ANNEXES TO NATIONAL STATION ACCESS CONDITIONS (SCOTLAND) 2024

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ANNEX 1

 COMMON STATION AMENITIES AND SERVICES

1 Common Station Amenities for all Users

1.1 All forecourts, concourses, platforms, subways, overbridges, and other parts of the Station necessary or expedient to enable access to and egress from the Station and access to, egress from and the use of the amenities listed in paragraphs 1.2 and 1.3 (other than such areas of the concourse (if any) as are described in paragraph 24 of Annex 9 and for the duration(s) therein mentioned);

1.2 staff amenities for the non-exclusive use of each User's staff and the staff of its Associates and any person engaged by a User or any of its Associates;

1.3 first aid amenities available for all users of the Station (where set out and to the standard set out in the safety case relating to the Station);

1.4 fire detection, fire alarm, fire prevention and fire fighting equipment and sprinkler systems and other safety equipment reasonably considered by the Station Facility Owner to be necessary for the safe operation of the Station; and

1.5 machinery and equipment necessary for the proper use of the amenities set out in paragraphs 1.1 to 1.3 (inclusive), including all lifts and escalators subject to any restrictions which the Station Facility Owner may reasonably consider appropriate and notify to each User, having regard to the nature or condition of such machinery.

2 Common Station Amenities for Passenger Operators

2.1 All forecourts, concourses, platforms, subways, overbridges and other parts of the Station necessary or expedient to enable access to, egress from and the use of the amenities listed in paragraphs 2.2 to 2.7 (inclusive) and paragraph 2.15;

2.2 public toilets;

2.3 left luggage amenity;

2.4 a reasonable number of public and emergency telephones;

2.5 short and long stay car parking amenities and taxi set down/pick up areas for use by railway passengers;

2.6 waiting rooms;

2.7 lost property amenities;

2.8 fixed timetable departure boards on the concourse and each platform (where appropriate), for use by each Passenger Operator and its Associates to advertise the departure times of its Passenger Services from the Station and boards for the display of the statutory and compulsory notices supplied by each User, both with reasonable prominence and equal prominence with the notices of the Station Facility Owner and other Passenger Operators;

2.9 a reasonable number of moveable boards for use by each Passenger Operator and its Associates to inform its or their customers of any alteration to train timetables or movements, the Station Services or the Common Station Amenities, which cannot be efficiently communicated by the use of any available electronic passenger information systems;

2.10 directional signing including to and from car parks to facilitate railway passenger movement and emergency exit with reasonable prominence;

2.11 electronic passenger information systems, in positions of reasonable prominence;

2.12 a public address system which is clearly audible throughout the Station;

2.13 passenger self-help trolleys;

2.14 a public clock;

2.15 a customer service centre;

2.16 the areas open to the public adjacent to or adjoining any ticket, booking or passenger information outlet;

2.17 wheelchair or other suitable transport for passengers with impaired mobility and ramps to allow safe wheelchair access to trains; and

2.18 clear and unambiguous directional signage within the Station.

3 Common Station Services for all Users

3.1 Cleaning of the Station;

3.2 heating, ventilating and cooling of the Station to such temperatures as the Station Facility Owner reasonably determines and securing the provision of adequate quantities of hot water to the Common Station Amenities;

3.3 proper lighting of the Station;

3.4 such policing as may be required by statute and such security measures as the Station Facility Owner reasonably considers are necessary;

3.5 display of the notices provided by a User;

3.6 punctual despatch of trains operated by or on behalf of any User;

3.7 the provision of competent and appropriately trained staff to supervise the arrival and departure of trains; and

3.8 any Light Maintenance Services

4 Common Station Services for Passenger Operators

4.1 Procure the production and display of timetable departure sheets in "A-Z" format and unbranded by any User or the Station Facility Owner updated to reflect changes to timetabled services (subject to receipt by the Station Facility Owner of up to date timetable information) which show the times and all calling points, train branding, catering symbols and train names where appropriate of all railway passenger services operated by Passenger Operators departing from the Station with equal prominence to the timetable departure sheets of each other Passenger Operator and its Associates;

4.2 display of emergency or temporary timetables and notices of engineering works;

* 1. the provision of sufficient numbers of competent and appropriately trained staff who will wear uniforms maintained in good order, including a name badge to provide reasonable customer services and assistance to each Passenger Operator's passengers (including any who are disabled), including customer assistance in relation to boarding and alighting from trains, and handling of luggage;

4.4 the provision of sufficient numbers of competent and appropriately trained staff to provide reasonable mobility assistance to each Passenger Operator's passengers (including any who are disabled);

4.5 display or announcement (with visibility and/or audibility which is at least equal to that given to the display or announcement of every Passenger Operator and its Associates), on or through all such Passenger Information Systems as shall be available at the Station, of such up-to-date and comprehensible information relating to the railway passenger services operated by Passenger Operators as the Station Facility Owner is reasonably capable of displaying or announcing and as is available to the Station Facility Owner;

4.6 display at the Station of information as to the availability of tickets for travel on all railway passenger services operated by Passenger Operators (with equal prominence) and where they may be purchased;

4.7 communication to passengers of such up-to-date train running information as is available to the Station Facility Owner and as relates to, or is likely to relate to, or be relevant in relation to, all railway passenger services operated by Passenger Operators;

4.8 liaison with the local authority to ensure, as far as reasonably practical, that access to the Station is signposted from all the main access routes for both motorist and pedestrians, and that all signs are clear and unambiguous;

4.9 display in the taxi pick-up area of a sign indicating how a taxi is called when none is immediately available;

4.10 provision to the relevant Passenger Operator of details of Station reception arrangements provided by the Station Facility Owner for disabled customers who have reserved journeys via the disabled persons reporting system on the Station "help‑page" of the computer reservation system maintained by the relevant Passenger Operator, and updating of this information as necessary;

4.11 management of the arrival/departure of road services substituted for rail services for whatever cause; and

4.12 until 31st December 1998, the provision of domestic poster sites on concourses, platforms, subways and overbridges for use by Passenger Operators in promoting railway services in proportion to shares of Qualifying Expenditure free of charge but so that no Passenger Operator shall be entitled to part only of a poster site and any partial entitlement shall be rounded down (subject to a minimum of one poster site for each Passenger Operator).

