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16 November 2012

Company Secretary  
Network Rail Infrastructure Limited  
Kings Place  
90 York Way  
London  
N1 9AG

### **ORR consent under network licence condition 5**

1. On 13 November 2012 Network Rail Infrastructure Limited (Network Rail) asked for our consent under condition 5.1 of its network licence to an arrangement under which it would provide a locomotive, infrastructure monitoring and recording vehicles, and associated services, to Rail for London (RfL) for the purposes of infrastructure testing and monitoring on the East London Line.
2. The arrangement will entail Network Rail having an interest in the operation of railway vehicles that would not be used exclusively in the operation of its network. The first provision of vehicles and services would be on 18 November 2012 with subsequent similar provision to RfL for the East London Line over the following two years.
3. We note that the vehicles are not scheduled to be used for any Network Rail activity during the planned operation on 18 November 2012 and that Network Rail's intended subsequent provision of vehicles and services will be planned to use spare capacity only. Network Rail also intends to charge RfL at a standard commercial rate for the services provided and we consider that these arrangements overall are consistent with Network Rail's general duty under condition 1 of its network licence.
4. We also note that the first run would make use of an available engineering possession on the East London Line and the efficient use of this would avoid the need for a potentially disruptive possession to be booked at a later date. Network Rail expects that the arrangements with RfL will last for around two years although they may be extended. We note this and for flexibility we will not time limit our consent.
5. Network Rail's intended activity is not included in the definition of Permitted Business in part 2 of the network licence but we note that it will conduct the activity as

*de minimis* business in accordance with condition 4 (*Financial ring-fence*) of its network licence.

6. On the basis of Network Rail's letter dated 13 November 2012 and supplementary information also provided, and having had regard to our duties under section 4 of the Railways Act 1993, in particular our duty to protect the interests of users of railway services, we consent for the purposes of condition 5.1 of the network licence to Network Rail entering into the arrangement as described in the letter and supplementary information.

7. This consent applies from 16 November 2012. We may at any time modify or revoke this consent after consulting you if it appears to us to be requisite or expedient to do so, having regard to the duties imposed on us by section 4 of the Railways Act.

A handwritten signature in black ink that reads 'Robert M Plaskitt'. The signature is written in a cursive style with a large, looped initial 'R'.

**Rob Plaskitt**