changes in train mileage including maintenance, fuel or the Traction Electricity Charge and the Variable Usage Charge and the VUC Default Charge (as such terms are defined in Schedule 7);”;

- (e) delete the definition of “RPI”;

- (f) amend the definitions of “SPD Cost Threshold No.1” and “SPD Cost Threshold No.2” as set out in Appendix 1 of Part 1 of Annex 3 to this Review Notice;

- (g) delete the definition of “SPD Revenue Threshold No.1” and replace it with the following definition:

“**SPD Revenue Threshold No.1**” means 20% of 1/13th of the relevant Defined Service Group Revenue over three consecutive Periods;” and

- (h) delete the definition of “SPD Revenue Threshold No.2” and replace it with the following definition:

“**SPD Revenue Threshold No.2**” means 15% of 1/13th of the relevant Defined Service Group Revenue over seven consecutive Periods;”.

2.2 In Schedule 4 to the following Track Access Agreements:

- (i) the Track Access Agreement between Network Rail and Abellio East Anglia Limited (the “**Abellio East Anglia TAA**”);
- (ii) the Track Access Agreement between Network Rail and Arriva Rail London Limited (the “**Arriva Rail London TAA**”);
- (iii) the Track Access Agreement between Network Rail and Keolis Amey Operations / Gweithrediadau Keolis Amey Limited (the “**Keolis Amey TAA**”);
- (iv) the Track Access Agreement between Network Rail and The Chiltern Railway Company Limited (the “**Chiltern TAA**”);
- (v) the Track Access Agreement between Network Rail and First MTR South Western Limited (the “**South Western TAA**”);
- (vi) the Track Access Agreement between Network Rail and London & South Eastern Railway Limited (the “**LSER TAA**”);
- (vii) the Track Access Agreement between Network Rail and Merseyrail Electrics 2002 Limited (the “**Merseyrail TAA**”); and
- (viii) the Track Access Agreement between Network Rail and West Coast Trains Limited (the “**West Coast Trains TAA**”),

in paragraph 1.1 (Definitions) of Part 3, insert the following new definition in alphabetical order:

“**Defined Service Group Revenue**” shall have the relevant value as set out in Annex D to Part 3 of this Schedule 4;”

2.3 In paragraph 3.4 (Formula) of Part 3 of Schedule 4 to each Track Access Agreement:

(a) in sub-paragraph 3.4(b):

(1) delete the words “CM is the Cancellation Minutes for the Service Group in question specified in column J of Appendix 1 to Schedule 8;” and replace them with the following:

“CM is the Cancellation Minutes for the Service Group in question specified in column F of Appendix 1 to Schedule 8;”;

(2) delete the words “MPW is the weighting attributable to the Monitoring Point, as specified in column O of Appendix 1 to Schedule 8;” and replace them with the following:

“MPW is the weighting attributable to the Monitoring Point, as specified in column K of Appendix 1 to Schedule 8;”;

(b) in sub-paragraph 3.4(c), delete the words “(i) the number of minutes specified as the Cap for the Service Group in column K of Appendix 1 to Schedule 8; and” and replace them with the following:

“(i) the number of minutes specified as the Cap for the Service Group in column G of Appendix 1 to Schedule 8; and”; and

(c) delete sub-paragraph 3.4(e), and replace it with the following:

“(e) NRPR is the Network Rail payment rate specified in column C of Appendix 1 to Schedule 8, as indexed according to the provisions of Schedule 8.”

2.4 Amend sub-paragraph 4.2(b) (Cost Compensation Formula) of Part 3 of Schedule 4 to each Track Access Agreement as set out in Appendix 2 of Part 1 of Annex 3 to this Review Notice.

2.5 Delete sub-paragraph 4.2(c) (Cost Compensation Formula) of Part 3 of Schedule 4 to each Track Access Agreement, and replace it with the following:

“(c) TMC is the cost or saving, expressed in pence per train mile and rounded to two decimal places, resulting from train mileage change, for the Service(s) (or part(s) thereof) in that Service Group as a result of a Network Rail Restriction of Use, calculated according to the following formula:

$$TMC = TM \times TMPR$$

where:

TM is the change in train mileage; and

TMPR is the payment rate per train mile, as stipulated in Annex C to this Part 3 of Schedule 4.”

2.6 In paragraph 9.1 (Early notification) of Part 3 of Schedule 4 to each Track Access Agreement, delete sub-paragraph 9.1(b)(ii) and replace it with the following:

“(ii) subject to paragraph 9.1(b)(iii), the Network Rail Restriction of Use is reflected in the Working Timetable as set out in the Performance Monitoring System at 22:00 hours on the day which is 12 Weeks before the Restriction of Use Day; or”

2.7 In paragraph 9.2 (Notification by TW-22) of Part 3 of Schedule 4 to each Track Access Agreement, delete sub-paragraph 9.2(b)(i) and replace it with the following:

“(i) the Network Rail Restriction of Use is reflected in the Working Timetable as set out in the Performance Monitoring System at 22:00 hours on the day which is 12 Weeks before the Restriction of Use Day; or”

2.8 In paragraph 14 (Indexation) of Part 3 of Schedule 4 to each Track Access Agreement:

(a) delete paragraph 14.1 and replace it with the following:

“14.1 The formula applicable to this paragraph 14 is:

$$R_t = R_{t-1} \times \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

R_t is the relevant value in the Relevant Year t;

R_{t-1} is the relevant value in the Relevant Year t-1;

CPI_{t-1} means the CPI published or determined with respect to the month of November in Relevant Year t-1; and

CPI_{t-2} means the CPI published or determined with respect to the month of November in Relevant Year t-2.”;

- (b) in paragraph 14.2, delete the words “1 April 2014,” and replace them with “1 April 2019,”; and
- (c) in paragraph 14.3, delete the words “1 April 2014,” and replace them with “1 April 2019,”.

2.9 In Schedule 4 to the following Track Access Agreements:

- (i) the **Abellio East Anglia TAA**;
- (ii) the **Arriva Rail London TAA**;
- (iii) the **Keolis Amey TAA**;
- (iv) the **Chiltern TAA**;
- (v) the **South Western TAA**;
- (vi) the **LSER TAA**;
- (vii) the **Merseyrail TAA**; and
- (viii) the **West Coast Trains TAA**,

delete paragraph 14.2 of Part 3, and replace it with the following:

“14.2 Each of the EBMPR and TMPR (respectively defined in paragraph 4.2) and Defined Service Group Revenues shall be adjusted in respect of Periods in Relevant Year t in accordance with the formula set out in paragraph 14.1 except that in relation to the Relevant Year commencing on 1 April 2019, R_t shall have the value specified in:

- (a) paragraph 4.2 in respect of the EBMPR, multiplied by the Initial Indexation Factor;
- (b) Annex C to this Part 3 of Schedule 4 in respect of TMPR, multiplied by the Initial Indexation Factor; and
- (c) Annex D to this Part 3 of Schedule 4 in respect of the Defined Service Group Revenues, multiplied by the Initial Indexation Factor,

and in the next following Relevant Year R_{t-1} shall respectively have the same value.”

2.10 Delete Annex A (Notification Factors) to Part 3 of Schedule 4 to each Track Access Agreement, and replace it with the new Annex A set out in Appendix 1 of this Annex 2 to this Review Notice.

2.11 Delete Annex C (Payment Rate per train mile) to Part 3 of Schedule 4 to each Track Access Agreement, and replace it with the new Annex C to Part 3 of Schedule 4 specific to that Track Access Agreement, which is attached separately in Appendix 1 of Part 2 of Annex 3 to this Review Notice.

2.12 In the following Track Access Agreements:

- (i) the track access agreement between Network Rail and Arriva Rail North Limited (the “**Arriva Rail North TAA**”);
- (ii) the track access agreement between Network Rail and East Midlands Trains Limited (the “**East Midlands TAA**”);

- (iii) the track access agreement between Network Rail and First Transpennine Express Limited (the “**Transpennine TAA**”);
- (iv) the track access agreement between Network Rail and Govia Thameslink Railway Limited (the “**Thameslink TAA**”);
- (v) the track access agreement between Network Rail and London North Eastern Railway Limited (the “**LNER TAA**”);
- (vi) the track access agreement between Network Rail and MTR Corporation (Crossrail) Limited (the “**Crossrail TAA**”);
- (vii) the track access agreement between Network Rail and Trenitalia c2c Limited (the “**Trenitalia TAA**”);
- (viii) the track access agreement between Network Rail and West Midlands Trains Limited (the “**West Midlands TAA**”);
- (ix) the track access agreement between Network Rail and XC Trains Limited (the “**XC Trains TAA**”);
- (x) the track access agreement between Network Rail and First Greater Western Limited (the “**Greater Western TAA**”);
- (xi) the track access agreement between Network Rail and Abellio ScotRail Limited (the “**ScotRail TAA**”); and
- (xii) the track access agreement between Network Rail and Serco Caledonian Sleepers Limited (the “**Caledonian Sleepers TAA**”),

delete Annex D (Defined Service Group Revenue) to Part 3 of Schedule 4, and replace it with the new Annex D to Part 3 of Schedule 4 specific to that Track Access Agreement, which is attached separately in Appendix 2 of Part 2 of Annex 3 to this Review Notice.

2.13 In Schedule 4 to the following Track Access Agreements:

- (i) the **Abellio East Anglia TAA**;
- (ii) the **Arriva Rail London TAA**;

- (iii) the **Keolis Amey TAA**;
- (iv) the **Chiltern TAA**;
- (v) the **South Western TAA**;
- (vi) the **LSER TAA**;
- (vii) the **Merseyrail TAA**; and
- (viii) the **West Coast Trains TAA**,

after Annex C (Payment Rate per train mile) to Part 3, insert a new Annex D (Defined Service Group Revenue) as set out in the Annex D to Part 3 of Schedule 4 specific to that Track Access Agreement, which is attached separately in Appendix 2 of Part 2 of Annex 3 to this Review Notice.

- 2.14 Delete Part 5 (Access Charge Supplement for Restrictions of Use) of Schedule 4 to each Track Access Agreement and replace it with the following new Part 5, and complete the empty square brackets shown in the list of years and payment sums in paragraph 1 of this new Part 5 with the payment sums specific to that Train Operator's Track Access Agreement as set out in Appendix 3 of Part 1 of Annex 3 to this Review Notice:

“Part 5

(Access Charge Supplement for Restrictions of Use)

1. The Train Operator shall pay or procure the payment to Network Rail of an Access Charge Supplement for Restrictions of Use (ACSRU) in respect of each Period equal to 1/13 of the amount specified below (as indexed in accordance with paragraph 2) in respect of the Relevant Year commencing 1 April in which the first day of the relevant Period falls:

Year	£
2019-2020	[]
2020-2021	[]
2021-2022	[]
2022-2023	[]
2023-2024	[]

Each such payment shall be made within 35 days after the end of the relevant Period.

- Each such amount specified in paragraph 1 shall be adjusted in respect of payments made relating to Periods in the Relevant Year t in accordance with the following formula:

$$ACSRU_{pt} = ACSRU_t \times \left(1 + \frac{(CPI_{t-1} - CPI_{2018})}{CPI_{2018}} \right) \times \text{Initial Indexation Factor}$$

where:

$ACSRU_{pt}$ is the actual amount, expressed in pounds sterling and rounded to zero decimal places, payable in the Relevant Year t;

$ACSRU_t$ is the relevant amount specified in paragraph 1 of this Part 5 for the Relevant Year t (before indexation);

CPI_{t-1} has the meaning set out in paragraph 14.1 of Part 3 of this Schedule 4; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018,

but so that in relation to the Relevant Year commencing on 1 April 2019, $ACSRU_t$ shall have the relevant value specified in the relevant column of the table in paragraph 1.”

3 Schedule 7 to each Track Access Agreement

3.1 In the following Track Access Agreements:

- (i) the **Abellio East Anglia TAA**;
- (ii) the **Arriva Rail London TAA**;
- (iii) the **Arriva Rail North TAA**;
- (iv) the **Keolis Amey TAA**;
- (v) the **East Midlands TAA**;
- (vi) the **Transpennine TAA**;
- (vii) the **Thameslink TAA**;
- (viii) the **LNER TAA**;
- (ix) the **Merseyrail TAA**;
- (x) the **Crossrail TAA**;
- (xi) the **Trenitalia TAA**;
- (xii) the **West Midlands TAA**;
- (xiii) the **XC Trains TAA**,

with the exception of Appendix 7C (Default Train Consist Data) and Appendix 7D ("Metered Trains M" for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7 (which shall not be deleted and which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 2 to this Annex 2.

3.2 In the **Greater Western TAA**, with the exception of:

- (a) paragraph 1 of Part 5: Additional Charges of Schedule 7;

- (b) paragraph 2.5 of Part 5: Additional Charges of Schedule 7, which shall be re-numbered as paragraph 2.1 (under the heading “2. Additional Charges for Opening Signal Boxes”);
- (c) Appendix 7C (Default Train Consist Data) to Schedule 7; and
- (d) Appendix 7D (“Metered Trains M” for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7,

(none of which shall be deleted and all of which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 2 to this Annex 2.

3.3 In the **South Western TAA**, with the exception of:

- (a) the following definitions in paragraph 1 (Definitions) of Part 1 of Schedule 7:
 - (1) “Guildford North Box Sidings Project Charge”;
 - (2) “Guildford North Box Sidings Project Indexation”;
 - (3) “Salisbury East Carriage Holding Sidings Project Charge”; and
 - (4) “Salisbury East Carriage Holding Sidings Project Indexation”;
- (b) paragraph 1 (Additional Fixed Charge for Salisbury East Carriage Holding Sidings Project) of Part 5: Additional Charges of Schedule 7;
- (c) paragraph 2 (Additional Fixed Charge for Guildford North Box Sidings Project Charge) of Part 5: Additional Charges of Schedule 7;
- (d) Appendix 7C (Default Train Consist Data) to Schedule 7; and
- (e) Appendix 7D (“Metered Trains M” for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7,

(none of which shall be deleted and all of which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 2 to this Annex 2.

3.4 In the **LSER TAA**, with the exception of:

- (a) the following definitions in paragraph 1 (Definitions) of Part 1 of Schedule 7:
 - (1) “Folkestone East PN Point Project Charge”; and
 - (2) “Folkestone East PN Point Project Charge Indexation”;
- (b) paragraph 1 (Additional Fixed Charge for Folkestone East PN Point Project) of Part 5: Additional Charges of Schedule 7;
- (c) Appendix 7C (Default Train Consist Data) to Schedule 7; and
- (d) Appendix 7D (“Metered Trains M” for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7,

(none of which shall be deleted and all of which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 2 to this Annex 2.

3.5 In the **West Coast Trains TAA**, with the exception of:

- (a) the following definitions in paragraph 1 (Definitions) of Part 1 of Schedule 7:
 - (1) “Facility Charge”;
 - (2) “Facility Charge Indexation”; and
 - (3) “Facility Charge Works”;
- (b) paragraph 8A (Facility Charge Platform Lengthening Project) of Part 2 of Schedule 7;
- (c) Appendix 7C (Default Train Consist Data) to Schedule 7; and
- (d) Appendix 7D (“Metered Trains M” for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7,

(none of which shall be deleted and all of which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 2 to this Annex 2.

3.6 In the **ScotRail TAA** and the **Caledonian Sleepers TAA**, with the exception of Appendix 7C (Default Train Consist Data) and Appendix 7D (“Metered Trains M” for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7 (none of which shall be deleted and all of which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 3 to this Annex 2.

3.7 In the **Chiltern TAA** with the exception of:

(a) the definition of “Wolverton Tunnel Capital Sum” in paragraph 1 (Definitions) of Part 1 of Schedule 7; and

(b) Appendix 7C (Default Train Consist Data) and Appendix 7D (“Metered Trains M” for the purposes of paragraph 4.1.1 of Part 2) to Schedule 7,

(none of which shall be deleted and all which shall continue to remain in full force), delete Schedule 7 and replace it with the Schedule 7 set out in Appendix 4 to this Annex 2.

4 Schedule 8 to each Track Access Agreement

4.1 In paragraph 1.1 (Definitions) of Schedule 8 to each Track Access Agreement:

(a) delete the definition of “Cancellation Minutes” and replace it with the following:

“**Cancellation Minutes**” means, in relation to a Cancelled Stop, the number of Cancellation Minutes specified in column F of Appendix 1 for the Service Group which includes that Train;”;

(b) delete the definition of “Cap” and replace it with the following:

“**Cap**” means, in relation to a Monitoring Point, or a Train, the cap for the relevant Service Group in column G of Appendix 1;”;

(c) insert the following new definition in alphabetical order:

“**CPI**” has the meaning ascribed to it in Schedule 7;”;

(d) delete the definition of “Monitoring Point” and replace it with the following:

“**Monitoring Point**” means, in relation to a direction of a Service, a point listed in column J of Appendix 1 as a point to be used for recording lateness of Trains in accordance with paragraph 2, and each such Monitoring Point shall be treated as a separate Monitoring Point notwithstanding that it may also be a Monitoring Point for the same Service in the opposite direction and/or for other Services”;

- (e) delete the definition of “Network Rail Performance Point” and replace it with the following:

“**Network Rail Performance Point**” or “**NRPP**” means, in relation to a Service Group, the Network Rail performance point specified in column B of Appendix 1;”;

- (f) delete the definition of “Passenger Timetable” and replace it with the following:

“**Passenger Timetable**” means those elements of the Applicable Timetable which are intended to be advertised to the public;”;

- (g) delete the definition of “RPI”; and

- (h) delete the definition of “Train Operator Performance Point” and replace it with the following:

“**Train Operator Performance Point**” means, in relation to a Service Group, the Train Operator performance point specified in column D of Appendix 1.”

- 4.2 In paragraph 1.2 (Interpretation) of Schedule 8 to each Track Access Agreement, delete paragraph 1.2(a) and replace it with the following:

“(a) a Train shall be treated as being in a Service Group for that part of its journey during which it satisfies the characteristics specified in columns A, H and J of Appendix 1 as forming a Service which is included in that Service Group;”

- 4.3 In paragraph 3 of Schedule 8 (Calculation of Minutes Delay) to each Track Access Agreement, delete sub-paragraph 3(b)(ii)(2) and replace it with the following:

“(2) if for any Train the aggregate Minutes Delay in respect of all Recording Points caused by a single incident are in excess of the Cap specified in column G of Appendix 1 for that Service Group, then such excess shall be disregarded.”

4.4 In paragraph 7 (Allocation of Minutes Late to Network Rail) of Schedule 8 to each Track Access Agreement:

- (a) delete the words “MD is the aggregate Minutes Delay on that day in respect of the Service Group under which that Monitoring Point is listed in column N of Appendix 1, calculated in accordance with paragraph 5.8;” and replace them with the following:

“MD is the aggregate Minutes Delay on that day in respect of the Service Group under which that Monitoring Point is listed in column J of Appendix 1, calculated in accordance with paragraph 5.8;” and

- (b) delete the words “CM is the Cancellation Minutes for that Service Group set out in column J of Appendix 1” and replace them with the following:

“CM is the Cancellation Minutes for that Service Group set out in column F of Appendix 1.”

4.5 In paragraph 8 (Allocation of Minutes Late to the Train Operator) of Schedule 8 to each Track Access Agreement:

- (a) delete the words “MD is the aggregate Minutes Delay on that day in respect of the Service Group under which that Monitoring Point is listed in column N of Appendix 1, calculated in accordance with paragraph 5.8;” and replace them with the following:

“MD is the aggregate Minutes Delay on that day in respect of the Service Group under which that Monitoring Point is listed in column J of Appendix 1, calculated in accordance with paragraph 5.8;” and

- (b) delete the words “CM is the Cancellation Minutes for that Service Group set out in column J of Appendix 1” and replace them with the following:

“CM is the Cancellation Minutes for that Service Group set out in column F of Appendix 1.”

4.6 In paragraph 9.1 (Network Rail Performance Sums) of Schedule 8 to each Track Access Agreement:

- (a) delete the words “MPW is the weighting attributable to that Monitoring Point, as specified in column O of Appendix 1; and”, and replace them with the following:

“MPW is the weighting attributable to that Monitoring Point, as specified in column K of Appendix 1; and”;

- (b) delete the words “MPW is the weighting attributable to that Monitoring Point, as specified in column O of Appendix 1;”, and replace them with the following:

“MPW is the weighting attributable to that Monitoring Point, as specified in column K of Appendix 1;”;

- (c) delete the words “NRPR is the relevant Network Rail payment rate for that Service Group specified in column E of Appendix 1 as indexed in accordance with paragraph 13,” and replace them with the following:

“NRPR is the relevant Network Rail payment rate for that Service Group specified in column C of Appendix 1 as indexed in accordance with paragraph 13,”; and

- (d) delete sub-paragraph 9.1(iii) and replace it with the following:

“(iii) the CV indexation figure in Relevant Year t shall be derived from the following formula:

$$CV_t = \left(1 + \frac{(CPI_{t-1} - CPI_{2018})}{CPI_{2018}}\right) \times \text{Initial Indexation Factor}$$

where:

CV_t means the CV indexation in Relevant Year t;

CPI_{t-1} means the CPI published or determined with respect to the month of November in Relevant Year t-1; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018,

except that in relation to the Relevant Year commencing on 1 April 2019, CV_t shall equal 1 x Initial Indexation Factor.”

4.7 In paragraph 10.1 (Train Operator Performance Sums) of Schedule 8 to each Track Access Agreement:

- (a) delete the words “TPP is the Train Operator Performance Point for the Service Group specified in column F of Appendix 1;” and replace them with the following:

“TPP is the Train Operator Performance Point for the Service Group specified in column D of Appendix 1;”;

- (b) delete the words “MPW is the weighting attributable to that Monitoring Point, as specified in column O of Appendix 1; and”, and replace them with the following:

“MPW is the weighting attributable to that Monitoring Point, as specified in column K of Appendix 1; and”;

- (c) delete the words “MPW is the weighting attributable to that Monitoring Point, as specified in column O of Appendix 1;”, and replace them with the following:

“MPW is the weighting attributable to that Monitoring Point, as specified in column K of Appendix 1;”;

- (d) delete the words “TPR is the relevant Train Operator payment rate for that Service Group specified in column I of Appendix 1 as indexed in accordance with the provisions in paragraph 13.” and replace them with the following:

“TPR is the relevant Train Operator payment rate for that Service Group specified in column E of Appendix 1 as indexed in accordance with the provisions in paragraph 13.”

4.8 Delete paragraph 13.1 (Payment Rates) of Schedule 8 to each Track Access Agreement, and replace it with the following:

“13.1 Each payment rate in columns C and E of Appendix 1, expressed in pounds sterling and rounded to two decimal places, shall be adjusted in respect of Periods in Relevant Year t in accordance with the following formula:

$$R_t = R_{t-1} \times \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

R_t is the relevant rate in the Relevant Year t ;

R_{t-1} is the relevant rate in the Relevant Year $t-1$; and

CPI_{t-1} has the same meaning as set out in paragraph 9.1 above of this Schedule 8;
and

CPI_{t-2} means the CPI published or determined with respect to the month of November in Relevant Year $t-2$,

but so that in relation to the Relevant Year commencing on 1 April 2019, R_t shall have the relevant value specified in the relevant column (either C or E) of Appendix 1, multiplied by the Initial Indexation Factor and in the next following Relevant Year, R_{t-1} shall have the same value.”

4.9 In paragraph 15 (Notices) of Schedule 8 to each Track Access Agreement, delete subparagraph 15.2(c) and replace it with the following:

“(c) if sent by facsimile, (subject to confirmation of uninterrupted transmission by a transmission report) before 17:00 hours on a business day, on the day of transmission and, in any other case, at 09:00 hours on the next following business day ("business day" for these purposes being a day which is not a Saturday, Sunday or a Public Holiday in the place where the transmission is to be received);
and”

4.10 In paragraph 17 (Amendments to Appendix 1) of Schedule 8 to each Track Access Agreement, delete paragraph 17.5 (Relationship with Appendix 3 and remainder of Schedule 8) and replace it with the following:

“17.5 ***Relationship with Appendix 3 and remainder of Schedule 8***

Amendments to Appendix 1 may require consequential amendments to Appendix 3, and therefore references in this paragraph to amendments to Appendix 1 shall include any amendments to Appendix 3 or any other relevant parts of Schedule 8 which are agreed or determined to be reasonably required in connection with those amendments to Appendix 1.”

- 4.11 In paragraph 18 (Compensation for sustained poor performance) of Schedule 8 to each Track Access Agreement, delete paragraph 18.2 (Indemnity) and replace it with the following:

“18.2 Indemnity

Network Rail shall indemnify the Train Operator against all Relevant Losses in accordance with this paragraph 18 if, and to the extent that, the Average Periodic Liability shows Network Rail has exceeded (that is, equalled or been worse than) the relevant SPP Threshold. For the avoidance of doubt, Relevant Losses for the purpose of providing compensation for sustained poor performance under this paragraph are to be measured in comparison to the position the Train Operator would have been in had Network Rail met the NRPP.”

- 4.12 Delete paragraph 19 (SPP Indexation) of Schedule 8 to each Track Access Agreement, and replace it with the following:

“19 SPP Indexation

19.1 SPP Indexation

Each value specified in Appendix 3, expressed in pounds sterling and rounded to two decimal places, shall be multiplied by the SPP indexation figure for the Relevant Year.

19.2 Application of SPP Indexation

The SPP indexation figure in Relevant Year t shall be derived from the following formula:

$$SPPI_t = \left(1 + \frac{(CPI_{t-1} - CPI_{2018})}{CPI_{2018}}\right) \times \text{Initial Indexation Factor}$$

where:

SPPI_t means the SPP indexation in Relevant Year t;

CPI_{t-1} has the meaning as set out in paragraph 9.1 above of this Schedule 8; and

CPI₂₀₁₈ has the meaning as set out in paragraph 9.1 above of this Schedule 8;

except that in relation to the Relevant Year commencing on 1 April 2019, CV_t shall equal 1 x Initial Indexation Factor.”

4.13 Delete Appendix 1 to Schedule 8 of each Track Access Agreement, and replace it with the new Appendix 1 to Schedule 8 specific to that Track Access Agreement which is attached separately in Appendix 3 of Part 2 of Annex 3 to this Review Notice.

4.14 Delete Appendix 3 (SPP Threshold) of Schedule 8 to each Track Access Agreement, and replace it with the new Appendix 3 to Schedule 8 specific to that Track Access Agreement which is attached separately in Appendix 4 of Part 2 of Annex 3 to this Review Notice.

5 Schedule 9 to each Track Access Agreement

5.1 With the exception of the **Crossrail TAA**, in paragraph 1 (Definitions) of Schedule 9 to each Track Access Agreement, delete the definition of “Liability Cap” and replace it with the following definition (and replace the empty square brackets in sub-paragraphs (a) and (b)(ii) with the sum which is set out in the equivalent sub-paragraphs (a) and (b)(i) in the version of that Train Operator’s Track Access Agreement which was in place immediately prior to 1 April 2019):

““**Liability Cap**” means:

(a) in relation to the first Contract Year, the sum of £ []; and

(b) in relation to any subsequent Contract Year, the sum calculated in accordance with the following formula:

$$C_n = C_{2017-18} \times \left[\frac{CPI_n}{CPI_{2017-18}} \right]$$

where:

(i) $C_{2017-18} = C_1 \times \left[\frac{RPI_{2017-18}}{RPI_1} \right]$

(ii) C₁ is the sum of £ [];

(iii) C_n is the Liability Cap in the nth subsequent Contract Year;

- (iv) CPI_n is the Consumer Prices Index (as defined in Schedule 7) published or determined with respect to the first month of the subsequent Contract Year n;
- (v) $CPI_{2017-18}$ is the Consumer Prices Index (as defined in Schedule 7) published or determined with respect to that month in which a Contract Year starts in the Relevant Year which commences on 1 April 2017 and ends on 31 March 2018;
- (vi) $RPI_{2017-18}$ is the Retail Prices Index (as defined in Schedule 7) published or determined with respect to that month in which a Contract Year starts in the Relevant Year which commences on 1 April 2017 and ends on 31 March 2018; and
- (vii) RPI_1 is the Retail Prices Index (as defined in Schedule 7) published or determined with respect to the month in which this contract became effective under Clause 3.1.”

5.2 In paragraph 1 (Definitions) of Schedule 9 to the **Crossrail TAA**, delete the definition of “Liability Cap” and replace it with the following definition (and replace the empty square brackets in sub-paragraphs (a) and (b)(i) with the sum which is set out in the equivalent sub-paragraphs (a) and (b)(i) in the version of that Train Operator’s Track Access Agreement which was in place immediately prior to 1 April 2019):

““**Liability Cap**” means:

- (a) in relation to the first Contract Year, the sum of £ []; and
- (b) in relation to any subsequent Contract 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 £ [];
- (ii) C_n is the Liability Cap in the nth subsequent Contract Year;

- (iii) CPI_n is the Consumer Prices Index (as defined in Schedule 7) published or determined with respect to the first month of the subsequent Contract Year n ; and
- (iv) CPI_1 is the Consumer Prices Index (as defined in Schedule 7) published or determined with respect to the month in which this contract became effective under Clause 3.1.”