5 The Station shall be open for the use of the staff of Users and their Associates (other than passengers) for the following hours:

[ ]

and to the public for the following hours:

[ ]

provided that the following amenities shall be open only for the periods indicated below:

The Public Toilets: [ ]

Left Luggage: [ ]

Lost Property: [ ]

Customer Service Centre: [ ]

[other]

6 Station: [ ]

Station name: [ ]

Address/location: [ ]

County or London Borough: [ ]

The Station is shown edged in blue on the Plan and includes the boundary walls, fences and gates belonging to the Station (whether or not identified by lettering on the Plan).

The following features (where marked "YES") where so indicated under "Treatment" are included in, or excluded from, the Station and in each case are denoted on the Plan by the marking or lettering indicated below:

Colour Included on Plan Treatment

Yellow YES/NO Represents subway outside blue edging but included in the Station.

Green YES/NO Represents bridge, raft or station roof outside blue edging but included in the Station.

Red hatch YES/NO Represents bridge, raft, viaduct, arch or other overlying structure which is within blue edging but excluded from the Station.

Green hatch YES/NO Represents bridge, viaduct, arch, tunnel or other underlying structure which is within blue edging but excluded from the Station.

Purple YES/NO Represents the route of an emergency access from the Station referred to in Part J.

Black YES/NO Represents car parking spaces referred to in Part cross K.

hatch

Brown colour YES/NO Represents a right of way referred to in Part J.

and/or

brown colour

hatched

Uncoloured YES/NO Represents a right of way referred to in Part K.

brown hatch

and/or cross

hatch

Lettering YES/NO Represents boundary walls fences and gates belonging to the Station between the lettered points.

7 Default Interest Rate

An interest rate of 0 per cent. for so long as all parties to the Relevant Agreement are public sector operators.

With effect from the date upon which any party to the Relevant Agreement ceases to be a public sector operator, the interest rate shall be 2 per cent. above the average of the base lending rates published from time to time by The Royal Bank of Scotland plc during any relevant period.

8 Core Facilities

8.1 Those spaces for the parking of motor vehicles by employees of a User which are necessary in order to facilitate the safe and/or efficient operation of trains to and from the Station by the relevant User;

8.2 those offices and storage spaces which are necessary for use by a User in order to facilitate the safe and/or efficient operation of trains to and from the Station by the relevant User;

8.3 those ticket sales and passenger information facilities which are necessary to obtain tickets for and information about the train services provided to or from the Station by a User; and

8.4 the messrooms, cloakrooms and staff toilets used by employees of a User.

9 Location of Station Register

[ ]

10 Station Facilities

The following, to the extent that they exist at the Station:

10.1 Platforms;

10.2 forecourts, concourses, subways and footbridges;

10.3 points of access to and egress from the Station and the platforms;

10.4 ticket, booking and passenger information offices;

10.5 public toilets;

10.6 waiting rooms;

10.7 short and long stay car parking for use by railway passengers and essential staff of Users;

10.8 mess room, cloakroom and staff toilets for use by Users and their Associates' staff;

10.9 canopies;

10.10 electronic passenger information systems;

10.11 lifts and escalators;

10.12 Services;

10.13 public telephones;

10.14 public address system; and

10.15 public clocks.

 APPENDIX 1 TO ANNEX 1

 Specification for Common Services

[Insert output type specifications for those of the Common Station Services (eg Cleaning) (if any) which are to be further specified and where the specification is agreed. If not agreed, then Annex 11 can provide for this to be determined]

 APPENDIX 2 TO ANNEX 1

 The Plan

[Insert the Plan.]

 APPENDIX 3 TO ANNEX 1

[Insert the Statement of Condition]

 APPENDIX 4 TO ANNEX 1

 [ ] STATION - EQUIPMENT INVENTORY

 ALLOCATION OF RESPONSIBILITY

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Description |  | Present at Station |  |  |  | Responsibility for Maintenance |  | Responsibility for Repair |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (1) Traction supply equipment (includes OHLE structures and/or feeder cables to conductor rails, but not the rails) |  | YES/NO |  |  |  | Network Rail |  | Network Rail |
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| (2) Signalling equipment (includes gantries cables and other apparatus) |  | YES/NO |  |  |  | Network Rail |  | Network Rail |

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| (3) Gas water and electricity utility supply equipment and transmission media |  | YES/NO |  |  |  | Network Rail |  | Network Rail |
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| (4) Sub-stations Meter rooms and main switch gear housing |  | YES/NO |  |  |  | Station FacilityOwner |  | Network Rail |
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| (5) Boilers and heating systems |  | YES/NO |  |  |  | Station FacilityOwner |  | Network Rail |
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| (6) Station Facility Owner's temporary buildings |  | YES/NO |  |  |  | Station FacilityOwner |  | Station Facility Owner |
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| (7) Sprinkler |  | YES/NO |  |  |  | Station FacilityOwner |  | Network Rail |
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| (8) Security Installations (including CCTV) and Fire Alarm Systems |  | YES/NO |  |  |  | Station FacilityOwner |  | Network Rail |
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| (9) Air Conditioning Plant and Equipment |  | YES/NO |  |  |  | Station FacilityOwner |  | Network Rail |
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| (10) Retail Telecomms Systems. This means the systems identified in (a) below, including (but not limited to) items mentioned in (b) below but excluding items mentioned in (c) below; |  | YES/NO |  |  |  |  |  |  |

