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

**Notice of modification of Network Rail Infrastructure Limited's network licence**

Network Rail Infrastructure Limited (Network Rail) has been granted a network licence under section 8 of the Railways Act 1993 (the Act).

In line with section 12(2) of the Act, on 15 November 2013<sup>1</sup> ORR gave notice of its proposal to modify the network licence. The notice set out the reasons for the modifications and their effect. It required any comments to be made on or before 12 December 2013.

Network Rail consented to the changes on 4 December. Under section 12(1) of the Act I therefore modify the network licence with the new text detailed in the schedule below to:

- update the definitions and references to London TravelWatch and Passenger Focus in conditions 8.5, 8.8 and the interpretation section;
- delete paragraph 2 of the revocation schedule; and to
- replace conditions 1.4 to 1.9, 1.14 to 1.17, 4.29 to 4.33, 5, 7, 12.1 to 12.5, 15, 17, 20, 24 and paragraph 6 of the interpretation section,

and to update cross references to these terms as required throughout the licence.

These modifications take effect immediately.

Yours sincerely



**Rob Plaskitt**

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<sup>1</sup> ORR's 15 November 2013 consultation letter can be found at <http://www.rail-reg.gov.uk/upload/pdf/nr-licence-changes-2013-11-15.pdf>

**Part II – Interpretation**

London TravelWatch	means the London Transport Users' Committee and any successor which performs the same functions;
Passenger Focus	means the Passengers' Council and any successor which performs the same functions; .....
6	Where in this licence there is a provision for ORR to give its consent, ORR may give such consent subject to conditions. Any consent given by ORR under this licence shall be in writing and may be expressed in general or specific terms.

**Part III Conditions**

**1 Network management**

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*Planning*

- 1.4 The licence holder shall plan the means by which it will comply with the general duty in condition 1.2 over the short, medium and long term to meet reasonably foreseeable future demand for railway services.
- 1.5 In complying with condition 1.4, the licence holder shall consult, and take into account the views of, persons providing services relating to railways and funders so as to facilitate effective industry-wide planning.
- 1.6 In complying with condition 1.4, the licence holder shall prepare and provide to ORR plans, strategies or other documents demonstrating its compliance and proposed compliance with the general duty in condition 1.2, including:
  - (a) the delivery plan referred to in condition 1.10;
  - (b) those associated with or arising from the long term plans (including route utilisation strategies) referred to in condition 1.14;
  - (c) other plans, strategies or documents that ORR may reasonably require from time to time; and
  - (d) revisions of the plans, strategies and other documents referred to in condition 1.6 (a) to (c) that ORR may reasonably require from time to time.

- 1.7 Each of the plans, strategies and other documents referred to in condition 1.6 shall demonstrate the position, as appropriate, on a network-wide basis and at a suitably disaggregated level of detail.
- 1.8 Each of the plans, strategies and other documents prepared in compliance with condition 1.6 shall be provided to ORR in respect of such period, in such format and structure, to such standard and level of detail and in accordance with such requirements (including any requirements as to publication) as ORR may, from time to time, specify by notice or in guidelines to the licence holder.
- 1.9 Any notice or guidelines to the licence holder issued under condition 1.8 may include a procedure under which ORR may object to the contents of a plan, strategy or other document on grounds specified in the notice or guidelines.

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#### Long term planning process

- 1.14 In complying with condition 1.4, the licence holder shall establish and maintain long term plans to promote the long term planning objective in accordance with guidelines issued by ORR under condition 1.8.
- 1.15 The long term planning objective referred to at 1.14 means the effective and efficient use and development of the capacity available on the network, consistent with the funding that is, or may become, available during the period of the long term plans and with the licence.
- 1.16 The licence holder shall have due regard to the long term plans when carrying out its licensed activities.
- 1.17 The licence holder shall from time to time and when so directed by ORR review and, if necessary, amend each long term plan to ensure that it continues to promote the long term planning objective.

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## **4 Financial ring-fence**

### ***Payment of dividends***

- 4.29 The directors of the licence holder shall not declare or recommend a dividend unless ORR has consented in writing to the declaration or recommendation of the dividend no more than 6 months prior to it being made.
- 4.30 The licence holder shall not:
- (a) make any form of distribution within the meaning of sections 829, 830, 849 or 850 of

- the Companies Act 2006; or
- (b) redeem or repurchase any share capital of the licence holder

unless ORR has consented in writing to the distribution, redemption or repurchase no more than 6 months prior to it being made.