APPENDIX 1 TO ANNEX 2

Annex A (Notification Factors) to Part 3 of Schedule 4 to each Track Access Agreement

Annex A to Part 3 of Schedule 4 – Notification Factors

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
First Transpennine Express Limited					
North Trans Pennine	EA01	All Trains	0.36	0.36	0.93
South Trans Pennine	EA02	All Trains	0.36	0.36	0.93
Preston - Scotland	EA07	All Trains	0.36	0.36	0.93
Abellio East Anglia Limited					
Southend & Southminster	EB02	Off-Peak	0.44	0.44	0.92
Southend & Southminster	EB02	Peak	0.44	0.44	0.92
Great Eastern Outers	EB03	Off-Peak	0.44	0.44	0.92
Great Eastern Outers	EB03	Peak	0.44	0.44	0.92
Anglia Inter City	EB04	Off-Peak	0.44	0.44	0.92
Anglia Inter City	EB04	Peak	0.44	0.44	0.92
Anglia Locals	EB05	All Trains	0.36	0.36	0.93
West Anglia Outers	EB06	Off-Peak	0.44	0.44	0.92
West Anglia Outers	EB06	Peak	0.44	0.44	0.92
West Anglia Inners	EB07	Off-Peak	0.69	0.69	0.90
West Anglia Inners	EB07	Peak	0.69	0.69	0.90
Grand Central Railway Company Limited					
Kings x - Sunderland	EC01	All Trains	0.44	0.44	0.92
Kings x - Bradford	EC02	All Trains	0.44	0.44	0.92
Arriva Rail North Limited					
Tyne, Tees & Wear	ED01	All Trains	0.36	0.36	0.93

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
Lancashire & Cumbria	ED02	All Trains	0.36	0.36	0.93
West & North Yorkshire Inter Urban	ED04	All Trains	0.36	0.36	0.93
West & North Yorkshire Local	ED05	All Trains	0.60	0.60	0.88
South & East Yorkshire Inter Urban	ED06	All Trains	0.36	0.36	0.93
South & East Yorkshire Local	ED07	All Trains	0.36	0.36	0.93
North Manchester	ED08	Off-Peak	0.36	0.36	0.93
North Manchester	ED08	Peak	0.36	0.36	0.93
Merseyrail City Lines	ED09	All Trains	0.36	0.36	0.93
South Manchester	ED10	Off-Peak	0.36	0.36	0.93
South Manchester	ED10	Peak	0.36	0.36	0.93
Lancashire & Cumbria Inter Urban	ED11	All Trains	0.36	0.36	0.93
First Greater Western Limited					
London - Bristol	EF01	All Trains	0.44	0.44	0.92
London - South Wales	EF02	All Trains	0.44	0.44	0.92
London - Cotswolds	EF03	All Trains	0.44	0.44	0.92
London - West Of England	EF04	All Trains	0.44	0.44	0.92
Outer Thames Valley - London	EF05	Off-Peak	0.44	0.44	0.92
Outer Thames Valley - London	EF05	Peak	0.44	0.44	0.92
Inner Thames Valley - London	EF06	Off-Peak	0.69	0.69	0.90
Inner Thames Valley - London	EF06	Peak	0.69	0.69	0.90
Reading & Oxford Suburban	EF07	All Trains	0.69	0.69	0.90
Thames Valley Branches	EF08	All Trains	0.69	0.69	0.90

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
North Downs	EF09	All Trains	0.44	0.44	0.92
Bristol Suburban	EF10	All Trains	0.36	0.36	0.93
Devon	EF11	All Trains	0.36	0.36	0.93
Plymouth & Cornwall	EF12	All Trains	0.36	0.36	0.93
South Wales - South Coast	EF13	All Trains	0.36	0.36	0.93
XC Trains Limited					
CrossCountry Inter City	EH01	All Trains	0.36	0.36	0.93
CrossCountry Local & Provincial	EH02	All Trains	0.36	0.36	0.93
West Midlands Trains Limited					
West Midlands - Snow Hill	EJ01	Off-Peak	0.36	0.36	0.93
West Midlands - Snow Hill	EJ01	Peak	0.36	0.36	0.93
Trent Valley	EJ02	All Trains	0.36	0.36	0.93
West Midlands - New Street (Local)	EJ03	Off-Peak	0.60	0.60	0.88
West Midlands - New Street (Local)	EJ03	Peak	0.60	0.60	0.88
West Midlands Inter Urban	EJ04	All Trains	0.36	0.36	0.93
WCML: London - Northampton	EJ05	Off-Peak	0.44	0.44	0.92
WCML: London - Northampton	EJ05	Peak	0.44	0.44	0.92
WCML: Branches	EJ06	All Trains	0.60	0.60	0.88
Arriva Rail London Limited					
Orbitals	EK01	Off-Peak	0.69	0.69	0.90
Orbitals	EK01	Peak	0.69	0.69	0.90
London - Watford (D.C Lines)	EK02	Off-Peak	0.69	0.69	0.90

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
London - Watford (D.C Lines)	EK02	Peak	0.69	0.69	0.90
East London Lines	EK03	Off-Peak	0.69	0.69	0.90
East London Lines	EK03	Peak	0.69	0.69	0.90
ARL West Anglia	EK04	Off-Peak	0.69	0.69	0.90
ARL West Anglia	EK04	Peak	0.69	0.69	0.90
Romford – Upminster	EK05	All Trains	0.69	0.69	0.90
East Midlands Trains Limited					
East Midlands Local	EM01	All Trains	0.36	0.36	0.93
East Midlands Regional	EM02	All Trains	0.36	0.36	0.93
Liverpool - Norwich	EM03	All Trains	0.36	0.36	0.93
East Midlands Inter City	EM04	All Trains	0.44	0.44	0.92
East Midlands Inter Urban	EM05	All Trains	0.44	0.44	0.92
Sercos Caledonian Sleepers Limited					
Sleepers	ES01	All Trains	0.44	0.44	0.92
Govia Thameslink Railway Limited					
Thameslink North Outer (MML)	ET01	Off Peak	0.44	0.44	0.92
Thameslink North Outer (MML)	ET01	Peak	0.44	0.44	0.92
Thameslink Sussex Outer	ET02	Off Peak	0.44	0.44	0.92
Thameslink Sussex Outer	ET02	Peak	0.44	0.44	0.92
Thameslink South Metro	ET03	Off Peak	0.69	0.69	0.90
Thameslink South Metro	ET03	Peak	0.69	0.69	0.90
Great Northern Metro	ET04	Off Peak	0.69	0.69	0.90

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
Great Northern Metro	ET04	Peak	0.69	0.69	0.90
Great Northern Outer	ET05	Off Peak	0.44	0.44	0.92
Great Northern Outer	ET05	Peak	0.44	0.44	0.92
Southern Coastway	ET07	All Trains	0.44	0.44	0.92
Southern Outer	ET08	Off Peak	0.44	0.44	0.92
Southern Outer	ET08	Peak	0.44	0.44	0.92
Southern Metro	ET09	Off Peak	0.69	0.69	0.90
Southern Metro	ET09	Peak	0.69	0.69	0.90
Southern West London Line	ET10	Off Peak	0.44	0.44	0.92
Southern West London Line	ET10	Peak	0.44	0.44	0.92
Gatwick Express	ET11	Off Peak	0.31	0.31	0.90
Gatwick Express	ET11	Peak	0.31	0.31	0.90
Thameslink North Metro (MML)	ET12	Off Peak	0.69	0.69	0.90
Thameslink North Metro (MML)	ET12	Peak	0.69	0.69	0.90
Thameslink Kent Outer	ET13	Off Peak	0.44	0.44	0.92
Thameslink Kent Outer	ET13	Peak	0.44	0.44	0.92
MTR Corporation (Crossrail) Limited					
Crossrail East	EX01	Off-Peak	0.69	0.69	0.90
Crossrail East	EX01	Peak	0.69	0.69	0.90
Crossrail West	EX02	Off-Peak	0.31	0.31	0.90
Crossrail West	EX02	Peak	0.31	0.31	0.90
Abellio ScotRail Limited					

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
Express	HA01	All Trains	0.36	0.36	0.93
East Coast Suburban	HA02	All Trains	0.36	0.36	0.93
South West Rural	HA03	All Trains	0.36	0.36	0.93
Highland Rural	HA04	All Trains	0.36	0.36	0.93
Ayrshire and Inverclyde	HA05	All Trains	0.36	0.36	0.93
Glasgow Suburban South	HA06	All Trains	0.36	0.36	0.93
Glasgow Suburban North	HA07	All Trains	0.36	0.36	0.93
North Electrics & Argyle Line	HA08	All Trains	0.36	0.36	0.93
London North Eastern Railway Limited					
ANGLO - SCOTTISH	HB01	All Trains	0.44	0.44	0.92
WEST YORKSHIRE	HB02	All Trains	0.44	0.44	0.92
WEST YORKSHIRE (Kings X - Bradford / Hull)	HB04	All Trains	0.44	0.44	0.92
ANGLO - SCOT (Aberdeen / Inverness)	HB05	All Trains	0.44	0.44	0.92
East Coast Trains Limited					
London - Edinburgh		All Trains	0.44	0.44	0.92
Merseyrail Electrics 2002 Limited					
Northern Lines	HE01	All Trains	0.60	0.60	0.88
Wirral Lines	HE02	All Trains	0.60	0.60	0.88
West Coast Trains Limited					
London Euston - Birmingham/Wolverhampton	HF01	All Trains	0.44	0.44	0.92
London Euston - North Wales	HF02	All Trains	0.44	0.44	0.92

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
London Euston - Manchester	HF03	All Trains	0.44	0.44	0.92
London Euston - Liverpool	HF04	All Trains	0.44	0.44	0.92
London Euston - Carlisle/Scotland	HF06	All Trains	0.44	0.44	0.92
London - Scotland via West Midlands	HF08	All Trains	0.44	0.44	0.92
Keolis Amey Operations / Gweithrediadau Keolis Amey Limited					
South, West & Central Wales	HL02	All Trains	0.36	0.36	0.93
Wales to England	HL03	All Trains	0.36	0.36	0.93
Cambrian	HL04	All Trains	0.36	0.36	0.93
Cardiff Valleys	HL05	Off-Peak	0.60	0.60	0.88
Cardiff Valleys	HL05	Peak	0.60	0.60	0.88
Marches	HL06	All Trains	0.36	0.36	0.93
North Wales Rural	HL07	All Trains	0.36	0.36	0.93
Inter Urban North Wales	HL08	All Trains	0.36	0.36	0.93
The Chiltern Railway Company Limited					
Met	HO01	Off-Peak	0.69	0.69	0.90
Met	HO01	Peak	0.69	0.69	0.90
Birmingham	HO02	Off-Peak	0.44	0.44	0.92
Birmingham	HO02	Peak	0.44	0.44	0.92
Joint	HO03	Off-Peak	0.69	0.69	0.90
Joint	HO03	Peak	0.69	0.69	0.90
Oxford	HO04	Off-Peak	0.44	0.44	0.92
Oxford	HO04	Peak	0.44	0.44	0.92

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
Trenitalia c2c Limited					
London-Southend/Shoeburyness (HT02op)	HT01	Off-Peak	0.44	0.44	0.92
London-Southend/Shoeburyness (HT01p)	HT01	Peak	0.44	0.44	0.92
London & South Eastern Railway Limited					
Kent Mainline (Off Peak)	HU01	All Trains	0.44	0.44	0.92
Kent Metro (Off Peak)	HU02	All Trains	0.44	0.44	0.92
Kent Rural	HU03	All Trains	0.69	0.69	0.90
Kent Mainline (Peak)	HU04	All Trains	0.44	0.44	0.92
Kent Metro (Peak)	HU05	All Trains	0.44	0.44	0.92
Kent High Speed (Peak)	HU06	All Trains	0.44	0.44	0.92
Kent High Speed (Off Peak)	HU07	All Trains	0.44	0.44	0.92
First MTR South Western Trains Limited					
Main Suburban	HY01	Off-Peak	0.69	0.69	0.90
Main Suburban	HY01	Peak	0.69	0.69	0.90
South Hampshire Locals	HY02	All Trains	0.44	0.44	0.92
Waterloo - West England	HY03	Off-Peak	0.44	0.44	0.92
Waterloo - West England	HY03	Peak	0.44	0.44	0.92
Waterloo - Farnham / Alton	HY04	Off-Peak	0.44	0.44	0.92
Waterloo - Farnham / Alton	HY04	Peak	0.44	0.44	0.92
Windsor Inners	HY05	Off-Peak	0.69	0.69	0.90
Windsor Inners	HY05	Peak	0.69	0.69	0.90
Windsor Outers	HY06	Off-Peak	0.69	0.69	0.90

	A	B	C	D	E
Service Group Description	Service Group Code	Type	By D-26	By TW-22	After TW-22
Windsor Outers	HY06	Peak	0.69	0.69	0.90
Waterloo - Portsmouth	HY07	Off-Peak	0.44	0.44	0.92
Waterloo - Portsmouth	HY07	Peak	0.44	0.44	0.92
Waterloo - Weymouth	HY08	Off-Peak	0.44	0.44	0.92
Waterloo - Weymouth	HY08	Peak	0.44	0.44	0.92
Hull Trains Company Limited					
Kings Cross - Hull	PF01	All Trains	0.44	0.44	0.92

APPENDIX 2 TO ANNEX 2

Model Schedule 7

(for the following Track Access Agreements:

- (i) the Abellio East Anglia TAA;
- (ii) the Arriva Rail London TAA;
- (iii) the Arriva Rail North TAA;
- (iv) the XC Trains TAA;
- (v) the Crossrail TAA;
- (vi) the East Midlands TAA;
- (vii) the Greater Western TAA;
- (viii) the Keolis Amey TAA;
- (ix) the LNER TAA;
- (x) the LSER TAA;
- (xi) the Merseyrail TAA;
- (xii) the South Western TAA;
- (xiii) the Thameslink TAA;
- (xiv) the Transpennine TAA;
- (xv) the Trenitalia TAA;
- (xvi) the West Coast Trains TAA; and
- (xvii) the West Midlands TAA)

Schedule 7

(Track Charges and Other Payments)

Part 1

(Interpretation)

1. Definitions

In Part 1 – Part 7 inclusive, unless the context otherwise requires:

"**access charges review**" has the meaning ascribed to it by Schedule 4A to the Act;

"**AC System**" means the alternating current system of electricity traction supply on the Network;

"**Aggregate Fixed Charges**" means, in any Relevant Year t , the sum of the values of F_t under paragraph 1 of Part 2 and the corresponding provisions of each other relevant access agreement;

"**Baseline timetabled traffic miles_t**" has the meaning ascribed to it in paragraph 2A of Part 2;

"**Basic Amount**" has the meaning ascribed to it in paragraph 1.1(a) of Part 3A;

"**Bimodal Electric Multiple Unit**" means an electric multiple unit that is capable of drawing current from the AC System and/or DC System and, in addition, being powered by an alternative source of energy, including but not limited to diesel;

"**Bimodal Locomotive**" means a train hauled by a locomotive that is capable of drawing current from the AC System and/or DC System and, in addition, being powered by an alternative source of energy, including but not limited to diesel;

"**Capacity Charge**" means a variable charge, calculated in accordance with paragraph 6 of Part 2;

"**CPI**" means the Consumer Prices Index (all items) whose value is published each month by the Office for National Statistics in its statistical bulletin on consumer price inflation, or:

- (a) if the Consumer Prices Index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or
- (b) if there is a material change in the basis of the Consumer Prices Index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;

"**DC System**" means the direct current system of electricity traction supply on the Network;

"**Default Train Consist Data**" means the data listed in Appendix 7C as amended from time to time in accordance with paragraph 10.4 of Part 2;

"**Electrification Asset Usage Charge**" means a charge for electrification asset usage, calculated in accordance with paragraph 8 of Part 2;

"**English & Welsh Grant Compensation Amount**" has the meaning ascribed to it in paragraph 3.2 of Part 3A;

"English & Welsh Grant Dilution" has the meaning ascribed to it in paragraph 2.1 of Part 3A;

"English & Welsh Grant Dilution Date" has the meaning ascribed to it in paragraph 2.2 of Part 3A;

"excluded change" means, in relation to paragraph 2(a) of Part 7, a change to the arrangements established between Network Rail and any other person in respect of the payment of any amount under sections 6 or 8 of the Railways Act 2005;

"Fixed Track Charge" means a fixed annual charge, calculated in accordance with paragraph 1 of Part 2;

"Fixed Track Charge Indexation" has the meaning ascribed to it in paragraph 2 of Part 2;

"Fixed Track Charge Wash-Up" means the amount calculated in accordance with paragraph 2A of Part 2;

"Geographic Area g" means, for the purposes of performing the calculations set out in paragraph 4 of Part 2 and paragraph 18 of the Traction Electricity Rules, the relevant geographic section of the Network, as set out in Appendix 5 of the Traction Electricity Rules;

"Grant Agreement" means the Grant Agreement made on or before 31 March 2019 between the Secretary of State and Network Rail for the payment of network grant;

"Grant Amount" has the meaning ascribed to it in paragraph 1.1(b) of Part 3A;

"Grant Mechanism" means the provisions agreed on or before 31 January 2019 between Network Rail and the Secretary of State (and approved by ORR for the purposes of Part 3A on or before 28 February 2019) setting out how the annual amounts of network grant contained in Table E2B may vary or if no such provisions are agreed and approved, such provisions as ORR may determine on or before 31 March 2019 after consulting Network Rail and the Secretary of State;

"Gross Tonne Mile" in relation to a train, means a mile travelled on the Network, multiplied by each tonne of the aggregate weight of the train in question;

"Initial Indexation Factor" is derived from the following formula:

$$IIF = \left(1 + \frac{CPI_{2018} - CPI_{2017}}{CPI_{2017}}\right)^2$$

where:

IIF means the Initial Indexation Factor;

CPI_{2017} means the CPI published or determined with respect to the month of November 2017; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018.

The value derived from this formula shall be rounded to three decimal places;

"kgtm" means 1000 Gross Tonne Miles;

"kWh" means kilowatt hours;

"Metered Train m" means, as the context requires, either:

- (a) a train of a particular type; or

- (b) a specific train having a train ID,

as specified in Appendix 7D of this Schedule 7;

"Network Rail Distribution System Loss Factor" means the relevant factor that represents the electrical losses between the On-Train Meter and Network Rail's meter through which it purchases traction electricity for the AC System or the DC System in Geographic Area g, as set out in Appendix 3 of the Traction Electricity Rules;

"Network Rail Rebate" has the meaning ascribed to it in paragraph 7.1 of Part 2;

"New Modelled Train" means a type of train for which E_{tmo} is to be calculated for the purposes of paragraph 4.1.1 of Part 2 but in relation to which no train category i , and no modelled consumption rate, is shown in either the Passenger Traction Electricity Modelled Consumption Rates for CP6 or Generic Traction Electricity Modelled Consumption Rates for CP6 tables in the Traction Electricity Modelled Consumption Rates List, or the PFM Rates List;

"New Specified Equipment" means a type of railway vehicle not included in the section of the Track Usage Price List entitled "Passenger Variable Usage Charge rates";

"On-Train Meter" and "On Train Metering" have the meanings ascribed to them in paragraph 1.2 of the Traction Electricity Rules;

"Payment Date" has the meaning ascribed to it in paragraph 1.1(c) of Part 3A;

"Period" has the meaning ascribed to it in Schedule 8;

"PFM Rate" has the meaning ascribed to it in paragraph 1 of the Traction Electricity Rules;

"PFM Rates List" has the meaning ascribed to it in paragraph 1 of the Traction Electricity Rules;

"Proposed Review Notice" means the most recently proposed Review Notice given by ORR, in accordance with Schedule 4A of the Act;

"Rebatable Amount" has the meaning ascribed to it in paragraph 7.2 of Part 2;

"relevant access agreement" means an access agreement under which any of the following persons obtains permission from Network Rail to use the Network:

- (a) a franchise operator; or
- (b) a concession operator within the meaning of the Merseyrail Electrics Network Order 2003; or
- (c) a TfL concessionaire within the meaning of the Railways (North and West London Lines) Exemption Order 2007; or
- (d) any other person who benefits from a franchise exemption (within the meaning of section 24(13) of the Act) in relation to services for the carriage of passengers by railway; or
- (e) a relevant franchising authority (as defined in section 30(3B) of the Act) or a person providing services for the carriage of passengers by railway on behalf of a relevant franchising authority under section 30 of the Act;

"Relevant Year" means a year commencing at 00:00 hours on 1 April and ending at 23:59 hours on the following 31 March; "Relevant Year t " means the Relevant Year for the purposes of which any calculation falls to be made; "Relevant Year $t-1$ " means the Relevant Year preceding Relevant Year t ; and similar expressions shall be construed accordingly;

"Review Implementation Notice" has the meaning given to "review implementation notice" in paragraph 7 of Schedule 4A of the Act;

"Review Notice" has the meaning given to "review notice" in paragraph 4 of Schedule 4A of the Act;

"Route-Level Efficiency Benefit Share" has the meaning ascribed to it in paragraph 1 of Part 3;

"route type k" means route type k as identified by type of electrification (AC (OLE) or DC) in the Track Usage Price List;

"RPI" means the General Index of Retail Prices All Items measured by CHAW and published each month, or:

- (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or
- (b) if there is a material change in the basis of the index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;

"Schedule of Baseline Timetabled Traffic" means the document entitled "Schedule of Baseline Timetabled Traffic" approved by ORR on or before 31 July 2019 (or, if not approved by that date, otherwise determined by ORR thereafter);

"Schedule of Fixed Charges" means the document entitled "Schedule of Fixed Charges" published by Network Rail on or about 20 December 2018;

"Table E2B" means Table E2B in ORR's document entitled "PR18 final determination Supplementary document – financial framework October 2018";

"tariff band j" means the tariff zone and time band in which the train in question is operated;

"Timetabled train miles_i" has the meaning ascribed to it in paragraph 2A of Part 2;

"Track Usage Price List" means the document entitled "Track Usage Price List" published by Network Rail on or about 20 December 2018 which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract or a passenger track access contract previously held by the Train Operator;

"Traction Electricity Charge" means a variable charge for traction current calculated in accordance with paragraph 4 of Part 2;

"Traction Electricity Modelled Consumption Rates List" means the document entitled "Traction Electricity Modelled Consumption Rates List" published by Network Rail on or about 20 December 2018 and specifying freight and passenger traction electricity modelled consumption rates which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract or a passenger track access contract previously held by the Train Operator;

"Traction Electricity Modelled Default Rate" means, in respect of any New Modelled Train used on the Network by the Train Operator, the corresponding default consumption rate for that type of vehicle set out in the section of the Traction Electricity Modelled Consumption Rates List entitled "Traction Electricity Modelled Default Rates for CP6";

"Traction Electricity Modelled Default Rate Period" means the period from the date on which the New Modelled Train is first used on the Network by the Train Operator until the date on which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train or the train in question has been added to Appendix 7D of this Schedule 7;

"Traction Electricity Modelled Default Rate Reconciliation Period" means the period from the later of:

- (a) the date on which the New Modelled Train is first used on the Network by the Train Operator; or
- (b) 1 April of the Relevant Year in which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train,

until the date on which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train;

"Traction Electricity Usage Occurrence Data" means information as to when a Bimodal Electric Multiple Unit or Bimodal Locomotive is either drawing current from the AC System and/or the DC System, or is powered by an alternative source of energy;

"Traction-Train Compatible" means a situation in which a Bimodal Electric Multiple Unit or Bimodal Locomotive is located on the Network with a system of electricity traction supply that the Bimodal Electric Multiple Unit or Bimodal Locomotive is capable of drawing current from;

"train category i" means train category i as identified in the relevant section of the Traction Electricity Modelled Consumption Rates List or PFM Rates List, being either:

- (a) where there is no PFM Rate for a particular passenger vehicle type operating on a particular Train Service Code:
 - (i) where there is a modelled consumption rate for a particular passenger vehicle type operating on a particular Train Service Code, the relevant category set out in the table entitled "Passenger Traction Electricity Modelled Consumption Rates for CP6"; or
 - (ii) where there is a generic consumption rate for a passenger vehicle type not referred to in paragraph (a)(i), the relevant category set out in the table entitled "Generic Traction Electricity Modelled Consumption Rates for CP6"; or
- (b) where there is a PFM Rate for a particular passenger vehicle type operating on a particular Train Service Code, the relevant category set out in the PFM Rates List;

"Train Consist Data" means the information relating to the number(s) and type(s) of railway vehicle comprised in a train movement;

"Train Mile" in relation to a train, means a mile travelled by that train on the Network;

"Train Service Code" has the meaning ascribed to it in paragraph 1.1 of Schedule 5;

"Variable Charges" means the Capacity Charge, the VUC Default Charge, the Electrification Asset Usage Charge, the Variable Usage Charge and the Traction Electricity Charge;

"Variable Usage Charge" means a variable charge, calculated in accordance with paragraph 3.1 of Part 2;

"Vehicle Mile" in relation to a railway vehicle, means a mile travelled by that vehicle on the Network;

"Volume Reconciliation" has the meaning ascribed to it in the Traction Electricity Rules;

"VUC Default Charge" means a variable charge calculated in accordance with paragraph 3.3 of Part 2;

"VUC Default Period" means the period from the later of:

- (a) the date on which the New Specified Equipment is first used on the Network by the Train Operator; or
- (b) 1 April 2019,

until the date on which ORR consents to or determines a supplement to the Track Usage Price List under paragraph 9.10 of Part 2 in respect of that New Specified Equipment;

"VUC Default Rate" means, in respect of any New Specified Equipment used on the Network by the Train Operator, the corresponding passenger default rate for that type of vehicle set out in the section of the Track Usage Price List entitled "Passenger Variable Usage Charge default rates"; and

"Weekday" has the meaning ascribed to it in paragraph 1.1 of Schedule 5.

2. Interpretation

The provisions of clause 1.2(e) of this contract shall not apply to any references to the Grant Agreement in this Schedule 7.

Part 2

(Track Charges)

1. Principal formula

During each Relevant Year (and, in respect of F_t , prorated for each day of any period of this contract comprising less than a full Relevant Year), Network Rail shall levy and the Train Operator shall pay Track Charges in accordance with the following formula:

$$T_t = F_t + FW_t + V_t + D_t + E_t + K_t + EAV_t - W_t$$

where:

T_t means Track Charges in Relevant Year t ;

F_t means an amount in respect of the Fixed Track Charge in Relevant Year t , expressed in pounds sterling and rounded to two decimal places, which shall be:

- (a) in respect of the Relevant Year commencing on 1 April 2019, the total of the amounts set out in the row relating to the Train Operator and the column relating to that year in the Schedule of Fixed Charges, multiplied by the Fixed Track Charge Indexation calculated in accordance with paragraph 2.1; and
- (b) in respect of any Relevant Year t commencing on or after 1 April 2020, the total of the amounts set out in the row relating to the Train Operator and the column

relating to that year in the Schedule of Fixed Charges, multiplied by the Fixed Track Charge Indexation for that year calculated in accordance with paragraph 2.2;

FW_t means an amount in respect of the Fixed Track Charge Wash-up in Relevant Year t which is derived in accordance with paragraph 2A;

V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the formula in paragraph 3.1;

D_t means an amount (if any) in respect of the VUC Default Charge in Relevant Year t which is calculated in accordance with paragraph 3.3;

E_t means an amount in respect of the Traction Electricity Charge in Relevant Year t which is derived from the formula in paragraph 4;

K_t means an amount in respect of the Capacity Charge in Relevant Year t which is calculated in accordance with paragraph 6;

EAV_t means an amount in respect of the Electrification Asset Usage Charge, calculated in accordance with the formula in paragraph 8;

W_t means an amount (which shall not be a negative value) in respect of the Network Rail Rebate in Relevant Year t , calculated in accordance with the provisions of paragraph 7.1.

2. Fixed Track Charge Indexation

2.1 The Fixed Track Charge Indexation in respect of the Relevant Year commencing on 1 April 2019 shall be derived from the following formula:

$$FTCI_{2019} = \text{Initial Indexation Factor}$$

where:

$FTCI_{2019}$ means the Fixed Track Charge Indexation in respect of the Relevant Year commencing on 1 April 2019.

2.2 The Fixed Track Charge Indexation in respect of any Relevant Year t commencing on or after 1 April 2020 shall be derived from the following formula:

$$FTCI_t = \left(1 + \frac{CPI_{t-1} - CPI_{2018}}{CPI_{2018}}\right) \bullet \text{Initial Indexation Factor}$$

where:

$FTCI_t$ means the Fixed Track Charge Indexation in Relevant Year t ;

CPI_{t-1} means the CPI published or determined with respect to the month of November in Relevant Year $t-1$; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018.

2A Fixed Track Charge Wash-Up

For the purposes of paragraph 1, the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t , expressed in pounds sterling and rounded to two decimal places, which is derived from the following formula:

$$FW_t = P_t \times F_t$$

where:

F_t means an amount in respect of the Fixed Track Charge in Relevant Year t ; and

P_t means the percentage difference between timetabled traffic and baseline traffic in Relevant Year t , derived from the formula:

$$P_t = \left(\frac{\text{Timetabled train miles}_t - \text{Baseline timetabled traffic miles}_t}{\text{Baseline timetabled traffic miles}_t} \right) \bullet 100$$

where:

Timetabled train miles _{t} means that figure to be taken by Network Rail from the most appropriate system, which system shall be agreed in writing between Network Rail and ORR on or before 31 July 2019; and

Baseline timetabled traffic miles _{t} means that figure set out in relation to the Train Operator for the Relevant Year t in the Schedule of Baseline Timetabled Traffic,

subject to the following:

if the term P_t has a value less than -1% (for example, -1.5% or -5%), the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived from the following formula:

$$FW_t = -1\% \times F_t$$

and

if the term P_t has a value equal to or greater than -1% (for example, -0.9% or 2%), the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived from the following formula:

$$FW_t = P_t \times F_t$$

3. Variable Usage Charge

3.1 Variable Usage Charge

For the purposes of paragraph 1, the term V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the following formula:

$$V_t = \sum V_{it} \bullet UV_{it}$$

where:

V_{it} means an amount for vehicle type i for Relevant Year t , expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$V_{it} = V_{it-1} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} means the CPI published or determined with respect to the month of November in Relevant Year $t-2$,

but so that in relation to the Relevant Year commencing on 1 April 2019, V_{it} shall have, in respect of vehicle type i , the corresponding variable usage charge rate per Vehicle Mile for that vehicle type i set out in the Track Usage Price List, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year V_{it-1} shall have the same value;

UV_{it} means the actual volume of usage (in Vehicle Miles) in Relevant Year t of vehicle type i (referred to in the Track Usage Price List) operated by or on behalf of the Train Operator; and

\sum means the summation across all relevant categories of vehicle types i .

3.2 **Not used**

3.3 **VUC Default Charge**

For the purposes of paragraph 1, the term D_t means the amount of VUC Default Charge payable in respect of New Specified Equipment in Relevant Year t which is derived from the following formula:

$$D_t = \sum D_{nt} \bullet UD_{nt}$$

where:

D_{nt} means the VUC Default Rate for that New Specified Equipment for Relevant Year t , expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$D_{nt} = D_{nt-1} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} has the meaning set out in paragraph 3.1 above,

but so that in relation to the Relevant Year commencing on 1 April 2019, D_{nt} shall have, in respect of New Specified Equipment, the corresponding VUC Default Rate for that New Specified Equipment, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year D_{nt-1} shall have the same value;

UD_{nt} means the actual volume of usage of New Specified Equipment in Vehicle Miles during the VUC Default Period in Relevant Year t operated by or on behalf of the Train Operator; and

\sum means the summation across all relevant New Specified Equipment.

4. **Traction Electricity Charge**

4.1 For the purposes of paragraph 1, the term E_t means an amount in respect of the Traction Electricity Charge in Relevant Year t , which is derived from the following formula:

$$E_t = E_{tmo} + E_{tme} + E_{tmuAC} + E_{tmuDC}$$

where:

E_{tmo} means an amount calculated in accordance with paragraph 4.1.2 below;

E_{tme} means an amount calculated in accordance with paragraph 4.1.3 below;

E_{tmuAC} means an amount calculated in accordance with paragraph 4.1.4(a) below; and

E_{tmuDC} means an amount calculated in accordance with paragraph 4.1.4(b) below.

Circumstances in which calculation to be based on modelled data and circumstances in which calculation to be based on metered data

- 4.1.1 E_{tmo} shall be calculated in respect of all trains other than those identified in the table at Appendix 7D, and E_{tme} , E_{tmuAC} and E_{tmuDC} shall be calculated in respect of the trains identified in the table at Appendix 7D.

Calculation of modelled consumption (including using PFM Rates)

- 4.1.2 E_{tmo} is derived from the following formula:

$$E_{tmo} = \sum E_{tmog}$$

where:

\sum means the summation across all Geographic Areas g, as appropriate;

E_{tmog} is derived from the following formula:

$$E_{tmog} = \sum C_i \bullet EF_{gjt} \bullet UE_{igt}$$

where:

\sum means the summation across all relevant train categories i (determined in accordance with paragraph 4.1.1 above), New Modelled Trains and tariff bands j, as appropriate;

C_i means, as appropriate:

- (a) the consumption rate:

- (i) in kWh per electrified Train Mile in relation to passenger electric multiple units (using the rate for the relevant number of units); or
- (ii) in kWh per electrified kgm in relation to locomotive-hauled units and all freight traffic,

for train category i shown in the Traction Electricity Modelled Consumption Rates List, taking into account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules or, if a PFM Rate applies in accordance with the Traction Electricity Rules, the PFM Rates List; or

- (b) for New Modelled Trains, the Traction Electricity Modelled Default Rate shown in the Traction Electricity Modelled Consumption Rates List, taking into account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

UE_{igt} means the actual volume of usage (in electrified Vehicle Miles in relation to passenger electric multiple units or electrified kgm in relation to locomotive-hauled units and all freight traffic), if any, of trains operated by or on behalf of the Train Operator in train category i and New Modelled Trains operated by or on behalf of the Train Operator,

in Geographic Area g, in tariff band j and in Relevant Year t, pursuant to this contract, provided that where train category i or a New Modelled Train is a Bimodal Electric Multiple Unit or Bimodal Locomotive operating in a Traction-Train Compatible situation, it shall be deemed that all mileage (in Vehicle Miles in relation to passenger electric multiple units or kgm in relation to locomotive-hauled units and all freight traffic), if any, of such trains is electrified.

Calculation of consumption using metered consumption data

4.1.3 E_{tme} is derived from the following formula:

$$E_{tme} = \sum E_{tmeg}$$

where:

\sum means the summation across all Geographic Areas g, as appropriate;

E_{tmeg} is derived from the following formula:

$$E_{tmeg} = \sum \left((CME_{mgjt} \bullet EF_{gjt}) - (RGB_{mgjt} \bullet EF_{gjt}) \right)$$

where:

\sum means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgjt} means the consumption of electricity (in kWh) by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

RGB_{mgjt} means the electricity (in kWh) generated by braking by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t.

4.1.4

(a) E_{tmuAC} is derived from the following formula:

$$E_{tmuAC} = \sum E_{tmugAC}$$

where:

\sum means the summation across all Geographic Areas g, as appropriate;

E_{tmugAC} is derived from the following formula:

$$E_{tmugAC} = \sum (CME_{mgjtAC} \bullet EF_{gjt}) \bullet \lambda_{ACg}$$

where:

\sum means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mjtAC} means the consumption of electricity (in kWh) from the AC System by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g , tariff band j and in Relevant Year t ;

EF_{jit} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g , in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

λ_{ACg} means the Network Rail Distribution System Loss Factor for the AC System in Geographic Area g .

- (b) E_{tmuDC} is derived from the following formula:

$$E_{tmuDC} = \sum E_{tmugDC}$$

where:

\sum means the summation across all Geographic Areas g , as appropriate;

E_{tmugDC} is derived from the following formula:

$$E_{tmugDC} = \sum (CME_{mjtDC} \bullet EF_{jit}) \bullet \lambda_{DCg}$$

where:

\sum means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j , as appropriate;

CME_{mjtDC} means the consumption of electricity (in kWh) from the DC System by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g , tariff band j and in Relevant Year t ;

EF_{jit} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g , in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

λ_{DCg} means the Network Rail Distribution System Loss Factor for the DC System in Geographic Area g .