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| (a) public address systems information display systems (including LED, LCD, or flap‑type (Solari boards) and monitoring monitor based systems) |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail (except that the Station Facility Owner is responsible for this in respect of tubes and (whether due to breakdown or timetable change) flaps on displays) |

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| Station clock systems |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| closed circuit TV for crowd control |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (b) customer terminal/ premises equipment associated with such systems e.g. processors, displays, speakers and amplifiers |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| local cabling and wiring, including any local data/ analogue communications devices associated with the Station |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (c) Circuits connecting retail telecomms systems to remote locations (using intermediate and/or trunk telecomms cabling) or providing connections to other applications (for example, a form of information generator) |  |  |  |  |  |  |  |  |
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| (11) External lighting including platforms |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (12) Drainage |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (13) Gas installations, fittings and fixed appliances |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (14) Electrical installations including fixed appliances |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (15) Electrical power supply sockets and light fittings |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
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| (16) Driver only operation equipment |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (17) Central heating systems |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (18) Sanitary installations and fittings where accessible and/or visible |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (19) Sanitary installations and fittings where not accessible or visible |  | YES/NO |  |  |  | Network Rail |  | Network Rail |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (20) Hot and cold water & soil waste plumbing installations where accessible and/or visible |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |  |  |  |  |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (21) Hot and cold water and soil waste plumbing installations where not accessible or visible |  | YES/NO |  |  |  | Network Rail |  | Network Rail |
|  |  |  |  |  |  |  |  |  |

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| (22) Flues |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (23) Fixed seats |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
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| (24) Train despatch equipment |  | YES/NO |  |  |  | Station Facility Owner |  |  Network Rail |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (25) Fixed and moveable fire appliances |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail (except that the Station Facility Owner is responsible for this in respect of extinguishers equipment and arrangements required to ensure (a) satisfactory safety from the risks of fire or explosion to the reasonable satisfaction of Network Rail or (b) obtaining or maintenance of any necessary fire certificate for the Station) |
|  |  |  |  |  |  |  |  |  |

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| (26) Pumping station |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (27) Traffic management system controlling vehicular entry to any Station or any Car Park |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (28) Lift installations |  | YES/NO |  |  |  | Network Rail |  | Network Rail |
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| (29) Escalator installations |  | YES/NO |  |  |  | Network Rail |  | Network Rail |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (30) Glasden ticket units |  | YES/NO |  |   |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (31) Platform barriers |  | YES/NO |  |  |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (32) Cycle racking |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (33) Waiting room furniture |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (34) Left luggage units |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| (35) Customer service telephones & equipment |  | YES/NO |  |  |  | Station Facility Owner |  | Station Facility Owner |
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 APPENDIX 5 TO ANNEX 1

 [ ] STATION - ELEMENTS INVENTORY

 ALLOCATION OF RESPONSIBILITY

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Description |  | Responsibility for Maintenance |  | Responsibility for Repair |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| A. Substructures (excluding any finishes) |  |  |  |  |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (1) Foundations |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (2) Basements |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (3) Basement tanking/waterproofing |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (4) Arches and subways |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (5) Structural slabs at ground level or below |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (6) Damp proof membrane at ground floor level and below |  | N/A |  | Network Rail |
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| (7) Retaining walls |  | N/A |  | Network Rail |
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| --- | --- | --- | --- | --- |
| B. Superstructure |  |  |  |  |
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| --- | --- | --- | --- | --- |
| (8) Damp proof course |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (9) Frames, beams columns (excluding finishes) |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (10) Structural slabs (above ground floor level) |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (11) Floors (excluding finishes) |  | N/A |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (12) External staircases (excluding finishes) |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (13) Internal staircase (excluding finishes) |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| Roofs (Excluding Canopies) |  |  |  |  |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (14) Roof structure |  | Network Rail |  | Network Rail |
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| --- | --- | --- | --- | --- |
| (15) Decking, coverings insulation |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (16) Roof access ladders, walkways and guardrails |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (17) Roof lights |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (18) Roof drainage |  | Station Facility Owner |  | Network Rail |
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| --- | --- | --- | --- | --- |
| (19) Parapets |  | Network Rail |  | Network Rail |

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| --- | --- | --- | --- | --- |
| (20) Chimneys above roof level |  | Network Rail |  | Network Rail |
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| --- | --- | --- | --- | --- |
| (21) Station roof glazing |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (22) Tankrooms and roof mounted plant above the roof line |  | Network Rail |  | Network Rail |
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| --- | --- | --- | --- | --- |
| Canopies |  |  |  |  |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (23) Canopies, supports and glazing |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (24) Roof access ladders, walkways and handrails |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (25) Canopy drainage |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

Walls and Cladding

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (26) External and load bearing walls (excluding finishes) |  | N/A |  | Network Rail |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (27) External cladding |  | Station Facility Owner |  | Network Rail (except where due to vandalism) Station Facility Owner (where due to vandalism) |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (28) Internal load bearing walls (excluding finishes) |  | N/A |  | Network Rail |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (29) Internal non‑load bearing walls (excluding finishes) |  | Station Facility Owner |  |  Station Facility Owner |
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| --- | --- | --- | --- | --- |
| (30) Partitions |  | Station Facility Owner |  | Station Facility Owner |

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| --- | --- | --- | --- | --- |
| (31) Windows external and internal excluding glass |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (32) External doors |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (33) Internal doors |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| C. Finishes and surface |  |  |  |  |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (34) External & internal wall finishes and coating including paint |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (35) Floor (except terrazzo) finishes within buildings |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (36) Terrazzo finishes (except platforms) |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (37) Finishes to frames beams columns (other than (37)(A)) |  | Station Facility Owner |  | Station Facility Owner |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (37) Fire resistant coatings/finishes |  | Station Facility Owner |  | Network Rail |