4.31 In this condition:

“cross-default obligation”

means a term of any agreement or arrangement whereby the liability of the licence holder or of Network Rail Infrastructure Finance to:

- (a) pay or repay any debt or other sum; or
  - (b) do anything pursuant to a term of any agreement or arrangement to which that person is a party
- arises or is increased or accelerated or is capable of arising, increasing or of being accelerated by reason of a default (howsoever such default may be described or defined) by any person other than an excluded party unless:
- (i) that liability can arise only as a result of a default by a subsidiary of an excluded party; and
  - (ii) that excluded party holds a majority of the voting rights in that subsidiary and has the right to appoint or remove a majority of its board of directors; and
  - (iii) that subsidiary carries on business only for a permitted purpose or for the matters referred to in condition 4.2(a)(ii) and (iii) or for the purpose of financing the matters referred to in sub-paragraphs (a)(i) to (iii) of condition 4.2;

“effective date”

means 1 April 2009;

“excluded party”	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the licence holder;</li> <li>(b) Network Rail Infrastructure Finance; and</li> <li>(c) the Secretary of State, but only to the extent that: <ul style="list-style-type: none"> <li>(i) an agreement or arrangement entered into before the effective date has the benefit of credit support from the Secretary of State (whether or not through the state financial indemnity and whether or not called upon before, on or after the effective date); and</li> <li>(ii) an agreement or arrangement entered into on or after the effective date is supported by the state financial indemnity;</li> </ul> </li> </ul>
“indebtedness”	means all liabilities now or hereafter due, owing or incurred, whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing on them and all costs, charges, penalties and expenses incurred in connection with them;
“information”	shall include, in any form or medium, any documents, accounts, estimates, returns, forecasts, reports and data of any kind (whether or not prepared specifically at the request of ORR) of any description specified by ORR;
“investment grade rating”	means a rating recognised as investment grade by Standard and Poor’s Rating Group (or any of its subsidiaries), by Moody’s Investors Service Inc. (or any of its subsidiaries) or by Fitch Ratings Limited (or any of its subsidiaries) or by any other reputable credit rating agency which, in ORR’s opinion, notified in writing to the licence holder, has comparable standing in the United Kingdom and the United States of America;
“Network Rail Infrastructure Finance”	<p>means:</p> <ul style="list-style-type: none"> <li>(i) Network Rail Infrastructure Finance plc; and</li> <li>(ii) (unless ORR otherwise consents) any other person which carries out the same, or substantially the same, functions as Network Rail Infrastructure Finance plc in relation to the financing of the licence holder;</li> </ul>
“permitted purpose”	means the purposes of the Permitted Business;
“relevant date”	means 1 January 2003;

“relevant other business”	<p>means any business which is conducted or any activity which is carried on, which is:</p> <ul style="list-style-type: none"> <li>(i) not for a permitted purpose; and</li> <li>(ii) not a business or activity to which ORR has given its prior written consent under this condition 4;</li> </ul>
“Relevant Purpose”	<p>means:</p> <ul style="list-style-type: none"> <li>(i) for a permitted purpose;</li> <li>(ii) for the purposes of <i>de minimis</i> business conducted in accordance with conditions 4.7 to 4.10; or</li> <li>(iii) for any business or activity for which ORR has given its prior written consent under this condition 4.</li> </ul>
“RPI”	<p>means the general index of retail prices published by the Office for National Statistics each month in respect of all items or:</p> <ul style="list-style-type: none"> <li>(i) if the index for any month shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may, after consultation with the licence holder, determine to be appropriate in the circumstances; or</li> <li>(ii) if there is a material change in the basis of such index, such other index as ORR, after consultation with the licence holder, determines to be appropriate in the circumstances;</li> </ul>
“state financial indemnity”	has the meaning given to it in Condition 3.5;
“subsidiary”	shall bear the same meaning as that attributed to it in section 1159 of the Companies Act 2006;
“subsidiary undertaking”	shall bear the same meaning as that attributed to it in section 1162 of the Companies Act 2006;
“ultimate holding company”	<p>means each of:</p> <ul style="list-style-type: none"> <li>(i) a holding company of the licence holder which is not itself a subsidiary of another company;</li> <li>(ii) where a holding company of the licence holder which is not a subsidiary of another company has entered into an agreement relating to the exercise of voting rights in or the appointment or removal of directors of the licence holder or any company of which the licence holder is a subsidiary, every party to that agreement; and</li> </ul>

- (iii) where the exercise of voting rights in or the appointment or removal of directors of a holding company of the licence holder which is not a subsidiary of another company is controlled by an agreement, every party to that agreement.