Metered Bimodal Electric Multiple Units and Bimodal Locomotives – deemed electrified mileage

4.1.5

- (a) Where Metered Train m is a Bimodal Electric Multiple Unit or Bimodal Locomotive, the Train Operator shall, as a minimum, within seven days of the end of each of the third, sixth, tenth and thirteenth Periods, provide to Network Rail the Traction Electricity Usage Occurrence Data for Metered Train m . The Traction Electricity Usage Occurrence Data provided: within seven days of the end of the third Period shall cover Periods one, two and three; within seven days of the end of the sixth Period shall cover Periods four, five and six; within seven days of the end of the tenth Period shall cover Periods seven, eight, nine and ten; and within seven days of the end of the thirteenth Period shall cover Periods eleven, twelve and thirteen.

- (b) Where, after seven days, any Traction Electricity Usage Occurrence Data is missing in respect of any such Bimodal Electric Multiple Unit or Bimodal Locomotive, all mileage, if any, of such Bimodal Electric Multiple Unit or Bimodal Locomotive operated by or on behalf of the Train Operator shall be deemed, for billing purposes, to be electrified in Traction-Train Compatible situations and paragraphs 4.1.3 and 4.1.4 shall apply in respect of all such mileage.

Election to introduce On-Train Metering for a vehicle or vehicle type

4.2

- (a) If the Train Operator wishes to propose the introduction of On-Train Metering to measure traction electricity consumption for a vehicle or vehicles of a vehicle type that the Train Operator operates for the purposes of being invoiced by Network Rail for traction electricity, it shall notify Network Rail of any required changes to the contract in connection with that proposal.
- (b) Any notice under sub-paragraph 4.2(a) shall be accompanied by information and evidence in reasonable detail supporting the changes proposed and setting out the reasons for those changes, and Network Rail shall respond in writing within 56 days of service of any such notice.
- (c) Promptly following any response served by Network Rail under sub-paragraph 4.2(b), the parties shall endeavour to agree whether the contract should be amended in connection with that proposal and, if so, the amendments.
- (d) If the parties agree an amendment to the contract in connection with the proposal referred to in sub-paragraph 4.2(a), that amendment shall take effect only when it has been approved by ORR under section 22 of the Act. Accordingly, as soon as reasonably practicable after any such amendment is agreed, the parties shall ensure that ORR is furnished with such amendment and such information and evidence as it shall require to determine whether or not to approve the amendment.
- (e) Any agreed amendment to the contract in connection with the proposal referred to in sub-paragraph 4.2(a) which is approved by ORR under section 22 of the Act shall apply with effect from the date agreed by the parties.
- (f) If the parties fail to reach agreement within 90 days after service of a notice under sub-paragraph 4.2(a), or if prior to that date both parties agree that agreement is unlikely to be reached prior to that date, either party may notify ORR and request that ORR determines the matter. The parties shall, within such timescales as ORR may specify, furnish ORR with such information and evidence as ORR shall require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- (g) Where ORR determines the matter pursuant to sub-paragraph 4.2(f), it may issue a notice to the parties setting out the amendments to be made to the contract and the date, which may be retrospective, from which they shall take effect.

5. Not used.

6. **Capacity Charge**

In respect of the Relevant Year ending 31 March 2019, the term K_t means an amount in respect of the Capacity Charge which shall be derived from the formula that was contained in paragraph 6 of Part 2 of Schedule 7 of the version of this contract that was in force up until 31 March 2019. For subsequent Relevant Years, K_t shall have a value of zero.

7. Network Rail Rebate

7.1 For the purpose of paragraph 1, the Network Rail Rebate in respect of any Relevant Year t (W_t) is an amount (which shall not be a negative value) by way of a return of Track Charges paid in accordance with paragraph 7.5, derived from the following formula:

$$W_t = RA_t \bullet \frac{F_t}{AF_t}$$

where:

RA_t means the Rebatable Amount declared by Network Rail in relation to Relevant Year t under paragraph 7.2;

F_t has the meaning ascribed to it in paragraph 1 for Relevant Year t ; and

AF_t means the Aggregate Fixed Charge in Relevant Year t .

7.2 The Rebatable Amount shall be the amount, if any:

- (a) which represents such proportion of Network Rail's total income for Relevant Year t as it reasonably considers that it does not require in order to discharge its obligations under its network licence and any contracts to which it is a party;
- (b) which Network Rail, acting reasonably, considers it appropriate to rebate as an amount representing a return of Track Charges payable by persons who provide services for the carriage of passengers by railway under the relevant access agreements to which they are parties; and
- (c) which Network Rail notifies as such to ORR within nine months after the end of each Relevant Year t .

7.3 No amount of Track Charges shall be rebated under this paragraph 7 unless ORR has consented to such rebate.

7.4 Without prejudice to the generality of clause 16.3.1, any payment of a Network Rail Rebate (a "**rebate payment**") shall be made on the basis that it is to be treated as exclusive of VAT, so that where and to the extent that the rebate payment is consideration for a supply for VAT purposes Network Rail shall in addition pay to the Train Operator an amount equal to the amount of VAT due in respect of that rebate payment and either:

- (a) the Train Operator shall issue a VAT invoice to Network Rail in respect of the relevant amount; or
- (b) if the parties so agree and have entered into an applicable self-billing agreement (within the meaning of regulation 13(3A) of the Value Added Tax Regulations 1995 (the "**VAT Regulations**")) that continues in force then Network Rail shall produce for itself a self-billed invoice (within the meaning of regulation 13(3) of the VAT Regulations) in respect of the relevant amount.

7.5 If, pursuant to paragraph 7.1, the Train Operator is entitled to payment of a Network Rail Rebate in respect of Relevant Year t , then such payment shall be made by Network Rail to the Train Operator as a lump sum payment within 28 days after the end of the Period in which ORR gives its consent under paragraph 7.3.

7.6 If, pursuant to paragraph 7.2, Network Rail notifies ORR of the Rebatale amount in respect of Relevant Year t after this contract has expired or has otherwise been terminated then, notwithstanding the expiration or termination of this contract, paragraph 7.5 shall apply.

7.7 If Network Rail has, prior to 31 March 2019 and pursuant to the provisions of this contract in force as at that date, notified ORR of a Rebatale Amount for the Relevant Year ending on that date, then such provisions shall continue to apply to the extent (and only to the extent) necessary to enable determination and payment (where applicable) of a Network Rail Rebate based on that Rebatale Amount.

8. **Electrification Asset Usage Charge**

For the purposes of paragraph 1, the term EAV_t means an amount for electrification asset usage which is derived from the following formula:

$$\text{Electrification Asset Usage Charge} = \sum EV_{tk} \bullet UV_{tk}$$

where:

\sum means the summation across all route types;

EV_{tk} means an amount in respect of the Electrification Asset Usage Charge per electrified Vehicle Mile on route type k for Relevant Year t, expressed in pence per electrified Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$EV_{tk} = EV_{t-1k} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} has the meaning set out in paragraph 3.1 above,

but so that in relation to the Relevant Year commencing on 1 April 2019, EV_{tk} shall have, in respect of each electrified Vehicle Mile on route type k, the value per electrified Vehicle Mile for the Electrification Asset Usage Charge set out in the Track Usage Price List, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year EV_{t-1k} shall have the same value; and

UV_{tk} means the actual number of electrified Vehicle Miles on route type k in Relevant Year t operated by or on behalf of the Train Operator. Where the Train Operator operates a Bimodal Electric Multiple Unit or Bimodal Locomotive, the actual number of electrified Vehicle Miles on route type k in Relevant Year t shall be calculated as follows:

- (i) where the Bimodal Electric Multiple Unit or Bimodal Locomotive is operating in a Traction-Train Compatible situation and is not a Metered Train m, it shall be deemed that all mileage, if any, of such train is electrified; or
- (ii) where the Bimodal Electric Multiple Unit or Bimodal Locomotive is a Metered Train m, in accordance with paragraph 4.1.5 above.

9. **Bilateral supplements to the Traction Electricity Modelled Consumption Rates List and Track Usage Price List**

9.1 Where the Train Operator intends to use New Specified Equipment on the Network, it shall where reasonably practicable inform Network Rail in writing of the date or likely date from which it intends to do so.

- 9.2 Where the Train Operator uses New Specified Equipment on the Network, the Train Operator shall pay Network Rail the relevant VUC Default Charge during the VUC Default Period.
- 9.2A Where the Train Operator uses a New Modelled Train on the Network, Network Rail shall apply the Traction Electricity Modelled Default Rate in order to calculate the Traction Electricity Charge for the purposes of paragraph 4.1.2 above, during the Traction Electricity Modelled Default Rate Period.
- 9.3 No supplement to the Traction Electricity Modelled Consumption Rates List or Track Usage Price List shall have effect unless it has been:
- (a) agreed between the parties and ORR has consented to it; or
 - (b) determined by ORR.
- 9.4 Either the Train Operator or Network Rail shall be entitled to propose that:
- (a) the Traction Electricity Modelled Consumption Rates List be supplemented as necessary to include a rate in respect of a new train category; or
 - (b) the Track Usage Price List be supplemented as necessary to include a new vehicle type and corresponding rate.
- 9.5 Any proposal of a kind referred to in paragraph 9.4 shall be made by notice to the other party and shall be accompanied by a specification of the proposal in reasonable detail and the reasons for it. The parties shall thereafter seek to agree in good faith the necessary supplement to the list in question.
- 9.6 Either party may request from the other such information that it reasonably requires in connection with the proposal and the party from whom the information was requested shall use reasonable endeavours to provide this information promptly.
- 9.7 Where the parties agree to a supplement following a proposal under paragraph 9.4, they shall request ORR's consent to it and provide such information as ORR reasonably requires in order to decide whether to give its consent.
- 9.8 If the parties fail to reach agreement within 45 days of the date of the notice given under paragraph 9.5, at any point thereafter either party shall be entitled to refer the matter to ORR for determination.
- 9.9 Following a reference to ORR under paragraph 9.8, the parties shall, within such timescales as ORR may reasonably specify, furnish ORR with such information and evidence as ORR shall reasonably require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- 9.10 ORR may:
- (a) consent to any supplement that is agreed by the parties and submitted to it under paragraph 9.7, or following consultation with the parties, determine that a different supplement should apply; or
 - (b) following a referral to ORR under paragraph 9.8, determine the supplement that should apply.
- 9.11 In the case of a supplement to the Traction Electricity Modelled Consumption Rates List, the supplement shall have effect from such date as ORR shall determine by notice to the parties, provided that such date shall not be a date falling prior to the start of the Relevant Year in which ORR consented to or determined the supplement.

9.12 In the case of a supplement to the Track Usage Price List, the supplement shall have retrospective effect from the first day of the VUC Default Period.

9.13 Following ORR's consent or determination under paragraph 9.10 Network Rail shall:

(a) apply the supplement from the date in accordance with paragraph 9.11 or 9.12 above as applicable; and

(b) within 28 days of the date of ORR's consent or determination:

(i) issue any adjusting invoice or credit note to the Train Operator -

(A) in the case of a supplement to the Track Usage Price List, this will reflect the difference between the amount paid by the Train Operator for the VUC Default Charge during the VUC Default Period and the amount that it would have paid during the VUC Default Period in respect of the Variable Usage Charge had the supplement been in place at the time the Train Operator first used the relevant railway vehicle on the Network;

(B) in the case of a supplement to the Traction Electricity Modelled Consumption Rates List, this will reflect the difference between: (i) the amount paid by the Train Operator in respect of any New Modelled Train to which the Traction Electricity Modelled Default Rate has been applied during the Traction Electricity Modelled Default Rate Reconciliation Period; and (ii) the amount that it would have paid during the Traction Electricity Modelled Default Rate Reconciliation Period in respect of the Traction Electricity Charge had the supplement been in place at the start of that period;

and

(ii) publish on its website details of the supplement alongside the details of any other such supplements to which ORR has consented or determined pursuant to this or any other track access contract to which Network Rail is a party.

9.14 Any supplement to the Traction Electricity Modelled Consumption Rates List or Track Usage Price List which ORR has consented to or determined pursuant to a passenger track access contract previously held by the Train Operator shall also apply to this contract.

10. **Payment of Track Charges and other sums due under the contract**

10.1 ***Payment of Track Charges and other sums due under the contract***

(a) Save where the contract provides otherwise, the Train Operator shall pay or procure the payment to Network Rail of:

(i) the Variable Usage Charge;

(ii) the Traction Electricity Charge;

(iii) the Capacity Charge;

(iv) the Electrification Asset Usage Charge;

(v) the VUC Default Charge;

(vi) the Fixed Track Charge Wash-Up; and

- (vii) any other sums which have fallen due in accordance with any provision of this contract,

attributable to any Period as invoiced by Network Rail on or after expiry of each such Period within 21 days of the invoice date or 28 days after the end of the Period, whichever is later.

- (b) The Train Operator shall pay or procure the payment to Network Rail of that part of the Fixed Track Charge attributable to any Period as invoiced by Network Rail on or after the expiry of each such Period within seven days of the invoice date or seven days after the end of the Period, whichever is later.
- (c) Any invoice issued by Network Rail under paragraph 18.5 of the Traction Electricity Rules (relating to modelled and actual rates of electricity consumption) shall be payable by the Train Operator within 21 days of the relevant invoice date.

10.2 ***Train Consist Data***

Network Rail shall calculate the Variable Charges payable by the Train Operator in respect of each Period using the Train Consist Data supplied by the Train Operator and, to the extent such Train Consist Data is not available to Network Rail, the Default Train Consist Data.

10.3 ***Invoices and right to object to invoices***

- (a) Network Rail will notify the Train Operator on a weekly basis of the train movements for which Default Train Consist Data has been used to establish the Variable Charges payable by the Train Operator. At either party's request, the parties shall consult with a view to substituting Train Consist Data for Default Train Consist Data but such consultation shall not delay the issue by Network Rail of the invoice for the Variable Charges in respect of the Period concerned.
- (b) For each Period, Network Rail shall be entitled to invoice the Train Operator for Variable Charges in respect of any and all train movements operated by the Train Operator during that Period based on either:
 - (i) Train Consist Data provided by the Train Operator in respect of any train movement at or prior to the time that such train movement is completed; or
 - (ii) Train Consist Data agreed by the parties under paragraph 10.3(a) in respect of any train movement; or
 - (iii) Train Consist Data provided by the Train Operator in respect of any train movement (other than any train movement where the Specified Equipment used in operating the relevant movement is loco hauled) by the end of the day on which such train movement has been completed,

or (to the extent that (i) or (ii) or (iii) above do not apply) Default Train Consist Data. Each such invoice will be payable in accordance with the provisions of paragraph 10.1.

- (c) Either party shall be entitled, at any time prior to the later of 23:59 hours on the 14th day following the expiration of the relevant Period and seven days following receipt by the Train Operator of the relevant invoice or credit note, to notify the other that it objects to any Train Consist Data (including, where applicable, the use of Default Train Consist Data) on which the whole or any part of the Variable Charges included in the relevant invoice or credit note are based and any such notice shall specify in reasonable detail what that party

believes to be the Train Consist Data for the relevant train movement(s) ("**notice of objection**"). In the absence of any notice of objection being served within such time the Train Consist Data used in the relevant invoice or credit note shall be final and binding on the parties. The Train Operator shall supply the data to Network Rail in the format:

Train ID	Start date & time	Train Slot origin	Train slot destination	Train Consist (actual): Specified Equipment used

- (d) The parties shall seek to agree the Train Consist Data specified in any notice of objection and any consequential financial adjustment required to the relevant invoice or credit note. If the parties are unable to agree such Train Consist Data within 14 days following receipt of a notice of objection, either party may refer the matter for resolution in accordance with the ADRR.
- (e) Within 14 days of any Train Consist Data being agreed or determined in accordance with paragraph 10.3(d), Network Rail shall, if any consequential or financial adjustment of the relevant invoice is required, issue a further invoice to, or (as the case may be) a credit note in favour of, the Train Operator in the amount of the relevant adjustment. The invoice or credit note shall be payable at the same time as the invoice for Variable Charges for the relevant Period or, if issued later than 21 days after the end of the relevant Period, within seven days after the date of its issue.
- (f) The actual volume of usage used to calculate any supplementary amount payable under paragraph 18 of the Traction Electricity Rules shall be established on the basis of the Train Consist Data and the Default Train Consist Data applied in calculating the Variable Charges for each of the Periods in Relevant Year t as adjusted in accordance with paragraph 10.3(d) on or before 90 days after the end of Relevant Year t.
- (g) Where, as a result of any invoice or credit note issued pursuant to paragraph 10.3, any sum of money which has been paid shall become repayable or any sum of money which has been unpaid shall become payable the party to whom such sum shall be paid shall be paid or allowed interest at the Default Interest Rate on such sum from the date when it (if repayable) was paid or the date when such sum (if payable) ought to have been paid until the date of payment or repayment.

10.4 **Unrepresentative Train Consist Data**

- (a) If at any time during this contract either party considers the Default Train Consist Data specified in Appendix 7C is not representative of the Train Operator's Services and in particular, but without limitation, the type(s) of railway vehicles then in use and the regular number of carriages forming part of those railway vehicles in the operation of its Services, either party shall be entitled on written notice to the other to request that the Default Train Consist Data be amended. Any such request shall specify in reasonable detail the grounds for the request and the proposed amendments to the Default Train Consist Data.
- (b) The parties shall endeavour to reach agreement on any amendments to the Default Train Consist Data within 21 days of the date of the request referred to in paragraph 10.4(a) and if the parties are unable to agree such amendments within such time period, either party may refer the matter for resolution in accordance with the ADRR.

- (c) Upon the earlier of agreement between the parties or determination by a relevant ADRR Forum, the parties shall notify ORR of the proposed amendments to the Default Train Consist Data and, subject to ORR not objecting to the proposed amendments within 14 days (the "**14 day period**") of receipt of the notification by ORR, such amendments shall take effect from the first day of the next Period following the earlier of ORR confirming its consent to the proposed amendments and the expiry of the 14 day period. If ORR objects to the proposed amendments within the 14 day period, the parties shall endeavour to reach agreement with ORR on the appropriate amendments, if any, to the Default Train Consist Data which shall then take effect on the first day of the Period next following that in which agreement is reached.

10.5 ***Disputed amounts repayment and interest rate***

- (a) Where a party wishes to contest any invoice issued to it under this Schedule 7 (including any invoice in respect of Track Charges) it shall, within 14 days of receipt of the invoice, notify the other party in writing of the amount which is in dispute but shall pay the full amount of the invoice, including the disputed amount, in accordance with the terms of the invoice.
- (b) Where a party has given notice under paragraph 10.5(a) that it disputes part of any invoiced amount:
 - (i) payment of such sum shall be without prejudice to the determination of whether such sum is properly due or not; and
 - (ii) if it is subsequently determined that the disputed sum, or part of it, was not properly due the payee shall repay the disputed sum, or relevant part, to the payer together with interest (to accrue daily and be compounded monthly) at the Default Interest Rate from the date of payment until the actual date of repayment.
- (c) For the avoidance of doubt, nothing in this paragraph 10.5 shall apply to any sums which have fallen due in accordance with Part 3A of this Schedule 7.

Part 3

(Route-Level Efficiency Benefit Share Mechanism)

- 1. For the purposes of the calculation and payment of any Route-Level Efficiency Benefit Share for the Relevant Year ending 31 March 2019, Part 3 and Appendix 7A and Appendix 7B of Schedule 7 of the version of this contract that was in force up until 31 March 2019 shall continue to apply.

Part 3A

(English & Welsh Grant Dilution)

1. **Grant Amounts**

1.1 ***Grant Amounts, Basic Amounts and Payment Dates***

For the purposes of this Part 3A:

- (a) the Basic Amount, in respect of any Payment Date, is the amount which is notified by Network Rail to the Secretary of State in respect of that Payment Date, excluding any amounts notified by Network Rail which: (i) are not needed by Network Rail in respect of that Payment Date, or (ii) would cause the total of

the Basic Amounts so notified for the Relevant Year in which the Payment Date falls to exceed the value of the Grant Amount for that Relevant Year;

- (b) the Grant Amount, in respect of any Relevant Year, is the network grant amount set out in Table E2B as the annual amount to be paid in that Relevant Year by the Secretary of State to Network Rail by way of grant under s6 of the Railways Act 2005, as adjusted from time to time in accordance with the Grant Mechanism; and
- (c) the Payment Dates are the dates set out in the Grant Agreement for the payment of grant by the Secretary of State in each of the Relevant Years commencing on 1 April 2019, 1 April 2020, 1 April 2021, 1 April 2022 and 1 April 2023 or, if no such dates are set out, the first Wednesday of each railway period in each such Relevant Year.

1.2 **Not used.**

2. **English & Welsh Grant Dilution**

2.1 **Meaning of English & Welsh Grant Dilution**

For the purposes of this Part 3A, there shall be an "English & Welsh Grant Dilution" in respect of a Payment Date if:

- (a) the Secretary of State does not, for any reason, pay the whole or any part of the Basic Amount on or before the relevant Payment Date;
- (b) the Secretary of State has not, for any reason, paid the whole of the Grant Amount for any Relevant Year minus any amounts already paid as Basic Amounts for that Relevant Year ("**the Balance of the Grant Amount**") on or before the final Payment Date of that Relevant Year; or
- (c) the payment of the whole or any part of the Basic Amount or of the Balance of the Grant Amount in respect of that Payment Date is:
 - (i) subject to the performance by Network Rail or any other person of any obligation;
 - (ii) subject to the exercise by the Secretary of State or any other person of any discretion; or
 - (iii) contingent upon the happening of any event or circumstance, or any act or omission of any person.

2.2 **Meaning of English & Welsh Grant Dilution Date**

In respect of any English & Welsh Grant Dilution:

- (a) if the English & Welsh Grant Dilution is of the kind referred to in paragraph 2.1(a) or in paragraph 2.1(b), the English & Welsh Grant Dilution Date shall be the Payment Date in respect of which the Secretary of State does not pay the whole or any part of the Basic Amount or the Balance of the Grant Amount due on that date; and
- (b) if the English & Welsh Grant Dilution is of the kind referred to in paragraph 2.1(c), each Payment Date which falls during any period during which the payment of the whole or any part of a Basic Amount or the Balance of the Grant Amount is:
 - (i) subject to any of the matters specified in paragraph 2.1(c)(i) or (ii); or

- (ii) contingent upon any of the matters specified in paragraph 2.1(c)(iii), shall be an English & Welsh Grant Dilution Date.

3. English & Welsh Grant Compensation Amount

3.1 *Payment obligation*

If an English & Welsh Grant Dilution occurs:

- (a) Network Rail shall notify the Train Operator and ORR that an English & Welsh Grant Dilution has occurred, and the circumstances in which it has occurred; and
- (b) the Train Operator shall:
 - (i) send a copy of the notification it has received from Network Rail under paragraph 3.1(a) to any Passenger Transport Executive within whose area it provides services for the carriage of passengers by railway;
 - (ii) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(a) or in paragraph 2.1(b), pay Network Rail an English & Welsh Grant Compensation Amount calculated in accordance with paragraph 3.2 three months after the English & Welsh Grant Dilution Date; and
 - (iii) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(c), pay Network Rail an English & Welsh Grant Compensation Amount calculated in accordance with paragraph 3.2 three months after each English & Welsh Grant Dilution Date.

3.2 *Calculation*

Any English & Welsh Grant Compensation Amount payable under paragraph 3.1 is an amount calculated in accordance with the following formula:

$$GC = (GA_p - P) \bullet \frac{F_t}{AF_t}$$

where:

GC means the English & Welsh Grant Compensation Amount;

GA_p means the Basic Amount or, as the case may be, the Balance of the Grant Amount for the Payment Date which is the same date as the English & Welsh Grant Dilution Date;

P means:

- (a) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(a) or in paragraph 2.1(b), the amount of any part payment of the Basic Amount or, as the case may be, the Balance of the Grant Amount which Network Rail certifies to the Train Operator, within seven days after the English & Welsh Grant Dilution Date, that it has received from the Secretary of State; and
- (b) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(c), zero;

F_t has the meaning ascribed to it in paragraph 1 of Part 2; and

AF_t means the Aggregate Fixed Charge in Relevant Year t.

Part 4

(Not used)

Part 5

(Not used)

Part 6

(Supplemental Provisions)

Each invoice or credit note issued by Network Rail to the Train Operator shall contain or be accompanied by separate itemisation of the following charges and other information (as relevant) in respect of the period covered by the invoice or credit note:

- (a) the daily amount of the Fixed Track Charge and the number of days covered by the invoice;
- (b) the rate of Variable Usage Charge and any VUC Default Charge and the relevant number of Vehicle Miles applicable to vehicles for each service so charged;
- (c) the rate of Traction Electricity Charge and the number of Vehicle Miles applicable to vehicles for each service or Gross Tonne Miles applicable to units for each service so charged, for the purposes of calculating E_{tmo} in accordance with paragraph 4.1.2 of Part 2;
- (d) the amount of the Electrification Asset Usage Charge and the number of days covered by the invoice;
- (e) not used;
- (f) not used;
- (g) not used;
- (h) the amount of any sum W_t payable as provided in paragraph 7 of Part 2;
- (i) the amount of any sum $S1_{tw}$ and/or $S2_{tw}$ and/or any Charge Correction Amount payable as provided in paragraph 18 of the Traction Electricity Rules;
- (j) the amount of any sum K_t payable as provided in paragraph 6 of Part 2;
- (k) in respect of any other sums which have fallen due in accordance with any provisions of this contract other than Part 3A, separately the amount payable in respect of each head of charge; and
- (l) the amount of any sum FW_t payable as provided in paragraph 2A of Part 2.

Part 7

(Future Access Charges Reviews)

1. General

ORR may carry out one or more access charges reviews of all or part of this contract as follows:

- (a) an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation on and from 1 April 2024 or such later date as may be specified in that review; and
- (b) as provided in paragraph 2 (and only as provided in paragraph 2), an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation before 1 April 2024.

2. **Access charges reviews capable of coming into operation before 1 April 2024**

ORR may carry out an access charges review in relation to any relevant part or parts of this contract at any time where it considers:

- (a) that there has been, or is likely to be, a material change, other than an excluded change, in the circumstances of Network Rail or in relevant financial markets or any part of such markets; and
- (b) that there are compelling reasons to initiate an access charges review, having due regard to its duties under section 4 of the Act, including in particular the duty to act in a manner which it considers will not render it unduly difficult for persons who are holders of network licences to finance any activities or proposed activities of theirs in relation to which ORR has functions under or by virtue of Part I of the Act.

3. **Interpretation**

In this Part 7 references to ORR carrying out an access charges review shall be construed as including references to its initiating implementation of that review.

4. **Interim treatment of future access charges reviews**

4.1 ***Interim treatment prior to implementation***

If the terms of a Proposed Review Notice proposing amendments to the contract are not implemented in accordance with paragraph 7 of Schedule 4A to the Act on the date stipulated that they will come into operation in the Proposed Review Notice for any reason, then, irrespective of such terms not having been so implemented, each proposed amendment to the contract set out in the Proposed Review Notice shall have effect for the period (the “**Interim Period**”) commencing on that date (or from any later date (or dates) specified in the Proposed Review Notice in respect of any individual amendment), in each case until such time as:

- (a) following the service of a Review Implementation Notice relating to the Proposed Review Notice, the changes specified in that Review Implementation Notice come into operation; or
- (b) following a reference to the Competition and Markets Authority in accordance with paragraph 9 of Schedule 4A to the Act, any amendments to the contract, made in accordance with paragraphs 12(8), 12(9) or 14(3) of Schedule 4A to the Act, come into operation.

4.2 ***Reconciliation Payment***

- (a) Within 28 days after the end of the Interim Period, Network Rail shall calculate whether a reconciliation payment is due to or from the Train Operator. In order to calculate such reconciliation payment, Network Rail shall compare (i) the sums paid by the Train Operator during the Interim Period with (ii) the sums which would have been payable if the amendments required by either paragraphs 4.1(a) or (b) above had taken effect on

the date(s) stipulated in the Proposed Review Notice, and shall provide to the Train Operator:

- (i) a statement of the amount due to or from the Train Operator; and
 - (ii) such background data and workings as may reasonably be required for a proper understanding of the calculation.
- (b) Within 14 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above, the Train Operator shall notify Network Rail of any aspects of the statement which it disputes, giving reasons for any dispute. Save to the extent that disputes are so notified, the Train Operator shall be deemed to have agreed the contents of the statement.
- (c) If any dispute is notified under paragraph 4.2(b) above, it shall be resolved according to the following procedure:
- (i) within seven days of service of the relevant notice, the parties shall meet to discuss the disputed aspects with a view to resolving all disputes in good faith;
 - (ii) if, for any reason, within seven days of the meeting referred to in paragraph 4.2(c)(i) above, the parties are still unable to agree any disputed aspects, each party shall promptly and in any event within seven days prepare a written summary of the disputed aspects and the reasons for each such dispute and submit such summaries to the senior officer of each party;
 - (iii) within 28 days of the first meeting of the parties, the senior officers of the parties shall meet with a view to resolving all disputes; and
 - (iv) if no resolution results before the expiry of 14 days following that meeting, then either party may refer the matter for resolution in accordance with the ADRR.
- (d) Within 28 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above (if not disputed) or 28 days of resolution or determination of any dispute in accordance with paragraph 4.2(c) above, any amount due shall be invoiced (or presented in a credit note, as the case may be) for payment, and payable, as provided under this contract.

Appendix 7A

(Not used)

Appendix 7B

(Not used)

Appendix 7C

Default Train Consist Data

Train Service Code	Type of Train Movement	Default Train Consist Data

Appendix 7D

"Metered Trains M" for the purposes of paragraph 4.1.1 of Part 2

Train Type	Train ID	Traction Type
	<i>[This column should include the full train ID. If all trains of the relevant train type used by the Train Operator are metered, this column should say "All".]</i>	

APPENDIX 3 TO ANNEX 2

Schedule 7 (for the ScotRail TAA and the Caledonian Sleepers TAA)

Schedule 7

(Track Charges and Other Payments)

Part 1

(Interpretation)

1. **Definitions**

In Part 1 – Part 7 inclusive, unless the context otherwise requires:

"**access charges review**" has the meaning ascribed to it by Schedule 4A to the Act;

"**AC System**" means the alternating current system of electricity traction supply on the Network;

"**Aggregate Fixed Charges**" means, in any Relevant Year t , the sum of the values of F_t under paragraph 1 of Part 2 and the corresponding provisions of each other relevant access agreement;

"**Baseline timetabled traffic miles_t**" has the meaning ascribed to it in paragraph 2A of Part 2;

"**Basic Amount**" has the meaning ascribed to it in paragraph 1.1(a) of Part 3A;

"**Bimodal Electric Multiple Unit**" means an electric multiple unit that is capable of drawing current from the AC System and/or DC System and, in addition, being powered by an alternative source of energy, including but not limited to diesel;

"**Bimodal Locomotive**" means a train hauled by a locomotive that is capable of drawing current from the AC System and/or DC System and, in addition, being powered by an alternative source of energy, including but not limited to diesel;

"**Capacity Charge**" means a variable charge, calculated in accordance with paragraph 6 of Part 2;

"**CPI**" means the Consumer Prices Index (all items) whose value is published each month by the Office for National Statistics in its statistical bulletin on consumer price inflation, or:

- (a) if the Consumer Prices Index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or
- (b) if there is a material change in the basis of the Consumer Prices Index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;

"**DC System**" means the direct current system of electricity traction supply on the Network;

"**Default Train Consist Data**" means the data listed in Appendix 7C as amended from time to time in accordance with paragraph 10.4 of Part 2;

"**Electrification Asset Usage Charge**" means a charge for electrification asset usage, calculated in accordance with paragraph 8 of Part 2;

"excluded change" means, in relation to paragraph 2(a) of Part 7, a change to the arrangements established between Network Rail and any other person in respect of the payment of any amount under sections 6 or 8 of the Railways Act 2005;

"Fixed Track Charge" means a fixed annual charge, calculated in accordance with paragraph 1 of Part 2;

"Fixed Track Charge Indexation" has the meaning ascribed to it in paragraph 2 of Part 2;

"Fixed Track Charge Wash-Up" means the amount calculated in accordance with paragraph 2A of Part 2;

"Geographic Area g" means, for the purposes of performing the calculations set out in paragraph 4 of Part 2 and paragraph 18 of the Traction Electricity Rules, the relevant geographic section of the Network, as set out in Appendix 5 of the Traction Electricity Rules;

"Grant Agreement" means the Grant Agreement made on or before 31 March 2019 between the Scottish Ministers and Network Rail for the payment of network grant;

"Grant Amount" has the meaning ascribed to it in paragraph 1.1(b) of Part 3A;

"Grant Mechanism" means the provisions agreed on or before 31 January 2019 between Network Rail and the Scottish Ministers (and approved by ORR for the purposes of Part 3A on or before 28 February 2019) setting out how the annual amounts of network grant contained in Table E2C may vary or if no such provisions are agreed and approved, such provisions as ORR may determine on or before 31 March 2019 after consulting Network Rail and the Scottish Ministers;

"Gross Tonne Mile" in relation to a train, means a mile travelled on the Network, multiplied by each tonne of the aggregate weight of the train in question;

"Initial Indexation Factor" is derived from the following formula:

$$IIF = \left(1 + \frac{(CPI_{2018} - CPI_{2017})}{CPI_{2017}} \right)^2$$

where:

IIF means the Initial Indexation Factor;

CPI_{2017} means the CPI published or determined with respect to the month of November 2017; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018.