(A)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (38) Staircase finishes |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (39) Train shed roof finishes |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (40) Canopy finishes |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (41) Ceiling finishes |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (42) Internal joinery (skirtings architraves) |  | Station Facility Owner |  | Network Rail  |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (43) Other glazing including windows and doors |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| D. Platforms and external structures |  |  |  |  |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (44) Platform structure including supporting and retaining walls |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (45) Platform copers |  | Network Rail  |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (46) Platform wearing surfaces (except terrazzo) |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (47) Platform terrazzo surfaces |  | Network Rail  |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (48) Footbridge (except finishes) |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (49) Footbridge and subway finishes (including wearing surfaces handrails etc) |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (50) Fixed ramps |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (51) Loading docks |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (52) Waiting shelters |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (53) Fencing |  | Station Facility Owner |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (54) Retaining walls |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| E. Other |  |  |  |  |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (55) Road, pavement and forecourt surfaces and substructures |  | Network Rail  |  | Network Rail |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| (56) Car park surfaces and substructures |  | Network Rail |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (57) Car park equipment including ticket machines, signs and road markings |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (58) Main drainage outfall |  | Network Rail |  | Network Rail |

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| --- | --- | --- | --- | --- |
| (59) Other underground drainage installations |  | Network Rail (except Station Facility Owner to keep clear and free flowing) |  | Network Rail |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (60) Nominated signs |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (61) Station signage |  | Station Facility Owner |  | Station Facility Owner |
|  |  |  |  |  |

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| --- | --- | --- | --- | --- |
| (62) Landscaping and planting |  | Station Facility Owner |  | Station Facility Owner |

 [Condition A1.2]

 APPENDIX 6 TO ANNEX 1

Items (1) and (2) of Appendix 4 to this Annex 1, if present on or at the Station.

 [Insert any other Excluded Equipment]

 APPENDIX 7 TO ANNEX 1

1 Railway Superstructure

1.1 Within the area edged blue on the Plan, any bridge, viaduct, railway arch, raft or overlying structure which is not coloured or hatched in any manner on the Plan shall:

1.1.1 not be Railway Superstructure if it is listed in Column 1 of Table 1; and

1.1.2 be Railway Superstructure if it is listed in Column 2 of Table 1.

Table 1

|  |  |  |
| --- | --- | --- |
| Column 1 |  | Column 2 |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| 1 footbridge providing access from one station platform to another |  | 4 raft supporting office building or similarcommercial development, together with all leased parts of such building or development |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| 2 any area subject to a station trading tenancy |  | 5 road bridge |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| 3 any area at first and/or upper floor levels subject to a residential tenancy |  | 6 rail bridge |
|  |  |  |

|  |  |  |
| --- | --- | --- |
|  |  | 7 footbridge (except one described in item 1) |
|  |  |  |

1.2 The Station shall:

1.2.1 include the land and airspace within and covered by the arches or spans of the Railway Superstructure, any boundary structures sealing off the mouth of any such arches or spans and the land airspace and works beneath the raft; and

1.2.2 exclude any part of the Railway Superstructure and the works and airspace above it.

2 Railway Substructure

2.1 Any bridge, viaduct, railway arch, raft, tunnel, passageway or substructure which is not coloured or hatched in any manner on the Plan shall:

2.1.1 not be Railway Substructure if it is listed in Column 1 of Table 2; and

2.1.2 be part of Railway Substructure if listed in Column 2 of Table 2.

Table 2

|  |  |  |
| --- | --- | --- |
| Column 1 |  | Column 2 |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| 1 subway or tunnel connecting station buildings or platforms |  | 3 arch space (except one described in item 2) |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| 2 arch space used as station car park or to provide access to the Station or otherwise integral to the operation of the Station as a railway station |  | 4 subway or tunnel (except one described in item 1) |
|  |  |  |

2.2 The Station shall:

2.2.1 include the surface of the ground or soil (if any) over the Railway Substructure and the ballast, sleepers, and metals laid there together with all airspace above the ground or soil surface (or if there is no such surface, then above the surface of the Railway Substructure itself) and also includes the airspace within any tunnel or passageway which is part of the Railway Substructure; and

2.2.2 exclude any part of the Railway Substructure, the airspace within any arches or spans beneath it and the land and works below it.

 [Part F and

 definition of

 "Total Variable Charge"]

 ANNEX 2

 QUALIFYING EXPENDITURE

1 Expenses of Common Station Services and Common Station Amenities

1.1 Subject to paragraph 3, all costs and expenses reasonably payable or incurred by the Station Facility Owner in providing or procuring the provision of the Common Station Amenities or the Common Station Services to Relevant Operators (and their Associates), or which can be properly attributed directly or indirectly to the operation of the Station for or in connection with the provision by Relevant Operators of services for the carriage of passengers by railway or services for the carriage of goods by railway together with all (or, where the same relate to the whole of the Station, such proportion as can be properly attributed to that part of the Station used by Relevant Operators directly or indirectly for or in connection with the provision of services for the carriage of passengers by railway or services for the carriage of goods by railway) of the costs and expenses reasonably payable or incurred in or in procuring:

1.1.1 compliance with administrative and secretarial and other incidental obligations of the Station Facility Owner in Parts B, C and I and Conditions E4, E5, E7, F10 and L8;

1.1.2 the payment of any existing or future taxes, rates, charges, duties, assessments, impositions and other outgoings paid or payable by the Station Facility Owner in respect of the Station excluding:

(a) Value Added Tax, except to the extent that such Value Added Tax is not available for credit for the Station Facility Owner, or for any person with which the Station Facility Owner is treated as a member of a group for Value Added Tax purposes, under Sections 25 and 26 of the Value Added Tax Act 1994 and then only to the extent that such Value Added Tax is not recoverable under the Station Access Agreement;

(b) tax on the overall net income of the Station Facility Owner;

(c) taxes, interest and penalties arising by virtue of the Station Facility Owner's delay or default or failure to make an appropriate claim for relief or make such a claim timeously; and

(d) taxes which do not relate to the period or events within the period of the Station Access Agreement;

