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Preface

Preface

The HAL Network Code is a set of rules which is incorporated by reference into, and therefore forms part of, each bilateral access contract between HAL and a holder of access rights. It does not create any contractual relationship between operators of trains.

The purpose of the HAL Network Code is;

- 1) To regulate change, including change to the working timetable, change to railway vehicles specified in an access contract, change to the network and change to the HAL Network Code itself;
- 2) To establish a performance monitoring system; and
- 3) To establish procedures in the event of operational disruption.

This Preface does not form part of the HAL Network Code.

Part A: General Provisions

Explanatory Note

- A. Part A sets out certain definitions, general provisions and rules of interpretation which apply generally to this code. Definitions which are specific to individual parts of this code are contained in the relevant part.
- B. This Explanatory Note does not form part of the HAL Network Code.

Condition A1: General

1.1 General interpretation

The paramount objective in the railway industry is to operate a safe and secure railway on which the elements of risk to safety and security are reduced to a level as low as reasonably practicable. Nothing in this code shall be interpreted or construed as compromising that objective.

In this code, unless the context otherwise requires:

- **This code**
References to this code means this code as modified from time to time.
- **Parts, Conditions and paragraphs**
References to Parts, Conditions and paragraphs are to Parts, Conditions and paragraphs of this code.
- **Definitions in the Act**
Terms and expressions defined in the Act shall, unless the contrary intention appears, have the same meaning in this code.
- **Statutory provisions**
References to statutory provisions shall be construed as references to those provisions as amended or re enacted or as their application is modified by other statutory provisions from time to time and shall include references to any statutory provisions of which they are re enactments (whether with or without modification).
- **Interpretation Act**
Words and expressions defined in the Interpretation Act 1978 shall have the same meaning in this code and the rules of interpretation contained in that Act shall apply to the interpretation of this code.
- **Include**
The words "include" and "including" are to be construed without limitation.
- **Other documents**
Any agreement, instrument, licence, standard, timetable, code or other document referred to in this code or entered into, approved, authorised, accepted or issued by a person pursuant to this code shall be construed, at the particular time, as a reference to that agreement, instrument, licence, standard, timetable, code or other document, as it may then have been amended, varied, supplemented or novated.
- **Conflict**
In the event of any conflict of interpretation between this code and an Access Agreement (not including this code) the following order of precedence shall apply:
 - this code; and
 - the Access Agreement.
- **Time limits**
Where in this code any obligation of an Access Party is required to be performed within a specified time limit that obligation shall continue after that time limit if the Access Party fails to comply with that obligation within the time limit.
- **Headings**
The headings and references to headings shall be disregarded in construing this code.
- **Ruling language**
All notices served under this code shall be in the English language.

Part A: General Provisions

1.2 Definitions

In this code, unless the context otherwise requires:

- **"Act"**
means the Railways Act 1993 as amended;
- **"Access Agreement"**
means any particular access contract, whether or not entered into pursuant to any directions of the ORR under the Act, incorporating this code;
- **"Access Beneficiary"**
means, in respect of an Access Agreement, the Train Operator or Access Option Holder who is party to that Access Agreement;
- **"Access Dispute Resolution Rules" or "ADRR"**
means the set of rules regulating the resolution of disputes, entitled "Access Dispute Resolution Rules" and annexed to this code at Annex 1;
- **"access option"**
has the meaning ascribed to it in section 17(6) of the Act;
- **"Access Option Holder"**
means any person who may exercise an access option in respect of a railway facility:
 - (a) that is not a station and
 - (b) in respect of which the facility owner is HAL;
- **"Access Parties"**
means, in respect of an Access Agreement, HAL and the Access Beneficiary who are party to that Access Agreement;
- **"Affiliate"**
means, in relation to any company:
 - (a) a company which is either a holding company or a subsidiary of such company; or
 - (b) a company which is a subsidiary of a holding company of which such company is also a subsidiary,and for these purposes, "holding company" and "subsidiary" have the meanings ascribed to them in section 736 of the Companies Act 1985;
- **"Change of Law"**
means the application to any person of any Legal Requirement which did not previously so apply or the change of any Legal Requirement applying to that person (including any such Legal Requirement ceasing to apply, being withdrawn or not being renewed) other than in relation to:
 - (a) corporation tax (or any other tax of a similar nature replacing corporation tax on profits or gains);
or
 - (b) value added tax;
- **"Competent Authority"**
means any local, national or supra national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether autonomous or not and

Part A: General Provisions

including the ORR) whether of the United Kingdom or of the European Union, which has, in respect of an Access Agreement, jurisdiction over either or both of the Access Parties to, or the subject matter of, that agreement provided that "Competent Authority" shall not include Her Majesty's Government (or any department, minister, official or nominee of it) where acting as shareholder of the Access Party in question or other than pursuant to the Crown prerogative or a statutory function or power;

- **"Direction"**
means, in respect of an Access Agreement, any direction, requirement, instruction or rule binding on either or both of the Access Parties, and includes any modification, extension or replacement of any such direction, requirement, instruction or rule for the time being in force;
- **"hard copy information"**
means any relevant item which it is not reasonably practicable for HAL to publish on its website, having regard, in particular, to whether such relevant item is, or is likely to be:
 - (a) Unavailable in electronic form; or
 - (b) Incapable of being downloaded and/or printed by any class of persons accessing HAL's website; or
 - (c) Exceptionally costly to publish on its website;
- **"Legal Requirement"**
means (for the purpose of the definition of Change of Law), in relation to any person, any of the following:
 - (a) Any enactment to the extent that it applies to that person;
 - (b) any regulation made by the Council or the Commission of the European Union to the extent that it applies to that person or a decision taken by the said Commission which is binding on that person to the extent that it is so binding; and
 - (c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within paragraphs (a) or (b) above to have effect in a way which is different to that in which it previously had effect;
- **"HAL Infrastructure"**
means the infrastructure in respect of which HAL is the facility owner and which is situated in England;
- **"HAL Network Change"**
has the meaning ascribed to it in Part G of this code;
- **"HAL Network Code"**
means the document entitled "HAL Network Code";
- **"HAL Network Statement"**
means the document entitled the "Heathrow Network Statement";
- **"HAL"**
means Heathrow Airport Limited, incorporated in England and Wales (under registered number; 01991017)
- **"non-sensitive version"**
means a version of a relevant item:
 - (a) from which sensitive information has been excised; and/or

Part A: General Provisions

(b) in which sensitive information has been replaced by a summary containing no sensitive information;

- **“Network Rail Network Code”**
means the document published by Network Rail which applies in relation to the operation of railway vehicles on the Wider UK Rail Network;
- **“ORR”**
means the Office of Rail and Road;
- **“Potential Access Party”**
means any person who proposes in good faith to enter into an Access Agreement or become an Access Option Holder provided that such person has first undertaken to HAL to be bound by the relevant provisions of the HAL Network Code and the ADRR;
- **“publish on a website”**
means, in relation to any specified information to be published on a website, placing such specified information on the relevant website in a prominent position and with links which enable visitors to that site to locate it quickly and without difficulty;
- **“Regulations”**
the Railways Infrastructure (Access and Management) Regulations 2005 (SI no 3049 of 2005), as may be amended from time to time;
- **“relevant ADRR Panel”**
means the Panel established under Part E of the Access Dispute Resolution Rules which is to determine a relevant dispute in accordance with the principles and procedures set out in Part A of the Access Dispute Resolution Rules;
- **“relevant item”**
means, in respect of any specified information, the whole or part of any information, statement, proposal, draft, instrument or other document which constitutes or forms part of that specified information;
- **“Routes”**
means, in respect of an Access Agreement, those parts of the HAL infrastructure which a Train Operator has permission to use pursuant to that agreement;
- **“Secretary”**
has that meaning given to it in the ADRR;
- **“secure information”**
means a relevant item, the publication of which may, in the reasonable opinion of HAL, create any risk to the safety or security of the HAL infrastructure;
- **“sensitive information”**
means a relevant item, the publication of which by HAL:
 - (a) is likely materially to compromise or otherwise prejudice the commercial interests of any Access Party or any of its Affiliates; or
 - (b) may reasonably be expected seriously and prejudicially to affect the interests of any person;

Part A: General Provisions

- **“Services”**
means, in respect of an Access Agreement:
 - (a) the services for the carriage of passengers by railway;
 - (b) the services for the carriage of goods by railway; and
 - (c) any other train movement for the purpose of testing the physical or operational characteristics or capabilities of any railway asset,in each case as provided for in that agreement;
- **“specified information”**
means any information, statement, proposal, draft, instrument or other document;
- **“Track Access Contract Parties” or “TAC Parties”**
means, in respect of any Access Agreement other than an access option, HAL and the Train Operator who are party to that Access Agreement;
- **“Train Crew”**
means those persons on a train responsible for the operation of that train;
- **“Train Operator”**
means (without prejudice to Condition A1.3), in respect of an Access Agreement, a person (whether or not an operator of trains) who has permission to use track pursuant to that agreement;
- **“Wider UK Rail Network”**
means the network owned and operated by Network Rail to which the HAL infrastructure abuts;
- **“Working Day”**
means each of Monday to Friday (inclusive) excluding common law and statutory public holidays; and
- **“Working Timetable”**
means as set out in Condition D2.1 and 2.1.6.

1.3 References to Train Operator

Each reference in Parts F, G, H, J, K and M to a Train Operator, or to any obligation of a Train Operator, shall, insofar as the Train Operator is not an operator of a train, be construed as a reference to the person whose operation of trains on the HAL infrastructure derives from that Train Operator's Access Agreement or (as the case may be) to that person's obligation and, in the latter case, the Train Operator shall procure that the person concerned performs the relevant obligation.

1.4 Notices

- 1.4.1 Any notice, consent or approval to be given under this code by any person may be given by:
- (a) personal delivery, express postal delivery or prepaid first class post to the intended recipient's registered address or principal business address within the UK; or
 - (b) e-mail to the e-mail address of the intended recipient most recently provided by the intended recipient to the sender.

Part A: General Provisions

1.4.2 Where any notice, consent or approval is given by e-mail in accordance with Condition A1.4.1 (b), the recipient shall be entitled, within 5 Working Days of receipt of the e-mail, to request that a hard copy of the notice, consent or approval be provided. Where such a request is made, the sender shall provide the recipient with the hard copy within 5 Working Days of the request being received.

1.4.3 Any notice, consent or approval given in accordance with Condition A1.4.1 shall be deemed to have been received in accordance with Condition A4.2.