The value derived from this formula shall be rounded to three decimal places;

"kgtm" means 1000 Gross Tonne Miles;

"kWh" means kilowatt hours;

"Metered Train m" means, as the context requires, either:

- (a) a train of a particular type; or
- (b) a specific train having a train ID,

as specified in Appendix 7D of this Schedule 7;

"Network Rail Distribution System Loss Factor" means the relevant factor that represents the electrical losses between the On-Train Meter and Network Rail's meter through which it purchases traction electricity for the AC System or the DC System in Geographic Area g, as set out in Appendix 3 of the Traction Electricity Rules;

"Network Rail Rebate" has the meaning ascribed to it in paragraph 7.1 of Part 2;

"New Modelled Train" means a type of train for which E_{tmo} is to be calculated for the purposes of paragraph 4.1.1 of Part 2 but in relation to which no train category i , and no modelled consumption rate, is shown in either the Passenger Traction Electricity Modelled Consumption Rates for CP6 or Generic Traction Electricity Modelled Consumption Rates for CP6 tables in the Traction Electricity Modelled Consumption Rates List, or the PFM Rates List;

"New Specified Equipment" means a type of railway vehicle not included in the section of the Track Usage Price List entitled "Passenger Variable Usage Charge rates";

"On-Train Meter" and **"On Train Metering"** have the meanings ascribed to them in paragraph 1.2 of the Traction Electricity Rules;

"Payment Date" has the meaning ascribed to it in paragraph 1.1(c) of Part 3A;

"Period" has the meaning ascribed to it in Schedule 8;

"PFM Rate" has the meaning ascribed to it in paragraph 1 of the Traction Electricity Rules;

"PFM Rates List" has the meaning ascribed to it in paragraph 1 of the Traction Electricity Rules;

"Proposed Review Notice" means the most recently proposed Review Notice given by ORR, in accordance with Schedule 4A of the Act;

"Rebatable Amount" has the meaning ascribed to it in paragraph 7.2 of Part 2;

"relevant access agreement" means an access agreement under which any of the following persons obtains permission from Network Rail to use the Network:

- (a) a franchise operator; or
- (b) a concession operator within the meaning of the Merseyrail Electrics Network Order 2003; or
- (c) a TfL concessionaire within the meaning of the Railways (North and West London Lines) Exemption Order 2007; or
- (d) any other person who benefits from a franchise exemption (within the meaning of section 24(13) of the Act) in relation to services for the carriage of passengers by railway; or
- (e) a relevant franchising authority (as defined in section 30(3B) of the Act) or a person providing services for the carriage of passengers by railway on behalf of a relevant franchising authority under section 30 of the Act;

"Relevant Year" means a year commencing at 00:00 hours on 1 April and ending at 23:59 hours on the following 31 March; "Relevant Year t " means the Relevant Year for the purposes of which any calculation falls to be made; "Relevant Year $t-1$ " means the Relevant Year preceding Relevant Year t ; and similar expressions shall be construed accordingly;

"Review Implementation Notice" has the meaning given to "review implementation notice" in paragraph 7 of Schedule 4A of the Act;

"Review Notice" has the meaning given to "review notice" in paragraph 4 of Schedule 4A of the Act;

"Route-Level Efficiency Benefit Share" has the meaning ascribed to it in paragraph 1 of Part 3;

"route type k" means route type k as identified by type of electrification (AC (OLE) or DC) in the Track Usage Price List;

"RPI" means the General Index of Retail Prices All Items measured by CHAW and published each month, or:

- (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or
- (b) if there is a material change in the basis of the index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;

"Schedule of Baseline Timetabled Traffic" means the document entitled "Schedule of Baseline Timetabled Traffic" approved by ORR on or before 31 July 2019 (or, if not approved by that date, otherwise determined by ORR thereafter);

"Schedule of Fixed Charges" means the document entitled "Schedule of Fixed Charges" published by Network Rail on or about 20 December 2018;

"Scottish Grant Compensation Amount" has the meaning ascribed to it in paragraph 3.2 of Part 3A;

"Scottish Grant Dilution" has the meaning ascribed to it in paragraph 2.1 of Part 3A;

"Scottish Grant Dilution Date" has the meaning ascribed to it paragraph 2.2 of Part 3A;

"Table E2C" means Table E2C in ORR's document entitled "PR18 final determination Supplementary document – financial framework October 2018";

"tariff band j" means the tariff zone and time band in which the train in question is operated;

"Timetabled train miles_t" has the meaning ascribed to it in paragraph 2A of Part 2;

"Track Usage Price List" means the document entitled "Track Usage Price List" published by Network Rail on or about 20 December 2018 which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract or a passenger track access contract previously held by the Train Operator;

"Traction Electricity Charge" means a variable charge for traction current calculated in accordance with paragraph 4 of Part 2;

"Traction Electricity Modelled Consumption Rates List" means the document entitled "Traction Electricity Modelled Consumption Rates List" published by Network Rail on or about 20 December 2018 and specifying freight and passenger traction electricity modelled consumption rates which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract or a passenger track access contract previously held by the Train Operator;

"Traction Electricity Modelled Default Rate" means, in respect of any New Modelled Train used on the Network by the Train Operator, the corresponding default consumption rate for that type of vehicle set out in the section of the Traction Electricity Modelled Consumption Rates List entitled "Traction Electricity Modelled Default Rates for CP6";

"Traction Electricity Modelled Default Rate Period" means the period from the date on which the New Modelled Train is first used on the Network by the Train Operator until the date on which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train or the train in question has been added to Appendix 7D of this Schedule 7;

"Traction Electricity Modelled Default Rate Reconciliation Period" means the period from the later of:

- (a) the date on which the New Modelled Train is first used on the Network by the Train Operator; or
- (b) 1 April of the Relevant Year in which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train,

until the date on which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train;

"Traction Electricity Usage Occurrence Data" means information as to when a Bimodal Electric Multiple Unit or Bimodal Locomotive is either drawing current from the AC System and/or the DC System, or is powered by an alternative source of energy;

"Traction-Train Compatible" means a situation in which a Bimodal Electric Multiple Unit or Bimodal Locomotive is located on the Network with a system of electricity traction supply that the Bimodal Electric Multiple Unit or Bimodal Locomotive is capable of drawing current from;

"train category i" means train category i as identified in the relevant section of the Traction Electricity Modelled Consumption Rates List or PFM Rates List, being either:

- (a) where there is no PFM Rate for a particular passenger vehicle type operating on a particular Train Service Code:
 - (i) where there is a modelled consumption rate for a particular passenger vehicle type operating on a particular Train Service Code, the relevant category set out in the table entitled "Passenger Traction Electricity Modelled Consumption Rates for CP6"; or
 - (ii) where there is a generic consumption rate for a passenger vehicle type not referred to in paragraph (a)(i), the relevant category set out in the table entitled "Generic Traction Electricity Modelled Consumption Rates for CP6"; or
- (b) where there is a PFM Rate for a particular passenger vehicle type operating on a particular Train Service Code, the relevant category set out in the PFM Rates List;

"Train Consist Data" means the information relating to the number(s) and type(s) of railway vehicle comprised in a train movement;

"Train Mile" in relation to a train, means a mile travelled by that train on the Network;

"Train Service Code" has the meaning ascribed to it in paragraph 1.1 of Schedule 5;

"Variable Charges" means the Capacity Charge, the VUC Default Charge, the Electrification Asset Usage Charge, the Variable Usage Charge and the Traction Electricity Charge;

"Variable Usage Charge" means a variable charge, calculated in accordance with paragraph 3.1 of Part 2;

"Vehicle Mile" in relation to a railway vehicle, means a mile travelled by that vehicle on the Network;

"Volume Reconciliation" has the meaning ascribed to it in the Traction Electricity Rules;

"VUC Default Charge" means a variable charge calculated in accordance with paragraph 3.3 of Part 2;

"VUC Default Period" means the period from the later of:

- (a) the date on which the New Specified Equipment is first used on the Network by the Train Operator; or
- (b) 1 April 2019,

until the date on which ORR consents to or determines a supplement to the Track Usage Price List under paragraph 9.10 of Part 2 in respect of that New Specified Equipment;

"VUC Default Rate" means, in respect of any New Specified Equipment used on the Network by the Train Operator, the corresponding passenger default rate for that type of vehicle set out in the section of the Track Usage Price List entitled "Passenger Variable Usage Charge default rates"; and

"Weekday" has the meaning ascribed to it in paragraph 1.1 of Schedule 5.

2. Interpretation

The provisions of clause 1.2(e) of this contract shall not apply to any references to the Grant Agreement in this Schedule 7.

Part 2

(Track Charges)

1. Principal formula

During each Relevant Year (and, in respect of F_t , prorated for each day of any period of this contract comprising less than a full Relevant Year), Network Rail shall levy and the Train Operator shall pay Track Charges in accordance with the following formula:

$$T_t = F_t + FW_t + V_t + D_t + E_t + K_t + EAV_t - W_t$$

where:

T_t means Track Charges in Relevant Year t ;

F_t means an amount in respect of the Fixed Track Charge in Relevant Year t , expressed in pounds sterling and rounded to two decimal places, which shall be:

- (a) in respect of the Relevant Year commencing on 1 April 2019, the total of the amounts set out in the row relating to the Train Operator and the column relating to that year in the Schedule of Fixed Charges, multiplied by the Fixed Track Charge Indexation calculated in accordance with paragraph 2.1; and

- (b) in respect of any Relevant Year t commencing on or after 1 April 2020, the total of the amounts set out in the row relating to the Train Operator and the column relating to that year in the Schedule of Fixed Charges, multiplied by the Fixed Track Charge Indexation for that year calculated in accordance with paragraph 2.2;

FW_t means an amount in respect of the Fixed Track Charge Wash-up in Relevant Year t which is derived in accordance with paragraph 2A;

V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the formula in paragraph 3.1;

D_t means an amount (if any) in respect of the VUC Default Charge in Relevant Year t which is calculated in accordance with paragraph 3.3;

E_t means an amount in respect of the Traction Electricity Charge in Relevant Year t which is derived from the formula in paragraph 4;

K_t means an amount in respect of the Capacity Charge in Relevant Year t which is calculated in accordance with paragraph 6;

EAV_t means an amount in respect of the Electrification Asset Usage Charge, calculated in accordance with the formula in paragraph 8;

W_t means an amount (which shall not be a negative value) in respect of the Network Rail Rebate in Relevant Year t, calculated in accordance with the provisions of paragraph 7.1.

2. Fixed Track Charge Indexation

- 2.1 The Fixed Track Charge Indexation in respect of the Relevant Year commencing on 1 April 2019 shall be derived from the following formula:

$$FTCI_{2019} = \text{Initial Indexation Factor}$$

where:

$FTCI_{2019}$ means the Fixed Track Charge Indexation in respect of the Relevant Year commencing on 1 April 2019.

- 2.2 The Fixed Track Charge Indexation in respect of any Relevant Year t commencing on or after 1 April 2020 shall be derived from the following formula:

$$FTCI_t = \left(1 + \frac{CPI_{t-1} - CPI_{2018}}{CPI_{2018}}\right) \bullet \text{Initial Indexation Factor}$$

where:

$FTCI_t$ means the Fixed Track Charge Indexation in Relevant Year t;

CPI_{t-1} means the CPI published or determined with respect to the month of November in Relevant Year t-1; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018.

2A Fixed Track Charge Wash-Up

For the purposes of paragraph 1, the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t, expressed in pounds sterling and rounded to two decimal places, which is derived from the following formula:

$$FW_t = P_t \times F_t$$

where:

F_t means an amount in respect of the Fixed Track Charge in Relevant Year t ; and

P_t means the percentage difference between timetabled traffic and baseline traffic in Relevant Year t , derived from the formula:

$$P_t = \left(\frac{\text{Timetabled train miles}_t - \text{Baseline timetabled traffic miles}_t}{\text{Baseline timetabled traffic miles}_t} \right) \bullet 100$$

where:

Timetabled train miles _{t} means that figure to be taken by Network Rail from the most appropriate system, which system shall be agreed in writing between Network Rail and ORR on or before 31 July 2019; and

Baseline timetabled traffic miles _{t} means that figure set out in relation to the Train Operator for the Relevant Year t in the Schedule of Baseline Timetabled Traffic,

subject to the following:

if the term P_t has a value less than -1% (for example, -1.5% or -5%), the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived from the following formula:

$$FW_t = -1\% \times F_t$$

and

if the term P_t has a value equal to or greater than -1% (for example, -0.9% or 2%), the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived from the following formula:

$$FW_t = P_t \times F_t$$

3. Variable Usage Charge

3.1 Variable Usage Charge

For the purposes of paragraph 1, the term V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the following formula:

$$V_t = \sum V_{it} \bullet UV_{it}$$

where:

V_{it} means an amount for vehicle type i for Relevant Year t , expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$V_{it} = V_{it-1} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} means the CPI published or determined with respect to the month of November in Relevant Year t-2,

but so that in relation to the Relevant Year commencing on 1 April 2019, V_{it} shall have, in respect of vehicle type i, the corresponding variable usage charge rate per Vehicle Mile for that vehicle type i set out in the Track Usage Price List, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year V_{it-1} shall have the same value;

UV_{it} means the actual volume of usage (in Vehicle Miles) in Relevant Year t of vehicle type i (referred to in the Track Usage Price List) operated by or on behalf of the Train Operator; and

∑ means the summation across all relevant categories of vehicle types i.

3.2 **Not used**

3.3 **VUC Default Charge**

For the purposes of paragraph 1, the term D_t means the amount of VUC Default Charge payable in respect of New Specified Equipment in Relevant Year t which is derived from the following formula:

$$D_t = \sum D_{nt} \bullet UD_{nt}$$

where:

D_{nt} means the VUC Default Rate for that New Specified Equipment for Relevant Year t, expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$D_{nt} = D_{nt-1} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} has the meaning set out in paragraph 3.1 above,

but so that in relation to the Relevant Year commencing on 1 April 2019, D_{nt} shall have, in respect of New Specified Equipment, the corresponding VUC Default Rate for that New Specified Equipment, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year D_{nt-1} shall have the same value;

UD_{nt} means the actual volume of usage of New Specified Equipment in Vehicle Miles during the VUC Default Period in Relevant Year t operated by or on behalf of the Train Operator; and

∑ means the summation across all relevant New Specified Equipment.

4. **Traction Electricity Charge**

4.1 For the purposes of paragraph 1, the term E_t means an amount in respect of the Traction Electricity Charge in Relevant Year t, which is derived from the following formula:

$$E_t = E_{tmo} + E_{tme} + E_{tmuAC} + E_{tmuDC}$$

where:

E_{tmo} means an amount calculated in accordance with paragraph 4.1.2 below;

E_{tme} means an amount calculated in accordance with paragraph 4.1.3 below;

E_{tmuAC} means an amount calculated in accordance with paragraph 4.1.4(a) below; and

E_{tmuDC} means an amount calculated in accordance with paragraph 4.1.4(b) below.

Circumstances in which calculation to be based on modelled data and circumstances in which calculation to be based on metered data

- 4.1.1 E_{tmo} shall be calculated in respect of all trains other than those identified in the table at Appendix 7D, and E_{tme} , E_{tmuAC} and E_{tmuDC} shall be calculated in respect of the trains identified in the table at Appendix 7D.

Calculation of modelled consumption (including using PFM Rates)

- 4.1.2 E_{tmo} is derived from the following formula:

$$E_{tmo} = \sum E_{tmog}$$

where:

\sum means the summation across all Geographic Areas g, as appropriate;

E_{tmog} is derived from the following formula:

$$E_{tmog} = \sum C_i \bullet EF_{gjt} \bullet UE_{igt}$$

where:

\sum means the summation across all relevant train categories i (determined in accordance with paragraph 4.1.1 above), New Modelled Trains and tariff bands j, as appropriate;

C_i means, as appropriate:

- (a) the consumption rate:
 - (i) in kWh per electrified Train Mile in relation to passenger electric multiple units (using the rate for the relevant number of units); or
 - (ii) in kWh per electrified kgm in relation to locomotive-hauled units and all freight traffic,

for train category i shown in the Traction Electricity Modelled Consumption Rates List, taking into account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules or, if a PFM Rate applies in accordance with the Traction Electricity Rules, the PFM Rates List; or

- (b) for New Modelled Trains, the Traction Electricity Modelled Default Rate shown in the Traction Electricity Modelled Consumption Rates List, taking into account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

UE_{igjt} means the actual volume of usage (in electrified Vehicle Miles in relation to passenger electric multiple units or electrified kgm in relation to locomotive-hauled units and all freight traffic), if any, of trains operated by or on behalf of the Train Operator in train category i and New Modelled Trains operated by or on behalf of the Train Operator, in Geographic Area g, in tariff band j and in Relevant Year t, pursuant to this contract, provided that where train category i or a New Modelled Train is a Bimodal Electric Multiple Unit or Bimodal Locomotive operating in a Traction-Train Compatible situation, it shall be deemed that all mileage (in Vehicle Miles in relation to passenger electric multiple units or kgm in relation to locomotive-hauled units and all freight traffic), if any, of such trains is electrified.

Calculation of consumption using metered consumption data

4.1.3 E_{tme} is derived from the following formula:

$$E_{tme} = \sum E_{tme g}$$

where:

∑ means the summation across all Geographic Areas g, as appropriate;

E_{tme g} is derived from the following formula:

$$E_{tme g} = \sum \left((CME_{mgjt} \bullet EF_{gjt}) - (RGB_{mgjt} \bullet EF_{gjt}) \right)$$

where:

∑ means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgjt} means the consumption of electricity (in kWh) by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

RGB_{mgjt} means the electricity (in kWh) generated by braking by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t.

4.1.4

(a) E_{tmuAC} is derived from the following formula:

$$E_{tmuAC} = \sum E_{tmugAC}$$

where:

∑ means the summation across all Geographic Areas g, as appropriate;

E_{tmugAC} is derived from the following formula:

$$E_{tmuAC} = \sum (CME_{mgtAC} \bullet EF_{gjt}) \bullet \lambda_{ACg}$$

where:

\sum means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgtAC} means the consumption of electricity (in kWh) from the AC System by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

λ_{ACg} means the Network Rail Distribution System Loss Factor for the AC System in Geographic Area g.

(b) E_{tmuDC} is derived from the following formula:

$$E_{tmuDC} = \sum E_{tmugDC}$$

where:

\sum means the summation across all Geographic Areas g, as appropriate;

E_{tmugDC} is derived from the following formula:

$$E_{tmugDC} = \sum (CME_{mgtDC} \bullet EF_{gjt}) \bullet \lambda_{DCg}$$

where:

\sum means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgtDC} means the consumption of electricity (in kWh) from the DC System by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

λ_{DCg} means the Network Rail Distribution System Loss Factor for the DC System in Geographic Area g.

Metered Bimodal Electric Multiple Units and Bimodal Locomotives – deemed electrified mileage

4.1.5

(a) Where Metered Train m is a Bimodal Electric Multiple Unit or Bimodal Locomotive, the Train Operator shall, as a minimum, within seven (7) days of the end of each of the third, sixth, tenth and thirteenth Periods, provide to

Network Rail the Traction Electricity Usage Occurrence Data for Metered Train m. The Traction Electricity Usage Occurrence Data provided: within seven days of the end of the third Period shall cover Periods one, two and three; within seven days of the end of the sixth Period shall cover Periods four, five and six; within seven days of the end of the tenth Period shall cover Periods seven, eight, nine and ten; and within seven days of the end of the thirteenth Period shall cover Periods eleven, twelve and thirteen.

- (b) Where, after seven days, any Traction Electricity Usage Occurrence Data is missing in respect of any such Bimodal Electric Multiple Unit or Bimodal Locomotive, all mileage, if any, of such Bimodal Electric Multiple Unit or Bimodal Locomotive operated by or on behalf of the Train Operator shall be deemed, for billing purposes, to be electrified in Traction-Train Compatible situations and paragraphs 4.1.3 and 4.1.4 shall apply in respect of all such mileage.

Election to introduce On-Train Metering for a vehicle or vehicle type

4.2

- (a) If the Train Operator wishes to propose the introduction of On-Train Metering to measure traction electricity consumption for a vehicle or vehicles of a vehicle type that the Train Operator operates for the purposes of being invoiced by Network Rail for traction electricity, it shall notify Network Rail of any required changes to the contract in connection with that proposal.
- (b) Any notice under sub-paragraph 4.2(a) shall be accompanied by information and evidence in reasonable detail supporting the changes proposed and setting out the reasons for those changes, and Network Rail shall respond in writing within 56 days of service of any such notice.
- (c) Promptly following any response served by Network Rail under sub-paragraph 4.2(b), the parties shall endeavour to agree whether the contract should be amended in connection with that proposal and, if so, the amendments.
- (d) If the parties agree an amendment to the contract in connection with the proposal referred to in sub-paragraph 4.2(a), that amendment shall take effect only when it has been approved by ORR under section 22 of the Act. Accordingly, as soon as reasonably practicable after any such amendment is agreed, the parties shall ensure that ORR is furnished with such amendment and such information and evidence as it shall require to determine whether or not to approve the amendment.
- (e) Any agreed amendment to the contract in connection with the proposal referred to in sub-paragraph 4.2(a) which is approved by ORR under section 22 of the Act shall apply with effect from the date agreed by the parties.
- (f) If the parties fail to reach agreement within 90 days after service of a notice under sub-paragraph 4.2(a), or if prior to that date both parties agree that agreement is unlikely to be reached prior to that date, either party may notify ORR and request that ORR determines the matter. The parties shall, within such timescales as ORR may specify, furnish ORR with such information and evidence as ORR shall require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- (g) Where ORR determines the matter pursuant to sub-paragraph 4.2(f), it may issue a notice to the parties setting out the amendments to be made to the

contract and the date, which may be retrospective, from which they shall take effect.

5. Not used.

6. **Capacity Charge**

In respect of the Relevant Year ending 31 March 2019, the term K_t means an amount in respect of the Capacity Charge which shall be derived from the formula that was contained in paragraph 6 of Part 2 of Schedule 7 of the version of this contract that was in force up until 31 March 2019. For subsequent Relevant Years, K_t shall have a value of zero.

7. **Network Rail Rebate**

7.1 For the purpose of paragraph 1, the Network Rail Rebate in respect of any Relevant Year t (W_t) is an amount (which shall not be a negative value) by way of a return of Track Charges paid in accordance with paragraph 7.5, derived from the following formula:

$$W_t = RA_t \bullet \frac{F_t}{AF_t}$$

where:

RA_t means the Rebatable Amount declared by Network Rail in relation to Relevant Year t under paragraph 7.2;

F_t has the meaning ascribed to it in paragraph 1 for Relevant Year t ; and

AF_t means the Aggregate Fixed Charge in Relevant Year t .

7.2 The Rebatable Amount shall be the amount, if any:

- (a) which represents such proportion of Network Rail's total income for Relevant Year t as it reasonably considers that it does not require in order to discharge its obligations under its network licence and any contracts to which it is a party;
- (b) which Network Rail, acting reasonably, considers it appropriate to rebate as an amount representing a return of Track Charges payable by persons who provide services for the carriage of passengers by railway under the relevant access agreements to which they are parties; and
- (c) which Network Rail notifies as such to ORR within nine months after the end of each Relevant Year t .

7.3 No amount of Track Charges shall be rebated under this paragraph 7 unless ORR has consented to such rebate.

7.4 Without prejudice to the generality of clause 16.3.1, any payment of a Network Rail Rebate (a "**rebate payment**") shall be made on the basis that it is to be treated as exclusive of VAT, so that where and to the extent that the rebate payment is consideration for a supply for VAT purposes Network Rail shall in addition pay to the Train Operator an amount equal to the amount of VAT due in respect of that rebate payment and either:

- (a) the Train Operator shall issue a VAT invoice to Network Rail in respect of the relevant amount; or
- (b) if the parties so agree and have entered into an applicable self-billing agreement (within the meaning of regulation 13(3A) of the Value Added Tax

Regulations 1995 (the "VAT Regulations")) that continues in force then Network Rail shall produce for itself a self-billed invoice (within the meaning of regulation 13(3) of the VAT Regulations) in respect of the relevant amount.

- 7.5 If, pursuant to paragraph 7.1, the Train Operator is entitled to payment of a Network Rail Rebate in respect of Relevant Year t, then such payment shall be made by Network Rail to the Train Operator as a lump sum payment within 28 days after the end of the Period in which ORR gives its consent under paragraph 7.3.
- 7.6 If, pursuant to paragraph 7.2, Network Rail notifies ORR of the Rebatable amount in respect of Relevant Year t after this contract has expired or has otherwise been terminated then, notwithstanding the expiration or termination of this contract, paragraph 7.5 shall apply.
- 7.7 If Network Rail has, prior to 31 March 2019 and pursuant to the provisions of this contract in force as at that date, notified ORR of a Rebatable Amount for the Relevant Year ending on that date, then such provisions shall continue to apply to the extent (and only to the extent) necessary to enable determination and payment (where applicable) of a Network Rail Rebate based on that Rebatable Amount.

8. Electrification Asset Usage Charge

For the purposes of paragraph 1, the term EAV_t means an amount for electrification asset usage which is derived from the following formula:

$$\text{Electrification Asset Usage Charge} = \sum EV_{tk} \bullet UV_{tk}$$

where:

\sum means the summation across all route types;

EV_{tk} means an amount in respect of the Electrification Asset Usage Charge per electrified Vehicle Mile on route type k for Relevant Year t, expressed in pence per electrified Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$EV_{tk} = EV_{t-1k} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} has the meaning set out in paragraph 3.1 above,

but so that in relation to the Relevant Year commencing on 1 April 2019, EV_{tk} shall have, in respect of each electrified Vehicle Mile on route type k, the value per electrified Vehicle Mile for the Electrification Asset Usage Charge set out in the Track Usage Price List, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year EV_{t-1k} shall have the same value; and

UV_{tk} means the actual number of electrified Vehicle Miles on route type k in Relevant Year t operated by or on behalf of the Train Operator. Where the Train Operator operates a Bimodal Electric Multiple Unit or Bimodal Locomotive, the actual number of electrified Vehicle Miles on route type k in Relevant Year t shall be calculated as follows:

- (i) where the Bimodal Electric Multiple Unit or Bimodal Locomotive is operating in a Traction-Train Compatible situation and is not a Metered Train m, it shall be deemed that all mileage, if any, of such train is electrified; or
- (ii) where the Bimodal Electric Multiple Unit or Bimodal Locomotive is a Metered Train m, in accordance with paragraph 4.1.5 above.

9. **Bilateral supplements to the Traction Electricity Modelled Consumption Rates List and Track Usage Price List**

- 9.1 Where the Train Operator intends to use New Specified Equipment on the Network, it shall where reasonably practicable inform Network Rail in writing of the date or likely date from which it intends to do so.
- 9.2 Where the Train Operator uses New Specified Equipment on the Network, the Train Operator shall pay Network Rail the relevant VUC Default Charge during the VUC Default Period.
- 9.2A Where the Train Operator uses a New Modelled Train on the Network, Network Rail shall apply the Traction Electricity Modelled Default Rate in order to calculate the Traction Electricity Charge for the purposes of paragraph 4.1.2 above, during the Traction Electricity Modelled Default Rate Period.
- 9.3 No supplement to the Traction Electricity Modelled Consumption Rates List or Track Usage Price List shall have effect unless it has been:
- (a) agreed between the parties and ORR has consented to it; or
 - (b) determined by ORR.
- 9.4 Either the Train Operator or Network Rail shall be entitled to propose that:
- (a) the Traction Electricity Modelled Consumption Rates List be supplemented as necessary to include a rate in respect of a new train category; or
 - (b) the Track Usage Price List be supplemented as necessary to include a new vehicle type and corresponding rate.
- 9.5 Any proposal of a kind referred to in paragraph 9.4 shall be made by notice to the other party and shall be accompanied by a specification of the proposal in reasonable detail and the reasons for it. The parties shall thereafter seek to agree in good faith the necessary supplement to the list in question.
- 9.6 Either party may request from the other such information that it reasonably requires in connection with the proposal and the party from whom the information was requested shall use reasonable endeavours to provide this information promptly.
- 9.7 Where the parties agree to a supplement following a proposal under paragraph 9.4, they shall request ORR's consent to it and provide such information as ORR reasonably requires in order to decide whether to give its consent.
- 9.8 If the parties fail to reach agreement within 45 days of the date of the notice given under paragraph 9.5, at any point thereafter either party shall be entitled to refer the matter to ORR for determination.
- 9.9 Following a reference to ORR under paragraph 9.8, the parties shall, within such timescales as ORR may reasonably specify, furnish ORR with such information and evidence as ORR shall reasonably require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- 9.10 ORR may:
- (a) consent to any supplement that is agreed by the parties and submitted to it under paragraph 9.7, or following consultation with the parties, determine that a different supplement should apply; or

- (b) following a referral to ORR under paragraph 9.8, determine the supplement that should apply.
- 9.11 In the case of a supplement to the Traction Electricity Modelled Consumption Rates List, the supplement shall have effect from such date as ORR shall determine by notice to the parties, provided that such date shall not be a date falling prior to the start of the Relevant Year in which ORR consented to or determined the supplement.
- 9.12 In the case of a supplement to the Track Usage Price List, the supplement shall have retrospective effect from the first day of the VUC Default Period.
- 9.13 Following ORR's consent or determination under paragraph 9.10 Network Rail shall:
 - (a) apply the supplement from the date in accordance with paragraph 9.11 or 9.12 above as applicable; and
 - (b) within 28 days of the date of ORR's consent or determination:
 - (i) issue any adjusting invoice or credit note to the Train Operator -
 - (A) in the case of a supplement to the Track Usage Price List, this will reflect the difference between the amount paid by the Train Operator for the VUC Default Charge during the VUC Default Period and the amount that it would have paid during the VUC Default Period in respect of the Variable Usage Charge had the supplement been in place at the time the Train Operator first used the relevant railway vehicle on the Network;
 - (B) in the case of a supplement to the Traction Electricity Modelled Consumption Rates List, this will reflect the difference between: (i) the amount paid by the Train Operator in respect of any New Modelled Train to which the Traction Electricity Modelled Default Rate has been applied during the Traction Electricity Modelled Default Rate Reconciliation Period; and (ii) the amount that it would have paid during the Traction Electricity Modelled Default Rate Reconciliation Period in respect of the Traction Electricity Charge had the supplement been in place at the start of that period;
 - and
 - (ii) publish on its website details of the supplement alongside the details of any other such supplements to which ORR has consented or determined pursuant to this or any other track access contract to which Network Rail is a party.
- 9.14 Any supplement to the Traction Electricity Modelled Consumption Rates List or Track Usage Price List which ORR has consented to or determined pursuant to a passenger track access contract previously held by the Train Operator shall also apply to this contract.

10. **Payment of Track Charges and other sums due under the contract**

10.1 ***Payment of Track Charges and other sums due under the contract***

- (a) Save where the contract provides otherwise, the Train Operator shall pay or procure the payment to Network Rail of:
 - (i) the Variable Usage Charge;
 - (ii) the Traction Electricity Charge;

- (iii) the Capacity Charge;
- (iv) the Electrification Asset Usage Charge;
- (v) the VUC Default Charge;
- (vi) the Fixed Track Charge Wash-Up; and
- (vii) any other sums which have fallen due in accordance with any provision of this contract,

attributable to any Period as invoiced by Network Rail on or after expiry of each such Period within 21 days of the invoice date or 28 days after the end of the Period, whichever is later.

- (b) The Train Operator shall pay or procure the payment to Network Rail of that part of the Fixed Track Charge attributable to any Period as invoiced by Network Rail on or after the expiry of each such Period within seven days of the invoice date or seven days after the end of the Period, whichever is later.
- (c) Any invoice issued by Network Rail under paragraph 18.5 of the Traction Electricity Rules (relating to modelled and actual rates of electricity consumption) shall be payable by the Train Operator within 21 days of the relevant invoice date.

10.2 ***Train Consist Data***

Network Rail shall calculate the Variable Charges payable by the Train Operator in respect of each Period using the Train Consist Data supplied by the Train Operator and, to the extent such Train Consist Data is not available to Network Rail, the Default Train Consist Data.