1.1.3 the making or defending of any claim, litigation, lien, demand or judgement in respect of the Common Station Services and Common Station Amenities in accordance with these Station Access Conditions;

1.1.4 the payment of the fees and expenses of any professional adviser or valuer reasonably engaged by the Station Facility Owner in connection with any of the provisions of this Annex 2 of these Station Access Conditions;

1.1.5 insurance in accordance with Conditions E1.1, after deducting any commission or discount to, or to any person on behalf of, the Station Facility Owner for effecting the relevant insurance policy;

1.1.6 the payment of any sum payable by the Station Facility Owner pursuant to Condition E1.2 (subject to the proviso to Condition E3.1) on the occurrence of an Insured Risk; and

1.1.7 the Maintenance and/or Repair of those Elements of the Station and those items of Equipment the responsibility for the Maintenance and/or Repair of which is listed in the Elements Inventory or the Equipment Inventory as being that of the Station Facility Owner, the Maintenance of any part of the Station which forms part of the Common Station Amenities or any item of Equipment which is not referred to in the Elements Inventory or the Equipment Inventory, any works required pursuant to Condition D5.1.5 and the painting and decorating of buildings forming part of the Common Station Amenities pursuant to Condition D5.2.

 1.2 Such fee in respect of the overheads of the Station Facility Owner and by way of a management fee for operating or procuring the operation of the Station, as shall have been notified to and approved by the ORR within 90 days after the Relevant Date or such longer period as the ORR shall, after consultation of the parties, determine.

1.3 All sums payable by the Station Facility Owner to Network Rail pursuant to Condition N1.24 in respect of the collection and disposal of Track Litter.

2 Calculation of Qualifying Expenditure

In calculating the Qualifying Expenditure, the Station Facility Owner shall give credit for:

2.1 any money received by way of service charge or otherwise) from any user of the Station other than Users, in respect of the Common Station Amenities or the Common Station Services (other than receipts for car parking) save to the extent that the costs in respect of which such money has been received do not form part of Qualifying Expenditure pursuant to Condition P5;

2.2 any money received from Users other than Passenger Operators, in respect of the use of the Common Station Amenities or the Common Station Services, by way of service charge or otherwise;

2.3 any insurance proceeds received in respect of matters which would otherwise have given rise to expenses for the purposes of calculation of Qualifying Expenditure; and

2.4 any money paid to the Station Facility Owner by way of damages to compensate for, or reimbursement of, costs which would otherwise be treated as expenses for the purposes of calculation of Qualifying Expenditure.

3 Excluded Costs and Expenses

The following costs and expenses shall not form part of the costs and expenses described in paragraph 1.1 of this Annex 2:

3.1 the costs and expenses of:

3.1.1 executing the Existing Works;

3.1.2 carrying out the Repair and Maintenance obligations of Network Rail under Part D, whether carried out by Network Rail or the Station Facility Owner;

3.1.3 the services of the British Transport Police at the Station

3.2 any amount payable by the Station Facility Owner to Network Rail or any other person as a result of the failure of the Station Facility Owner to perform any obligation or of any warranty given by the Station Facility Owner not being true and accurate in all respects;

3.3 costs incurred pursuant to Conditions E3.4, G2.2, G4.5, G5.3, L4, L6.4, M2.2, M4.3, M5.1, M6.3, N1.13, N1.20, N1.21.1, N3.9, 09.2, Q2.1 and any costs incurred by the Station Facility Owner as the Proposer of a Material Change Proposal made in accordance with Part C;

3.4 any consideration payable by the Station Facility Owner to Network Rail pursuant to a Relevant Agreement between the Station Facility Owner and Network Rail.

4 Sample Period

[Specify short period during an Accounting Year, comprising a typical sample of average weekly departures from the Station]

 ANNEX 3 [Part C]

 COMMON STATION AMENITIES AND COMMON STATION SERVICES

 WHICH MAY BE CHANGED ONLY BY UNANIMOUS AGREEMENT OF ALL USERS

[Opening Periods]

 [Part D and Part J]

 ANNEX 4

 EXISTING WORKS AND ADJACENT WORKS

1 Existing Works

[ ]

2 Adjacent Works

[ ]

 [Part G]

 ANNEX 5

 EXISTING AGREEMENTS

1 Excluded Existing Agreements

2 Included Existing Agreements

3 Global Agreements

 [Condition L2]

 ANNEX 6

 IDENTIFIED ABATABLE CHARGES FOR

 COMMON STATION AMENITIES AND COMMON STATION SERVICES

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Amenity/service |  | Period |  | % of [User's Daily General Charge] [Daily Long Term Charge] [SFO's Daily Share] [SFO's Daily Long Term Charge] applicable toamenity/service |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| [ ] |  | [ ] |  | [ ] |

 [Condition L2]

 ANNEX 7

 SLIDING SCALE OF ABATEMENT FOR FAILURE TO OPEN

 STATION DURING AGREED OPENING TIMES

 ANNEX 8 [Condition N5]

 COLLATERAL AGREEMENT

THIS AGREEMENT is made on 20[ ] BETWEEN:-

(1) Network Rail Infrastructure Limited, a company registered in England under registered number 2904587 having its registered office at 90 York Way, London N1 9AG ("Network Rail"); and

(2) The party whose name and address and other particulars are specified in paragraph 1 of Schedule 1 (the "Beneficiary").

WHEREAS:-

(A) The Beneficiary has entered into the Station Access Agreement with the Station Facility Owner whereby the Station Facility Owner granted to the Beneficiary permission to use the Station for or in connection with the operation of trains by itself or its Associates.

(B) Network Rail has certain obligations to the Station Facility Owner in respect of the Station.