1.5 Good faith

The Access Parties shall, in exercising their respective rights and complying with their respective obligations under this code (including when conducting any discussions or negotiations arising out of the application of this code or exercising any discretion under it) at all times act in good faith.

Condition A2: Standards Of Documentation

2.1 Where in this code any person is required to prepare, produce or publish any specified information, that obligation is an obligation to ensure that the specified information:

- (a) is in terms which are, to the greatest extent reasonably practicable, precise, clear and unambiguous; and
- (b) contains the information specified for its contents by the provision of this code which requires its preparation, production or publication, and this Condition A2 is without prejudice to any further or other requirements specified in this code in relation to the specified information (including in Part K).

Condition A3: Publications

3.1 General Obligation

3.1.1 Where in this code HAL is required to publish any specified information, that obligation is an obligation to ensure that the specified information:

- (a) is, subject to Condition A3.1.3, brought to the notice of every Train Operator, every Access Option Holder, Transport for London and the ORR and the Secretary of State.
- (b) is published on its website.

3.1.2 The obligation of HAL under Condition A3.1.1 shall have full effect on and from the date on which Condition A3 comes into effect unless the ORR has given a notice stating:

- (a) a later date on which Condition A3.1.1 shall have effect; and
- (b) its reasons,

in which event Condition A3.1.1 shall have effect on and from the date stated in the notice.

3.1.3

- (a) Any person to whom HAL owes an obligation under Condition A3.1.1(a) may give notice to HAL at any time stating that it does not wish to have information of any type or class brought to its notice under Condition A3.1.1(a).
- (b) If a person gives notice under Condition A3.1.3(a) HAL's obligation under Condition A3.1.1(a) to such person shall not apply to the extent stated in the notice.
- (c) A person who has given notice under Condition A3.1.3(a) may revoke or modify its notice at any time by further notice to HAL.

3.2 Sensitive information

Part A: General Provisions

Where in this code HAL is required to publish any specified information which includes relevant items which are sensitive information on its website, that obligation shall be satisfied in respect of any relevant item if it publishes a non-sensitive version of that relevant item.

3.3 Secure Information

Where in this code HAL is required to publish on its website any specified information which includes relevant items which are secure information, that obligation shall be satisfied if it:

(a) indicates on its website:

- (i) in general terms, the nature of the relevant item; and
- (ii) that it will comply with all reasonable requests to supply any person to whom HAL owes an obligation under Condition A3.1.1(a), subject to Condition A3.1.3, with a paper copy of the relevant item; and

(b) complies with requests of the kind specified in Condition A3.3(a)(ii).

3.4 Hard copy information

Where in this code HAL is required to publish on its website any specified information which includes relevant items which are hard copy information, but are not sensitive information, that obligation shall be satisfied if it:

(a) indicates on its website:

- (i) the nature of the relevant item; and
- (ii) that it will comply with all reasonable requests to supply any person with a paper copy of the relevant item; and

(b) complies with requests of the kind specified in Condition A3.4(a)(ii).

3.5 Hard copy sensitive information

Where in this code HAL is required to publish on its website any specified information which includes relevant items which are hard copy information and are sensitive information, that obligation shall be satisfied if it:

(a) indicates on its website:

- (i) the nature of the relevant item; and
- (ii) that it will comply with all reasonable requests to supply any person with a paper copy of the non-sensitive version of the relevant item; and

(b) complies with requests of the kind specified in Condition A3.5(a)(ii).

3.6 Determination

3.6.1 A determination as to whether any relevant item is sensitive information may be made:

(a) in relation to a relevant item submitted to HAL by another person, by the person submitting the relevant item, in the exercise of his rights under Condition A3.7.1; and

(b) in relation to any other relevant item, by HAL.

3.6.2 A determination as to whether any relevant item is secure information or hard copy information may be made by HAL.

3.7 Non-sensitive versions

3.7.1 Any person who is obliged to submit specified information to HAL may submit a non-sensitive version of particular relevant items, provided that he also submits such relevant items in their entirety and HAL shall publish the non-sensitive version of those relevant items.

Part A: General Provisions

3.7.2 If no non-sensitive version of a particular relevant item is submitted to HAL, HAL shall be entitled to assume that the relevant item does not contain any sensitive information and shall publish that relevant item in its entirety.

3.8 Appeals

3.8.1 If any Access Party is dissatisfied with a determination made by:

- (a) HAL under Condition A3.6.1(b) or A3.6.2; or
- (b) any other person under Condition A3.6.1(a),

it may refer the matter for determination in accordance with the ADRR.

3.8.2 If any Access Party or Potential Access Party is dissatisfied with any decision of the relevant ADRR Panel in relation to any matter referred to it under Condition A3.8.1, that Access Party may refer the matter to the ORR for determination under Part M.

Condition A4: Notice By The ORR

4.1 Giving of Notice

Where in this code there is provision for a notice to be given by the ORR for any purpose, such notice:

- (a) may be given from time to time; and
- (b) shall only have effect if it has been:
 - (i) given to every Access Party, the Secretary of State, and every other person who has notified the ORR that it wishes to receive any such notice; and
 - (ii) published on its website and placed on the register maintained under section 72 of the Act (as a document issued or made by it under an access agreement).

4.2 Deemed Receipt

A notice given under this code shall be deemed to have been received:

- (a) if sent by hand or express postal delivery, at the time of delivery;
- (b) if sent by prepaid first class post from and to any place within the United Kingdom, 3 Working Days after posting unless otherwise proven;
- (c) if sent by e-mail;
 - (i) upon sending if sent before 17:00 hours on a Working Day; or
 - (ii) in any other case, at 09:00 hours on the first Working Day following the day of transmission.

4.3 Reasons for decisions

An express provision of this code which requires or contemplates that the ORR should give reasons for its decision in any case does not affect the right of any person to be given reasons for any other decision of the ORR in any other case.

Condition A5: Limitation On Liability

5.1 General

If an Access Party fails to perform an obligation under this code, the provisions of its Access Agreement limiting the liability of such Access Party under that contract shall have effect in relation to such failure unless and to the extent that:

- (a) an express provision states otherwise in any Part of this code; or

Part A: General Provisions

(b) an express provision states otherwise in the relevant Access Agreement.

5.2 Saving

Condition A5.1 does not apply to an obligation to pay compensation under Condition F3, G2 or G4.

Condition A6: Contracts (Rights Of Third Parties) Act 1999

6.1 Application to third parties

Except as provided in this Condition A6, no person who is not an Access Party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of this code.

6.2 Application to HAL Network Code

Where in this code a right is given to any person who is not an Access Party, that person shall be entitled to enforce directly any such right under the Contracts (Rights of Third Parties) Act 1999 but only by way of injunction or other performance order of a court or competent tribunal and not by way of damages or other compensatory award.

Condition A7: Consultation

7.1 Consultation by a meeting

Where in this code a person is required to consult with other persons on any matter, such consultation may take place at a meeting to which such persons are invited.

Part B: Performance Monitoring

Explanatory Note

- A. Part B provides for the establishment by HAL of a Performance Monitoring System, designed to record whether trains pass specified monitoring points, the times at which they do so and the difference between those times and the corresponding scheduled times. The system is also designed to enable HAL to determine and record the cause of any delay or cancellation. Provision is made for HAL to notify and seek agreement from Affected Train Operators as to the cause of any such delay or cancellation, and there are procedures specified for resolving cases where Network Rail and a Train Operator disagrees as to cause.
- B. Allows for all aspects of monitoring of performance on the HAL infrastructure to be undertaken on HAL's behalf by a suitably competent and resourced third party.
- C. Establishes that the monitoring of performance on the HAL infrastructure will be overseen by the Delay Attribution Board which oversees the monitoring of performance on the Wider UK Rail Network. It also establishes that the Delay Attribution Guide which applies to the Wider UK Rail Network will be used as the basis for the attribution of performance incidents on the HAL infrastructure.
- D. Train Operators are given the right to notify HAL if the Performance Monitoring System is not fit for purpose and require HAL to investigate the grounds for such notification and report on its findings.
- E. HAL and Affected Train Operators are given the right to audit and inspect the records and monitoring equipment of the relevant Performance Monitoring System and to require tests of the Performance Monitoring System to be carried out in the presence of an independent expert.
- F. Part B also incorporates the Performance Data Accuracy Code, which applies to the Wider UK Rail Network, and which encompasses defined standards of accuracy of performance data.
- G. This Explanatory Note does not form part of the HAL Network Code.

Part B: Performance Monitoring

DEFINITIONS

In this Part B, unless the context otherwise requires:

“Affected Train Operator”

means a train operator who holds an Access Agreement entitling it to operate on the HAL infrastructure

“Board”

means the Delay Attribution Board;

“Board Secretary”

means the secretary of the Board;

“Class”

has the meaning given to it in Part C of the Network Rail Network Code for the Wider UK Rail Network

“Delay Attribution Board”

means the board which has been established in accordance with Condition B 6.2 of the Network Rail Network Code for the Wider UK Rail Network;

“Delay Attribution Guide”

means the document which provides guidance on the attribution of delay across the Wider UK Rail Network and which will also apply to the HAL infrastructure;

“Member”

means a means a member of the Board and “Board Member” shall be construed accordingly;

“Performance Data Accuracy Code”

means the code relating to the standards of performance data accuracy entitled “Performance Data Accuracy Code” as issued by the Board;

“Performance Monitoring System”

means the system for monitoring train performance described in Condition B1; and

“Proposal for Amendment”

means any proposal to amend the Delay Attribution Guide or the Performance Data Accuracy Code;.

CONDITION B1 - PROCEDURES FOR MONITORING PERFORMANCE

1.1 Performance Monitoring System

1.1.1 HAL shall operate, or shall procure the operation of, a non-discriminatory system for monitoring train performance which accurately records:

- a) the times at which trains arrive at, depart from and pass specified points, including the times at which trains arrive onto the HAL infrastructure and times at which they leave the HAL infrastructure;
- b) the difference between the time at which a train arrives at, departs from or passes a specified point and the time published for such arrival, departure or passing in the Working Timetable;
- c) all cancelled trains and trains failing to pass any specified point; and
- d) the cause of train delays and cancellations.

1.1.2 HAL is permitted to sub-contract the undertaking of all activities relating to the monitoring of performance to a suitably competent and resourced organisation. References to HAL in this Part B can be construed as including such suitably competent and resourced organisation

Part B: Performance Monitoring

1.1.3 No later than 3 months prior to the commencement of any Railway reporting year HAL will advise all Affected Train Operators whether it intends to sub-contract the undertaking of all activities relating to the monitoring of performance for that Railway reporting year and in which case will provide details of the organisation to whom those activities will be sub-contracted including all relevant contact details.