10.3 ***Invoices and right to object to invoices***

- (a) Network Rail will notify the Train Operator on a weekly basis of the train movements for which Default Train Consist Data has been used to establish the Variable Charges payable by the Train Operator. At either party's request, the parties shall consult with a view to substituting Train Consist Data for Default Train Consist Data but such consultation shall not delay the issue by Network Rail of the invoice for the Variable Charges in respect of the Period concerned.
- (b) For each Period, Network Rail shall be entitled to invoice the Train Operator for Variable Charges in respect of any and all train movements operated by the Train Operator during that Period based on either:
 - (i) Train Consist Data provided by the Train Operator in respect of any train movement at or prior to the time that such train movement is completed; or
 - (ii) Train Consist Data agreed by the parties under paragraph 10.3(a) in respect of any train movement; or
 - (iii) Train Consist Data provided by the Train Operator in respect of any train movement (other than any train movement where the Specified Equipment used in operating the relevant movement is loco hauled) by the end of the day on which such train movement has been completed,

or (to the extent that (i) or (ii) or (iii) above do not apply) Default Train Consist Data. Each such invoice will be payable in accordance with the provisions of paragraph 10.1.

- (c) Either party shall be entitled, at any time prior to the later of 23:59 hours on the 14th day following the expiration of the relevant Period and seven days following receipt by the Train Operator of the relevant invoice or credit note, to notify the other that it objects to any Train Consist Data (including, where applicable, the use of Default Train Consist Data) on which the whole or any part of the Variable Charges included in the relevant invoice or credit note are based and any such notice shall specify in reasonable detail what that party believes to be the Train Consist Data for the relevant train movement(s) ("**notice of objection**"). In the absence of any notice of objection being served within such time the Train Consist Data used in the relevant invoice or credit note shall be final and binding on the parties. The Train Operator shall supply the data to Network Rail in the format:

Train ID	Start date & time	Train Slot origin	Train slot destination	Train Consist (actual): Specified Equipment used

- (d) The parties shall seek to agree the Train Consist Data specified in any notice of objection and any consequential financial adjustment required to the relevant invoice or credit note. If the parties are unable to agree such Train Consist Data within 14 days following receipt of a notice of objection, either party may refer the matter for resolution in accordance with the ADRR.
- (e) Within 14 days of any Train Consist Data being agreed or determined in accordance with paragraph 10.3(d), Network Rail shall, if any consequential or financial adjustment of the relevant invoice is required, issue a further invoice to, or (as the case may be) a credit note in favour of, the Train Operator in the amount of the relevant adjustment. The invoice or credit note shall be payable at the same time as the invoice for Variable Charges for the relevant Period or, if issued later than 21 days after the end of the relevant Period, within seven days after the date of its issue.
- (f) The actual volume of usage used to calculate any supplementary amount payable under paragraph 18 of the Traction Electricity Rules shall be established on the basis of the Train Consist Data and the Default Train Consist Data applied in calculating the Variable Charges for each of the Periods in Relevant Year t as adjusted in accordance with paragraph 10.3(d) on or before 90 days after the end of Relevant Year t.
- (g) Where, as a result of any invoice or credit note issued pursuant to paragraph 10.3, any sum of money which has been paid shall become repayable or any sum of money which has been unpaid shall become payable the party to whom such sum shall be paid shall be paid or allowed interest at the Default Interest Rate on such sum from the date when it (if repayable) was paid or the date when such sum (if payable) ought to have been paid until the date of payment or repayment.

10.4 **Unrepresentative Train Consist Data**

- (a) If at any time during this contract either party considers the Default Train Consist Data specified in Appendix 7C is not representative of the Train Operator's Services and in particular, but without limitation, the type(s) of railway vehicles then in use and the regular number of carriages forming part of those railway vehicles in the operation of its Services, either party shall be entitled on written notice to the other to request that the Default Train Consist Data be amended. Any such request shall specify in reasonable detail the

grounds for the request and the proposed amendments to the Default Train Consist Data.

- (b) The parties shall endeavour to reach agreement on any amendments to the Default Train Consist Data within 21 days of the date of the request referred to in paragraph 10.4(a) and if the parties are unable to agree such amendments within such time period, either party may refer the matter for resolution in accordance with the ADRR.
- (c) Upon the earlier of agreement between the parties or determination by a relevant ADRR Forum, the parties shall notify ORR of the proposed amendments to the Default Train Consist Data and, subject to ORR not objecting to the proposed amendments within 14 days (the "**14 day period**") of receipt of the notification by ORR, such amendments shall take effect from the first day of the next Period following the earlier of ORR confirming its consent to the proposed amendments and the expiry of the 14 day period. If ORR objects to the proposed amendments within the 14 day period, the parties shall endeavour to reach agreement with ORR on the appropriate amendments, if any, to the Default Train Consist Data which shall then take effect on the first day of the Period next following that in which agreement is reached.

10.5 ***Disputed amounts repayment and interest rate***

- (a) Where a party wishes to contest any invoice issued to it under this Schedule 7 (including any invoice in respect of Track Charges) it shall, within 14 days of receipt of the invoice, notify the other party in writing of the amount which is in dispute but shall pay the full amount of the invoice, including the disputed amount, in accordance with the terms of the invoice.
- (b) Where a party has given notice under paragraph 10.5(a) that it disputes part of any invoiced amount:
 - (i) payment of such sum shall be without prejudice to the determination of whether such sum is properly due or not; and
 - (ii) if it is subsequently determined that the disputed sum, or part of it, was not properly due the payee shall repay the disputed sum, or relevant part, to the payer together with interest (to accrue daily and be compounded monthly) at the Default Interest Rate from the date of payment until the actual date of repayment.
- (c) For the avoidance of doubt, nothing in this paragraph 10.5 shall apply to any sums which have fallen due in accordance with Part 3A of this Schedule 7.

Part 3

(Route-Level Efficiency Benefit Share Mechanism)

1. For the purposes of the calculation and payment of any Route-Level Efficiency Benefit Share for the Relevant Year ending 31 March 2019, Part 3 and Appendix 7A and Appendix 7B of Schedule 7 of the version of this contract that was in force up until 31 March 2019 shall continue to apply.

Part 3A

(Scottish Grant Dilution)

1. Grant Amounts

1.1 *Grant Amounts, Basic Amounts and Payment Dates*

For the purposes of this Part 3A:

- (a) the Basic Amount, in respect of any Payment Date, is the amount which is notified by Network Rail to the Scottish Ministers in respect of that Payment Date, excluding any amounts notified by Network Rail which: (i) are not needed by Network Rail in respect of that Payment Date, or (ii) would cause the total of the Basic Amounts so notified for the Relevant Year in which the Payment Date falls to exceed the value of the Grant Amount for that Relevant Year;
- (b) the Grant Amount, in respect of any Relevant Year, is the network grant amount set out in Table E2C as the annual amount to be paid in that Relevant Year by the Scottish Ministers to Network Rail by way of grant under s8 of the Railways Act 2005, as adjusted from time to time in accordance with the Grant Mechanism; and
- (c) the Payment Dates are the dates set out in the Grant Agreement for the payment of grant by the Scottish Ministers in each of the Relevant Years commencing on 1 April 2019, 1 April 2020, 1 April 2021, 1 April 2022 and 1 April 2023 or, if no such dates are set out, the first Wednesday of each railway period in each such Relevant Year.

1.2 *Not used.*

2. Scottish Grant Dilution

2.1 *Meaning of Scottish Grant Dilution*

For the purposes of this Part 3A, there shall be a "Scottish Grant Dilution" in respect of a Payment Date if:

- (a) the Scottish Ministers do not, for any reason, pay the whole or any part of the Basic Amount on or before the relevant Payment Date; or
- (b) the Scottish Ministers have not, for any reason, paid the whole of the Grant Amount for any Relevant Year minus any amounts already paid as Basic Amounts for that Relevant Year ("**the Balance of the Grant Amount**") on or before the final Payment Date of that Relevant Year; or
- (c) the payment of the whole or any part of the Basic Amount or of the Balance of the Grant Amount in respect of that Payment Date is:
 - (i) subject to the performance by Network Rail or any other person of any obligation;
 - (ii) subject to the exercise by the Scottish Ministers or any other person of any discretion; or
 - (iii) contingent upon the happening of any event or circumstance, or any act or omission of any person.

2.2 **Meaning of Scottish Grant Dilution Date**

In respect of any Scottish Grant Dilution:

- (a) if the Scottish Grant Dilution is of the kind referred to in paragraph 2.1(a) or in paragraph 2.1(b), the Scottish Grant Dilution Date shall be the Payment Date in respect of which the Scottish Ministers do not pay the whole or any part of the Basic Amount or the Balance of the Grant Amount due on that date; and
- (b) if the Scottish Grant Dilution is of the kind referred to in paragraph 2.1(c), each Payment Date which falls during any period during which the payment of the whole or any part of a Basic Amount or the Balance of the Grant Amount is:
 - (i) subject to any of the matters specified in paragraph 2.1(c)(i) or (ii); or
 - (ii) contingent upon any of the matters specified in paragraph 2.1(c)(iii),shall be a Scottish Grant Dilution Date.

3. **Scottish Grant Compensation Amount**

3.1 **Payment obligation**

If a Scottish Grant Dilution occurs:

- (a) Network Rail shall notify the Train Operator and ORR that a Scottish Grant Dilution has occurred, and the circumstances in which it has occurred; and
- (b) the Train Operator shall:
 - (i) send a copy of the notification it has received from Network Rail under paragraph 3.1(a) to any Passenger Transport Executive within whose area it provides services for the carriage of passengers by railways;
 - (ii) if the Scottish Grant Dilution is of the kind described in paragraph 2.1(a) or in paragraph 2.1(b), pay Network Rail a Scottish Grant Compensation Amount calculated in accordance with paragraph 3.2 three months after the Scottish Grant Dilution Date; and
 - (iii) if the Scottish Grant Dilution is of the kind described in paragraph 2.1(c), pay Network Rail a Scottish Grant Compensation Amount calculated in accordance with paragraph 3.2 three months after each Scottish Grant Dilution Date.

3.2 **Calculation**

Any Scottish Grant Compensation Amount payable under paragraph 3.1 is an amount calculated in accordance with the following formula:

$$GC = (GA_p - P) \bullet \frac{F_t}{AF_t}$$

where:

GC means the Scottish Grant Compensation Amount;

GA_p means the Basic Amount or, as the case may be, the Balance of the Grant Amount for the Payment Date which is the same date as the Scottish Grant Dilution Date;

P means:

- (a) if the Scottish Grant Dilution is of the kind described in paragraph 2.1(a) or in paragraph 2.1(b), the amount of any part payment of the Basic Amount or, as the case may be, the Balance of the Grant Amount which Network Rail certifies to the Train Operator, within seven days after the Scottish Grant Dilution Date, that it has received from the Scottish Ministers; and
- (b) if the Scottish Grant Dilution is of the kind described in paragraph 2.1(c), zero;

F_t has the meaning ascribed to it in paragraph 1 of Part 2; and

AF_t means the Aggregate Fixed Charge in Relevant Year t .

Part 4

(Not used)

Part 5

(Not used)

Part 6

(Supplemental Provisions)

Each invoice or credit note issued by Network Rail to the Train Operator shall contain or be accompanied by separate itemisation of the following charges and other information (as relevant) in respect of the period covered by the invoice or credit note:

- (a) the daily amount of the Fixed Track Charge and the number of days covered by the invoice;
- (b) the rate of Variable Usage Charge and any VUC Default Charge and the relevant number of Vehicle Miles applicable to vehicles for each service so charged;
- (c) the rate of Traction Electricity Charge and the number of Vehicle Miles applicable to vehicles for each service or Gross Tonne Miles applicable to units for each service so charged, for the purposes of calculating E_{tmo} in accordance with paragraph 4.1.2 of Part 2;
- (d) the amount of the Electrification Asset Usage Charge and the number of days covered by the invoice;
- (e) not used;
- (f) not used;
- (g) not used;
- (h) the amount of any sum W_t payable as provided in paragraph 7 of Part 2;
- (i) the amount of any sum $S1_{tw}$ and/or $S2_{tw}$ and/or any Charge Correction Amount payable as provided in paragraph 18 of the Traction Electricity Rules;
- (j) the amount of any sum K_t payable as provided in paragraph 6 of Part 2;

- (k) in respect of any other sums which have fallen due in accordance with any provisions of this contract other than Part 3A, separately the amount payable in respect of each head of charge; and
- (l) the amount of any sum FW_t payable as provided in paragraph 2A of Part 2.

Part 7

(Future Access Charges Reviews)

1. General

ORR may carry out one or more access charges reviews of all or part of this contract as follows:

- (a) an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation on and from 1 April 2024 or such later date as may be specified in that review; and
- (b) as provided in paragraph 2 (and only as provided in paragraph 2), an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation before 1 April 2024.

2. Access charges reviews capable of coming into operation before 1 April 2024

2.1 ORR may carry out an access charges review in relation to any relevant part or parts of this contract at any time:

2.1.1

- (a) where it considers that there has been, or is likely to be, a material change, other than an excluded change, in the circumstances of Network Rail or in relevant financial markets or any part of such markets; or
- (b) where Network Rail's projections at that time (each such projection being prepared in accordance with the Regulatory Accounting Guidelines dated March 2018 (as amended from time to time)) as to its Expenditure in relation to that part of the Network which is situated in Scotland (the "**Scottish Network**") for the Review Period show a projected level of such Expenditure which is higher by 15 per cent or more than the assumed expenditure for that period, where:
 - (i) "**Expenditure**" means Network Rail's Scottish expenditure in the relevant Review Period;
 - (ii) "**assumed expenditure**" means the amount of Expenditure assumed by ORR to be incurred operating (operations and support), maintaining and renewing the Scottish Network identified in respect of the Scottish Network in 'Table 3: the Scotland revenue requirement' of the "2018 periodic review final determination, Summary of conclusions and route settlement document for Scotland"; and
 - (iii) "**Scottish expenditure**" means any cost Network Rail incurs operating (operations and support), maintaining and renewing the Scottish Network,

provided that, where part only of a Financial Year falls within the relevant Review Period, each of the component elements of this formula shall be attributed to that Review Period on a pro rate basis reflecting the proportion of that Financial Year falling within that Review Period; and

- (c) where ORR considers that there are compelling reasons to initiate an access charges review, having due regard to its duties under section 4 of the Act, including in particular the duty to act in a manner which it considers will not render it unduly difficult for persons who are holders of network licences to finance any activities or proposed activities of theirs in relation to which ORR has functions under or by virtue of Part I of the Act.

3. **Interpretation**

In paragraphs 1 and 2 of this Part 7:

- (a) “**Review Period**” means a period commencing at any time and ending 36 consecutive months later, provided that if a period of 36 consecutive months would, but for this proviso, extend beyond 31 March 2024, the relevant Review Period shall be deemed to end, and shall end on 31 March 2024; and
- (b) references to ORR carrying out an access charges review shall be construed as including references to its initiating implementation of that review.

4. **Interim treatment of future access charges reviews**

4.1 ***Interim treatment prior to implementation***

If the terms of a Proposed Review Notice proposing amendments to the contract are not implemented in accordance with paragraph 7 of Schedule 4A to the Act on the date stipulated that they will come into operation in the Proposed Review Notice for any reason, then, irrespective of such terms not having been so implemented, each proposed amendment to the contract set out in the Proposed Review Notice shall have effect for the period (the “**Interim Period**”) commencing on that date (or from any later date (or dates) specified in the Proposed Review Notice in respect of any individual amendment), in each case until such time as:

- (a) following the service of a Review Implementation Notice relating to the Proposed Review Notice, the changes specified in that Review Implementation Notice come into operation; or
- (b) following a reference to the Competition and Markets Authority in accordance with paragraph 9 of Schedule 4A to the Act, any amendments to the contract, made in accordance with paragraphs 12(8), 12(9) or 14(3) of Schedule 4A to the Act, come into operation.

4.2 ***Reconciliation Payment***

- (a) Within 28 days after the end of the Interim Period, Network Rail shall calculate whether a reconciliation payment is due to or from the Train Operator. In order to calculate such reconciliation payment, Network Rail shall compare (i) the sums paid by the Train Operator during the Interim Period with (ii) the sums which would have been payable if the amendments required by either paragraphs 4.1(a) or (b) above had taken effect on the date(s) stipulated in the Proposed Review Notice, and shall provide to the Train Operator:
 - (i) a statement of the amount due to or from the Train Operator; and
 - (ii) such background data and workings as may reasonably be required for a proper understanding of the calculation.
- (b) Within 14 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above, the Train Operator shall notify Network Rail of any aspects of the statement which it disputes, giving reasons for

any dispute. Save to the extent that disputes are so notified, the Train Operator shall be deemed to have agreed the contents of the statement.

- (c) If any dispute is notified under paragraph 4.2(b) above, it shall be resolved according to the following procedure:
 - (i) within seven days of service of the relevant notice, the parties shall meet to discuss the disputed aspects with a view to resolving all disputes in good faith;
 - (ii) if, for any reason, within seven days of the meeting referred to in paragraph 4.2(c)(i) above, the parties are still unable to agree any disputed aspects, each party shall promptly and in any event within seven days prepare a written summary of the disputed aspects and the reasons for each such dispute and submit such summaries to the senior officer of each party;
 - (iii) within 28 days of the first meeting of the parties, the senior officers of the parties shall meet with a view to resolving all disputes; and
 - (iv) if no resolution results before the expiry of 14 days following that meeting, then either party may refer the matter for resolution in accordance with the ADRR.
- (d) Within 28 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above (if not disputed) or 28 days of resolution or determination of any dispute in accordance with paragraph 4.2(c) above, any amount due shall be invoiced (or presented in a credit note, as the case may be) for payment, and payable, as provided under this contract.

Appendix 7A

(Not used)

Appendix 7B

(Not used)

Appendix 7C

Default Train Consist Data

Train Service Code	Type of Train Movement	Default Train Consist Data

Appendix 7D

"Metered Trains M" for the purposes of paragraph 4.1.1 of Part 2

Train Type	Train ID	Traction Type
	<i>[This column should include the full train ID. If all trains of the relevant train type used by the Train Operator are metered, this column should say "All".]</i>	

APPENDIX 4 TO ANNEX 2

Schedule 7 (for the Chiltern TAA)

Schedule 7 Track Charges

PART 1: INTERPRETATION

1 Definitions

In Parts 1-7 inclusive, unless the context otherwise requires:

“access charges review”	has the meaning ascribed to it by Schedule 4A to the Act;
“AC System”	means the alternating current system of electricity traction supply on the Network;
“Adjusted Sum”	means the amount calculated in accordance with paragraph 8I.3;
“Aggregate Fixed Charges”	means, in any Relevant Year t , the sum of the values of F_t under paragraph 1 of Part 2 and the corresponding provisions of each other relevant access agreement;
“Asset Life”	means the thirty (30) year life of an MS Enhanced Asset of which an MS Deliverable forms part, which runs from the relevant MS Deliverable Facility Charge Date;
“Backstop Date”	means the date upon which EG3 Phase 1 or EG3 Phase 2 (as appropriate) reaches Stage Gate 5;
“Baseline timetabled traffic miles”	has the meaning ascribed to it in paragraph 2A of Part 2;
“Basic Amount”	has the meaning ascribed to it in paragraph 1.1(a) of Part 3A;
“Bimodal Electric Multiple Unit”	means an electric multiple unit that is capable of drawing current from the AC System and/or DC System and, in addition, being powered by an alternative source of energy, including but not limited to diesel;
“Bimodal Locomotive”	means a train hauled by a locomotive that is capable of drawing current from the AC System and/or DC System and, in addition, being powered by an alternative source of energy, including but not limited to diesel;
“Capacity Charge”	means a variable charge, calculated in accordance with paragraph 6 of Part 2;

“CPI”	means the Consumer Prices Index (all items) whose value is published each month by the Office for National Statistics in its statistical bulletin on consumer price inflation, or: <ul style="list-style-type: none"> (a) if the Consumer Prices Index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or (b) if there is a material change in the basis of the Consumer Prices Index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;
“DC System”	means the direct current system of electricity traction supply on the Network;
“Default Train Consist Data”	means the data listed in Appendix 7C as amended from time to time in accordance with paragraph 10.4 of Part 2;
“Deliverable Financing Charge”	means the interest, calculated at a pre-tax annual rate which is 0.06 in accordance with the ORR's CP4 pre-tax rate, chargeable by Network Rail on the Purchase Price for the MS Deliverables in respect of the period between the dates of payment for the MS Deliverables and the relevant MS Deliverable Facility Charge Date, and compounded at the end of each Relevant Year;
“Deliverables”	means the EG3 Phase 1 Deliverables;
“EG3 Asset Life”	means in respect of EG3 Phase 1 only, the thirty year life of an EG3 Asset of which a Deliverable forms part which runs from the EG3 Phase 1 Facility Charge Date;
“EG3 Deliverable Financing Charge”	means the interest, calculated at a pre-tax annual rate which is 0.06 in accordance with the ORR's CP4 pre-tax rate, chargeable by Network Rail on the Purchase Price for the Deliverables in respect of the period between the date of payment for the Deliverables and the EG3 Phase 1 Timetable Change Date, and compounded at the end of each Relevant Year;

“EG3 Incremental MRR Charge”	means each of the Phase 1 Incremental MRR Charge, the Water Eaton Incremental MRR Charge and the Oxford Incremental MRR Charge as calculated in accordance with paragraph 8K;
“EG3 Phase 1 Accrued DFC”	has the meaning given in paragraph 8H.1(a);
“EG3 Phase 1 Additional Accrued DFC”	has the meaning given in paragraph 8H.1(b);
“EG3 Phase 1 Additional Deliverable Financing Charge”	Means the interest, calculated at a pre-tax annual rate which is 0.06 in accordance with the ORR’s CP4 pre-tax rate, chargeable by Network Rail on the Purchase Price for the Deliverables in respect of the period between the EG3 Phase 1 Timetable Change Date, or if later, the dates of payment for the EG3 Phase 1 Deliverables, and the EG3 Phase 1 Facility Charge Date compounded at the end of each Relevant Year;
“EG3 Phase 1 Revised Completion Date”	means 4th September 2011 or such other date as Network Rail agrees in its absolute discretion;
“EG3 Phase 1 Deliverable”	means an EG3 Phase 1 deliverable specified in Schedule 2 of the EG3 Asset Purchase Agreement;
“EG3 Phase 1 Facility Charge”	means the charge payable by the Train Operator to Network Rail in respect of the capital cost of an EG3 Phase 1 Deliverable purchased by Network Rail and any associated EG3 Phase 1 Accrued DFC, the total amount of such EG3 Phase 1 Facility Charge being calculated for each Relevant Year in accordance with paragraph 8H of this Schedule 7 (Track Charges);
“EG 3 Phase 1 Facility Charge Date”	means the earlier of: (a) the EG3 Phase 1 Revised Completion Date; (b) the date of termination of the EG3 Asset Purchase Agreement; and (c) the date of termination of the EG3 Asset Protection Agreement;
“EG3 Phase 1 Timetable Change Date”	means the 22 May 2011;
“Electrification Asset Usage Charge”	means a charge for electrification asset usage, calculated in accordance with paragraph 8 of Part 2;
“English & Welsh Grant Compensation Amount”	has the meaning ascribed to it in paragraph 3.2 of Part 3A;

“English & Welsh Grant Dilution”	has the meaning ascribed to it in paragraph 2.1 of Part 3A;
“English & Welsh Grant Dilution Date”	has the meaning ascribed to it in paragraph 2.2 of Part 3A;
“excluded change”	means, in relation to paragraph 2(a) of Part 7, a change to the arrangements established between Network Rail and any other person in respect of the payment of any amount under sections 6 or 8 of the Railways Act 2005;
“Final Contribution Sum Determination Date”	means the date on which the Water Eaton Final Facility Charge and the Oxford Final Facility Charge are determined pursuant to paragraph 4 of part 3 of Schedule 2 of the Contribution Agreement;
“Fixed Track Charge”	means a fixed annual charge, calculated in accordance with paragraph 1 of Part 2;
“Fixed Track Charge Indexation”	has the meaning ascribed to it in paragraph 2 of Part 2;
“Fixed Track Charge Wash-Up”	means the amount calculated in accordance with paragraph 2A of Part 2;
“Geographic Area g”	means, for the purposes of performing the calculations set out in paragraph 4 of Part 2 and paragraph 18 of the Traction Electricity Rules, the relevant geographic section of the Network, as set out in Appendix 5 of the Traction Electricity Rules;
“Grant Agreement”	means the Grant Agreement made on or before 31 March 2019 between the Secretary of State and Network Rail for the payment of network grant;
“Grant Amount”	has the meaning ascribed to it in paragraph 1.1(b) of Part 3A;
“Grant Mechanism”	means the provisions agreed on or before 31 January 2019 between Network Rail and the Secretary of State (and approved by ORR for the purposes of Part 3A on or before 28 February 2019) setting out how the annual amounts of network grant contained in Table E2B may vary or if no such provisions are agreed and approved, such provisions as ORR may determine on or before 31 March 2019 after consulting Network Rail and the Secretary of State;
“GRIP”	has the meaning given to it in the EG3 Asset Protection Agreement;

“Gross Tonne Mile” in relation to a train, means a mile travelled on the Network, multiplied by each tonne of the aggregate weight of the train in question;

“Incremental MRR Charge” has the meaning given in paragraph 8K.3;

“Initial Indexation Factor” is derived from the following formula:

$$IIF = \left(1 + \frac{(CPI_{2018} - CPI_{2017})}{CPI_{2017}}\right)^2$$

where:

IIF means the Initial Indexation Factor;

CPI₂₀₁₇ means the CPI published or determined with respect to the month of November 2017; and

CPI₂₀₁₈ means the CPI published or determined with respect to the month of November 2018;

The value derived from this formula shall be rounded to three decimal places;

“kgtm” means 1000 Gross Tonne Miles;

“kWh” means kilowatt hours;

“Metered Train m” means, as the context requires, either:

(a) a train of a particular type; or

(b) a specific train having a train ID,

as specified in Appendix 7D of this Schedule 7;

“MS Accrued DFC” has the meaning given in paragraph 8F.1;

“MS Additional Deliverable” means the Regulatory Asset Base addition as specified in the ORR letter from John Larkinson to Graham Cross of Chiltern Railway Company Limited dated 30 March 2011;

“MS additional Facility Charge Accrued DFC” has the meaning given in paragraph 8L.1;

“MS Additional Facility Charge”	means the charge payable by the Train Operator to Network Rail in respect of the capital cost of an MS Additional Deliverable purchased by Network Rail and any associated MS Additional Facility Charge Accrued DFC, the total amount of such MS Additional Facility Charge being calculated for each Relevant Year in accordance with paragraph 8L.1 of this Schedule 7 (Track Charges);
“MS Additional Deliverable Facility Charge Date”	means the date upon which an MS Additional Deliverable is Taken into Use as part of an MS Enhanced Asset;
“MS Additional Facility Charge Term”	has the meaning given to it in paragraph 8L.3(b)(ii)(B);
“MS Deliverable”	means a deliverable specified in Schedule 3 of the MS Asset Purchase Agreement;
“MS Deliverable Facility Charge Date”	means the date upon which an MS Deliverable is Taken into Use as part of an MS Enhanced Asset;
“MS Facility Charge”	means the charge payable by the Train Operator to Network Rail in respect of the capital cost of an MS Deliverable purchased by Network Rail and any associated MS Accrued DFC, the total amount of such MS Facility Charge being calculated for each Relevant Year in accordance with paragraph 8F of this Schedule 7 (Track Charges);
“MS Purchase Price”	has the meaning given to it in the MS Asset Purchase Agreement;
“Network Rail Distribution System Loss Factor”	means the relevant factor that represents the electrical losses between the On-Train Meter and Network Rail’s meter through which it purchases traction electricity for the AC System or the DC System in Geographic Area g, as set out in Appendix 3 of the Traction Electricity Rules;
“Network Rail Rebate”	has the meaning ascribed to it in paragraph 7.1 of Part 2;

“New Modelled Train”	means a type of train for which E_{tmo} is to be calculated for the purposes of paragraph 4.1.1 of Part 2 but in relation to which no train category i , and no modelled consumption rate, is shown in either the Passenger Traction Electricity Modelled Consumption Rates for CP6 or Generic Traction Electricity Modelled Consumption Rates for CP6 tables in the Traction Electricity Modelled Consumption Rates List, or the PFM Rates List;
“New Specified Equipment”	means a type of railway vehicle not included in the section of the Track Usage Price List entitled “Passenger Variable Usage Charge rates”;
“Notice of Consent”	means a notice given by the ORR to the parties under paragraph 8K.4(g);
“Notice of Determined Relevant Schedule 7 Modifications”	means a notice given by the ORR to the parties under paragraph 8K.4(h)(ii);
“Notice of Procedural Modifications”	means a notice given by the ORR to the parties under paragraph 8K.4(l) modifying any aspect of the procedures in paragraph 8K.4;
“On-Train Meter” and “On-Train Metering”	have the meanings ascribed to them in paragraph 1.2 of the Traction Electricity Rules;
“ORR’s Criteria”	means the criteria set out in paragraph 8K.4(k);
“Oxford Contribution Sum”	means the sum calculated in accordance with paragraph 3 of Part 3 of Schedule 2 of the Contribution Agreement less an amount that is equal to the Wolvercot Tunnel Capital Sum;
“Oxford Facility Charge”	means the charge payable by the Train Operator to Network Rail in relation to the Oxford Works as determined by reference to the Oxford Contribution Sum, the total amount of such Oxford Facility Charge being calculated for each Relevant Year in accordance with paragraph 8I.2 of this Schedule 7 (Track Charges);

“Oxford Facility Charge Date”	means with effect from the Oxford Effective Date the earlier of the date upon which the Oxford Services are first to be operated by the Train Operator on the Routes from Bicester South Junction to Oxford via Bicester Village and the date that is six (6) months from the Oxford Effective Date; ^{114th}
“Oxford Final Contribution Sum”	means the sum calculated in accordance with paragraph 4.3 of Schedule 2 Part 3 of the Contribution Agreement less an amount that is equal to the Wolvercot Tunnel Capital Sum;
“Oxford Final Facility Charge”	means the charge payable by the Train Operator to Network Rail in relation to the Oxford Works, the total amount of such Oxford Final Facility Charge being calculate for each Relevant Year in accordance with paragraph 8I.5 of the Schedule 7 (Track Charges);
“Oxford Incremental MRR Charge”	means the charge calculated in accordance with paragraph 8K.1(C) of this Schedule 7 (Track Charges);
“Oxford Services”	means the railway passenger services specified in Tables 2.1(d)(B), 3.1(d)(B), 3.3(d)(B), 4.1(d)(B), 5.1(d)(B), 6.1(d)(B) and 6.2(b)(B) of Appendix 8(b) of Schedule 5;
“Payment Date”	has the meaning ascribed to it in paragraph 1.1(c) of Part 3A;
“Phase 1 Incremental MRR Charge”	means the charge calculated in accordance with paragraphs 8K.1(A) of this Schedule 7 (Track Charges);
“Period”	has the meaning ascribed to it in Schedule 8;
“PFM Rate”	has the meaning ascribed to it in paragraph 1 of the Traction Electricity Rules;
“PFM Rates List”	has the meaning ascribed to it in paragraph 1 of the Traction Electricity Rules;
“Proposed Review Notice”	means the most recently proposed Review Notice given by ORR, in accordance with Schedule 4A of the Act;
“Purchase Price”	has the meaning given to it in the EG3 Asset Purchase Agreement;
“Rebatable Amount”	has the meaning ascribed to it in paragraph 7.2 of Part 2;

“relevant access agreement”	<p>means an access agreement under which any of the following persons obtains permission from Network Rail to use the Network:</p> <ul style="list-style-type: none"> (a) a franchise operator; or (b) a concession operator within the meaning of the Merseyrail Electrics Network Order 2003; or (c) a TfL concessionaire within the meaning of the Railways (North and West London Lines) Exemption Order 2007; or (d) any other person who benefits from a franchise exemption (within the meaning of section 24(13) of the Act) in relation to services for the carriage of passengers by railway; or (e) a relevant franchising authority (as defined in section 30(3B) of the Act) or a person providing services for the carriage of passengers by railway on behalf of a relevant franchising authority under section 30 of the Act;
“Relevant Schedule 7 Modifications”	<p>means:</p> <ul style="list-style-type: none"> (a) the value of the Incremental MRR Charge for each of the EG3 Phase 1 Assets and the EG3 Phase 2 Assets (as appropriate); and (b) any modifications to any other provision of the Contract which are necessary as a consequence of any modifications under limb (a) above;
“Relevant Year”	<p>means a year commencing at 0000 hours on 1 April and ending at 2359 hours on the following 31 March; “Relevant Year t” means the Relevant Year for the purposes of which any calculation falls to be made; “Relevant Year t-1” means the Relevant Year preceding Relevant Year t; and similar expressions shall be construed accordingly;</p>
“Review Implementation Notice”	<p>has the meaning given to “review implementation notice” in paragraph 7 of Schedule 4A of the Act;</p>
“Review Notice”	<p>has the meaning given to “review notice” in paragraph 4 of Schedule 4A of the Act;</p>
“Route-Level Efficiency Benefit Share”	<p>has the meaning ascribed to it in paragraph 1 of Part 3;</p>