(C) Network Rail has agreed with the Beneficiary to undertake on the terms and conditions of this Agreement to perform certain obligations in respect of the Station set out in the Station Access Conditions.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement, where the context admits:

"Collateral Commencement Date" means the date on which the condition precedent in Clause 2.1 is satisfied;

"Station Access Conditions" means the Station Access Conditions and the annexes referred to in paragraph 2 of Schedule 1;

"Station Access Agreement" means the agreement referred to in paragraph 3 of Schedule 1 for permission to use the Station, as such agreement shall be modified from time to time; and

"Station Facility Owner" means the person whose name and registered office are specified in paragraph 4 of Schedule 1.

1.2 References to Schedules, etc. References to this Agreement include its schedules and, unless otherwise indicated, references to recitals, Clauses, Sub-Clauses, Schedules and paragraphs are to recitals, clauses and sub-clauses of, and schedules to, this Agreement and paragraphs of such schedules. References to any Condition shall be construed as a reference to the relevant Station Access Condition.

1.3 Headings Headings shall be disregarded in construing this Agreement.

1.4 Station Access Conditions Where the context admits, words and expressions defined in (or of which the meanings are construed) the Station Access Conditions shall bear the same meanings in this Agreement and the rules of interpretation set out in the Station Access Conditions shall apply throughout this Agreement, and where the context requires, references to the Station Access Conditions in such words, expressions and rules shall be construed as references to this Agreement.

2. CONDITION

2.1 Condition precedent

Subject to Clause 2.2.1, the provisions of this Agreement shall have effect upon the Station Access Agreement becoming fully effective and enforceable in accordance with its terms;

2.2 Entry into effect

2.2.1 Clauses 1, 2, 3.1, 6, 7 and 8 shall come into effect and be binding on the parties immediately upon signature of this Agreement.

2.2.2 All other clauses shall come into effect and be binding on the parties on the Collateral Commencement Date.

2.3 Non-satisfaction

If the condition precedent in Clause 2.1 shall not have been satisfied in full on or before the Commencement Date, as defined in the Station Access Agreement, this Agreement shall lapse and neither party shall have any liability to the other under or in respect of it.

3. STATION ACCESS CONDITIONS

3.1 Incorporation

The Station Access Conditions are incorporated in and shall form part of this Agreement.

3.2 Performance

During the term of this Agreement, each party shall duly and punctually perform, observe and comply with:

3.2.1 its obligations to the other set out in the Station Access Conditions as incorporated in this Agreement pursuant to Clause 3.1; and

3.2.2 its other obligations under a Relevant Agreement insofar as failure to perform such obligations would, or would be likely to, operate to the detriment of the other party hereto.

4. TERM

4.1 By reference to Station Access Agreement

Subject to Clause 2.3, this Agreement shall terminate on the lapse, expiry or termination by any other means of the Station Access Agreement.

4.2 Notice

The Beneficiary shall forthwith notify Network Rail of the occurrence of any event referred to in Clause 4.1.

4.3 Exclusion of common law termination rights

This Agreement shall terminate only in the circumstances set out in this Clause 4 and Clause 6.6. The parties shall have no other rights to terminate this Agreement whether pursuant to its terms or at law

5. TERMINATION OF STATION ACCESS AGREEMENT AND STATION FACILITY OWNER'S INTEREST

In the event that an Insolvency Event (as defined in the Station Access Agreement) occurs in relation to the Station Facility Owner and is continuing, the Beneficiary shall promptly upon the written request of Network Rail exercise any rights it may have under the Station Access Agreement to terminate it in accordance with its terms on such minimum period of notice as the Station Access Agreement may permit.

6. WHOLE AGREEMENT, VARIATION AND ASSIGNATION

6.1 Whole agreement

This Agreement contains the entire agreement between the parties in relation to the subject matter of this Agreement and supersedes all prior agreements and arrangements in respect thereof. This Clause 6.1 shall not have the effect of excluding any term implied by law.

6.2 Execution

This Agreement may be executed in duplicate, with each party retaining one executed duplicate.

6.3 Amendment

6.3.1 No amendment of this Agreement (other than as expressly otherwise contemplated by this Agreement) shall be effective unless in writing and signed by duly authorised representatives of the parties;

6.3.2 The Beneficiary shall as soon as reasonably practicable notify Network Rail of any amendments made to the Station Access Agreement (other than the Station Access Conditions) insofar as they affect its obligations referred to in Clause 3.2.2.

6.4 Assignation

Subject to Clauses 6.5 and 6.6, this Agreement shall be binding on and enure to the benefit of the parties and their successors and permitted assignees but neither party may assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the other party.

6.5 Novation of Beneficiary's rights and obligations

If the Beneficiary is a franchise operator, each party agrees to take all such steps as may be necessary to give effect to the novation of the Beneficiary's rights and obligations under this Agreement by and in favour of the Secretary of State or his nominee, if and to the extent necessary to enable the Secretary of State to perform his duty to secure the provision of services for the carriage of passengers by railway pursuant to section 30 of the Act (including by means of an exercise of his powers under section 51 of the Act), provided that any such novation shall be on terms that:

6.5.1 the Station Access Agreement is novated to the Secretary of State or his nominee before or at the same time as this Agreement is novated to the Secretary of State;

6.5.2 the other party shall not be released from any accrued but unperformed obligation, the consequences of any breach of this Agreement which is the subject of arbitration or litigation between the parties or any liability in respect of duties performed under this Agreement prior to, or as at the date of, any such novation (except to the extent that the Secretary of State or his nominee agrees to assume and be responsible for such unperformed obligation, such liability or the consequences of such breach in connection with the relevant novation); and

6.5.3 neither the Secretary of State nor his nominee shall be obliged, in connection with the novation, to agree to assume and be responsible for any unperformed obligation, liability or consequences of a breach referred to in Clause 6.5.2.

6.6 Termination and novation of Network Rail's rights and obligations

6.6.1 Termination

Without prejudice to accrued rights and obligations, Network Rail's rights and obligations under this Agreement shall terminate if both the following occur:

(a) Network Rail disposes of its heritable or leasehold interest in the Station to any transferee who is not at that time an Affiliate of Network Rail; and

(b) such transferee offers to assume Network Rail's future obligations under this Agreement (provided that such transferee shall reasonably be acceptable to the Beneficiary).