1.2 The Performance Data Accuracy Code

1.2.1 Incorporation

The Performance Data Accuracy Code which applies to the Wider UK Rail Network will be adopted in its entirety for the HAL infrastructure and is incorporated into and shall form part of this code.

1.2.2 Obligations and Rights

Each Affected Train Operator shall observe and perform its obligations, and shall have the benefit of its rights, under the Performance Data Accuracy Code. For the purpose of Condition B1.1 "accurately" shall be construed in accordance with the Performance Data Accuracy Code.

1.3 The Delay Attribution Guide

The Delay Attribution Guide which applies to the Wider UK Rail Network will be adopted in its entirety for the HAL infrastructure and is incorporated into and shall form a part of this code.

CONDITION B2 - DIAGNOSIS OF DELAYS OR CANCELLATIONS

2.1 Determination of causes of delays or cancellations

HAL shall, in relation to any train delay or cancellation (subject to any thresholds agreed between HAL and each Affected Train Operator), determine and record the persons and causes which are responsible for the delay or cancellation and where more than one, so far as practicable, the extent to which each person or cause is so responsible.

2.2 Information relating to causes of delays or cancellations

HAL shall, when determining and recording the persons and causes which are responsible for train delays and cancellations, have due regard to all information which is relevant in the circumstances, including the following:

- a) information from any computerised or other recording system which HAL may, for the time being, be permitted to use for the purposes of a particular Access Agreement;
- b) information supplied by Network Rail including information supplied by signallers employed by Network Rail and other persons duly authorised to participate in the signalling of trains;
- c) information supplied by any operator of trains, whether such information is within its knowledge or based on information supplied by other operators of railway assets;
- d) information supplied by HAL, whether such information is within HAL's knowledge or based on information supplied by persons engaged or acting on behalf of, or otherwise in accordance with or subject to the instructions of, HAL or other operators of railway assets; and
- e) information and guidance set out in the Delay Attribution Guide.

2.3 Notification and agreement of delays or cancellations

2.3.1 Notification of delays or cancellations

HAL shall, as soon as reasonably practicable following the occurrence of any train delay or cancellation affecting an Affected Train Operator's train, notify that operator of the occurrence of that delay or cancellation and the responsibility, if any, for that delay or cancellation attributed by HAL to that operator. Any such notices shall be sent to such persons that operator shall have nominated for the purposes of this Condition B2.3.1.

2.3.2 Consideration by an Affected Train Operator

Part B: Performance Monitoring

An Affected Train Operator shall consider each delay or cancellation attributed by HAL to that operator, and if the Affected Train Operator wishes to refer the attribution for further investigation it shall do so within two clear Working Days of receipt of that notice, and at the same time give its reasons for doing so. Any notification of such referral shall be sent to such person as HAL shall have nominated for the purposes of this Condition B2.3.2. For the avoidance of doubt, such person nominated by HAL may be employed by the organisation sub-contracted by HAL to undertake the monitoring of performance.

2.3.3 Agreement of delay attribution

Any attribution shall, unless referred for further investigation by that Affected Train Operator within two clear Working Days of receipt of that notice in accordance with Condition B2.3.2, be deemed to be agreed by that operator.

2.4 Matters referred for further investigation

2.4.1 Procedure for conducting further investigation

The representatives nominated, pursuant to Condition B2.3, by HAL and the Affected Train Operator shall, within the next two clear Working Days after receipt of notification pursuant to Condition B2.3.1, attempt to resolve the matter referred for further investigation. Such further investigation shall take into account all relevant circumstances of the case and the guidance set out in the Delay Attribution Guide.

2.4.2 Referral for review

If agreement has not been reached within the two clear Working Days referred to in Condition B2.4.1, the matter shall be referred for review by the designated senior manager appointed by the Affected Train Operator and the designated senior manager appointed by HAL for the purposes of this Condition B2.4.2.

2.4.3 Referral for further guidance

If, within 20 Working Days, or such other period as may be agreed by HAL and the Train Operator, of the matter being referred for review pursuant to Condition B2.4.2, HAL and the Affected Train Operator are unable to agree on the attribution, they shall seek guidance from the Board, or from any sub-committee that the Board has designated for this purpose, on the appropriate application of the Delay Attribution Guide or on any other relevant matter.

2.4.4 Guidance from the Board

If, within 14 days of guidance being received from the Board or any designated sub-committee pursuant to Condition B2.4.3, HAL and the Affected Train Operator are unable to agree on the attribution, they shall refer the matter for determination in accordance with the ADRR process as described in Annex 1.

2.4.5 Precedence

For the purposes of operating the procedures set out in this Condition B2.4, in any Access Agreement HAL and the Train Operator may substitute for any timescale prescribed in this Condition B2.4 a corresponding timescale in Schedule 8 or its equivalent (Performance Regime) of that Access Agreement.

2.5 Amendments to the Delay Attribution Guide or the Performance Data Accuracy Code

2.5.1 The Delay Attribution Guide and Performance Data Accuracy Code are documents adopted by HAL for application on the HAL infrastructure and where a Train Operator wishes to vary the Delay Attribution Guide or the Performance Data Accuracy Code, a request should be submitted to HAL to propose that variation to Network Rail for consideration under the procedures set out in the Network Rail Network Code

2.5.2 Notice of Proposal for Amendment

Part B: Performance Monitoring

Proposals for Amendment made by HAL and Affected Train Operators shall be subject to the process described from Condition B2.5.3 through to Condition B2.7.4 (inclusive) and the parties will have no right to appeal amendments to the Delay Attribution Guide or the Performance Data Accuracy Code that result from the application of that process.

2.5.3 Process administered by Network Rail for dealing with a Proposal for Amendment made by HAL or an Affected Train Operator

The Board Secretary shall within 7 days following circulation or receipt of a Proposal for Amendment or within 7 days following receipt of any clarification that the Board may reasonably request from the sponsor of that proposal, or within seven days of receipt of a Proposal for Amendment pursuant to Condition B6.1.2;

- a) give notice of that proposal (including any associated impact assessment and proposed solution provided in accordance with Condition B6.1.2 to each; and
- b) invite the submission to the Board of written representations in respect of that proposal within such period as is reasonable in all the circumstances (the "Consultation Period"), being a period of not less than 30 days from the date of notification under paragraph (a) above. In making representations, an Affected Train Operator should:
 - i. specify whether or not it accepts the proposed change and provide an explanation for its position;
 - ii. indicate any wider impact (including commercial impact) that the proposed change is likely to have on its business; and
 - iii. confirm whether it is content with any solution proposed by the sponsor; or
 - iv. provide details of any alternative solution it considers appropriate to address the wider impact (including commercial impact); and
 - v. indicate whether such an alternative has been discussed and agreed with HAL and/or Affected Train Operators.

2.5.4 *Calling of Board Meeting to consider a Proposal for Amendment*

The Board Secretary shall, within seven days following the end of the Consultation Period:

- a) call a Board Meeting; and
- b) supply the Proposal for Amendment to each Member together with:
 - i. copies of all representations received pursuant to Condition B6.1.2; and
 - ii. if the sponsor of the proposal consents, any modification to that proposal.

2.5.5 *Material modification of Proposal for Amendment*

If at any time a Proposal for Amendment is (with the consent of its sponsor) modified in a material way, the Board shall treat the proposal as a new Proposal for Amendment and the provisions of Conditions B2.5.3 and B2.5.4 shall apply thereto.

2.5.6 *Clarification*

The sponsor of a Proposal for Amendment shall promptly comply with all reasonable written requests of the Board for further clarification of the proposal.

2.6 *Consideration by the Delay Attribution Board*

2.6.1 *Voting pass-mark*

The Board shall consider and may approve each Proposal for Amendment. A Proposal for Amendment shall have been approved only if seven or more Members (including at least two Members representing Network Rail and at least two Members representing the other Classes) present, and entitled to vote, at a meeting of the Board shall have voted in favour of that proposal, provided that the failure of a Member timeously to cast its vote or to intimate its abstention shall be treated as a vote in favour of the proposal.

2.6.2 *Rights of attendance*

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A sponsor of a Proposal for Amendment shall be entitled to attend the relevant part of any Board Meeting at which the Proposal for Amendment is to be considered.

2.7 Consequences of a Board decision

2.7.1 Decision to Approve

Any decision by the Board to approve a Proposal for Amendment shall state the date from which it is proposed that such approved amendment is to take effect being a date no earlier than the date on which the Board reached its decision. The Board Secretary shall, as soon as reasonably practicable following such decision, submit the approved Proposal for Amendment (and any associated impact assessment and proposed solution) to the ORR, together with a written memorandum:

- a) explaining in reasonable detail the reasons for the proposed amendment, why the Board considers that the proposed changes are necessary, and how they will improve the industry delay attribution process;
- b) containing details of the results of the consultation process (including copies of any representations made pursuant to Condition B6.1.2;
- c) detailing what, if any, changes were made to the original Proposal for Amendment in the light of representations received, and why these changes have been accepted;
- d) stating the reasons behind the rejection of any representations in respect of the Proposal for Amendment;
- e) providing details of where a number of Proposals for Amendment put forward to the Board have been merged; and
- f) stating the reasons for any dissent from the Board's decision by any Board Member.

2.7.2 Requirement for ORR's approval

No Proposal for Amendment shall have effect unless the ORR gives notice to the Board in writing that it approves the proposal and confirms the date of introduction.

2.7.3 Notification of approval

If the ORR gives its approval of the Proposal for Amendment, the Board Secretary shall, as soon as reasonably practicable:

- a) notify details of the approved amendment and when it will take effect to all Access Parties;
- b) arrange for the approved amendment to be incorporated into a revised version of the Delay Attribution Guide or Performance Data Accuracy Code; and
- c) publish and circulate the revised version of the Delay Attribution Guide or Performance Data Accuracy Code to all Access Parties and to the ORR.

2.7.4 Decision to Reject

The Board Secretary shall, as soon as reasonably practicable following a decision of the Board, or following receipt of notification of a decision of the ORR, to reject a Proposal for Amendment, notify the sponsor of that decision.

CONDITION B3 - SYSTEM INVESTIGATION

3.1 Notification of unsatisfactory system

An Affected Train Operator may, when it has reasonable grounds for considering that the Performance Monitoring System is not satisfying the requirements set out in Condition B1, notify HAL of the manner in which the Performance Monitoring System is alleged not to satisfy such requirements.