“route type k”	means route type k as identified by type of electrification (AC (OLE) or DC) in the Track Usage Price List;
“RPI”	means the General Index of Retail Prices All Items measured by CHAW and published each month, or: <ul style="list-style-type: none"> (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or (b) if there is a material change in the basis of the index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;
“Schedule of Baseline Timetabled Traffic”	means the document entitled “Schedule of Baseline Timetabled Traffic” approved by ORR on or before 31 July 2019 (or, if not approved by that date, otherwise determined by ORR thereafter);
“Schedule of Fixed Charges”	means the document entitled “Schedule of Fixed Charges” published by Network Rail on or about 20 December 2018;
“Stage Gate 4”	has the meaning given to it in the EG3 Asset Protection Agreement;
“Stage Gate 5”	means the approval stage reached in accordance with GRIP when approval of detailed design is required, as may be amended from time to time
“Start Date”	means the date upon which EG3 Phase 1 or EG3 Phase 2 (as appropriate) passes Stage Gate 4;
“Table E2B”	means Table E2B in ORR’s document entitled “PR18 final determination – Supplementary document – financial framework October 2018”;

“Taken into Use”	has the meaning given to it in the MS Asset Purchase Agreement;
“tariff band j”	means the tariff zone and time band in which the train in question is operated;
“Timetabled Train Miles”	has the meaning ascribed to it in paragraph 2A of Part 2;
“Track Usage Price List”	means the document entitled “Track Usage Price List” published by Network Rail on or about 20 December 2018 which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract, or a passenger track access contract previously held by the Train Operator;
“Traction Electricity Charge”	means a variable charge for traction current calculated in accordance with paragraph 4 of Part 2;
“Traction Electricity Modelled Consumption Rates List”	means the document entitled “Traction Electricity Modelled Consumption Rates List” published by Network Rail on or about 20 December 2018 and specifying freight and passenger traction electricity modelled consumption rates which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract or a passenger track access contract previously held by the Train Operator;
“Traction Electricity Modelled Default Rate”	means, in respect of any New Modelled Train used on the Network by the Train Operator, the corresponding default consumption rate for that type of vehicle set out in the section of the Traction Electricity Modelled Consumption Rates List entitled “Traction Electricity Modelled Default Rates for CP6”;
“Traction Electricity Modelled Default Rate Period”	means the period from the date on which the New Modelled Train is first used on the Network by the Train Operator until the date on which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train or the train in question has been added to Appendix 7D of this Schedule 7;

“Traction Electricity Modelled Default Rate Reconciliation Period” means the period from the later of:

- (a) the date on which the New Modelled Train is first used on the Network by the Train Operator;
- or
- (b) 1 April of the Relevant Year in which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train,

until the date on which ORR consents to or determines a supplement to the Traction Electricity Modelled Consumption Rates List under paragraph 9.10 of Part 2 in respect of that New Modelled Train;

“Traction Electricity Usage Occurrence Data” means information as to when a Bimodal Electric Multiple Unit or Bimodal Locomotive is either drawing current from the AC System and/or the DC System, or is powered by an alternative source of energy;

“Traction-Train Compatible” means a situation in which a Bimodal Electric Multiple Unit or Bimodal Locomotive is located on the Network with a system of electricity traction supply that the Bimodal Electric Multiple Unit or Bimodal Locomotive is capable of drawing current from;

“train category i”	<p>means train category i as identified in the relevant section of the Traction Electricity Modelled Consumption Rates List or PFM Rates List, being either:</p> <p>(a) where there is no PFM Rate for a particular passenger vehicle type operating on a particular Train Service Code:</p> <p style="padding-left: 40px;">(i) where there is a modelled consumption rate for a particular passenger vehicle type operating on a particular Train Service Code, the relevant category set out in the table entitled "Passenger Traction Electricity Modelled Consumption Rates for CP6"; or</p> <p style="padding-left: 40px;">(ii) where there is a generic consumption rate for a passenger vehicle type not referred to in paragraph (a)(i), the relevant category set out in the table entitled “Generic Traction Electricity Modelled Consumption Rates for CP6”; or</p> <p>(b) where there is a PFM Rate for a particular passenger vehicle type operating on a particular Train Service Code, the relevant category set out in the PFM Rates List;</p>
“Train Consist Data”	means the information relating to the number(s) and type(s) of railway vehicle comprised in a train movement;
“Train Mile”	in relation to a train, means a mile travelled by that train on the Network;
“Train Service Code”	has the meaning ascribed to it in paragraph 1.1 of Schedule 5;
“Variable Charges”	means the Capacity Charge, the VUC Default Charge, the Electrification Asset Usage Charge, the Variable Usage Charge and the Traction Electricity Charge;
“Variable Usage Charge”	means a variable charge, calculated in accordance with paragraph 3.1 of Part 2;
“Vehicle Mile”	in relation to a railway vehicle, means a mile travelled by that vehicle on the Network;
“Volume Reconciliation”	has the meaning ascribed to it in the Traction Electricity Rules;

“VUC Default Charge”	means a variable charge calculated in accordance with paragraph 3.3 of Part 2;
“VUC Default Period”	means the period from the later of: <ul style="list-style-type: none"> (a) the date on which the New Specified Equipment is first used on the Network by the Train Operator; or (b) 1 April 2019, until the date on which ORR consents to or determines a supplement to the Track Usage Price List under paragraph 9.10 of Part 2 in respect of that New Specified Equipment;
“VUC Default Rate”	means, in respect of any New Specified Equipment used on the Network by the Train Operator, the corresponding passenger default rate for that type of vehicle set out in the section of the Track Usage Price List entitled “Passenger Variable Usage Charge default rates”;
“Water Eaton Contribution Sum”	means the sum calculated in accordance with paragraph 2 of Part 3 of Schedule 2 of the Contribution Agreement;
“Water Eaton Facility Charge”	means the charge payable by the Train Operator to Network Rail in relation to the Water Eaton Works as determined by reference to the Water Eaton Contribution Sum, the total amount of such Water Eaton Facility Charge being calculated for each Relevant Year in accordance with paragraph 8I.1 of this Schedule 7 (Track Charges);
“Water Eaton Facility Charge Date”	means until the Oxford Effective Date the earlier of the date upon which the Water Eaton Services are first to be operated by the Train Operator on the Routes from Bicester South Junction to Oxford Parkway via Bicester Village and the date that is six (6) months from the Water Eaton Effective Date; ^{114th}
“Water Eaton Final Facility Charge”	means the charge payable by the Train Operator to Network Rail in relation to the Water Eaton Works, the total amount of such Water Eaton Final Facility Charge being calculated for each Relevant Year in accordance with paragraph 8I.4 of this Schedule 7 (Track Charges);
“Water Eaton Final Contribution Sum”	means the sum calculated in accordance with paragraph 4.3 of Schedule 2 Part 3 of the Contribution Agreement;

“Water Eaton Incremental MRR Charge”	means the charge calculated in accordance with paragraph 8K.1(B) of this Schedule 7 (Track Charges);
“Water Eaton Services”	Means the railway passenger services specified in Tables 2.1(d)(A), 3.1(d)(A), 3.3(d)(A), 4.1(d)(A), 5.1(d)(A), 6.1(d)(A) and 6.2(b)(A) of Appendix 8(b) of Schedule 5;
“Weekday”	has the meaning ascribed to it in paragraph 1.1 of Schedule 5;
“Wolvercot Tunnel Works”	means the works in relation to Wolvercot tunnel more fully described in the Contribution Agreement at Schedule 3 paragraph 2.2(b);
“Wolvercot Tunnel Facility Charge”	means the charge payable by the Train Operator to Network Rail in respect of the capital cost for the Wolvercot Tunnel Works the total amount of such charge being calculated for each Relevant Year in accordance with paragraph 8J of this Schedule 7 (Track Charges); and

2 Interpretation

The provisions of Clause 1.2(e) of this contract shall not apply to any references to the Grant Agreement in this Schedule 7.

PART 2: TRACK CHARGES

1 Principal formula

During each Relevant Year (and, in respect of F_t , prorated for each day of any period of this contract comprising less than a full Relevant Year), Network Rail shall levy and the Train Operator shall pay Track Charges in accordance with the following formula:

$$T_t = F_t + FW_t + V_t + D_t + E_t + K_t + EAV_t - W_t$$

where:

T_t means Track Charges in Relevant Year t ;

F_t means an amount in respect of the Fixed Track Charge in Relevant Year t , expressed in pounds sterling and rounded to two decimal places, which shall be:

- (a) in respect of the Relevant Year commencing on 1 April 2019, the total of the amounts set out in the row relating to the Train Operator and the column relating to that year in the Schedule of Fixed Charges, multiplied by the Fixed Track Charge Indexation calculated in accordance with paragraph 2.1; and
- (b) in respect of any Relevant Year t commencing on or after 1 April 2020, the total of the amounts set out in the row relating to the Train Operator and the column relating to that year in the Schedule of Fixed Charges, multiplied by the Fixed Track Charge Indexation for that year calculated in accordance with paragraph 2.2;

FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived in accordance with paragraph 2A;

V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the formula in paragraph 3.1;

D_t means an amount (if any) in respect of the VUC Default Charge in Relevant Year t which is calculated in accordance with paragraph 3.3;

E_t means an amount in respect of the Traction Electricity Charge in Relevant Year t which is derived from the formula in paragraph 4;

K_t means an amount in respect of the Capacity Charge in Relevant Year t which is calculated in accordance with paragraph 6;

EAV_t means an amount in respect of the Electrification Asset Usage Charge, calculated in accordance with the formula in paragraph 8; and

W_t means an amount (which shall not be a negative value) in respect of the Network Rail Rebate in Relevant Year t , calculated in accordance with the provisions of paragraph 7.1.

2 Fixed Track Charge Indexation

2.1 The Fixed Track Charge Indexation in respect of the Relevant Year commencing on 1 April 2019 shall be derived from the following formula:

$$FTCI_{2019} = \text{Initial Indexation Factor}$$

where:

$FTCI_{2019}$ means the Fixed Track Charge Indexation in respect of the Relevant Year commencing on 1 April 2019.

2.2 The Fixed Track Charge Indexation in respect of any Relevant Year t commencing on or after 1 April 2020 shall be derived from the following formula:

$$FTCI_t = \left(1 + \frac{(CPI_{t-1} - CPI_{2018})}{CPI_{2018}}\right) \bullet \text{Initial Indexation Factor}$$

where:

$FTCI_t$ means the Fixed Track Charge Indexation in Relevant Year t ;

CPI_{t-1} means the CPI published or determined with respect to the month of November in Relevant Year $t-1$; and

CPI_{2018} means the CPI published or determined with respect to the month of November 2018.

2A Fixed Track Charge Wash-Up

For the purposes of paragraph 1, the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t , expressed in pounds sterling and rounded to two decimal places, which is derived from the following formula:

$$FW_t = P_t \times F_t$$

where:

F_t means an amount in respect of the Fixed Track Charge in Relevant Year t ; and

P_t means the percentage difference between timetabled traffic and baseline traffic in Relevant Year t , derived from the formula:

$$P_t = \left(\frac{\text{Timetabled train miles}_t - \text{Baseline timetabled traffic miles}_t}{\text{Baseline timetabled traffic miles}_t} \right) \bullet 100$$

where:

Timetabled train miles_t means that figure to be taken by Network Rail from the most appropriate system, which system shall be agreed in writing between Network Rail and ORR on or before 31 July 2019; and

Baseline timetabled traffic miles_t means that figure set out in relation to the Train Operator for the Relevant Year t in the Schedule of Baseline Timetabled Traffic,

subject to the following:

if the term P_t has a value less than -1% (for example, -1.5% or -5%), the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived from the following formula:

$$FW_t = -1\% \times F_t$$

and

if the term P_t has a value equal to or greater than -1% (for example, -0.9% or 2%), the term FW_t means an amount in respect of the Fixed Track Charge Wash-Up in Relevant Year t which is derived from the following formula:

$$FW_t = P_t \times F_t$$

3 Variable Usage Charge

3.1 Variable Usage Charge

For the purposes of paragraph 1, the term V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the following formula:

$$V_t = \sum V_{it} \bullet UV_{it}$$

where:

V_{it} means an amount for vehicle type i for Relevant Year t, expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$V_{it} = V_{it-1} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}}\right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} means the CPI published or determined with respect to the month of November in Relevant Year t-2,

but so that in relation to the Relevant Year commencing on 1 April 2019, V_{it} shall have, in respect of vehicle type i, the corresponding variable usage charge rate per Vehicle Mile for that vehicle type i set out in the Track Usage Price List, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year V_{it-1} shall have the same value;

UV_{it} means the actual volume of usage (in Vehicle Miles) in Relevant Year t of vehicle type i (referred to in the Track Usage Price List) operated by or on behalf of the Train Operator; and

Σ means the summation across all relevant categories of vehicle types i.

3.2 *Not used*

3.3 *VUC Default Charge*

For the purposes of paragraph 1, the term D_t means the amount of VUC Default Charge payable in respect of New Specified Equipment in Relevant Year t which is derived from the following formula:

$$D_t = \Sigma D_{nt} \bullet UD_{nt}$$

where:

D_{nt} means the VUC Default Rate for that New Specified Equipment for Relevant Year t, expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$D_{nt} = D_{nt-1} \bullet \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}}\right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 2.2 above; and

CPI_{t-2} has the meaning set out in paragraph 3.1 above,

but so that in relation to the Relevant Year commencing on 1 April 2019, D_{nt} shall have, in respect of New Specified Equipment, the corresponding VUC Default Rate for that New Specified Equipment, multiplied by the

Initial Indexation Factor; and in relation to the next following Relevant Year D_{nt-1} shall have the same value;

UD_{nt} means the actual volume of usage of New Specified Equipment in Vehicle Miles during the VUC Default Period in Relevant Year t operated by or on behalf of the Train Operator; and

Σ means the summation across all relevant New Specified Equipment.

4 Traction Electricity Charge

4.1 For the purposes of paragraph 1, the term E_t means an amount in respect of the Traction Electricity Charge in Relevant Year t , which is derived from the following formula:

$$E_t = E_{tmo} + E_{tme} + E_{tmuAC} + E_{tmuDC}$$

where:

E_{tmo} means an amount calculated in accordance with paragraph 4.1.2 below;

E_{tme} means an amount calculated in accordance with paragraph 4.1.3 below;

E_{tmuAC} means an amount calculated in accordance with paragraph 4.1.4(a) below; and

E_{tmuDC} means an amount calculated in accordance with paragraph 4.1.4(b) below.

Circumstances in which calculation to be based on modelled data and circumstances in which calculation to be based on metered data

4.1.1 E_{tmo} shall be calculated in respect of all trains other than those identified in the table at Appendix 7D, and E_{tme} , E_{tmuAC} and E_{tmuDC} shall be calculated in respect of the trains identified in the table at Appendix 7D.

Calculation of modelled consumption (including using PFM Rates)

4.1.2 E_{tmo} is derived from the following formula:

$$E_{tmo} = \Sigma E_{tmog}$$

where:

Σ means the summation across all Geographic Areas g , as appropriate;

E_{tmog} is derived from the following formula:

$$E_{tmog} = \Sigma C_i \bullet EF_{gjt} \bullet UE_{igt}$$

where:

Σ means the summation across all relevant train categories i (determined in accordance with paragraph 4.1.1 above), New Modelled Trains and tariff bands j , as appropriate;

C_i means, as appropriate:

(a) the consumption rate:

(i) in kWh per electrified Train Mile in relation to passenger electric multiple units (using the rate for the relevant number of units); or

(ii) in kWh per electrified kgm in relation to locomotive-hauled units and all freight traffic,

for train category i shown in the Traction Electricity Modelled Consumption Rates List, taking into account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules or, if a PFM Rate applies in accordance with the Traction Electricity Rules, the PFM Rates List; or

(b) for New Modelled Trains, the Traction Electricity Modelled Default Rate shown in the Traction Electricity Modelled Consumption Rates List, taking into account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g , in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

UE_{igt} means the actual volume of usage (in electrified Vehicle Miles in relation to passenger electric multiple units or electrified kgm in relation to locomotive-hauled units and all freight traffic), if any, of trains operated by or on behalf of the Train Operator in train category i and New Modelled Trains operated by or on behalf of the Train Operator, in Geographic Area g , in tariff band j and in Relevant Year t , pursuant to this contract, provided that where train category i or a New Modelled Train is a Bimodal Electric Multiple Unit or Bimodal Locomotive operating in a Traction-Train

Compatible situation, it shall be deemed that all mileage (in Vehicle Miles in relation to passenger electric multiple units or kgtm in relation to locomotive-hauled units and all freight traffic), if any, of such trains is electrified.

Calculation of consumption using metered consumption data

4.1.3 E_{tme} is derived from the following formula:

$$E_{tme} = \Sigma E_{tmeg}$$

where:

Σ means the summation across all Geographic Areas g, as appropriate;

E_{tmeg} is derived from the following formula:

$$E_{tmeg} = \Sigma ((CME_{mgjt} \bullet EF_{gjt}) - (RGB_{mgjt} \bullet EF_{gjt}))$$

where:

Σ means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgjt} means the consumption of electricity (in kWh) by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

RGB_{mgjt} means the electricity (in kWh) generated by braking by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t.

4.1.4

(a) E_{tmuAC} is derived from the following formula:

$$E_{tmuAC} = \Sigma E_{tmugAC}$$

where:

Σ means the summation across all Geographic Areas g, as appropriate;

E_{tmugAC} is derived from the following formula:

$$E_{tmugAC} = \Sigma(CME_{mgjtAC} \bullet EF_{gjt}) \bullet \lambda_{ACg}$$

where:

Σ means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgjtAC} means the consumption of electricity (in kWh) from the AC System by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

λ_{ACg} means the Network Rail Distribution System Loss Factor for the AC System in Geographic Area g.

(b) E_{tmuDC} is derived from the following formula:

$$E_{tmuDC} = \Sigma E_{tmugDC}$$

where:

Σ means the summation across all Geographic Areas g, as appropriate;

E_{tmugDC} is derived from the following formula:

$$E_{tmugDC} = \Sigma(CME_{mgjtDC} \bullet EF_{gjt}) \bullet \lambda_{DCg}$$

where:

Σ means the summation across all relevant Metered Trains m (determined in accordance with paragraph 4.1.1 above) and tariff bands j, as appropriate;

CME_{mgjtDC} means the consumption of electricity (in kWh) from the DC System by Metered Trains m operated by or on behalf of the Train Operator, as measured by the On-Train Meters or as

otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g, tariff band j and in Relevant Year t;

EF_{gjt} means the charge for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 19 of the Traction Electricity Rules; and

λ_{DCg} means the Network Rail Distribution System Loss Factor for the DC System in Geographic Area g.

Metered Bimodal Electric Multiple Units and Bimodal Locomotives – deemed electrified mileage

4.1.5

- (a) Where Metered Train m is a Bimodal Electric Multiple Unit or Bimodal Locomotive, the Train Operator shall, as a minimum, within seven days of the end of each of the third, sixth, tenth and thirteenth Periods, provide to Network Rail the Traction Electricity Usage Occurrence Data for Metered Train m. The Traction Electricity Usage Occurrence Data provided: within seven days of the end of the third Period shall cover Periods one, two and three; within seven days of the end of the sixth Period shall cover Periods four, five and six; within seven days of the end of the tenth Period shall cover Periods seven, eight, nine and ten; and within seven days of the end of the thirteenth Period shall cover Periods eleven, twelve and thirteen.
- (b) Where, after seven days, any Traction Electricity Usage Occurrence Data is missing in respect of any such Bimodal Electric Multiple Unit or Bimodal Locomotive, all mileage, if any, of such Bimodal Electric Multiple Unit or Bimodal Locomotive operated by or on behalf of the Train Operator shall be deemed, for billing purposes, to be electrified in Traction-Train Compatible situations and paragraphs 4.1.3 and 4.1.4 shall apply in respect of all such mileage.

Election to introduce On-Train Metering for a vehicle or vehicle type

- 4.2 (a) If the Train Operator wishes to propose the introduction of On-Train Metering to measure traction electricity consumption for a vehicle or vehicles of a vehicle type that the Train Operator operates for the purposes of being invoiced by Network Rail for traction electricity, it shall notify Network Rail of any required changes to the contract in connection with that proposal.
- (b) Any notice under sub-paragraph 4.2(a) shall be accompanied by information and evidence in reasonable detail supporting the changes proposed and setting out the

reasons for those changes, and Network Rail shall respond in writing within 56 days of service of any such notice.

- (c) Promptly following any response served by Network Rail under sub-paragraph 4.2(b), the parties shall endeavour to agree whether the contract should be amended in connection with that proposal and, if so, the amendments.
- (d) If the parties agree an amendment to the contract in connection with the proposal referred to in sub-paragraph 4.2(a), that amendment shall take effect only when it has been approved by ORR under section 22 of the Act. Accordingly, as soon as reasonably practicable after any such amendment is agreed, the parties shall ensure that ORR is furnished with such amendment and such information and evidence as it shall require to determine whether or not to approve the amendment.
- (e) Any agreed amendment to the contract in connection with the proposal referred to in sub-paragraph 4.2(a) which is approved by ORR under section 22 of the Act shall apply with effect from the date agreed by the parties.
- (f) If the parties fail to reach agreement within 90 days after service of a notice under sub-paragraph 4.2(a), or if prior to that date both parties agree that agreement is unlikely to be reached prior to that date, either party may notify ORR and request that ORR determines the matter. The parties shall, within such timescales as ORR may specify, furnish ORR with such information and evidence as ORR shall require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- (g) Where ORR determines the matter pursuant to sub-paragraph 4.2(f), it may issue a notice to the parties setting out the amendments to be made to the contract and the date, which may be retrospective, from which they shall take effect.

5 Not used

6 Capacity Charge

In respect of the Relevant Year ending 31 March 2019, the term K_t means an amount in respect of the Capacity Charge which shall be derived from the formula that was contained in paragraph 6 of Part 2 of Schedule 7 of the version of this contract that was in force up until 31 March 2019. For subsequent Relevant Years, K_t shall have a value of zero.

7 Network Rail Rebate

- 7.1 For the purpose of paragraph 1, the Network Rail Rebate in respect of any Relevant Year t (W_t) is an amount (which shall not be a negative value) by way of a return of Track Charges paid in accordance with paragraph 7.5, derived from the following formula:

$$W_t = RA_t \cdot \frac{F_t}{AF_t}$$

where:

RA_t means the Rebatable Amount declared by Network Rail in relation to Relevant Year t under paragraph 7.2;

F_t has the meaning ascribed to it in paragraph 1 for Relevant Year t; and

AF_t means the Aggregate Fixed Charge in Relevant Year t.

- 7.2 The Rebatable Amount shall be the amount, if any:
- (a) which represents such proportion of Network Rail's total income for Relevant Year t as it reasonably considers that it does not require in order to discharge its obligations under its network licence and any contracts to which it is a party;
 - (b) which Network Rail, acting reasonably, considers it appropriate to rebate as an amount representing a return of Track Charges payable by persons who provide services for the carriage of passengers by railway under the relevant access agreements to which they are parties; and
 - (c) which Network Rail notifies as such to ORR within 9 months after the end of each Relevant Year t.
- 7.3 No amount of Track Charges shall be rebated under this paragraph 7 unless ORR has consented to such rebate.
- 7.4 Without prejudice to the generality of clause 16.3.1, any payment of a Network Rail Rebate (a "**rebate payment**") shall be made on the basis that it is to be treated as exclusive of VAT, so that where and to the extent that the rebate payment is consideration for a supply for VAT purposes Network Rail shall in addition pay to the Train Operator an amount equal to the amount of VAT due in respect of that rebate payment and either:
- (a) the Train Operator shall issue a VAT invoice to Network Rail in respect of the relevant amount; or
 - (b) if the parties so agree and have entered into an applicable self-billing agreement (within the meaning of regulation 13(3A) of the Value Added Tax Regulations 1995 (the "**VAT Regulations**")) that continues in force then Network Rail shall produce for itself a self-billed invoice (within the meaning of regulation 13(3) of the VAT Regulations) in respect of the relevant amount.
- 7.5 If, pursuant to paragraph 7.1, the Train Operator is entitled to payment of a Network Rail Rebate in respect of Relevant Year t, then such payment shall be made by

Network Rail to the Train Operator as a lump sum payment within 28 days after the end of the Period in which ORR gives its consent under paragraph 7.3.

- 7.6 If, pursuant to paragraph 7.2, Network Rail notifies ORR of the Rebatable amount in respect of Relevant Year t after this contract has expired or has otherwise been terminated then, notwithstanding the expiration or termination of this contract, paragraph 7.5 shall apply.
- 7.7 If Network Rail has, prior to 31 March 2019 and pursuant to the provisions of this contract in force as at that date, notified ORR of a Rebatable Amount for the Relevant Year ending on that date, then such provisions shall continue to apply to the extent (and only to the extent) necessary to enable determination and payment (where applicable) of a Network Rail Rebate based on that Rebatable Amount.

8 Electrification Asset Usage Charge

For the purposes of paragraph 1, the term EAV_t means an amount for electrification asset usage which is derived from the following formula:

$$\text{Electrification Asset Usage Charge} = \sum EV_{tk} \cdot UV_{tk}$$

where:

- \sum means the summation across all route types;
- EV_{tk} means an amount in respect of the Electrification Asset Usage Charge per electrified Vehicle Mile on route type k for Relevant Year t, expressed in pence per electrified Vehicle Mile and rounded to two decimal places, which is derived from the following formula:

$$EV_{tk} = EV_{t-1k} \cdot \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

- CPI_{t-1} has the meaning set out in paragraph 2.2 above; and
- CPI_{t-2} has the meaning set out in paragraph 3.1 above,

but so that in relation to the Relevant Year commencing on 1 April 2019, EV_{tk} shall have, in respect of each electrified Vehicle Mile on route type k, the value per electrified Vehicle Mile for the Electrification Asset Usage Charge set out in the Track Usage Price List, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year EV_{t-1k} shall have the same value; and

- UV_{tk} means the actual number of electrified Vehicle Miles on route type k in Relevant Year t operated by or on behalf of the Train Operator. Where the Train Operator operates a Bimodal Electric Multiple Unit or Bimodal Locomotive, the actual number of electrified Vehicle Miles on route type k in Relevant Year t shall be calculated as follows:

- (i) where the Bimodal Electric Multiple Unit or Bimodal Locomotive is operating in a Traction-Train Compatible situation and is not a Metered Train m, it shall be deemed that all mileage, if any, of such train is electrified; or
- (ii) where the Bimodal Electric Multiple Unit or Bimodal Locomotive is a Metered Train m, in accordance with paragraph 4.1.5 above.

8F Facility Charge

8F.1 From the date upon which Network Rail pays the Train Operator for an MS Deliverable, the Deliverable Financing Charge for that MS Deliverable shall accrue (the **MS Accrued DFC**).

8F.2

- (a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from each relevant MS Deliverable Facility Charge Date, the Train Operator shall pay each MS Facility Charge for each relevant MS Deliverable.
- (b) The MS Accrued DFC for each MS Deliverable shall be paid to Network Rail by the Train Operator as part of the MS Facility Charge in accordance with paragraph 8F.3 from each relevant MS Deliverable Facility Charge Date.

8F.3 The MS Facility Charge due and payable for an MS Deliverable in Relevant Year t shall be calculated as follows:

- (a) in each Relevant Year (or part year) prior to the relevant MS Deliverable Facility Charge Date, zero; and
- (b) from the relevant MS Deliverable Facility Charge Date, calculated in accordance with the following formula:

$$FC_t = (AC_t + RC_t) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

- (i) **FC_t** means an amount of the MS Facility Charge in Relevant Year t;
- (ii) **AC_t** means the amortisation charge calculated in accordance with the following formula:

$$AC_t = \left[\frac{FCDValue}{30} \right] \times \left[\frac{TPP_t}{365} \right]$$

where:

(A) **FCDValue** means:

$$[DP_{nt} + DFC]$$

where:

- 1) **DP_{nt}** means the net amount paid by Network Rail for an MS Deliverable referenced number *n* in Schedule 3 of the MS Asset Purchase Agreement in the Relevant Year *t*, as may be reduced from time to time following any capital payment to Network Rail by the Train Operator in respect of that MS Deliverable in accordance with the terms of the MS Asset Purchase Agreement; and
- 2) **DFC** means the MS Accrued DFC for an MS Deliverable referenced number *n* in Schedule 3 of the MS Asset Purchase Agreement that is not paid to Network Rail prior to the relevant MS Deliverable Facility Charge Date;

(B) **TPP_t** means:

- 1) in the first year of payment of AC_t, the number of days from the relevant MS Deliverable Facility Charge Date to the end of Relevant Year *t*; and
- 2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:
 - a) the date of expiry of the Asset Life; and
 - b) the end of the Relevant Year *t*;

(iii) **RC_t** means the return charge derived from the following formula:

$$RC_t = \left(\frac{OB_t + CB_t}{2} \right) \times ROR$$

where:

(A) **OB_t** means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below as appropriate;

(B) **CB_t** means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below as appropriate;

1) in relation to the Relevant Year in which the relevant MS Deliverable Facility Charge Date occurs:

(a) **OB_t** = $DPnt$

(b) **CB_t** = $DPnt - AC_t$

2) in relation to each subsequent Relevant Year:

(a) **OB_t** = CB_{t-1}

(b) **CB_t** = $OB_t - AC_t$

(C) **ROR** means:

$$\left[\frac{AROR \times TPP_t}{365} \right]$$

where:

3) **TPP_t** means:

a) in the Relevant Year in which the relevant MS Deliverable Facility Charge Date occurs, the number of days from the relevant MS Deliverable Facility Charge Date to the end of the Relevant Year *t*; and

b) in each subsequent Relevant Year, the number of days from the start of the

Relevant Year to the earlier of:

- i) the expiry of the Asset Life; and
 - ii) the end of the Relevant Year t;
- 2) **AROR** means the applicable rate of annual return which is 0.06 in accordance with the ORR's CP4 pre tax rate of return for the investment framework.
- (iv) **RPI_{t-1}** means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year_{t-1} and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the date that Network Rail pays for an MS Deliverable occurs.

8G MS Incremental MRR Charge [NOT USED]

8H EG3 Phase 1 Facility Charge

8H.1 (a) From the date upon which Network Rail pays the Train Operator for an EG3 Phase 1 Deliverable up to and including the EG3 Phase 1 Timetable Change Date, the EG3 Deliverable Financing Charge for that EG3 Phase 1 Deliverable shall accrue (the **EG3 Phase 1 Accrued DFC**).

(b) From the day after the EG3 Phase 1 Timetable Change Date or, if later, the date upon which Network Rail pays the Train Operator for an EG3 Phase 1 Deliverable until the EG3 Phase 1 Facility Charge Date, the EG3 Phase 1 Additional Deliverable Financing Charge for that EG3 Phase 1 Deliverable shall accrue (the **EG3 Phase 1 Additional Accrued DFC**).

8H.2

(a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the EG3 Phase 1 Facility Charge Date, the Train Operator shall pay each EG3 Phase 1 Facility Charge for each EG3 Phase 1 Deliverable.

(b) The EG3 Phase 1 Accrued DFC and the EG3 Phase 1 Additional Accrued DFC for each EG3 Phase 1 Deliverable shall be paid to Network Rail by the Train Operator as part of the EG3 Phase 1 Facility Charge in accordance with paragraph 8H.3 from the EG3 Phase 1 Facility Charge Date.