## **5 Interests in railway vehicles**

- 5.1 The licence holder shall not be directly or indirectly interested in the ownership or operation of any railway vehicle in Great Britain.
- 5.2 For the purposes of condition 5.1 the licence holder is “directly interested” in the ownership or operation of railway vehicles where the licence holder:
  - (a) has any legal or beneficial interest in any railway vehicle (in whole or in part); or
  - (b) has the right to manage the affairs of another person who has any such interest in, or operates, any railway vehicle.
- 5.3 For the purposes of condition 5.1 the licence holder is “indirectly interested” in the ownership or operation of any railway vehicle which is operated by any of its affiliates or in which the licence holder or any of its affiliates has any legal or beneficial interest (in whole or in part).
- 5.4 Condition 5.1 shall not apply in respect of railway vehicle where:
  - (a) it is used wholly or mainly for the purposes as set out in Part 1 (Scope) of this licence; or
  - (b) it forms part of the Royal Train; or
  - (c) ORR has consented to the licence holder having an interest in the ownership or operation of that railway vehicle.

## **7 Land disposal**

- 7.1 The licence holder shall not dispose of any land otherwise than in accordance with this condition.
- 7.2 The licence holder may dispose of any land where:
  - (a) ORR consents to such disposal; or
  - (b) the disposal is required by or under any enactment.

7.3 Where the licence holder seeks ORR’s consent it must give a minimum of 2 months’ prior written notice specifying the land disposal it intends to make (the notice). A notice under this condition shall be in such form and contain such particulars as ORR specifies.

7.4 Having given such notice, the licence holder shall provide further information as ORR may require.

7.5 Unless otherwise agreed between ORR and the licence holder, if ORR does not inform the licence holder of a consent or refusal of consent within the time specified in the notice, the licence holder will be deemed to have consent and may dispose of land in accordance with the notice.

7.6 If ORR refuses consent to the disposal of land specified in the notice, the licence holder will be informed of any entitlement to appropriate compensation for the loss of value (if any) as a result of not being able to make such disposal.

7.7 In this condition:

“disposal” includes any sale, assignment, gift, lease, licence, the grant of any right of possession, loan, security, mortgage, charge or the grant of any other encumbrance or knowingly permitting any encumbrance to subsist (other than an encumbrance subsisting on the date when the land was acquired by the licence holder or on 15 November 2001) or any other disposition to a third party, and “dispose” shall be construed accordingly;

“land” includes buildings and other structures, land covered by water, and any estate, interest, easements, servitudes or rights in or over land.

## 8 Stakeholder relationships

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### *Cooperation with passenger representatives*

8.5 Whenever reasonably requested to do so by Passenger Focus or London TravelWatch (as relevant) in connection with its licensed activities, the licence holder shall cooperate with Passenger Focus and London TravelWatch (as relevant) in respect of the proper performance of their respective statutory functions, including the provision of relevant information held by the licence holder.

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## *Interpretation*

8.8 In this condition:

“stakeholder” means:

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- (f) Passenger Focus and London TravelWatch in respect of their respective statutory functions.

## **12 Annual and periodic returns**

### *Annual returns*

12.1 The licence holder shall prepare and provide to ORR an annual return by a specified return date each year.

The annual return must comply with the requirements set out by ORR following consultation with the licence holder, including:

- (a) as to its form and content; and
- (b) the dates to which the annual return relates.

12.3 The specified return date must be a date:

- (a) not less than 3 months after the last day to which the annual return relates; and
- (b) at least 6 months after the date on which ORR notifies the licence holder of the annual return requirements unless the licence holder otherwise agrees.

12.4 If, in any year, ORR has not consulted on the annual return requirements or specified a return date in accordance with conditions 12.2 and 12.3, the licence holder shall prepare and provide an annual return for that particular year by the day and month previously specified in accordance with condition 12.3 and on the basis of the annual return requirements relevant to that specified return date.

12.5 The licence holder shall publish the annual return within one calendar month of the return date, following consultation with ORR.

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## **15 Governance**

15.1 Except as ORR otherwise consents the licence holder must follow best practice corporate governance arrangements, so far as is reasonably practicable, by:

- (a) complying with the relevant provisions and principles of the UK Corporate Governance Code;
- (b) maintaining a board of directors with an appropriate balance of skills, experience,

independence and knowledge, where at least two non-executive directors have substantial experience of working in the rail industry; and

- (c) publishing, or procuring the publication of, such relevant information as is required by the rules of the Financial Conduct Authority of a company whose ordinary shares are for the time being admitted to the Official List of the UK Listing Authority.

15.2 In this condition:

“the UK Corporate Governance Code” means the code published by the Financial Reporting Council in September 2012, or any successor document having a similar purpose and content;

and

“rules of the Financial Conduct Authority” means the rules made by or under Part VI of Financial Services and Markets Act 2000 and contained in the Financial Conduct Authority Handbook, or equivalent rules of any successor body.

**17 Not in use**

**20 Insurance**

- 20.1 The licence holder shall, in respect of licensed activities, maintain insurance against third party liabilities in accordance with any relevant ORR consent.

**24 Not in use**