3.2 Investigation of system

As soon as practicable following receipt of a notice from an Affected Train Operator under Condition B3.1, HAL shall investigate the matters complained of and shall, within the period of 28 days following

Part B: Performance Monitoring

the date of receipt of that notice, prepare and deliver to that operator a report of its investigations which shall include:

- a) details of all relevant tests and checks carried out by HAL;
- b) the results of HAL's investigations;
- c) HAL's conclusion as to whether the Performance Monitoring System failed to satisfy the requirements set out in Condition B1 in the manner alleged by that Affected Train Operator or in any other respect;
- d) HAL's reasons for its conclusions and copies of all relevant data and documentation in respect thereof; and
- e) any steps which HAL is taking or proposes to take in respect of any failure to satisfy the said requirements.

3.3 Adjustment to prior results

If it is established in accordance with Condition B3.2 or Condition B4.2 that the Performance Monitoring System is not satisfying the requirements set out in Condition B1, the results obtained from the Performance Monitoring System for the period of two months preceding the date of the investigation or, if later, since the date of the last investigation under Condition B3.1 (but not in respect of earlier periods), shall be adjusted in a manner which is fair and reasonable to correct the results.

CONDITION B4 - RECORDS, AUDIT AND TESTING

4.1 Obligation to keep information

HAL and the Affected Train Operators shall, for a period of not less than six years, keep summaries of all material information relating to the monitoring of train performance.

4.2 Right to audit and inspect

An Affected Train Operator may, without prejudice to Condition B3.2 and on giving at least five days' prior notice to HAL:

- a) audit and inspect at any reasonable time all processes, systems and records of the Performance Monitoring System for any particular period and in relation to the Affected Train Operator's Services;
- b) inspect at any reasonable time all such premises and equipment as are used in connection with the Performance Monitoring System to monitor train performance in respect of the Affected Train Operator's Services; and
- c) require HAL to carry out analysis, investigations and tests of the Performance Monitoring System including the processes, systems and equipment used in connection with the Performance Monitoring System in the presence of an independent expert nominated by the Affected Train Operator, such tests to be as reasonably required by the Affected Train Operator to determine its accuracy and suitability to monitor train performance in respect of the Affected Train Operator's Services.

4.3 Costs to be borne by investigating party

Subject to Condition B4.4, any audit, inspection, analysis, investigation or testing carried out in accordance with Condition B4.2 shall be at the requesting Affected Train Operator's own cost.

4.4 Costs to be borne by HAL

Where the overall results of the Performance Monitoring System for that period are shown as a result of any audit, inspection, analysis, investigation or testing to be inaccurate in any material respect due to any act or omission by HAL, HAL shall bear the reasonable cost of that audit, inspection, analysis, investigation or testing.

CONDITION B5 - CO-OPERATION

Part B: Performance Monitoring

5.1 Review of operations

HAL and the Affected Train Operators shall, not less than once every six months, meet, review performance and discuss alterations to their operations which will improve train performance and reduce train delays and cancellations.

5.2 Implementation of alterations

HAL and the Affected Train Operators agree to use all reasonable endeavours to implement any alterations agreed under Condition B5.1.

5.3 Obligations in Access Agreement

Nothing in this Part B shall restrict HAL and the Affected Train Operators agreeing, in an Access Agreement, obligations in relation to performance monitoring which are more onerous than those contained in this Part B.

CONDITION B6 - DELAY ATTRIBUTION BOARD

6.1 Purpose of the Board

6.1.1 Delay Attribution Guide and Performance Data Accuracy Code

HAL and Affected Train Operators agree that monitoring of performance on the HAL infrastructure will be overseen by the Delay Attribution Board, which has been established through the Network Rail Network Code for the Wider UK Rail Network, the purpose of which is to lead, monitor and advise on the effectiveness and accuracy of the delay attribution process and use of the Delay Attribution Guide and the Performance Data Accuracy Code.

6.1.2 Proposal for Amendment

The Board may receive, or sponsor, Proposals for Amendment, pursuant to Condition B2.5.1, and has responsibility for considering whether or not the Delay Attribution Guide or the Performance Data Accuracy Code as appropriate should be amended in accordance with any such proposal, after taking account of information supplied by the Board Secretary pursuant to Condition B2.5.4(b).

6.1.3 Guidance

The Board will provide guidance to TAC Parties on request to assist in the resolution of disagreements concerning delay attribution.

6.1.4 Payments by HAL and Affected Train Operators

HAL and each Affected Train Operator shall, within 30 days of being requested to do so by the Board Secretary, pay to the Board Secretary an amount representing an equal share of the fair and reasonable costs and expenses of the Board in overseeing the monitoring of performance on the HAL infrastructure, the administration of Proposals For Amendment and for providing guidance on issues relating to delay attribution on the HAL infrastructure.

Part C: Modifications to the HAL Network Code

Explanatory Notes

- A. Part C provides for a process by which the HAL Network Code and certain other arrangements (ADRR) may be changed. The process set out in Part C is, in certain circumstances, also used in relation to changes to aspects of Access Agreements into which this code is incorporated.
- B. A Proposal for Change may be initiated by the ORR, a Train Operator, Access Option Holder or HAL and is subject to a consultation process.
- C. Part C also establishes the principle that the parties agree to become users of the "Code of Practice for the management and Development of Railway Code Systems" which applies to Wider UK Rail Network. A party intending to propose a change to either of these documents shall notify HAL and each Train Operator or Access Option Holder of their intention to do so.
- D. This Explanatory Note does not form part of the HAL Network Code.

Part C: Modifications to the HAL Network Code

DEFINITIONS

In this Part C, except where the context otherwise requires:

"Access Option Holder"

means in respect of an Access Option, a person who holds future rights to use track pursuant to that option

"Consultation Period"

means the period for consultation described in Condition C2.2;

"Proposal for Change"

means any proposal to change the HAL Network Code (including this Part C) together with any modification of that proposal;

"Relevant Person"

means HAL, a Train Operator, Access Option Holder and any other person who, in the opinion of the ORR, shall be likely to be affected by its decision whether to approve or reject a Proposal for Change; and

"Sponsor"

means the person who proposes a Proposal for Change.

"Train Operator"

means in respect of an Access Agreement, a person who has permission to use track pursuant to that agreement.

CONDITION C1 – ADMINISTRATION OF THE CHANGE PROCEDURE

- 1.1 HAL shall provide all administrative services reasonably necessary for the receipt, notification, consultation, response and effect of Part C.
- 1.2 In its capacity of administrator, HAL will establish, maintain and update as necessary on its web-site the current version of each of the HAL Network Code and the ADRR, and all documents or other instruments which the HAL Network Code expressly states are incorporated into it.
- 1.3 HAL shall provide copies of the whole or any part of any documents contained on the web-site to any person upon request and HAL shall be entitled to charge its reasonable costs incurred for the provision of such copies.
- 1.4 HAL shall be entitled to recover the costs of administering the procedures referred to in Part C.

CONDITION C2 - RECEIPT AND NOTIFICATION OF PROPOSALS FOR CHANGE SPONSORED BY HAL, A TRAIN OPERATOR OR ACCESS OPTION HOLDER

2.1 Entitlement to make Proposal for Change

HAL and each Train Operator or Access Option Holder shall be entitled to make a Proposal for Change for consideration. Any such Proposal for Change shall be sent by the Sponsor to all other persons entitled to make a Proposal for Change and the ORR and shall:

- a. be in writing;
- b. specify the wording of the change proposed;
- c. specify the date or series of dates on which it is proposed that the change come into effect, if other than 14 days after any approval notified by the ORR pursuant to Condition C2.3; and
- d. be supported by an explanation in reasonable detail of the reasons for the proposed change.

2.2 Notice of Proposal for Change

Part C: Modifications to the HAL Network Code

HAL shall, within 7 days following circulation or receipt of a Proposal for Change or, where HAL is not the Sponsor of that proposal, within 7 days following receipt of any clarification that HAL may reasonably request from the Sponsor in respect of a Proposal for Change:

- a. give notice to each Train Operator, Access Option Holder and to the ORR of its provisional timescale for consulting on and considering that Proposal for Change; and
- b. invite the submission to HAL of written representations in respect of that Proposal for Change within such period as is reasonable in all the circumstances, being a period of not less than 30 days from the date of notification under Condition C2.1 above.

2.4 Modification of Proposal for Change

2.4.1 A modification to a Proposal for Change may be proposed by HAL, the ORR, a Train Operator or Access Option Holder at any time during the Consultation Period and shall be copied to all other persons entitled to make such a modification to a Proposal for Change.

2.4.2 HAL and the Sponsor of the Proposal for Change (where that Sponsor is not HAL) shall consider any modifications which are proposed to a Proposal for Change and:

- a. where the proposed modification is a material modification then HAL shall treat the proposal as a new Proposal for Change; and
- b. where the proposed modification is not a material modification then HAL shall consider the Proposal for Change, as modified, but shall not treat the proposal as a new Proposal for Change;

provided that, where HAL and the Sponsor of the Proposal for Change (where that Sponsor is not HAL) cannot agree promptly whether or not a proposed modification is material or not then, for the purposes of this Condition C2.4, the modification will be treated as though it is a material modification.

2.5 Clarification

The Sponsor of a Proposal for Change shall promptly comply with all reasonable written requests of HAL, the ORR, a Train Operator or Access Option Holder for further clarification of the Proposal for Change.

2.6 Meeting to discuss a Proposal for Change

Within 7 days following the end of the Consultation Period, HAL shall give notice to each Train Operator, Access Option Holder and the ORR calling a meeting to discuss the Proposal for Change and any written representations it has received in respect of that Proposal for Change. HAL shall inform each Train Operator, Access Option Holder and the ORR of the date, venue and time of such meeting (having first made reasonable efforts to consult with each Train Operator, Access Option Holder and the ORR as to such date, venue and time), such meeting to be held no later than 21 days following the end of the Consultation Period.

2.7 Further consultation

HAL shall, as soon as reasonably practicable following a request at any meeting convened pursuant to Condition 2.6 to carry out further consultation in respect of any Proposal for Change, carry out that further consultation.