8H.3 The EG3 Phase 1 Facility Charge due and payable for an EG3 Phase 1 Deliverable in Relevant Year t shall be calculated as follows:

- (a) in each Relevant Year (or part year) prior to the EG3 Phase 1 Facility Charge Date, zero; and
- (b) from the EG3 Phase 1 Facility Charge Date, calculated in accordance with the following formula:

$$FC_t^1 = (AC_t^1 + RC_t^1 + AC_t^a + RC_t^a) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

- (i) FC_t^1 means an amount of the EG3 Phase 1 Facility Charge in Relevant Year t;
- (ii) AC_t^1 means the amortisation charge, calculated in accordance with the following formula:

$$AC_t^1 = \left[\frac{FCDValue}{EG3P1 Term} \right] \times \left[\frac{TPP_t^1}{365} \right]$$

where:

- (A) **FCD Value** means:

$$[DPnt^1 + DFC^1]$$

where:

- 1) $DPnt^1$ means the net amount paid by Network Rail for an EG3 Phase 1 Deliverable referenced number n in Schedule 2 of the EG3 Asset Purchase Agreement, as may be reduced from time to time following any capital payment to Network Rail by the Train Operator in respect of that EG3 Phase 1 Deliverable in accordance with the terms of the EG3 Asset Purchase Agreement; and
- 2) DFC^1 means the EG3 Phase 1 Accrued DFC for an EG3 Phase 1 Deliverable referenced number n in Schedule 2

of the EG3 Asset Purchase Agreement that is not paid to Network Rail prior to the EG3 Phase 1 Timetable Change Date;

(B) EG3P1 Term means the period (expressed in whole and fractions of a year (rounded to the nearest month) over which the EG3 Phase 1 Facility Charge is paid for, being the period from the EG3 Phase 1 Revised Completion Date to the date 30 years after the EG3 Phase 1 Timetable Change Date;

(C) TPP_t^1 means:

(1) in the first year of payment of AC_t^1 the number of days from the EG3 Phase 1 Facility Charge Date to the end of Relevant Year t; and

(2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:

a) the date of expiry of the EG3 Asset Life; and

b) the end of the Relevant Year t;

(iii) RC_t^1 means the return charge derived from the following formula:

$$RC_t^1 = \left(\frac{OB_t^1 + CB_t^1}{2} \right) \times ROR^1$$

where:

(A) OB_t^1 means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate);

(B) CB_t^1 means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate);

1) in relation to the Relevant Year in which the EG3 Phase 1 Facility Charge Date occurs:

a) $OB_t^1 = DPnt^1$

b) $CB_t^1 = DPnt^1 - AC_t^1$

2) in relation to each subsequent Relevant Year:

a) $OB_t^1 = CB_{t-1}^1$

b) $CB_t^1 = OB_t^1 - AC_t^1$

(C) ROR¹ means:

$$\left[\frac{AROR \times TPP_t^1}{365} \right]$$

where:

1) TPP_t^1 means:

a) in the Relevant Year in which the EG3 Phase 1 Facility Charge Date occurs, the number of days from the EG3 Phase 1 Facility Charge Date to the end of the Relevant Year t; and

b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:

i) the expiry of the EG3 Asset Life; and

ii) the end of the Relevant Year t;

2) AROR means the applicable rate of annual return which is 0.06 in accordance with the ORR's CP4 pre-tax rate of return for the investment framework;

(iv) AC_t^a means the additional accrued DFC amortisation charge, calculated in accordance with the following formula:

$$AC_t^a = \left[\frac{ADFC}{ADFC \text{ Term}} \right] \times \left[\frac{TPP_t^a}{365} \right]$$

where:

- (A) ADFC means the EG3 Phase 1 Additional Accrued DFC for an EG3 Phase 1 Deliverable referenced number *n* in Schedule 2 of the EG3 Asset Purchase Agreement that is not paid to Network Rail prior to the EG3 Phase 1 Facility Charge Date;
- (B) ADFC Term means the period (expressed in whole and fractions of a year (rounded to the nearest month)) over which the EG3 Phase 1 Additional Accrued DFC is paid for, being the period from the EG3 Phase 1 Facility Charge Date to 31 December 2021;
- (C) TPP_t^a means:
 - (1) in the first year of payment of AC_t^a the number of days from the EG3 Phase 1 Facility Charge Date to the end of Relevant Year *t*; and
 - (2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:
 - a) the date of expiry of the ADFC Term and
 - b) the end of the Relevant Year *t*;
- (v) RC_t^a means the additional accrued DFC return charge derived from the following formula:

$$RC_t^a = \left(\frac{OB_t^a + CB_t^a}{2} \right) \times ROR_t^a$$

where:

- (A) OB_t^a means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate);

(B) CB_t^a means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate);

1) in relation to the Relevant Year in which the EG3 Phase 1 Facility Charge Date occurs:

a) $OB_t^a = ADFC$

b) $CB_t^a = ADFC - AC_t^a$

2) in relation to each subsequent Relevant Year:

a) $OB_t^a = CB_{t-1}^a$

b) $CB_t^a = OB_t^a - AC_t^a$

(C) ROR^a means:

$$\left[\frac{AROR \times TPP_t^a}{365} \right]$$

where:

1) TPP_t^a means:

a) in the Relevant Year in which the EG3 Phase 1 Facility Charge Date occurs, the number of days from the EG3 Phase 1 Facility Charge Date to the end of the Relevant Year t; and

b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:

i) the expiry of the ADFC Term;
and

ii) the end of the Relevant Year t;

- 2) AROR means the applicable rate of annual return which is 0.06 in accordance with the ORR's CP4 pre-tax rate of return for the investment framework; and
- (vi) RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year_{t-1} and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the date that Network Rail pays for an EG3 Phase 1 Deliverable occurs.

8I The EG3 Phase 2 Facility Charges plus the Adjustment Sum

8I.1 The Water Eaton Facility Charge

- (a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the Water Eaton Facility Charge Date until the Final Contribution Sum Determination Date the Train Operator shall pay the Water Eaton Facility Charge.
- (b) The Water Eaton Facility Charge due and payable in Relevant Year t shall be calculated as follows:
- (i) in each Relevant Year (or part year) prior to the Water Eaton Facility Charge Date, zero; and
- (ii) from the Water Eaton Facility Charge Date, calculated in accordance with the following formula:

$$WFC_t = (AC_t + RC_t) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

WFC_t means an amount of the Water Eaton Facility Charge in Relevant Year t;

AC_t means the amortisation charge, calculated in accordance with the following formula:

$$AC_t = \left[\frac{WCS}{30} \right] \times \left[\frac{TPP_t}{TAP} \right]$$

where

- (A) *WCS* is the Water Eaton Contribution Sum;
- (B) *TAP* is equal to 365, or if February 29 falls during the Relevant Year *t*, then 366;
- (C) *TPP_t* means
 - (1) in the first year of payment of *AC_t*, the number of days from the Water Eaton Facility Charge Date to the end of Relevant Year *t*; and
 - (2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:
 - a) the date which is 30 years after the Water Eaton Facility Charge Date; and
 - b) the end of the Relevant Year *t*

RC_t means the return charge derived from the following formula:

$$RC_t^2 = \left(\frac{OB_t + CB_t}{2} \right) \times ROR$$

where

- (A) *OB_t* means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate) (being the opening balance for the Relevant Year)
- (B) *CB_t* means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate) (being the closing balance for the Relevant Year);
 - 1) in relation to the Relevant Year in which the Water Eaton Facility

Charge Date occurs:

a) $OB_t = WCS$

b) $CB_t = WCS - AC_t$

2) in relation to each subsequent Relevant Year:

a) $OB_t = CB_{t-1}$

b) $CB_t = OB_t - AC_t$

(C) **ROR** means

$$\left[\frac{AROR \times TPP_1^t}{TAP} \right]$$

where

1) **TPP₁^t** means

(a) in the Relevant Year in which the Water Eaton Facility Charge Date occurs, the number of days from the Water Eaton Facility Charge Date to the end of the Relevant Year t; and

(b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:

i) the date which is 30 years after the Water Eaton Facility Charge Date; and

ii) the end of the Relevant Year t;

2) **AROR** means the applicable pre-tax rate of annual return for the investment framework applicable in respect of the control period commencing 1 April 2014 as determined by the ORR;

- (ii) RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year $t-1$ and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Water Eaton Works Completion Certificate is issued.

8I.2 Oxford Facility Charge

- (a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the Oxford Facility Charge Date until the Final Contribution Sum Determination Date the Train Operator shall pay the Oxford Facility Charge.
- (b) The Oxford Facility Charge due and payable in Relevant Year t shall be calculated as follows:
- (i) in each Relevant Year (or part year) prior to the Oxford Facility Charge Date, zero; and
- (ii) from the Oxford Facility Charge Date, calculated in accordance with the following formula:

$$OFC_t = (AC_t + RC_t) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

OFC_t means an amount of the Oxford Facility Charge in Relevant Year t ;

AC_t means the amortisation charge, calculated in accordance with the following formula:

$$AC_t = \left[\frac{OCS}{30} \right] \times \left[\frac{TPP_t}{TAP} \right]$$

where

- (A) OCS is the Oxford Contribution Sum;
- (B) TAP is equal to 365, or if February 29 falls during the Relevant Year t , then 366;
- (C) TPP_t means
- (1) in the first year of payment of AC_t the number of days from the Oxford

Facility Charge Date to the end of Relevant Year t ; and

- (2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:
- a) the date which is 30 years after the Oxford Facility Charge Date; and
 - b) the end of the Relevant Year t

RC_t means the return charge derived from the following formula:

$$RC_t = \left(\frac{OB_t + CB_t}{2} \right) \times ROR$$

where

(A) OB_t means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate) (being the opening balance for the Relevant Year)

(B) CB_t means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate) (being the closing balance for the Relevant Year);

1) in relation to the Relevant Year in which the Oxford Facility Charge Date occurs:

a) $OB_t = OCS$

b) $CB_t = OCS - AC_t$

2) in relation to each subsequent Relevant Year:

a) $OB_t = CB_{t-1}$

b) $CB_t = OB_t - AC_t$

(C) *ROR* means

$$\left[\frac{AROR \times TPP_1^t}{TAP} \right]$$

where

- 1) TPP_1^t means
- (a) in the Relevant Year in which the Oxford Facility Charge Date occurs, the number of days from the Oxford Facility Charge Date to the end of the Relevant Year t ; and
 - (b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:
 - i) the date which is 30 years after the Oxford Facility Charge Date; and
 - ii) the end of the Relevant Year t ;
- 2) *AROR* means the applicable pre-tax rate of annual return for the investment framework applicable in respect of the control period commencing 1 April 2014 as determined by the ORR;

- (ii) RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year $t-1$ and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Oxford Works Completion Certificate is issued.

8L3 Adjustment Sum

- (a) On the Final Contribution Sum Determination Date, an adjustment sum shall be determined as follows:

$$\text{Adjustment Sum} = (WEFC + OFC) - (FWFC + FOFC)$$

where:

WEFC is the amount of the Water Eaton Facility Charge paid by the Train Operator to Network Rail pursuant to paragraph 8I.1 in respect of the period from the Water Eaton Facility Charge Date until the Final Contribution Sum Determination Date;

OFC is the amount of the Oxford Facility Charge paid by the Train Operator to Network Rail pursuant to paragraph 8I.2 in respect of the period from the Oxford Facility Charge Date until the Final Contribution Sum Determination Date;

FWFC is the amount of the Water Eaton Facility Charge that would have been payable by the Train Operator to Network Rail pursuant to paragraph 8I.1 in respect of the period from the Water Eaton Facility Charge Date until the Final Contribution Sum Determination Date had the Water Eaton Facility Charge been calculated using the Water Eaton Final Contribution Sum;

FOFC is the amount of the Oxford Facility Charge that would have been payable by the Train Operator to Network Rail pursuant to paragraph 8I.2 in respect of the period from the Oxford Facility Charge Date until Final Contribution Sum Determination Date had the Oxford Facility Charge been calculated using the Oxford Final Contribution Sum;

- (b) Within 90 days of the determination of the Adjustment Sum pursuant to paragraph 8I.3(a) above, an amount that is equal to the Adjustment Sum shall be paid by the Train Operator to Network Rail where the Adjustment Sum is a negative amount and by Network Rail to Train Operator where the Adjustment Sum is a positive amount.

8I.4 The Water Eaton Final Facility Charge

- (a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the Final Contribution Sum Determination Date the Train Operator shall pay the Water Eaton Final Facility Charge.
- (b) The Water Eaton Final Facility Charge due and payable in Relevant Year t shall be calculated as follows:
- (i) in each Relevant Year (or part year) prior to the Final Contribution Sum Determination Date, zero; and
 - (ii) from the Final Contribution Sum Determination Date, calculated in accordance with the following formula:

$$WFFC_t = (WAC_t + RC_t) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

$WFFC_t$ means an amount of the Water Eaton Final Facility Charge in Relevant Year t ;

WAC_t means the amortisation charge, calculated in accordance with the following formula:

$$WAC_t = \left[\frac{WFS}{30} \right] \times \left[\frac{TPP_t}{TAP} \right]$$

where

(A) WFS is the amount that is equal to the Water Eaton Final Contribution Sum.

(B) TAP is equal to 365, or if February 29 falls during the Relevant Year t , then 366

(C) TPP_t means

(1) in the first year of payment of WAC_t , the number of days from the Final Contribution Sum Determination Date to the end of Relevant Year t ; and

(2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:

- a) the date which 30 years after the Water Eaton Facility Charge Date; and
- b) the end of the Relevant Year t

RC_t

means the return charge derived from the following formula:

$$RC_t = \left(\frac{OB_t + CB_t}{2} \right) \times ROR$$

where

(A) OB_t means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate) (being the opening balance for the Relevant Year)

(B) CB_t means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate) (being the closing balance for the Relevant Year);

1) in relation to the Relevant Year in which the Water Eaton Final Facility Charge Date occurs:

a) $OB_t = WFS$

b) $CB_t = WFS - AC_t$

2) in relation to each subsequent Relevant Year:

a) $OB_t = CB_{t-1}$

b) $CB_t = OB_t - AC_t$

(C) ROR means

$$\left[\frac{AROR \times TPP_1^t}{TAP} \right]$$

where

- 1) **TPP_1^t** means
- (a) in the Relevant Year in which the Water Eaton Final Facility Charge Date occurs, the number of days from the Final Contribution Sum Determination Date to the end of the Relevant Year t ; and
 - (b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:
 - i) the date which 30 years after the Water Eaton Facility Charge Date; and
 - ii) the end of the Relevant Year t ;
- 2) **$AROR$** means the applicable pre-tax rate of annual return for the investment framework applicable in respect of the control period commencing 1 April 2014 as determined by the ORR;

- (ii) **RPI_{t-1}** means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year $t-1$ and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Water Eaton Works Completion Certificate is issued.

8I.5 Oxford Final Facility Charge

- (a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the Final

Contribution Sum Determination Date the Train Operator shall pay the Oxford Final Facility Charge.

- (b) The Oxford Final Facility Charge due and payable in Relevant Year t shall be calculated as follows:
- (i) in each Relevant Year (or part year) prior to the Oxford Final Facility Charge Date, zero; and
 - (ii) from the Final Contribution Sum Determination Date, calculated in accordance with the following formula:

$$OFFC_t = (AC_t + RC_t) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

$OFFC_t$ means an amount of the Oxford Final Facility Charge in Relevant Year t ;

AC_t means the amortisation charge, calculated in accordance with the following formula:

$$AC_t = \left[\frac{OFS}{30} \right] \times \left[\frac{TPP_t}{TAP} \right]$$

where

(A) OFS is the amount that is equal to the Oxford Final Contribution Sum;

(B) TAP is equal to 365, or if February 29 falls during the Relevant Year t , then 366;

(C) TPP_t means

(1) in the first year of payment of AC_t the number of days from the Oxford Final Facility Charge Date to the end of Relevant Year t ; and

(2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:

- a) the date which is 30 years after the Oxford Facility Charge Date; and
- b) the end of the Relevant Year t

RC_t

means the return charge derived from the following formula:

$$RC_t = \left(\frac{OB_t + CB_t}{2} \right) \times ROR$$

where

- (A) OB_t means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate) (being the opening balance for the Relevant Year)
- (B) CB_t means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate) (being the closing balance for the Relevant Year);
 - 1) in relation to the Relevant Year in which the Oxford Facility Charge Date occurs:
 - a) $OB_t = OFS$
 - b) $CB_t = OFS - AC_t$
 - 2) in relation to each subsequent Relevant Year:
 - a) $OB_t = CB_{t-1}$
 - b) $CB_t = OB_t - AC_t$
- (C) ROR means

$$\left[\frac{AROR \times TPP_1^t}{TAP} \right]$$

where

- 1) TPP_1^t means
- (a) in the Relevant Year in which the Oxford Facility Charge Date occurs, the number of days from the Oxford Facility Charge Date to the end of the Relevant Year t ; and
 - (b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:
 - i) the date which is 30 years after the Oxford Facility Charge Date; and
 - ii) the end of the Relevant Year t ;
- 2) $AROR$ means the applicable pre-tax rate of annual return for the investment framework applicable in respect of the control period commencing 1 April 2014 as determined by the ORR;
- (ii) RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year $_{t-1}$ and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Oxford Works Completion Certificate is issued.”

8J Wolvercot Tunnel Facility Charge

8J.1 During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the Oxford Facility Charge Date until the end of the Contract, the Train Operator shall pay each Wolvercot Tunnel Facility Charge for the Wolvercot Tunnel Works.

8J.1 The Wolvercot Tunnel Facility Charge due and payable for the Wolvercot Tunnel Works in each Relevant Year t shall be calculated as follows:

- (a) in each Relevant Year (or part year) prior to the Oxford Facility Charge Date, zero; and
- (b) from the Oxford Facility Charge Date, calculated in accordance with the following formula:

$$WOCT_t = (AC_t + RC_t) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

$WOCT_t$ means an amount of the Wolvercot Tunnel Facility Charge in Relevant Year t ;

AC_t means the amortisation charge, calculated in accordance with the following formula:

$$AC_t = \left[\frac{WOCTS}{10} \right] \times \left[\frac{TPP_t}{TAP} \right]$$

where

(A) $WOCTS$ is the amount that is equal to the Wolvercot Tunnel Capital Sum;

(B) TAP is equal to 365, or if February 29 falls during the Relevant Year t , then 366;

(C) TPP_t means

(1) in the first year of payment of AC_t the number of days from the Oxford Facility Charge Date to the end of Relevant Year t ; and

(2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:

- a) the date which is 10 years after the Oxford Facility Charge Date; and

b) the end of the Relevant Year t

RC_t

means the return charge derived from the following formula:

$$RC_t = \left(\frac{OB_t + CB_t}{2} \right) \times ROR$$

where

(A) OB_t means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate) (being the opening balance for the Relevant Year)

(B) CB_t means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate) (being the closing balance for the Relevant Year);

1) in relation to the Relevant Year in which the Oxford Facility Charge Date occurs:

a) $OB_t = WOCTS$

b) $CB_t = WOCTS - AC_t$

2) in relation to each subsequent Relevant Year:

a) $OB_t = CB_{t-1}$

b) $CB_t = OB_t - AC_t$

(C) ROR means

$$\left[\frac{AROR \times TPP_1^t}{TAP} \right]$$

where

1) TPP_1^t means

(a) in the Relevant Year in which the Oxford Facility Charge Date

occurs, the number of days from the Oxford Facility Charge Date to the end of the Relevant Year t ; and

(b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:

i) the date which is 10 years after the Oxford Facility Charge Date; and

ii) the end of the Relevant Year t ;

2) **AROR** means the applicable pre-tax rate of annual return for the investment framework applicable in respect of the control period commencing 1 April 2014 as determined by the ORR;

(ii) **RPI_{t-1}** means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year $t-1$ and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Oxford Works Completion Certificate is issued.

8K EG3 Incremental MRR Charge

8K.1 During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from:

(i) in respect to any EG3 Asset relating to EG3 Phase 1, the date that such EG3 Asset is Taken into Use until the date that is thirty years after such EG3 Asset is Taken into Use;

(ii) in respect of any Water Eaton Works, the Water Eaton Facility Charge Date until the date that is thirty years after the Water Eaton Facility Charge Date; and

- (iii) in respect of any Oxford Works, the Oxford Facility Charge Date until the period that is thirty years after the Oxford Facility Charge Date,

Network Rail shall levy, and the Train Operator shall pay, each EG3 Incremental MRR Charge as calculated in accordance with the following formulas:

- (A) in relation to EG3 Phase 1:

$$IOM_t = X \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

IOM_t

means the amount of the Phase 1 Incremental MRR Charge payable in Relevant Year *t*;

X

means the Incremental MRR Charge based on the EG3 Assets in respect of EG3 Phase 1 that are Taken into Use as calculated in accordance with paragraphs 8K.3 and 8K.4; and

RPI_{t-1}

means the percentage change (whether positive or negative value) between the between the Retail Prices Index published or determined with respect to November in Relevant Year *t-1* and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the first EG3 Asset relating to EG3 Phase 1 is Taken into Use;

- (B) in relation to the Water Eaton Works:

$$WIM_t = X_w \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

WIM_t means the amount of the Water Eaton Incremental MRR Charge payable in Relevant Year t;

X_w means the Incremental MRR Charge relating to the Water Eaton Works as calculated in accordance with paragraphs 8K.3 and 8K.4; and

RPI_{t-1} means the percentage change (whether positive or negative value) between the between the Retail Prices Index published or determined with respect to November in Relevant Year_{t-1} and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Water Eaton Completion Certificate is issued;

(C) in relation to the Oxford Works:

$$OIM_t = X_o \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

OIM_t means the amount of the Oxford Incremental MRR Charge payable in Relevant Year t;

X_o means the Incremental MRR Charge relating to the Oxford Works as calculated in accordance with paragraphs 8K.3 and 8K.4; and

RPI_{t-1} means the percentage change (whether positive or negative value) between the between

the Retail Prices Index published or determined with respect to November in Relevant Year_{t-1} and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the Oxford Completion Certificate is issued;

8K.2 The first Phase 1 Incremental MRR Charge shall be made in respect of the Period in which the first Taken into Use of an EG3 Asset relating to EG3 Phase 1 falls; and

8K.3 In relation to the EG3 Assets, the Incremental MRR Charge shall be agreed between the parties and approved by the ORR in accordance with the provisions of paragraph 8K.4.

8K.4 For each of EG3 Phase 1 and EG3 Phase 2:

(a) the Contract shall have effect:

(i) with the Relevant Schedule 7 Modifications; and

(ii) from the date,

specified by the ORR in a Notice of Consent or Notice of Determined Relevant Schedule 7 Modifications;

(b) a Notice of Consent or Notice of Determined Relevant Schedule 7 Modifications may have retrospective effect;

(c) in respect of the Relevant Schedule 7 Modifications:

(i) the parties shall, within the period between the relevant Start Date and the relevant Backstop Date, meet and negotiate and attempt to agree the Relevant Schedule 7 Modifications;

(ii) each party shall ensure that:

(A) such negotiations are conducted in a timely, efficient and economical manner, with appropriate recourse to professional advice; and

(B) the ORR's Criteria are applied in the negotiations; and

(C) the negotiations shall not continue after the relevant Backstop

Date;

- (d) if the parties fail to agree the Relevant Schedule 7 Modifications on or before the relevant Backstop Date:
 - (i) the matter shall be submitted to arbitration in accordance with Part C of the Access Dispute Resolution Rules; and
 - (ii) Network Rail shall within five (5) Working Days notify the ORR in writing of such submission to arbitration;
- (e) if a matter is referred to arbitration under paragraph 8K.4(d), the arbitrator shall be required by the parties to:
 - (i) determine the Relevant Schedule 7 Modifications in accordance with the ORR's Criteria and make such orders in his award as he considers necessary to establish the requisite Relevant Schedule 7 Modifications;
 - (ii) provide reasons for his award; and
 - (iii) state the extent to which and ways in which the ORR's Criteria have been applied in determining the Relevant Schedule 7 Modifications and, in any case where they have not been applied, give the reasons;
- (f) not later than seven (7) days after the relevant Backstop Date or the conclusion of arbitration, as the case may be, the Relevant Schedule 7 Modifications shall be sent by the parties to the ORR for its consent, together with a statement, signed by or on behalf of both parties:
 - (i) stating the reasons for the Relevant Schedule 7 Modifications;
 - (ii) stating the extent to which and ways in which the ORR's Criteria have been applied in determining the Relevant Schedule 7 Modifications and, in any case where they have not been applied, the reasons; and
 - (iii) giving such other information as the ORR may have requested;
- (g) if the ORR is satisfied with the Relevant Schedule 7 Modifications submitted to it pursuant to paragraph 8K.4(f), and it gives a notice to that effect, such modifications shall have effect as provided for in paragraph 8K.4(a);
- (h) if the ORR gives notice to the parties that it is not satisfied with any or all of the proposed Relevant Schedule 7 Modifications, it may:
 - (i) require the parties again to follow the procedure or any part of the procedure set out in paragraphs 8K.4(c) to 8K.4(f) for agreeing the Relevant Schedule 7 Modifications (with such modifications as to time limits as it specifies), in which case they shall do so; or

- (ii) following such consultation with the parties as it considers necessary, determine the Relevant Schedule 7 Modifications itself and give a notice specifying such Relevant Schedule 7 Modifications;
- (i) within ten (10) Working Days of the date of any notice referred to in paragraph 8K.4(a) the parties shall make such adjustments to the payments made under this paragraph 8K (EG3 Incremental MRR Charge) as are necessary to ensure that the parties are in the financial position in respect of the Relevant Schedule 7 Modifications as if those modifications had had effect from the date specified in the notice given under paragraph 8K.4(a);
- (j) if the ORR gives notice to either or both of the parties that it requires from either or both of them information in relation to the Relevant Schedule 7 Modifications or proposed Relevant Schedule 7 Modifications:
 - (i) the party of whom the request is made shall provide the requested information promptly and to the standard required by the ORR; and
 - (ii) if that party fails timeously to do so, the ORR shall be entitled to proceed with its consideration of the matter in question and to reach a decision in relation to it without the information in question and the party in default shall have no grounds for complaint in that respect;
- (k) any Relevant Schedule 7 Modifications shall:
 - (i) take account, where relevant, of the 'Criteria and procedures for the approval of track access contracts' published by the ORR and dated 21 August 2009; and
 - (ii) take account of the duties of the ORR under section 4 of the Act;
- (l) in relation to the procedure in paragraphs 8K.4(c) – 8K.4(i) for the Relevant Schedule 7 Modifications (including the times within which any step or thing requires to be done or achieved):
 - (i) such procedure may be modified by the ORR by a Notice of Procedural Modifications; but
 - (ii) the ORR may only give a Notice of Procedural Modifications if it is satisfied that it is necessary or expedient to do so in order to promote or achieve the objectives specified in section 4 of the Act or if it is requested by both parties;
- (m) in this paragraph 8K.4:
 - (i) where provision is made for a date to be specified or stated by the ORR, it may, instead of specifying or stating a date, specify or state a

method by which a date is to be determined, and references to dates shall be construed accordingly; and

- (ii) any notice given by the ORR which states a date may state different dates for different purposes;
- (n) not later than twenty eight (28) days after the giving of a Notice of Consent or Notice of Determined Relevant Schedule 7 Modifications, Network Rail shall prepare and send to the Train Operator and the ORR a copy of this Contract containing such Relevant Schedule 7 Modifications; and
- (o) nothing in this paragraph 8K.4 affects the right of either party to approach and obtain from the ORR guidance in relation to the Relevant Schedule 7 Modifications.

8L MS Additional Facility Charge

8L.1 From the date upon which Network Rail pays the Train Operator for an MS Additional Facility Deliverable, the MS Deliverable Financing Charge for that MS Deliverable shall accrue (the **MS Additional Accrued DFC**).

8L.2

- (a) During each Relevant Year (and, where relevant, pro-rated for each day of any period of this Contract comprising less than a full Relevant Year) from the MS Additional Deliverable Facility Charge Date, the Train Operator shall pay the MS Additional Facility Charge.
- (b) The MS Accrued DFC for the MS Additional Facility Charge shall be paid to Network Rail by the Train Operator in accordance with paragraph 8L.3.

8L.3 The MS Additional Facility Charge due and payable for an MS Additional Deliverable in Relevant Year t shall be calculated as follows:

- (a) in each Relevant Year (or part year) prior to the relevant MS Additional Facility Charge Date, zero; and
- (b) from the MS Additional Facility Charge Date, calculated in accordance with the following formula:

$$FC_t^m = (AC_t^m + RC_t^m) \times \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

- (i) FC_t^m means an amount of the MS Additional Facility Charge in Relevant Year t;
- (ii) AC_t^m means the amortisation charge, calculated in accordance with the following formula:

$$AC_t^m = \left[\frac{FCDValue}{MSAC Term} \right] \times \left[\frac{TPP_t^m}{365} \right]$$

where:

- (A) **FCDValue** means:

$$[DPnt^m + DFC^m]$$

where:

- 1) $DPnt^m$ means the net amount paid by Network Rail for the MS Additional Deliverable referenced in Schedule 3 of the MS Asset Purchase Agreement, as may be reduced from time to time following any capital payment to Network Rail by the Train Operator in respect of that MS Additional Deliverable in accordance with the terms of the MS Asset Purchase Agreement; and
- 2) DFC^m means the MS Additional Facility Charge Accrued DFC for the MS Additional Deliverable referenced number in Schedule 3 of the MS Asset Purchase Agreement that is not paid to Network Rail prior to the MS Additional Facility Charge Date;

- (B) **MSAC Term** means the period (expressed in whole and fractions of a year (rounded to the nearest month)) over which the MS Additional Deliverable is paid for, being the period from the MS Additional Facility Charge Date to 31 December 2021;

(C) TPP_t^m means:

- (1) in the first year of payment of AC_t^m the number of days from the MS Additional Facility Charge Date to the end of Relevant Year t; and
- (2) in all subsequent years, the number of days from the start of the Relevant Year to the earlier of:
 - a) the date of expiry of the MSAC Term; and
 - b) the end of the Relevant Year t;

(iii) RC_t^m means the return charge derived from the following formula

$$RC_t^m = \left(\frac{OB_t^m + CB_t^m}{2} \right) \times ROR_t^m$$

where:

- (A) OB_t^m means the sum derived from the formulas in paragraphs (1)(a) and (2)(a) below (as appropriate);
- (B) CB_t^m means the sum derived from the formulas in paragraphs (1)(b) and (2)(b) below (as appropriate);
 - 1) in relation to the Relevant Year in which the MS Additional Facility Charge Date occurs:
 - a) $OB_t^m = DPnt^m$
 - b) $CB_t^m = DPnt^m - AC_t^m$
 - 2) in relation to each subsequent Relevant Year:
 - a) $OB_t^m = CB_{t-1}^m$

$$b) \quad CB_t^m = OB_t^m - AC_t^m$$

(C) ROR^m means:

$$\left[\frac{AROR \times TPP_t^m}{365} \right]$$

where:

1) TPP_t^m means:

a) in the Relevant Year in which the MS Additional Facility Charge Date occurs, the number of days from the MS Additional Facility Charge Date to the end of the Relevant Year t; and

b) in each subsequent Relevant Year, the number of days from the start of the Relevant Year to the earlier of:

i) the expiry of the MSAC Term; and

ii) the end of the Relevant Year t;

2) AROR means the applicable rate of annual return which is 0.06 in accordance with the ORR's CP4 pre-tax rate of return for the investment framework; and

(iv) RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year_{t-1} and the index published or determined with respect to November in the Relevant Year before the Relevant Year in which the date that Network Rail pays for the MS Additional Deliverable occurs.

9 Bilateral supplements to the Traction Electricity Modelled Consumption Rates List and Track Usage Price List

- 9.1 Where the Train Operator intends to use New Specified Equipment on the Network, it shall where reasonably practicable inform Network Rail in writing of the date or likely date from which it intends to do so.
- 9.2 Where the Train Operator uses New Specified Equipment on the Network, the Train Operator shall pay Network Rail the relevant VUC Default Charge during the VUC Default Period.
- 9.2A Where the Train Operator uses a New Modelled Train on the Network, Network Rail shall apply the Traction Electricity Modelled Default Rate in order to calculate the Traction Electricity Charge for the purposes of paragraph 4.1.2 above, during the Traction Electricity Modelled Default Rate Period.
- 9.3 No supplement to the Traction Electricity Modelled Consumption Rates List or Track Usage Price List shall have effect unless it has been:
- (a) agreed between the parties and ORR has consented to it; or
 - (b) determined by ORR.
- 9.4 Either the Train Operator or Network Rail shall be entitled to propose that:
- (a) the Traction Electricity Modelled Consumption Rates List be supplemented as necessary to include a rate in respect of a new train category; or
 - (b) the Track Usage Price List be supplemented as necessary to include a new vehicle type and corresponding rate.
- 9.5 Any proposal of a kind referred to in paragraph 9.4 shall be made by notice to the other party and shall be accompanied by a specification of the proposal in reasonable detail and the reasons for it. The parties shall thereafter seek to agree in good faith the necessary supplement to the list in question.
- 9.6 Either party may request from the other such information that it reasonably requires in connection with the proposal and the party from whom the information was requested shall use reasonable endeavours to provide this information promptly.
- 9.7 Where the parties agree to a supplement following a proposal under paragraph 9.4, they shall request ORR's consent to it and provide such information as ORR reasonably requires in order to decide whether to give its consent.
- 9.8 If the parties fail to reach agreement within 45 days of the date of the notice given under paragraph 9.5, at any point thereafter either party shall be entitled to refer the matter to ORR for determination.