6.6.2 Novation

Network Rail undertakes to the Beneficiary that it shall take all such steps as may be reasonably necessary to novate (subject to the consent of the Beneficiary not to be unreasonably withheld or delayed) Network Rail's rights and obligations under this Agreement to the person who has acquired its freehold or leasehold interest in the Station.

6.7 Sub-contracting and agency

The parties may sub-contract their respective rights and obligations under this Agreement provided that no such action shall release a contracting party of its obligations under this Agreement and such party shall remain responsible for the acts and omissions of any sub-contractor as if they were the acts and omissions of that party.

7. NOTICES AND COMMUNICATIONS

7.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered by hand or recorded delivery or sent by pre-paid first class post, or by facsimile, to the party on whom the notice is to be served at the relevant address for service set out in Schedule 2, or to such other address in the United Kingdom as that party may specify by notice to the other party to this Agreement.

7.2 Any such notice or other communication shall be deemed to have been received by the party to whom it is addressed as follows:-

7.2.1 if sent by hand, recorded delivery or pre-paid first class post, when so delivered; and

7.2.2 if sent by facsimile, upon sending (where such transmission occurs before 17.00 hours on the day of transmission) and (in any other case) on the day following the day of transmission, provided that the sender obtains, and if required to do so by the person to whom the notice is alleged to have been sent produces, confirmation of uninterrupted transmission by a transmission report generated by the facsimile machine in question, or other sufficient evidence of transmission.

8. GOVERNING LAW AND SUBMISSION TO JURISDICTION

8.1 Governing law

This Agreement shall be governed by and construed in accordance with Scots law.

8.2 Jurisdiction

Subject to the provisions of the Station Access Conditions the parties irrevocably agree that the courts of Scotland are to have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with, this Agreement.

IN WITNESS WHEREOF this Agreement is executed as follows:

[Note: *Add appropriate execution docquets.*]

[Note: *Clause of consent to registration for preservation and execution?*]

 SCHEDULE 1

 Contract Particulars

1. Beneficiary: [ ]

Name: [ ]

Registered office: [ ]

2. Station Access Conditions

(a) The National Station Access Conditions 2013 [(England and Wales)] [(Scotland)]; and

(b) the annexes relating to the Station (ORR Ref: [ ])

as each is modified in respect of the Station from time to time with the approval of the ORR and as each is incorporated in the Station Access Agreement.

3. Station Access Agreement

Access Agreement dated [ ] 20[ ] between the Station Facility Owner and the Beneficiary, granting the Beneficiary permission to use [ ] station as modified from time to time with the approval of the ORR.

4. Details of Station Facility Owner:

Name: [ ]

Registered Office: [ ]

 SCHEDULE 2

 Addresses for Service

1. Address for service on Network Rail:

(Attention: [ ])

[Address]

[Fax No.]

2. Address for service on the Beneficiary:

(Attention: [ ])

[Address]

[Fax No.]

 ANNEX 9

 MISCELLANEOUS PROVISIONS

(1) The Demarcation Agreements are provided for in the [details of relevant all Supplemental Agreements].

(2) The agreement referred to in the definition "Included Existing Agreements" is the [Supplemental Agreement] made [ 1994] between [ ] and [ ] which forms part of the Railtrack Transfer Scheme [British Rail Telecommunications Transfer Scheme,] [The Waterloo and City Transfer Scheme and Putney Bridge to Wimbledon Transfer Scheme].

(3) The amount referred to in the definition "Long Term Charge" is £ per annum.

(4) The percentage referred to in the definition "Requisite Majority" is [ ].

(5) The percentage of turnover referred to in Condition E2.3 is 0.15%.

(6) (not used).

(7) (not used).

(8) The number of days referred to in Condition F2.3 is 7.

(9) The amount referred to in Condition F10.5.2 is [ ]%.

(10) The number of days referred to in Condition G4.2 is the number of days comprised in the period commencing on the date on which these Station Access Conditions first become fully effective and ending on the date which is 30 days prior to the date on which the Secretary of State issues an invitation to tender pursuant to section 26 of the Act in respect of any railway passenger services operated by the Station Facility Owner.

(11) The amount referred to in Condition H2.1 is £5,000.

(12) The amount referred to in Condition H2.2 is £5,000.

(13) The amount referred to in Condition H4.4 is £20,000.

(14) The amount referred to in Condition L7.1.2(a) is 1% of the Relevant Operator's share of the Long Term Charge subject to a minimum of £1,000.

(15) The amount referred to in Condition L7.1.2(b) is 1% of the Relevant Operator's share of Qualifying Expenditure subject to a minimum of £1,000.

(16) The amount referred to in Condition L7.1.2(c) is 1% of the Access Charge payable by the User in question subject to a minimum of £1,000.

(17) The amount referred to in Condition L7.1.3(a) is 5% of the Relevant Operator's Long Term Charge subject to a minimum of £3,000.

(18) The amount referred to in Condition L7.1.3(b) is 5% of the Relevant Operator's share of Qualifying Expenditure subject to a minimum of £3,000.

(19) The amount referred to in Condition L7.1.3(c) is 5% of the Access Charge payable by the User in question subject to a minimum of £3,000.

(20) The amount referred to in Condition N1.6.2(b) is £[ ].

(21) The number of years referred to in Condition Q1.1 is 6.

(22) The provisions referred to in Condition A1.4 are: [ ].

(23) The parking spaces referred to in Condition K8 are: [ ] permits for Network Rail parking within any car parks for the time being at the Station.

(24) The area(s) of the concourse and the durations referred to in paragraph 1.1 of Annex 1 are [        ]

(25) The display of posters at the domestic poster sites (if any) referred to in paragraph 4.12 of Annex 1 shall be offered to the relevant Passenger Operator making use of such sites as at 31 December 1998 as an Exclusive Station Service at no greater than the prevailing market rate.