CONDITION C3 - CONSIDERATION OF PROPOSAL FOR CHANGE SPONSORED BY HAL, A TRAIN OPERATOR OR ACCESS OPTION HOLDER

3.1 Submission of Proposal for Change to ORR

Following the conclusion of the Consultation Period and, where applicable, following the conclusion of any meeting called by HAL pursuant to Condition C2.6 and any further consultation conducted pursuant to Condition C2.7, HAL shall submit the Proposal for Change to the ORR, together with a written memorandum:

Part C: Modifications to the HAL Network Code

- a. explaining the reasons for the Proposal for Change;
- b. containing details of the results of the consultation process including, where relevant, any further consultation process (in each case including copies of any representations made during such consultation process);
- c. confirming whether or not HAL supports the Proposal for Change (including its reasons);
- d. confirming whether or not each Train Operator and Access Option Holder supports the Proposal for Change (including their reasons (to the extent that they are known to HAL, having made reasonable enquiry)); and
- e. stating the date or series of dates upon which it is considered that the proposal should take effect should the ORR approve the Proposal for Change pursuant to Condition C3.3, such date being no earlier than 14 days after the date on which the ORR gives notice of any such approval.

3.2 Request for further information from the Sponsor of a Proposal for Change

The Sponsor of the Proposal for Change, including where such Sponsor is HAL, shall use its reasonable endeavours to provide any further information required in relation to the consideration of a Proposal for Change by the ORR.

3.3 Notification of approval or rejection of a Proposal for Change

3.3.1 The ORR may notify HAL as soon as reasonably practicable of its approval or rejection of a Proposal for Change sponsored by HAL, a Train Operator or Access Option Holder submitted to it pursuant to Condition C3.1 and, where relevant, any further information submitted to it pursuant to Condition C3.2, provided that the ORR may make any minor clarificatory modifications before approving any such Proposal for Change.

3.3.2 No Proposal for Change sponsored by HAL, a Train Operator or Access Option Holder shall have effect unless the ORR gives notice to HAL in writing that it approves the proposal pursuant to Condition C3.3.1 and only if the following conditions have been satisfied (and the ORR has given its reasons in the notice as to why it considers such conditions have been satisfied):

- a. the Proposal for Change in question promotes or achieves the objectives specified in section 4 of the Act; and
- b. the interests of any Relevant Person or persons would not be unfairly prejudiced if the Proposal for Change were made, unless such unfair prejudice is outweighed by or is likely to be outweighed by any prejudice which will or is likely to be sustained by any other Relevant Person or persons if the Proposal for Change is not made, having due regard to the need to enable Relevant Persons to plan the future of their businesses with a reasonable degree of assurance;

provided that, in all cases, the Proposal for Change in question shall not prejudice the ability of HAL to perform its contractual obligations or otherwise unduly harm the financial position of HAL.

3.4 Notification to parties

Where the ORR gives notice to HAL pursuant to C3.3.2, HAL shall ensure that all Train Operators and Access Option Holder shall be notified of the change and its effective date.

3.5 Effective date of change

Any notice given under C3.4 shall specify the effective date(s) of the proposed change which shall be unless otherwise determined 14 days from the date of notification made pursuant to Condition C3.4.

CONDITION C4 – PROPOSAL FOR CHANGE SPONSORED BY ORR

4.1 The HAL Network Code shall have effect with the modifications specified in any notice given by the ORR for the purposes of this Condition C4, provided that the ORR shall be satisfied as to the need for the modification as provided for in Condition C4.2, the procedural requirements of Condition C4.2 shall have been satisfied and the modification shall not have effect until the date provided for in Condition C4.3.

4.2 Conditions to be satisfied in respect of Proposal for Change sponsored by ORR

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4.2.1 Any notice given by the ORR pursuant to Condition C4.1 in respect of a Proposal for Change sponsored by the ORR shall have effect only if the following conditions have been satisfied (and the ORR has given its reasons in the notice as to why it considers such conditions have been satisfied):

- a. the modification in question promotes or achieves the objectives specified in section 4 of the Act; and
- b. the interests of any Relevant Person or persons would be unfairly prejudiced if the modification were not made, and the need to avoid or remedy such unfair prejudice outweighs or is likely to outweigh any prejudice which will or is likely to be sustained by any other Relevant Person or persons if the modification is made, having due regard to the need to enable Relevant Persons to plan the future of their businesses with a reasonable degree of assurance;

provided that, in all cases, the modification in question shall not prejudice the ability of HAL to perform its obligations under the Access Agreement or otherwise unduly harm the financial position of HAL.

4.2.2 The procedural requirements which require to have been followed for the purposes of Condition C4.1 are:

- a. the ORR shall have sent a copy of its proposal to HAL, each Train Operator and Access Option Holder which shall:
 - i. be in writing;
 - ii. specify the wording of the modification proposed;
 - iii. specify the date or series of dates on which it is proposed that the modification come into effect; and
 - iv. be supported by an explanation in reasonable detail of the reason for the proposed modification, which must include the reasons why it considers the conditions in C4.2 would be satisfied;
- b. the ORR shall have invited the submission of written representations on the documentation provided pursuant to (a) above from HAL, each Train Operator and Access Option Holder within such period as is reasonable in all circumstances;
- c. the ORR shall have taken such representations into account (other than those which are frivolous or trivial) in making its decision on the modification to be made; and
- d. the ORR shall have notified HAL, each Train Operator and Access Option Holder as to its conclusions in relation to the modification in question (including by providing to each such person a copy of the text of the proposed modification) and its reasons for those conclusions, which may be provided at the same time as the notice under Condition C4.1.

4.3 Effect

A notice under Condition C4.1 shall have effect upon such date, or the happening of such event, as shall be specified in the notice.

CONDITION C5 – PROVISION OF REVISED TEXTS

5.1 A notice under Part C shall not have effect in relation to any Proposal for Change which relates to Condition C3.3.2 or proposed modification which relates to Condition C4.

5.2 HAL shall, as soon as reasonably practicable following issue of a notice pursuant to Condition C4.1 or following approval of a Proposal for Change by the ORR pursuant to Condition C3.3, supply to all Train Operators, Access Option Holder and the ORR a revised version of the amended documentation incorporating the change and shall publish a revised copy of such documentation on its website.

CONDITION C6 – ADOPTION OF OTHER OPERATIONAL ARRANGEMENTS

6.1 HAL and each Train Operator or Access Option Holder will apply to become users of the "Code of Practice for the management and Development of Railway Code Systems" which applies to the Wider UK Rail Network.

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- 6.2 Where a party wishes to propose an amendment to the "Code of Practice for the management and Development of Railway Code Systems" they will apply the relevant processes applicable to that document. Prior to doing so, the party wishing to propose an amendment will notify HAL and each Train Operator or Access Option Holder of their intention to do so.

Part D: Timetable

Part D – Timetable Change

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Part D: Timetable

CONDITION D1 - INTRODUCTION

1.1 Overview

- 1.1.1 It is the responsibility of HAL to allocate capacity on the HAL infrastructure and to establish, or to procure the establishment of a timetable for the HAL infrastructure, referred to as the "Working Timetable".
- (a) HAL is permitted to sub-contract the undertaking of all activities relating to the establishment of the Working Timetable to a suitably competent and resourced organisation. All references to HAL in this Part D shall be construed as including such suitably competent and resourced organisation.
 - (b) Where HAL has sub-contracted the establishment of the Working Timetable to Network Rail, except where this Part D states otherwise, the activities relating to the establishment of the Working Timetable will be fully integrated into Network Rail's activities relating to the establishment of the Working Timetable in respect of the Wider UK Rail Network.
 - (c) Where HAL has sub-contracted the establishment of the Working Timetable to Network Rail, a Timetable Participant may:
 - (i) incorporate its submission of Access Proposal as described in Condition D2.4 and Condition D3.4.9 into its submission of Access Proposal relating to the Wider UK Rail Network;
 - (ii) incorporate its Train Operator Variation Request as described in Condition D3.3 into its Train Operator Variation Request relating to the Wider UK Rail Network.
- 1.1.2 Those entitled to participate in the processes set out in this Part D are defined as "Timetable Participants".
- 1.1.3 The Working Timetable is re-issued in revised form twice a year. The process for producing the bi-annual revision of the Working Timetable is described in Condition D2.
- 1.1.4 In the period between bi-annual revisions of the Working Timetable, either HAL or Timetable Participants may wish to vary the Working Timetable, whether by altering or removing a scheduled Train Slot or by inserting a new Train Slot. HAL shall operate the processes described in Condition D3 to facilitate variations to a Working Timetable in appropriate circumstances.
- 1.1.5 In conducting the processes set out in this Part, decisions must be made by HAL in accordance with the principles set out in Condition D4.
- 1.1.6 Condition D5 describes the processes by which a Timetable Participant, dissatisfied with a decision of HAL made in respect of this Part D, may in specified circumstances appeal against that decision.
- 1.1.7 HAL requires access to the HAL infrastructure in order to fulfil its obligations in relation to the HAL infrastructure. The processes by which:
- (a) the Working Timetable is updated on a bi-annual basis (as described in Condition D2); and
 - (b) variations to the Working Timetable outside that bi-annual process are facilitated (as described in Condition D3); include arrangements to procure access to the HAL infrastructure required by HAL. Where such access is required over a period greater than that covered by one revision of the Working Timetable, HAL may wish to conduct an extraordinary process of consultation with parties affected by those works. A process for such consultation is described in Condition D6.
- 1.1.8 It is the responsibility of HAL and all Timetable Participants to collaborate with each other so that the implementation of the procedures in this Part D is carried out with optimal efficiency. HAL and Timetable Participants shall each establish and maintain systems and resources which are necessary

Part D: Timetable

and sufficient to facilitate such collaboration and their compliance with the procedures set out in this Part.

1.1.9 In addition to compliance with the processes described in this Part D, Timetable Participants may be separately required to consult with the Secretary of State, Transport for London, other infrastructure managers and any other parties with the right to be so consulted, regarding proposals for the development of Services.

1.1.10 In this Part D:

- (a) the singular shall include the plural and vice-versa;
- (b) the headings are for convenience only and shall not affect interpretation.

1.1.11 In this Part D, capitalised words have the meanings shown below:

Access Proposal shall have the meaning shown in Condition D2.4.1;

Ancillary Movement a train movement which is not an express part of any Services but which is necessary or reasonably required for giving full effect to the train movements which are an express part of a Service and shall include any such train movement as is referred to in paragraph (c) of the definition of "Services" to the extent that it is not expressly provided for in an Access Agreement;

Calendar of Events is a calendar, produced by Network Rail for the Wider UK Rail Network, going forward for a period of at least 4 years showing events which are likely to require significant changes to the Working Timetable in a future bi-annual timetable revision process carried out in accordance with Condition D2;

D-X shall have the meaning shown in Condition D2.1.5;

Decision Criteria shall have the meaning shown in Condition D4.6;

Draft Calendar of Events a draft Calendar of Events;

Draft Rules shall have the meaning shown in Condition D2.2.3;

Event is an event, or grouping of events shown in the Calendar of Events;

Event Steering Group is a group set up and chaired by Network Rail and comprises representatives from Network Rail, relevant funders and any Timetable Participants that:

- (a) are likely to be affected by the Event; and
- (b) who agree to be on the group.