- 9.9 Following a reference to ORR under paragraph 9.8, the parties shall, within such timescales as ORR may reasonably specify, furnish ORR with such information and evidence as ORR shall reasonably require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- 9.10 ORR may:
- (a) consent to any supplement that is agreed by the parties and submitted to it under paragraph 9.7, or following consultation with the parties, determine that a different supplement should apply; or
 - (b) following a referral to ORR under paragraph 9.8, determine the supplement that should apply.
- 9.11 In the case of a supplement to the Traction Electricity Modelled Consumption Rates List, the supplement shall have effect from such date as ORR shall determine by notice to the parties, provided that such date shall not be a date falling prior to the start of the Relevant Year in which ORR consented to or determined the supplement.
- 9.12 In the case of a supplement to the Track Usage Price List, the supplement shall have retrospective effect from the first day of the VUC Default Period.
- 9.13 Following ORR's consent or determination under paragraph 9.10 Network Rail shall:
- (a) apply the supplement from the date in accordance with paragraph 9.11 or 9.12 above as applicable; and
 - (b) within 28 days of the date of ORR's consent or determination:
 - (i) issue any adjusting invoice or credit note to the Train Operator –
 - (A) in the case of a supplement to the Track Usage Price List, this will reflect the difference between the amount paid by the Train Operator for the VUC Default Charge during the VUC Default Period and the amount that it would have paid during the VUC Default Period in respect of the Variable Usage Charge had the supplement been in place at the time the Train Operator first used the relevant railway vehicle on the Network;
 - (B) in the case of a supplement to the Traction Electricity Modelled Consumption Rates List, this will reflect the difference between: (i) the amount paid by the Train Operator in respect of any New Modelled Train to which the Traction Electricity Modelled Default Rate has been applied during the Traction Electricity Modelled Default Rate Reconciliation Period and; (ii) the amount that it would have paid during the Traction Electricity Modelled Default Rate Reconciliation Period in

respect of the Traction Electricity Charge had the supplement been in place at the start of that period;

and

- (ii) publish on its website details of the supplement alongside the details of any other such supplements to which ORR has consented or determined pursuant to this or any other track access contract to which Network Rail is a party.

9.14 Any supplement to the Traction Electricity Modelled Consumption Rates List or Track Usage Price List which ORR has consented to or determined pursuant to a passenger track access contract previously held by the Train Operator shall also apply to this contract.

10 Payment of Track Charges and other sums due under the contract

10.1 Payment of Track Charges and other sums due under the contract

- (a) Save where the contract provides otherwise, the Train Operator shall pay or procure the payment to Network Rail of:
 - (i) the Variable Usage Charge;
 - (ii) the Traction Electricity Charge;
 - (iii) the Capacity Charge;
 - (iv) the Electrification Asset Usage Charge;
 - (v) the VUC Default Charge;
 - (vi) the Fixed Track Charge Wash-Up; and
 - (vii) any other sums which have fallen due in accordance with any provision of this contract,

attributable to any Period as invoiced by Network Rail on or after expiry of each such Period within 21 days of the invoice date or 28 days after the end of the Period, whichever is later.

- (b) The Train Operator shall pay or procure the payment to Network Rail of that part of the Fixed Track Charge attributable to any Period as invoiced by Network Rail on or after the expiry of each such Period within seven days of the invoice date or seven days after the end of the Period, whichever is later.
- (c) Any invoice issued by Network Rail under paragraph 18.5 of the Traction Electricity Rules (relating to modelled and actual rates of electricity consumption) shall be payable by the Train Operator within 21 days of the relevant invoice date.

- (d) Not used.
- (e) The Train Operator shall pay or procure the payment to Network Rail of that part of the MS Facility Charge and the MS Additional Facility Charge due and payable in respect of any Period as invoiced by Network Rail on or after expiry of each such Period within twenty eight (28) days of the invoice date or ten (10) Working Days after the end of the Period, whichever is later.
- (f) The Train Operator shall pay or procure the payment to Network Rail of that part of the EG3 Phase 1 Facility Charge, the Water Eaton Facility Charge, the Oxford Facility Charge, the Water Eaton Final Facility Charge, the Oxford Final Facility Charge and the Wolvercot Tunnel Facility Charge due and payable in respect of any Period as invoiced by Network Rail on or after the expiry of each such Period within twenty-eight (28) days of the invoice date or ten (10) Working Days after the end of the Period, whichever is later.

10.2 Train Consist Data

Network Rail shall calculate the Variable Charges payable by the Train Operator in respect of each Period using the Train Consist Data supplied by the Train Operator and, to the extent such Train Consist Data is not available to Network Rail, the Default Train Consist Data.

10.3 Invoices and right to object to invoices

- (a) Network Rail will notify the Train Operator on a weekly basis of the train movements for which Default Train Consist Data has been used to establish the Variable Charges payable by the Train Operator. At either party's request, the parties shall consult with a view to substituting Train Consist Data for Default Train Consist Data but such consultation shall not delay the issue by Network Rail of the invoice for the Variable Charges in respect of the Period concerned.
- (b) For each Period, Network Rail shall be entitled to invoice the Train Operator for Variable Charges in respect of any and all train movements operated by the Train Operator during that Period based on either:
 - (i) Train Consist Data provided by the Train Operator in respect of any train movement at or prior to the time that such train movement is completed; or
 - (ii) Train Consist Data agreed by the parties under paragraph 10.3(a) in respect of any train movement; or
 - (iii) Train Consist Data provided by the Train Operator in respect of any train movement (other than any train movement where the Specified Equipment used in operating the relevant movement is loco hauled) by the end of the day on which such train movement has been completed,

or (to the extent that (i) or (ii) or (iii) above do not apply) Default Train Consist Data. Each such invoice will be payable in accordance with the provisions of paragraph 10.1.

- (c) Either party shall be entitled, at any time prior to the later of 2359 hours on the fourteenth day following the expiration of the relevant Period and seven days following receipt by the Train Operator of the relevant invoice or credit note, to notify the other that it objects to any Train Consist Data (including, where applicable, the use of Default Train Consist Data) on which the whole or any part of the Variable Charges included in the relevant invoice or credit note are based and any such notice shall specify in reasonable detail what that party believes to be the Train Consist Data for the relevant train movement(s) (“**notice of objection**”). In the absence of any notice of objection being served within such time the Train Consist Data used in the relevant invoice or credit note shall be final and binding on the parties. The Train Operator shall supply the data to Network Rail in the format:

Train ID	Start Date & Time	Train slot origin	Train slot destination	Train Consist (actual): Specified Equipment used

- (d) The parties shall seek to agree the Train Consist Data specified in any notice of objection and any consequential financial adjustment required to the relevant invoice or credit note. If the parties are unable to agree such Train Consist Data within 14 days following receipt of a notice of objection, either party may refer the matter for resolution in accordance with the ADRR.
- (e) Within 14 days of any Train Consist Data being agreed or determined in accordance with paragraph 10.3(d), Network Rail shall, if any consequential or financial adjustment of the relevant invoice is required, issue a further invoice to, or (as the case may be) a credit note in favour of, the Train Operator in the amount of the relevant adjustment. The invoice or credit note shall be payable at the same time as the invoice for Variable Charges for the relevant Period or, if issued later than 21 days after the end of the relevant Period, within seven days after the date of its issue.
- (f) The actual volume of usage used to calculate any supplementary amount payable under paragraph 18 of the Traction Electricity Rules shall be established on the basis of the Train Consist Data and the Default Train Consist Data applied in calculating the Variable Charges for each of the Periods in Relevant Year t as adjusted in accordance with paragraph 10.3(d) on or before 90 days after the end of Relevant Year t.

- (g) Where, as a result of any invoice or credit note issued pursuant to paragraph 10.3, any sum of money which has been paid shall become repayable or any sum of money which has been unpaid shall become payable the party to whom such sum shall be paid shall be paid or allowed interest at the Default Interest Rate on such sum from the date when it (if repayable) was paid or the date when such sum (if payable) ought to have been paid until the date of payment or repayment.

10.4 Unrepresentative Train Consist Data

- (a) If at any time during this contract either party considers the Default Train Consist Data specified in Appendix 7C is not representative of the Train Operator's Services and in particular, but without limitation, the type(s) of railway vehicles then in use and the regular number of carriages forming part of those railway vehicles in the operation of its Services, either party shall be entitled on written notice to the other to request that the Default Train Consist Data be amended. Any such request shall specify in reasonable detail the grounds for the request and the proposed amendments to the Default Train Consist Data.
- (b) The parties shall endeavour to reach agreement on any amendments to the Default Train Consist Data within 21 days of the date of the request referred to in paragraph 10.4(a) and if the parties are unable to agree such amendments within such time period, either party may refer the matter for resolution in accordance with the ADRR.
- (c) Upon the earlier of agreement between the parties or determination by a relevant ADRR Forum, the parties shall notify ORR of the proposed amendments to the Default Train Consist Data and, subject to ORR not objecting to the proposed amendments within 14 days (the "**14 day period**") of receipt of the notification by ORR, such amendments shall take effect from the first day of the next Period following the earlier of ORR confirming its consent to the proposed amendments and the expiry of the 14 day period. If ORR objects to the proposed amendments within the 14 day period, the parties shall endeavour to reach agreement with ORR on the appropriate amendments, if any, to the Default Train Consist Data which shall then take effect on the first day of the Period next following that in which agreement is reached.

10.5 Disputed amounts repayment and interest rate

- (a) Where a party wishes to contest any invoice issued to it under this Schedule 7 (including any invoice in respect of Track Charges) it shall, within 14 days of receipt of the invoice, notify the other party in writing of the amount which is in dispute but shall pay the full amount of the invoice, including the disputed amount, in accordance with the terms of the invoice.
- (b) Where a party has given notice under paragraph 10.5(a) that it disputes part of any invoiced amount:

- (i) payment of such sum shall be without prejudice to the determination of whether such sum is properly due or not; and
 - (ii) if it is subsequently determined that the disputed sum, or part of it, was not properly due the payee shall repay the disputed sum, or relevant part, to the payer together with interest (to accrue daily and be compounded monthly) at the Default Interest Rate from the date of payment until the actual date of repayment.
- (c) For the avoidance of doubt, nothing in this paragraph 10.5 shall apply to any sums which have fallen due in accordance with Part 3A of this Schedule 7.

PART 3: ROUTE-LEVEL EFFICIENCY BENEFIT SHARE MECHANISM

1. For the purposes of the calculation and payment of any Route-Level Efficiency Benefit Share for the Relevant Year ending 31 March 2019, Part 3 and Appendix 7A and Appendix 7B of Schedule 7 of the version of this contract that was in force up until 31 March 2019 shall continue to apply.

PART 3A: ENGLISH & WELSH GRANT DILUTION

1 Grant Amounts

1.1 Grant Amounts, Basic Amounts and Payment Dates

For the purposes of this Part 3A:

- (a) the Basic Amount, in respect of any Payment Date, is the amount which is notified by Network Rail to the Secretary of State in respect of that Payment Date, excluding any amounts notified by Network Rail which: (i) are not needed by Network Rail in respect of that Payment Date, or (ii) would cause the total of the Basic Amounts so notified for the Relevant Year in which the Payment Date falls to exceed the value of the Grant Amount for that Relevant Year;
- (b) the Grant Amount, in respect of any Relevant Year, is the network grant amount set out in Table E2B as the annual amount to be paid in that Relevant Year by the Secretary of State to Network Rail by way of grant under s6 of the Railways Act 2005, as adjusted from time to time in accordance with the Grant Mechanism; and
- (c) the Payment Dates are the dates set out in the Grant Agreement for the payment of grant by the Secretary of State in each of the Relevant Years commencing on 1 April 2019, 1 April 2020, 1 April 2021, 1 April 2022 and 1 April 2023 or, if no such dates are set out, the first Wednesday of each railway period in each such Relevant Year.

1.2 *Not used*

2 **English & Welsh Grant Dilution**

2.1 *Meaning of English & Welsh Grant Dilution*

For the purposes of this Part 3A, there shall be an “**English & Welsh Grant Dilution**” in respect of a Payment Date if:

- (a) the Secretary of State does not, for any reason, pay the whole or any part of the Basic Amount on or before the relevant Payment Date;
- (b) the Secretary of State has not, for any reason, paid the whole of the Grant Amount for any Relevant Year minus any amounts already paid as Basic Amounts for that Relevant Year (“**the Balance of the Grant Amount**”) on or before the final Payment Date of that Relevant Year; or
- (c) the payment of the whole or any part of the Basic Amount or of the Balance of the Grant Amount in respect of that Payment Date is:
 - (i) subject to the performance by Network Rail or any other person of any obligation;
 - (ii) subject to the exercise by the Secretary of State or any other person of any discretion; or
 - (iii) contingent upon the happening of any event or circumstance, or any act or omission of any person.

2.2 *Meaning of English & Welsh Grant Dilution Date*

In respect of any English & Welsh Grant Dilution:

- (a) if the English & Welsh Grant Dilution is of the kind referred to in paragraph 2.1(a) or in paragraph 2.1(b), the English & Welsh Grant Dilution Date shall be the Payment Date in respect of which the Secretary of State does not pay the whole or any part of the Basic Amount or the Balance of the Grant Amount due on that date; and
- (b) if the English & Welsh Grant Dilution is of the kind referred to in paragraph 2.1(c), each Payment Date which falls during any period during which the payment of the whole or any part of a Basic Amount or the Balance of the Grant Amount is:
 - (i) subject to any of the matters specified in paragraph 2.1(c)(i) or (ii); or

- (ii) contingent upon any of the matters specified in paragraph 2.1(c)(iii),

shall be an English & Welsh Grant Dilution Date.

3. English & Welsh Grant Compensation Amount

3.1 Payment obligation

If an English & Welsh Grant Dilution occurs:

- (a) Network Rail shall notify the Train Operator and ORR that an English & Welsh Grant Dilution has occurred, and the circumstances in which it has occurred; and
- (b) the Train Operator shall:
 - (i) send a copy of the notification it has received from Network Rail under paragraph 3.1(a) to any Passenger Transport Executive within whose area it provides services for the carriage of passengers by railway;
 - (ii) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(a) or in paragraph 2.1(b), pay Network Rail an English & Welsh Grant Compensation Amount calculated in accordance with paragraph 3.2 three months after the English & Welsh Grant Dilution Date; and
 - (iii) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(c), pay Network Rail an English & Welsh Grant Compensation Amount calculated in accordance with paragraph 3.2 three months after each English & Welsh Grant Dilution Date.

3.2 Calculation

Any English & Welsh Grant Compensation Amount payable under paragraph 3.1 is an amount calculated in accordance with the following formula:

$$GC = (GA_p - P) \bullet \frac{F_t}{AF_t}$$

where:

GC means the English & Welsh Grant Compensation Amount;

GA_p means the Basic Amount or, as the case may be, the Balance of the Grant Amount for the Payment Date which is the same date as the English & Welsh Grant

Dilution Date;

P means:

- (a) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(a) or in paragraph 2.1(b), the amount of any part payment of the Basic Amount or, as the case may be, the Balance of the Grant Amount which Network Rail certifies to the Train Operator, within seven days after the English & Welsh Grant Dilution Date, that it has received from the Secretary of State; and
- (b) if the English & Welsh Grant Dilution is of the kind described in paragraph 2.1(c), zero;

F_t has the meaning ascribed to it in paragraph 1 of Part 2; and

AF_t means the Aggregate Fixed Charge in Relevant Year t .

PART 4: NOT USED

PART 5: ADDITIONAL CHARGES

NOT USED

PART 6: SUPPLEMENTAL PROVISIONS

Each invoice or credit note issued by Network Rail to the Train Operator shall contain or be accompanied by separate itemisation of the following charges and other information (as relevant) in respect of the period covered by the invoice or credit note:

- (a) the daily amount of the Fixed Track Charge and the number of days covered by the invoice;
- (b) the rate of Variable Usage Charge and any VUC Default Charge and the relevant number of Vehicle Miles applicable to vehicles for each service so charged;
- (c) the rate of Traction Electricity Charge and the number of Vehicle Miles applicable to vehicles for each service or Gross Tonne Miles applicable to units for each service so charged, for the purposes of calculating E_{tmo} in accordance with paragraph 4.1.2 of Part 2;
- (d) the amount of the Electrification Asset Usage Charge and the number of days covered by the invoice;
- (e) not used;
- (f) not used;
- (g) not used;

- (h) the amount of any sum W_t payable as provided in paragraph 7 of Part 2;
- (i) the amount of any sum $S1_{t0}$ and/or $S2_{t0}$ and/or any Charge Correction Amount payable as provided in paragraph 18 of the Traction Electricity Rules;
- (j) the amount of any sum K_t payable as provided in paragraph 6 of Part 2;
- (k) in respect of any other sums which have fallen due in accordance with any provisions of this contract other than Part 3A, separately the amount payable in respect of each head of charge; and
- (l) the amount of any sum FW_t payable as provided in paragraph 2A of Part 2.

PART 7: FUTURE ACCESS CHARGES REVIEWS

1 General

ORR may carry out one or more access charges reviews of all or part of this contract as follows:

- (a) an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation on and from 1 April 2024 or such later date as may be specified in that review; and
- (b) as provided in paragraph 2 (and only as provided in paragraph 2), an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation before 1 April 2024.

2 Access charges reviews capable of coming into operation before 1 April 2024

ORR may carry out an access charges review in relation to any relevant part or parts of this contract at any time where it considers:

- (a) that there has been, or is likely to be, a material change, other than an excluded change, in the circumstances of Network Rail or in relevant financial markets or any part of such markets; and
- (b) that there are compelling reasons to initiate an access charges review, having due regard to its duties under section 4 of the Act, including in particular the duty to act in a manner which it considers will not render it unduly difficult for persons who are holders of network licences to finance any activities or proposed activities of theirs in relation to which ORR has functions under or by virtue of Part I of the Act.

3. Interpretation

In this Part 7 references to ORR carrying out an access charges review shall be construed as including references to its initiating implementation of that review.

4. Interim treatment of future access charges reviews

4.1 *Interim treatment prior to implementation*

If the terms of a Proposed Review Notice proposing amendments to the contract are not implemented in accordance with paragraph 7 of Schedule 4A to the Act on the date stipulated that they will come into operation in the Proposed Review Notice for any reason, then, irrespective of such terms not having been so implemented, each proposed amendment to the contract set out in the Proposed Review Notice shall have effect for the period (the “**Interim Period**”) commencing on that date (or from any later date (or dates) specified in the Proposed Review Notice in respect of any individual amendment), in each case until such time as:

- (a) following the service of a Review Implementation Notice relating to the Proposed Review Notice, the changes specified in that Review Implementation Notice come into operation; or
- (b) following a reference to the Competition and Markets Authority in accordance with paragraph 9 of Schedule 4A to the Act, any amendments to the contract, made in accordance with paragraphs 12(8), 12(9) or 14(3) of Schedule 4A to the Act, come into operation.

4.2 *Reconciliation Payment*

- (a) Within 28 days after the end of the Interim Period, Network Rail shall calculate whether a reconciliation payment is due to or from the Train Operator. In order to calculate such reconciliation payment, Network Rail shall compare (i) the sums paid by the Train Operator during the Interim Period with (ii) the sums which would have been payable if the amendments required by either paragraphs 4.1(a) or (b) above had taken effect on the date(s) stipulated in the Proposed Review Notice, and shall provide to the Train Operator:
 - (i) a statement of the amount due to or from the Train Operator; and
 - (ii) such background data and workings as may reasonably be required for a proper understanding of the calculation.
- (b) Within 14 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above, the Train Operator shall notify Network Rail of any aspects of the statement which it disputes, giving reasons for any dispute. Save to the extent that disputes are so notified, the Train Operator shall be deemed to have agreed the contents of the statement.

- (c) If any dispute is notified under paragraph 4.2(b) above, it shall be resolved according to the following procedure:
 - (i) within seven days of service of the relevant notice, the parties shall meet to discuss the disputed aspects with a view to resolving all disputes in good faith;
 - (ii) if, for any reason, within seven days of the meeting referred to in paragraph 4.2(c)(i) above, the parties are still unable to agree any disputed aspects, each party shall promptly and in any event within seven days, prepare a written summary of the disputed aspects and the reasons for each such dispute and submit such summaries to the senior officer of each party;
 - (iii) within 28 days of the first meeting of the parties, the senior officers of the parties shall meet with a view to resolving all disputes; and
 - (iv) if no resolution results before the expiry of 14 days following that meeting, then either party may refer the matter for resolution in accordance with the ADRR.
- (d) Within 28 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above (if not disputed) or 28 days of resolution or determination of any dispute in accordance with paragraph 4.2(c) above, any amount due shall be invoiced (or presented in a credit note, as the case may be) for payment, and payable, as provided under this contract.

APPENDIX 7A – (NOT USED)

APPENDIX 7B – (NOT USED)

Appendix 7C Default train consist data

Train Service Code	Type of Train Movement	Default Train Consist Data

APPENDIX 7D

"METERED TRAINS M" FOR THE PURPOSES OF PARAGRAPH 4.1.1 OF PART 2

Train Type	Train ID	Traction Type
	<i>[This column should include the full train ID. If all trains of the relevant train type used by the Train Operator are metered, this column should say "All".]</i>	

ANNEX 3

BESPOKE AMENDMENTS

PART 1 (MODIFICATIONS TO STANDARD AMENDMENTS)

Explanatory Note:

This Annex 3 sets out the modifications which need to be made to the standard amendments set out in Annex 2 to this Review Notice, required in order to give effect to ORR's conclusions on the Review in the Track Access Agreements listed below.

In relation to each Track Access Agreement which appears in Part 1 of this Annex 3, ORR proposes that the amendments set out in Annex 2 to this Review Notice will be made to that Track Access Agreement, modified to the extent specified in the paragraph or paragraphs of Part 1 of this Annex 3 relating to that Track Access Agreement.

APPENDIX 1 TO PART 1 OF ANNEX 3
(SPD Cost Thresholds No.1 and No.2)

1 In the following Track Access Agreements:

- (i) the **Arriva Rail London TAA**;
- (ii) the **Chiltern TAA**
- (iii) the **Merseyrail TAA**; and
- (iv) the **Trenitalia TAA**,

delete the definitions of “SPD Cost Threshold No.1” and “SPD Cost Threshold No.2” in paragraph 1.1 (Definitions) of Part 3 to Schedule 4, and replace them with the following:

- (a) “**SPD Cost Threshold No.1**” means £342,223;” and
- (b) “**SPD Cost Threshold No.2**” means £684,447;”.

2 In the following Track Access Agreements:

- (i) the **Crossrail TAA**; and
- (ii) the **Caledonian Sleepers TAA**,

delete the definitions of “SPD Cost Threshold No.1” and “SPD Cost Threshold No.2” in paragraph 1.1 (Definitions) of Part 3 to Schedule 4, and replace them with the following:

- (a) “**SPD Cost Threshold No.1**” means an amount to be determined and published by ORR;” and
- (b) “**SPD Cost Threshold No.2**” means an amount to be determined and published by ORR;”.

3 In the following Track Access Agreements:

- (i) the **Abellio East Anglia TAA**;

- (ii) the **Arriva Rail North TAA**;
- (iii) the **East Midlands TAA**;
- (iv) the **Greater Western TAA**;
- (v) the **Keolis Amey TAA**;
- (vi) the **LNER TAA**;
- (vii) the **LSER TAA**;
- (viii) the **ScotRail TAA**;
- (ix) the **South Western TAA**;
- (x) the **Thameslink TAA**;
- (xi) the **Transpennine TAA**;
- (xii) the **West Coast Trains TAA**;
- (xiii) the **West Midlands TAA**; and
- (xiv) the **XC Trains TAA**,

delete the definitions of “SPD Cost Threshold No.1” and “SPD Cost Threshold No.2” in paragraph 1.1 (Definitions) of Part 3 to Schedule 4, and replace them with the following:

- (a) “**SPD Cost Threshold No.1**” means £684,447;” and
- (b) “**SPD Cost Threshold No.2**” means £1,368,893;”.

APPENDIX 2 TO PART 1 OF ANNEX 3
(EBMPR)

1 In the following Track Access Agreements:

- (i) the **Arriva Rail London TAA**;
- (ii) the **Crossrail TAA**;
- (iii) the **Chiltern TAA**;
- (iv) the **LSEr TAA**;
- (v) the **Thameslink TAA**;
- (vi) the **Trenitalia TAA**; and
- (vii) the **South Western TAA**,

delete the definition of EBMPR in sub-paragraph 4.2(b) (Cost Compensation Formula) of Part 3 of Schedule 4, and replace it with the following:

“EBMPR is the payment rate per EBM, which is £15.87.”

2 In the following Track Access Agreements:

- (i) the **Arriva Rail North TAA**;
- (ii) the **Caledonian Sleepers TAA**;
- (iii) the **East Midlands TAA**;
- (iv) the **Keolis Amey TAA**;
- (v) the **LNER TAA**;
- (vi) the **Merseyrail TAA**;
- (vii) the **ScotRail TAA**;
- (viii) the **Transpennine TAA**;

- (ix) the **West Coast Trains TAA**; and
- (x) the **XC Trains TAA**,

delete the definition of EBMPR in sub-paragraph 4.2(b) (Cost Compensation Formula) of Part 3 of Schedule 4, and replace it with the following:

“EBMPR is the payment rate per EBM, which is £10.73.”

- 3 In the **Abellio East Anglia TAA**, delete the definition of EBMPR in sub-paragraph 4.2(b) (Cost Compensation Formula) of Part 3 of Schedule 4, and replace it with the following:

“EBMPR is the payment rate per EBM, which is:

- (i) in respect of any LSE Service Group, £15.87; and
- (ii) in respect of every other Service Group that is not an LSE Service Group, £10.73,

where “LSE Service Group” means any of the following Service Groups: Service Group EB02 (Off-Peak), Service Group EB02 (Peak), Service Group EB03 (Off-Peak), Service Group EB03 (Peak), Service Group EB04 (Off-Peak), Service Group EB04 (Peak), Service Group EB06 (Off-Peak), Service Group EB06 (Peak), Service Group EB07 (Off-Peak) and Service Group EB07 (Peak).”

4. In the **Greater Western TAA**, delete the definition of EBMPR in sub-paragraph 4.2(b) (Cost Compensation Formula) of Part 3 of Schedule 4, and replace it with the following:

“EBMPR is the payment rate per EBM, which is:

- (i) in respect of any LSE Service Group, £15.87; and
- (ii) in respect of every other Service Group that is not an LSE Service Group, £10.73,

where “LSE Service Group” means any of the following Service Groups: Service Group EF05 (Off-Peak), Service Group EF05 (Peak), Service Group EF06 (Off-Peak), Service Group EF06 (Peak), Service Group EF07, Service Group EF08 and Service Group EF09.”

5. In the **West Midlands TAA**, delete the definition of EBMPR in sub-paragraph 4.2(b) (Cost Compensation Formula) of Part 3 of Schedule 4, and replace it with the following:

“EBMPR is the payment rate per EBM, which is:

- (i) in respect of any LSE Service Group, £15.87; and
- (ii) in respect of every other Service Group that is not an LSE Service Group, £10.73,

where “LSE Service Group” means any of the following Service Groups: Service Group EJ05 (Off-Peak), Service Group EJ05 (Peak) and Service Group EJ06.”

APPENDIX 3 OF PART 1 OF ANNEX 3

(Part 5 (Access Charge Supplement for Restrictions of Use) of Schedule 4)

In Part 5 (Access Charge Supplement for Restriction of Use) of Schedule 4 to each Track Access Agreement, complete the empty square brackets shown in the list of years and payment sums in paragraph 1 of that Part 5 set out in paragraph 2.14 of Annex 2 to this Review Notice with the payment sums set out below specific to that Train Operator's Track Access Agreement:

1 In the **Abellio East Anglia TAA:**

Year	£
2019-2020	17,806,345
2020-2021	19,841,285
2021-2022	20,086,497
2022-2023	18,523,449
2023-2024	19,223,384

2 In the **ScotRail TAA:**

Year	£
2019-2020	7,525,432
2020-2021	8,460,044
2021-2022	8,316,453
2022-2023	7,050,803
2023-2024	5,770,514

3 In the **Arriva Rail London TAA:**

Year	£
2019-2020	2,284,141
2020-2021	2,564,950
2021-2022	2,617,623
2022-2023	2,378,982
2023-2024	2,426,730

4 In the **Arriva Rail North TAA:**

Year	£
2019-2020	11,311,167
2020-2021	10,369,449
2021-2022	15,411,396
2022-2023	14,089,762
2023-2024	10,172,606

5 In the **Chiltern TAA:**

Year	£
2019-2020	1,368,022
2020-2021	1,074,877
2021-2022	1,911,297
2022-2023	1,723,839
2023-2024	1,215,674

6 In the **East Midlands TAA:**

Year	£
2019-2020	9,729,828
2020-2021	9,417,714
2021-2022	9,640,982
2022-2023	9,734,666
2023-2024	8,551,378

7 In the **Greater Western TAA:**

Year	£
2019-2020	15,954,303
2020-2021	16,446,228
2021-2022	17,287,757
2022-2023	17,856,173
2023-2024	12,434,481

8 In the **South Western TAA:**

Year	£
2019-2020	17,001,983
2020-2021	15,729,274
2021-2022	17,270,481
2022-2023	19,558,239
2023-2024	22,889,540

9 In the **Transpennine TAA:**

Year	£
2019-2020	11,237,715
2020-2021	10,595,342
2021-2022	12,121,598
2022-2023	11,173,478
2023-2024	13,924,607

10 In the **Thameslink TAA:**

Year	£
2019-2020	52,931,316
2020-2021	41,681,933
2021-2022	39,344,242
2022-2023	31,320,210
2023-2024	29,718,526

11 In the **Keolis Amey TAA:**

Year	£
2019-2020	4,782,277
2020-2021	4,282,590
2021-2022	5,677,818
2022-2023	5,350,801
2023-2024	3,719,941

12	In the LNER TAA:	
	Year	£
	2019-2020	50,722,998
	2020-2021	15,659,092
	2021-2022	16,903,913
	2022-2023	16,136,666
	2023-2024	12,735,767

13	In the LSER TAA:	
	Year	£
	2019-2020	17,943,834
	2020-2021	17,074,343
	2021-2022	16,142,270
	2022-2023	12,632,954
	2023-2024	11,636,241

14	In the Merseyrail TAA:	
	Year	£
	2019-2020	1,013,791
	2020-2021	792,907
	2021-2022	1,420,222
	2022-2023	1,278,947
	2023-2024	902,929

15	In the Crossrail TAA:	
	Year	£
	2019-2020	620,002
	2020-2021	946,802
	2021-2022	958,271
	2022-2023	894,333
	2023-2024	893,220

16 In the **Caledonian Sleepers TAA:**

Year	£
2019-2020	166,311
2020-2021	150,330
2021-2022	214,609
2022-2023	189,632
2023-2024	1,246,438

17 In the **Trenitalia TAA:**

Year	£
2019-2020	2,741,172
2020-2021	2,925,708
2021-2022	2,961,437
2022-2023	2,730,990
2023-2024	2,834,185

18 In the **West Coast Trains TAA:**

Year	£
2019-2020	30,136,030
2020-2021	24,600,718
2021-2022	42,890,580
2022-2023	38,547,472
2023-2024	36,128,922

19 In the **West Midlands TAA:**

Year	£
2019-2020	4,650,461
2020-2021	3,710,105
2021-2022	6,520,592
2022-2023	5,900,623
2023-2024	4,148,351

20 In the **XC Trains TAA:**

Year	£
2019-2020	54,250,415
2020-2021	49,477,990
2021-2022	60,591,389
2022-2023	58,846,297
2023-2024	48,938,731

ANNEX 3

PART 2 (CONFIDENTIAL INFORMATION)

Explanatory Note:

As explained above, the confidential information is attached to this Review Notice in the following pages. Copies will be sent only to the parties to the relevant Track Access Agreement, the Secretary of State for Transport, the Scottish Ministers and the Treasury and, if appropriate, any relevant parties listed in Part 2 of Annex 1 to this Review Notice. The publication of that information would or might, in the opinion of ORR, seriously and prejudicially affect the interest of each Train Operator and/or Network Rail for the purpose of section 71(2) of the Act, and it is therefore not being published.

APPENDIX 1 OF PART 2 OF ANNEX 3

Annex C (Payment Rate per train mile) to Part 3 of Schedule 4

to each Track Access Agreement

APPENDIX 2 OF PART 2 OF ANNEX 3

Annex D (Defined Service Group Revenue) to Part 3 of Schedule 4

to each Track Access Agreement

APPENDIX 3 OF PART 2 OF ANNEX 3

Appendix 1 of Schedule 8 to each Track Access Agreement

APPENDIX 4 OF PART 2 OF ANNEX 3

Appendix 3 (SPP Threshold) of Schedule 8 to each Track Access Agreement