Where an Event Steering Group is covering a HAL Event, HAL will be represented on that Event Steering Group.

Exercised shall mean as a consequence of:

- (a) submitting an Access Proposal to Network Rail by the Priority Date in accordance with Conditions D2.4 and D2.5; or
- (b) a Rolled Over Access Proposal;

Firm Right a right:

- (a) of a Timetable Participant under an Access Agreement in respect of the quantum, timing or any other characteristic of a train movement; or
- (b) of HAL under the Rules; and which in either such case is not expressed to be subject to any contingency outside the control of the right holder (save that in the case of (a), the right may be subject to the Rules);

Flexing Right a right, exercisable by HAL in allocating a Train Slot in the New Working Timetable, to vary a Train Slot:

- (a) sought in an Access Proposal ; or

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- (b) arising from a Rolled Over Access Proposal; or
- (c) sought in a Train Operator Variation Request, in any way within and consistent with the Exercised Firm Rights of the relevant Timetable Participant or, where the Train Slot which is being varied is a Strategic Train Slot, in any way without limitation;

HAL Engineering Access Statement a document setting out, for any part of the HAL infrastructure, each of the following matters:

- (a) the location, number, timing and duration of any HAL Restrictions of Use; and
- (b) any alternative train routes or stopping patterns which may apply during any HAL Restriction of Use referred to in paragraph (a) above;

HAL Event an event, or grouping of events, that HAL has required Network Rail to include in the Calendar of Events;

HAL Restriction of Use a Restriction of Use that occurs wholly or mainly on the HAL infrastructure;

HAL Timetable Planning Rules a document, or relevant sections of the Network Rail Timetable Planning Rules, regulating, for any part of the HAL infrastructure, the standard timings and other matters necessary to enable trains to be included in the New Working Timetable or scheduled into the Working Timetable applicable to that part of the HAL infrastructure, being rules which specify (amongst other matters) any required;

HAL Variation shall have the meaning shown in Condition D3.1.2;

HAL Variation Request a request made by HAL for a HAL Variation;

Initial Consultation Period shall have the meaning shown in Condition D2.3.3;

Network Rail Restriction of Use a Restriction of Use that occurs wholly or mainly on the Network Rail Network that will affect, or may potentially affect, the operation of a Timetable Participant's services on the HAL infrastructure;

Network Services shall have the meaning given to it in section 82(2) of the Railways Act 1993;

New Working Timetable shall have the meaning shown in Condition D2.1.6;

Possessions Strategy Notice shall have the meaning set out in Condition D6.3.1;

Possessions Strategy Participants shall have the meaning set out in Condition D6.1.1;

Possessions Strategy Proposal shall have the meaning set out in Condition D.6.1.2;

Principal Change Date shall have the meaning set out in Condition D2.1.3;

Prior Working Timetable shall have the meaning set out in Condition D2.1.6;

Priority Date shall have the meaning set out in Condition D2.4.4;

Railway Operational Code shall have the meaning shown in Part H of this code;

Rolled Over Access Proposal where an Access Proposal was submitted in a previous revision of the Working Timetable resulting in Train Slots being included in the Prior Working Timetable which the relevant Timetable Participant does not seek to vary in the New Working Timetable in accordance with this Part D;

Rules the HAL Timetable Planning Rules and the HAL Engineering Access Statement;

Short Term Plan shall have the meaning shown in Condition D3.7.1;

Subsidiary Change Date shall have the meaning shown in Condition D2.1.3;

Timetable Change Date shall have the meaning shown in Condition D2.1.3;

Timetable Participant

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- (a) an Access Beneficiary; or
- (b) a Potential Access Party;

Timetable Period shall have the meaning shown in Condition D2.1.6;

- (a) timings (including specified allowances) allowed for travel between specified points on the HAL infrastructure for each type of train and for each type of traction used, taking into account any particular constraints imposed by railway vehicles which may form part of the train;
- (b) timing margins or allowances for stopping at junctions and other specified points;
- (c) minimum timing margins or headways between successive trains travelling on the same section of track;
- (d) minimum and maximum time periods for stopping at stations and other specified points; and
- (e) restrictions as to the speed of railway vehicles on any section of track;

Timetable Preparation Period shall have the meaning shown in Condition D2.6.1;

Timetable Variation shall have the meaning shown in Condition D3.1.3;

Timetable Variation by Consent shall have the meaning shown in Condition D3.6.1;

Timetable Week shall have the meaning shown in Condition D3.2.1;

Timetabling Panel shall have the meaning shown in the ADRR;

Timing Load in relation to a Service, the timing reference code which details the maximum speed and particular combination of traction type and trailing weight, together with whether any vehicles may be conveyed to which local speed restrictions will apply;

Train Operator Variation shall have the meaning shown in Condition D3.1.1;

Train Operator Variation Request shall have the meaning shown in Condition D3.3.1;

Train Slot a train movement or a series of train movements, identified by arrival and departure times at each of the start, intermediate (where appropriate) and end points of each train movement;

TW-X shall have the meaning shown in Condition D3.2.1;

Working Hours any hour during the period 09:00 to 17:00 on a Working Day; and

Works any inspection, maintenance, renewal, repair, replacement, improvement, enhancement or development of, or any other work in relation to, any part of the HAL infrastructure.

Part D: Timetable

CONDITION D2 - BI-ANNUAL TIMETABLE REVISION PROCESS

2.1 Preliminary

2.1.1 The Working Timetable shall show every train movement on the HAL infrastructure, including:

- (a) every Service;
- (b) every Ancillary Movement;
- (c) the times of:
 - (i) departure from origin and arrival at destination;
 - (ii) the time of passing the point that the HAL infrastructure connects to the Network Rail Network
 - (iii) arrival at and departure from every intermediate stopping point;
 - (iv) such passing points, in accordance with the HAL Timetable Planning Rules, as HAL (acting reasonably) considers appropriate; and
 - (v) all relevant timing allowances.

The Working Timetable shall also include documents detailing platform arrangements.

2.1.2 HAL shall re-issue the Working Timetable in revised form on two occasions in each year, after a consultation and revision process conducted by HAL in accordance with this Condition D2

2.1.3 The implementation dates for the two annual revisions of the Working Timetable will conform with Schedule 4 of the Regulations. In particular, in accordance with Schedule 4, paragraph 2(1) of the Regulations, timetable decisions will not be made until the end of the consultation period outlined in paragraph 4.4.1 of the Network Statement. To the extent permitted by the Regulations, following consultation with other infrastructure managers, HAL may vary the change implementation dates from time to time, provided that all Timetable Participants have been informed of and not objected to the change. The Timetable Participants shall have no right to object if HAL varies the change implementation date in order for it to remain consistent with the change date that applies to the Wider UK Rail Network. Each change implementation date is referred to as a "Timetable Change Date". The first and main change implementation date, occurring in the winter of a calendar year, is referred to as the "Principal Change Date". The second change implementation date, occurring in the summer after the Principal Change Date, is referred to as the "Subsidiary Change Date".

2.1.4 This Condition D2 describes the process by which HAL will revise the Working Timetable on each of the Timetable Change Dates. Unless stated otherwise in this Part D, this process will be followed regardless of whether the change is to be implemented on a Principal Change Date or on a Subsidiary Change Date.

2.1.5 For the purposes of this Part D, a Timetable Change Date shall be designated by the letter "D". The sequence of events culminating in the adoption of a revised Working Timetable is designated by a series of milestone dates and steps, all of which refer to a week in the period prior to date "D". Each week commences at 02:00 on a Sunday and expires at 01:59 on the following Sunday. So, for example, "D minus 26" (or "D-26") refers to the 26th week prior to date "D". Where in this Part D any step or event is required or stated to occur by any week designated in this way, it must occur no later than 5pm on Friday of the preceding week. So, for example, a step which is required to occur no later than "D-26" must occur no later than:

- (a) 5pm on Friday;
- (b) in the week commencing on the Sunday which occurs 27 weeks prior to a Timetable Change Date.

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- 2.1.6 To produce the timetable to take effect on a Timetable Change Date, HAL will use as the starting point the timetable published at D-26 in the process related to the immediately preceding Timetable Change Date but may delete any Train Slots in respect of which it believes, acting reasonably and after consultation with the relevant Timetable Participant (if appropriate), that the relevant Timetable Participant, or its successor, will not have the necessary access rights at the time of the intended operation of the Train Slots ("the Prior Working Timetable"). If any subsequent variations are made to the Prior Working Timetable as a result of the appeal process, then they shall also be incorporated into it. The Prior Working Timetable is then subject to a process of amendment under Condition D2 and during this period shall be referred to as the "New Working Timetable". The timetable which the New Working Timetable becomes on a Timetable Change Date is the Working Timetable. The period between Timetable Change Dates is referred to as the "Timetable Period".
- 2.1.7 Not later than D-73 in relation to the Principal Change Date only, HAL shall:
- a) publish to all Timetable Participants a calendar showing the milestone dates which will apply (for the purposes of this Condition D2) to the process of planning the New Working Timetables to take effect as Working Timetables on the Principal Change Date and the Subsidiary Change Date
 - b) notify all Timetable Participants of the organisation to whom HAL's responsibilities in respect of the establishment of the Working Timetable has been sub-contracted. Included within this notification will be all relevant contact details.
- 2.2 **Revision of HAL Timetable Planning Rules and HAL Engineering Access Statement – D-64 to D-44**
- 2.2.1 Both the HAL Timetable Planning Rules and the HAL Engineering Access Statement (together referred to as "the Rules") are revised on a bi-annual basis, each revised version being operative for the same Timetable Period as the Working Timetable to which they pertain. The Rules must be revised and updated, in accordance with the procedures described in this Condition D2.2, as a first stage in the preparation of a New Working Timetable.
- 2.2.2 Between D-64 and D-60, HAL shall consult with Timetable Participants in respect of any proposed changes to the Rules.
- 2.2.3 Following consultation in accordance with Condition D2.2.2, and not later than D-59, HAL shall provide to all Timetable Participants a draft of the revised Rules (the "Draft Rules"), provided that:
- (a) where "D" is a Principal Change Date, the Draft Rules to be provided and finalised shall be both those for the Timetable Period commencing on that Principal Change Date and those for the Timetable Period commencing on the immediately succeeding Subsidiary Change Date;
 - (b) where "D" is a Subsidiary Change Date, the Draft Rules to be provided and finalised shall pertain only to the Timetable Period commencing on that Timetable Change Date and shall contain only revisions:
 - (i) which are not material; or
 - (ii) the need for which was not reasonably foreseeable at the time when the prior revision of the Rules was made.
- 2.2.4 Following distribution of the Draft Rules and by D-54:
- (a) HAL shall consult with Timetable Participants in respect of the Draft Rules provided to them in accordance with D2.2.3 and in respect of any representations made pursuant to paragraph (b) below;

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- (b) Timetable Participants may make representations to HAL in respect of any changes they propose or objections they may have to the Draft Rules provided to them in accordance with D2.2.3.
- 2.2.5 Following D-54 and by D-44, HAL shall consider the representations and objections made to it by Timetable Participants pursuant to Condition D2.2.4 and may amend the Draft Rules. Not later than D-44, HAL shall issue the final revised Rules to all Timetable Participants.
- 2.2.6 In preparing revised Rules, HAL shall be required and entitled to act in accordance with the duties and powers set out in Condition D4.1 and to provide to Timetable Participants its reasons for making the revisions to the Rules.
- 2.2.7 Between D-44 and publication of the New Working Timetable at D-26, HAL may further revise the Rules where it considers, acting reasonably, such revision necessary or desirable in order to optimise that New Working Timetable. Before making any such further revisions to the Rules, HAL must first consult with all Timetable Participants who may be affected by the proposed changes. HAL will then inform all affected Timetable Participants of any such changes as soon as practicable after they are made. The amending power created by this Condition D2.2.7 is without prejudice to the amending power referred to in Condition D3.4.
- 2.2.8 Subject to Condition D2.2.9 below, any Timetable Participant dissatisfied with any decision of HAL in respect of those Rules (including any decision to revise those Rules pursuant to Condition D2.2.7) is entitled to appeal against any part of it. Any such appeal shall be conducted in accordance with Condition D5 and must be made by a Timetable Participant:
- (a) in respect of any decision to revise the Rules pursuant to Condition D2.2.7, within five Working Days of receipt of HAL's decision;
- (b) otherwise within fifteen Working Days of receipt of HAL's decision.
- 2.2.9 No appeal may be brought pursuant to Condition D2.2.8 in respect of any part of the Rules which conforms with any Possessions Strategy Notice which has:
- (a) not been appealed in the timeframe for appeal set out in Condition D6.4.1; or
- (b) has been appealed but has been finally determined by a Timetabling Panel or the ORR
- (c) is necessary to enable the execution of an agreed Possession Strategy Notice, or a Possession Strategy Notice which has been appealed but has been finally determined by a Timetabling Panel or the ORR, relating to the Wider UK Rail Network.
- 2.3 **Timetable consultation – D-55 to D-40**
- 2.3.1 Any Timetable Participant wishing to introduce significant new Services or make significant changes to its Services shall notify HAL at the earliest opportunity and, where possible, before D-55. If HAL considers that the introduction of such new or changed Services may necessitate substantial timetable changes, it may commence the Initial Consultation Period, referred to in Condition D2.3.2 below, before D-55. In any event, HAL shall consult with Timetable Participants who may be affected by the proposed new or changed Services and shall provide them with all available relevant information in respect of those proposals.
- 2.3.2 During the period from D-55 to D-40 (or such extended period referred to in Condition D2.3.1):
- (a) Timetable Participants shall indicate the changes (if any) that they propose should be made in preparing the New Working Timetable;
- (b) HAL shall consult with Timetable Participants in respect of the New Working Timetable. The period of consultation required by this Condition is referred to as the "Initial Consultation Period".
- 2.3.3 During the Initial Consultation Period, HAL shall:

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- (a) use its reasonable endeavours to answer enquiries made by Timetable Participants in connection with matters that may affect or relate to the New Working Timetable;
 - (b) participate in dialogue with Network Rail and all Timetable Participants in order to identify opportunities to develop strategic initiatives and to promote network benefits such as connections, complementary services patterns and efficiency of operation.
- 2.3.4 Not later than D-45 HAL shall provide to the Timetable Participants a copy of the Prior Working Timetable. If any changes are made to the Prior Working Timetable as a result of the appeal process under Condition D2.7, then HAL shall notify these changes to Timetable Participants as soon as reasonably practicable.
- 2.4 **Submission of Access Proposals by Timetable Participants – before and after the Priority Date at D-40**
- 2.4.1 A Timetable Participant shall set out its requirements in respect of the New Working Timetable in a written proposal, to be referred to as an "Access Proposal" where:
 - (a) it wishes to exercise any Firm Rights and/or Contingent Rights and/or any expectation of rights to obtain Train Slots in respect of the relevant Timetable Period, where those rights were not exercised to obtain Train Slots in the Prior Working Timetable; and/or
 - (b) it wishes to make changes to any Train Slot in the Prior Working Timetable;
 - (c) it wishes to set out its requirements in response to a notification by HAL under Condition D2.4.6; and
- 2.4.2 Where a Timetable Participant does not intend using a Train Slot, which is included in the Prior Working Timetable, in the relevant Timetable Period, it shall notify this fact to HAL in writing by D-40 or as soon as practicable thereafter.
- 2.4.3 Access Proposals may be submitted to HAL during the period up to D-26. However, Timetable Participants shall submit their Access Proposals (and any revised Access Proposals) as early as reasonably practicable prior to D-26 in order to facilitate optimal planning of the New Working Timetable by HAL and to ensure optimal consultation between HAL, Network Rail and all Timetable Participants.
- 2.4.4 Access Proposals submitted by D-40 ("the Priority Date") are given priority in the compilation of the New Working Timetable in certain circumstances set out in Condition D4.2. Access Proposals submitted after the Priority Date but by D-26 will be incorporated by HAL into the New Working Timetable as far as reasonably practicable, taking into account the complexity of the Access Proposal including any reasonable foreseeable consequential impact on the New Working Timetable and the time available before the end of the Timetable Preparation Period, and in accordance with the principles set out in Condition D4.2.
- 2.4.5 Any subsequent or revised Access Proposal submitted by a Timetable Participant shall amend an Access Proposal submitted earlier where it sets out different requirements to the earlier submitted Access Proposal regarding the manner in which a right is to be exercised. In such case the date on which the subsequent or revised Access Proposal is submitted will be treated, for the purposes of Condition D4.2.2, as the date of notification of the relevant right.
- 2.4.6 Where a Timetable Participant has:
 - (a) submitted an Access Proposal which cannot be accommodated in the New Working Timetable; or
 - (b) a Train Slot in the Prior Working Timetable which cannot be accommodated in the New Working Timetable; or

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- (c) submitted a proposal purporting to be an Access Proposal but which is defective or incomplete,
- 2.4.7 HAL must notify the Timetable Participant of this fact, as soon as possible after it has become aware of it, so that the Timetable Participant has the opportunity to submit a further Access Proposal under Condition D2.4.1(c).
- 2.5 **Content of an Access Proposal**
- 2.5.1 Each Access Proposal shall comply with the requirements of paragraph 4.1 of the Network Statement and shall include as a minimum in respect of each Train Slot, save to the extent that HAL expressly agrees in writing to the contrary:
 - (a) the dates on which Train Slots are intended to be used;
 - (b) the start and end points of the train movement;
 - (c) the intermediate calling points;
 - (d) the times of arrival and departure from any point specified under paragraphs (b) and (c) above;
 - (e) the railway vehicles or Timing Load to be used;
 - (f) any required train connections with other railway passenger services;
 - (g) the proposed route;
 - (h) any proposed Ancillary Movements;
 - (i) any required platform arrangements at the start, end and all intermediate calling points;
 - (j) any relevant commercial and service codes; and
 - (k) the proposed maximum train speed and length.
- 2.5.2 Where an Access Proposal has been submitted by a Timetable Participant, HAL shall be entitled to require any further information in respect of that Access Proposal that it reasonably considers to be necessary or beneficial to the preparation of the New Working Timetable.
- 2.6 **Timetable Preparation – D-40 to D-26**
- 2.6.1 During the Timetable Preparation Period (D-40 to D-26) ("Timetable Preparation Period"), HAL shall compile the proposed New Working Timetable.
- 2.6.2 **Between D-40 and D-26:**
 - (a) all Timetable Participants shall have access to the evolving draft of the New Working Timetable either:
 - (i) by way of "read-only" remote computer access or such other electronic means reasonably requested by a Timetable Participant ; or
 - (ii) to the extent that a Timetable Participant does not have the required systems to facilitate remote computer access, by read-only computer access upon attendance at a location where such access is available as specified by HAL;
 - (b) HAL shall consult further with Timetable Participants in respect of their Access Proposals and the evolving draft of the New Working Timetable, and shall continue to answer enquiries and facilitate and co-ordinate dialogue as stated in Condition D2.3.3.
- 2.6.3 In compiling the New Working Timetable, HAL shall be required and entitled to act in accordance with the duties and powers set out in Condition D4.2.
- 2.7 **New Working Timetable Publication – D-26**

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- 2.7.1 The New Working Timetable shall be published by HAL at D-26, subject only to variations made in the course of the appeal process described in this Condition D2.7.
- 2.7.2 Any Timetable Participant affected by the New Working Timetable shall be entitled to appeal against any part of it provided that an appeal is lodged within twenty Working Days of its publication. All such appeals shall be conducted in accordance with Condition D5.
- 2.7.3 Where a Timetable Participant has enquiries or requires further information from HAL regarding the published New Working Timetable, HAL shall respond fully and promptly and where possible, taking into account the nature of the enquiry or information requested and the date this is received by HAL, so as to enable a Timetable Participant to comply with the timescales in Condition D2.7.2.
- 2.7.4 HAL shall promptly make all revisions to the New Working Timetable required by all appeal decisions, and shall notify all Timetable Participants upon completion of those changes.

CONDITION D3 – VARIATIONS TO THE WORKING TIMETABLE

3.1 Overview

- 3.1.1 From D-26 and during the relevant Timetable Period, Timetable Participants may wish to vary either the New Working Timetable, if it is before the Timetable Change Date, or otherwise the Working Timetable on an ad hoc basis by:

- (a) adding an additional Train Slot on one or more occasions;
- (b) amending the detail of one or more Train Slots;
- (c) removing one or more Train Slots.

Any such variation is referred to as a "Train Operator Variation". The process to be followed where a Timetable Participant seeks a Train Operator Variation is set out in Condition D3.3.

- 3.1.2 From D-26 and during the relevant Timetable Period, HAL may wish to vary either the New Working Timetable, if it is before the Timetable Change Date, or otherwise the Working Timetable on an ad hoc basis by:

- (a) adding an additional Train Slot on one or more occasions;
- (b) amending the detail of one or more Train Slots;
- (c) removing one or more Train Slots;

in order to facilitate a HAL Restriction of Use or a Network Rail Restriction of Use. Any such variation is referred to as a "HAL Variation". The process to be followed where a HAL Variation is sought with more than 12 week's notice is set out in Condition D3.4. The process to be followed where a HAL Variation is sought with less than 12 week's notice is set out in Condition D3.5.

- 3.1.3 Train Operator Variations and HAL Variations are collectively referred to as "Timetable Variations".

- 3.1.4 In considering or making any Timetable Variation, HAL shall be required and entitled to act in accordance with the duties and powers set out in Conditions D4.3 and D4.4.

3.2 Timeline for the Planning of Timetable Variations

- 3.2.1 HAL Timetable Variations are planned by HAL on a week by week basis. Each week of a Working Timetable is referred to as a "Timetable Week". Each Timetable Week commences at 00:01 on a Saturday and expires at 24:00 on the following Friday. The sequence of events by which variations are finalised is designated by a series of milestone dates and steps, all of which refer to a week in the period prior to the commencement of Timetable Week "TW". So, for example, "TW minus 12" (or "TW-12") refers to the 12th week prior to the start of a given Timetable Week "TW". Where in this Part D any step or event is required or stated to occur by any week designated in this way, it must occur no later

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than 5pm on Friday of the preceding week. So, for example, a step which is required to occur no later than "TW-12" must occur no later than:

- (a) 5pm on Friday;
- (b) in the week commencing on the Sunday which occurs 13 weeks prior to the commencement of week TW.

3.2.2 Not later than D-26, HAL shall provide to all Timetable Participants a calendar pertaining to each Timetable Week, showing the milestone dates which will apply (pursuant to this Condition D3) to the planning of all Timetable Variations in respect of that Timetable Week.

3.3 Train Operator Variations after D-26

3.3.1 Where a Timetable Participant seeks a Train Operator Variation, it shall submit to HAL a written request, referred to as a "Train Operator Variation Request".

3.3.2 A Train Operator Variation Request shall contain a full description of the variation sought and, where it relates to the addition or amendment of any Train Slot to be included in the Working Timetable, shall provide the same information in respect of the variation as would be contained in an Access Proposal (save that where a proposed Train Slot amendment does not involve revision of any information previously supplied to HAL in an Access Proposal for that Train Slot, the Train Operator Variation Request need not repeat that information).

3.3.3 From D-26 and during the relevant Timetable Period, a Timetable Participant is entitled to make a Train Operator Variation Request and HAL shall have the power to accept, reject or modify it, subject to the timeframes set out in Condition D3.3.6 below and acting in accordance with Condition D4.3.

3.3.4 Where a Train Operator Variation Request is received:

- (a) on any day which is not a Working Day; and/or
- (b) after 10:00 hours on a Working Day; it shall be deemed to have been received on the next Working Day thereafter.

3.3.5 For the purposes of calculating HAL's response time to a Train Operator Variation Request set out in Condition D3.3.6, the day of HAL's receipt of a Train Operator Variation Request is described as day 1 and each Working Day following this adds a day onto the description. For example, the Working Day after the day of receipt of the request is day 2.

3.3.6 HAL shall notify its acceptance, rejection or modification of a Train Operator Variation Request, by the following latest times:

- (a) as soon as reasonably practicable, where the request is to operate a Train Slot on day 1 or day 2.
- (b) by 15:00 hours on day 1, where the request is to operate a Train Slot on day 3;
- (c) by 10:00 hours on day 2, where the request is to operate a Train Slot on day 4;
- (d) by 15:00 hours on day 2, where the request is to operate a Train Slot on day 5;
- (e) by 15:00 hours on day 3, where the request is to operate a Train Slot on day 6;
- (f) by 10:00 hours on day 4, where the request is to operate a Train Slot on day 7;
- (g) where (a), (b), (c), (d), (e) or (f) do not apply, within five Working Days of receipt of the request.

3.3.7 Where HAL fails to notify its response to a Train Operator Variation Request in accordance with Condition D3.3.6 and the request, if accepted, would not give rise to any conflict with:

- (a) the New Working Timetable after it is published at D-26; or

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- (b) the relevant Working Timetable; or
 - (c) the Rules,
- it shall be deemed to have accepted the request.
- 3.3.8 Where a Timetable Participant is dissatisfied with any final decision of HAL in response to a Train Operator Variation Request, it may appeal against that decision in accordance with Condition D5, provided that it submits its appeal as soon as reasonably practicable and, in any event, no later than five Working Days after it is notified of the relevant decision by HAL.
- 3.3.9 Where HAL rejects or modifies any Train Operator Variation Request it must provide written reasons for its decision.
- 3.4 **HAL Variations with at least 12 Weeks Notice**
- 3.4.1 The procedures described in this Condition D3.4 are designed to facilitate the planning of all HAL Restrictions of Use and Network Rail Restrictions of Use at least 12 weeks prior to the start of each Timetable Week.
- 3.4.2 HAL shall be entitled to make a variation to the Working Timetable provided that:
 - (a) the HAL Variation is made for the purpose of taking HAL Restrictions of Use which are consistent with the Rules, as published following the process set out in Condition D2.2 or as amended in accordance with the procedure established pursuant to Condition D3.4.3; or
 - (b) the HAL Variation is made for the purpose of facilitating an agreed Network Rail Restriction of Use; and
 - (c) HAL complies with the procedure set out in this Condition D3.4.
- 3.4.3 HAL shall include in the Rules a procedure to enable amendment of the Rules, following their finalisation in accordance with Condition D2.2. This amending power is without prejudice to the amending power referred to in Condition D2.2.7, and is to be utilised in order to facilitate changes which HAL considers necessary to take HAL Restrictions of Use or to facilitate Network Rail Restrictions of Use.
- 3.4.4 The procedure referred to in Condition D3.4.3:
 - (a) must require that no amendment to the Rules may be made unless HAL has consulted with all Timetable Participants likely to be affected by the amendment;
 - (b) must require that all decisions of HAL be made by application of the Decision Criteria in accordance with Condition D4.6;
 - (c) may authorise changes to the procedure.
- 3.4.5 All amendments to the Rules made pursuant to the procedure referred to in Condition D3.4.3 shall be subject to the appeal procedures in Condition D5 as if they were made pursuant to a procedure set out in this Part D.
- 3.4.6 Notwithstanding anything stated elsewhere in this Part D, where any amendment is made to the procedure referred to in Condition D3.4.3 by use of that procedure, the amendment shall not take effect until the determination of any appeal against the same.
- 3.4.7 Where HAL proposes to make any variation to the Working Timetable consequent upon an amendment to the Rules made in accordance with this Condition D3.4, HAL shall provide to each Timetable Participant, by TW-30, its proposals for HAL Restrictions of Use in respect of the corresponding Timetable Week. All such proposals may be amended or supplemented by HAL at any time prior to TW-26 and such amendments or supplements should also be provided to Timetable Participants prior to TW-26.

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- 3.4.8 After TW-30 but by TW-26, HAL shall consult with each Timetable Participant affected (directly or indirectly) by the HAL Restrictions of Use proposed pursuant to Condition D3.4.7 and shall seek to agree all HAL Variations to be made .
- 3.4.9 To facilitate the planning of any HAL Variation, HAL may require that any Timetable Participant shall submit a revised Access Proposal in respect of any Train Slot.
- 3.4.10 Where HAL requires a revised Access Proposal:
- (a) the requirement must be notified to the affected Timetable Participant no later than TW-22;
 - (b) HAL shall specify the aspects of the Access Proposal which need to be revised and its reasons for this;
 - (c) HAL shall specify a reasonable period in which the revised Access Proposal must be provided, and in any event the revised Access Proposal shall be submitted no later than TW-18.
- 3.4.11 HAL may modify, accept or reject a revised Access Proposal and where it modifies or rejects any revised Access Proposal, it must provide written reasons for its decision.
- 3.4.12 Where a revised Access Proposal has not been submitted by a Timetable Participant as required by HAL, HAL shall be entitled to make a HAL Variation of any Train Slot in respect of which the revised Access Proposal was required and no appeal may be made in respect of HAL's decision.
- 3.4.13 Not later than TW-14, HAL shall notify all Timetable Participants of its decision in respect of HAL Variations to be made pursuant to the procedure in this Condition D3.4.
- 3.4.14 Not later than TW-13, any Timetable Participant affected by HAL's decision notified pursuant to Condition D3.4.13 shall inform HAL whether it accepts or disputes that decision.
- 3.4.15 At TW-12, HAL shall record and provide to all Timetable Participants, in accordance with Condition D3.7.1, the HAL Variations to be made pursuant to this Condition D3.4.
- 3.4.16 Subject as provided in Condition D3.4.12, any Timetable Participant which is dissatisfied with any final decision of HAL in respect of a HAL Variation may appeal against it in accordance with Condition D5.
- 3.5 HAL Variations with less than 12 Weeks Notice**
- 3.5.1 It may be necessary for HAL Restrictions of Use to be arranged by HAL, or Network Rail Restrictions of Use to be arranged by Network Rail, with less than 12 week's notice or otherwise outside the process described in Condition D3.4. The following paragraphs of this Condition D3.5 are intended to facilitate such Restrictions of Use.
- 3.5.2 Where HAL proposes to make any variation to the Working Timetable in circumstances where it is not reasonably practicable to comply with the timing requirements of Condition D3.4, HAL shall follow the procedures set out in Condition D3.4 save that:
- (a) the timing requirements specified there; and
 - (b) Conditions D3.4.13, D3.4.14 and D3.4.15;
- shall not apply. In carrying out those procedures, HAL shall be permitted (for itself) and shall prescribe (for affected Timetable Participants) such time periods for each step as are reasonably practicable in the circumstances. HAL shall notify all affected Timetable Participants of its final decision in respect of any such change as soon as reasonably practicable. Any variation to a Working Timetable made pursuant to this Condition D3.5.2 shall be a "HAL Variation" for the purposes of this Part D.
- 3.5.3 Any Timetable Participant which is dissatisfied with any final decision of HAL in respect of a HAL Variation made pursuant to Condition D3.5.2 may appeal in accordance with Condition D5.