(26) The Core Facilities referred to in the definition "Change" are those ticket sales and passenger information facilities and the messrooms, cloakrooms and staff toilets referred to in Annex 1 in the paragraph headed "Core Facilities" (if any).

(27) The Long Term Charge Commencement Date is [ ].

(28) The Light Maintenance Services to be provided (other than on an exclusive basis) referred to in the final sub-paragraph of Annex 1 are such Light Maintenance Services as were being provided (other than on an exclusive basis) at the Station on 4 February 1996.

 ANNEX 10

 DISREPAIRS TO BE REMEDIED

1 [list Elements of the Station or Equipment which are in disrepair, where Repair is the responsibility of the Station Facility Owner and the disrepair is to be remedied]

2 [state any timescale and cost limits, if any, on such repair]

 ANNEX 11

 PRODUCTION OF SPECIFICATIONS

1 This Annex shall apply to the determination of specifications for the performance of the following obligations by the Station Facility Owner:

[insert details of those Common Services and/or those items of Repair and/or Maintenance which are the obligations of the Station Facility Owner where specifications are required] ("the Specifications")

2 The Station Facility Owner shall, as soon as reasonably practicable and by no later than [               ] [in respect of [ ] and no later than in respect of [ ]], deliver to each User its proposals for the Specifications, including any appropriate quality, quantum or response time standards.

3 The Station Facility Owner and all Users shall negotiate with each other with a view to reaching agreement, subject to approval of the ORR, on the Specifications proposed by the Station Facility Owner or on any amendments to them that any User may consider necessary or desirable in respect of any such matters.

4 If the Station Facility Owner and the Users reach agreement with each other on the Specifications, the Station Facility Owner shall promptly submit the Specifications to the ORR for its approval.

5 If the Station Facility Owner and the Users fail to reach agreement with each other on any of the Specifications within [90] days of the delivery of the Station Facility Owner's proposals for such Specifications, the matters in dispute may be referred by any of them for determination in accordance with the relevant provisions of the Access Dispute Resolution Rules. Such determination shall:

5.1 be made having regarding to:

5.1.1 the matters as respects which duties are imposed on the ORR under section 4 of the Act;

5.1.2 the Station Facility Owners and each Users requirements in respect of the relevant obligation; and

5.1.3 the principle that any Specification should detail on a fair and reasonable basis how the relevant obligation referred to in paragraph 1 is to be performed and should not otherwise increase the burden of such obligations;

5.2 be final and binding on the Station Facility Owner and the Users; and

5.3 establish the relevant Specifications, which shall be submitted by the arbitrator to the ORR for approval under section 22 of the Act on behalf of the Station Facility Owner and each User.

6 If any Specifications which have been submitted to the ORR pursuant to this Annex are approved by the ORR, such Specifications shall become effective in accordance with the terms of his approval. If not so approved, such Specifications shall not have effect.

ANNEX 12

REPAIR AND MAINTENANCE SPECIFICATIONS

[If Repair and Maintenance to be carried out by the Station Facility Owner are to be further specified and the specifications are agreed, insert the specifications. If not agreed, then Annex 11 can be used to determine them.]

ANNEX 13

TEMPLATE CO-OPERATION AGREEMENT BETWEEN INDUSTRY PARTIES (NETWORK RAIL AND RELEVANT OPERATORS)

|  |
| --- |
| Co-operation Agreement |

between

|  |
| --- |
| [ ] LIMITEDas the Proposerand[ ] LIMITEDas the MCC |
|  |

relating to

|  |
| --- |
| [ ] Station |
|  |

**Note: this document should only be used in connection with Material Change Proposals made between Railway Industry parties.**

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|  |
| --- |
| **THIS AGREEMENT** is dated and made  |

BETWEEN:

|  |
| --- |
| (1) **[ ] LIMITED** (company registration number [ ]) whose registered office is at [ ] (the “Proposer”); and(2) **[ ] LIMITED** (company registration number [ ]) whose registered office is at ] (the "MCC”). |

**WHEREAS:**

* + - * 1. [There is in respect of the Station a “Relevant Agreement” which incorporates the SACs made between the Proposer and the MCC *(to be used where one party is Network Rail or the Station Facility Owner and the other party is a Relevant Operator)*][The Proposer and the MCC are parties to agreements which incorporate the SACs *(to be used between parties where either of them is a Material Chance Consultee to the MCP i.e. there is no agreement between them, but both separately are parties to an agreement which incorporates the SACs, so that they are both bound by the SACs.)*].
				2. The Proposer has issued the MCP to the MCC and this Agreement concerns the implementation of the MCP.

(3) The purpose of this Agreement is:

(i) **co-operation** – to establish appropriate principles concerning the basis upon which the MCC and the Proposer will co-operate with each other throughout the implementation of the MCP in order to minimise any material adverse effect of the MCP upon the MCC’s Business; and

(ii) **financial undertaking** –to provide a financial undertaking to pay to the MCC the MCC Costs and such part of any increased net costs in respect of the Station for which the MCC is responsible pursuant to the Relevant Agreement as shall be directly attributable to the implementation of the MCP and to set out appropriate procedures to be followed in relation to any claim by the MCC pursuant to the financial undertaking.

**IT IS HEREBY AGREED AS FOLLOWS:**

# DEFINITIONS AND INTERPRETATION

* + 1. In this Agreement the following words and phrases shall have the following meanings unless the contrary intention appears:

**“Control Period”** means the period between the reviews of Network Rail’s funding requirements by the ORR;

**“Fixed Sum”** has the meaning given that expression in clause 4.1 of this Agreement;

**“implementation of the MCP”** means the implementation and carrying out of works or other activities within the station change process as outlined by the MCP;

**“MCC”** means the Material Change Consultee being the second party to this Agreement;

### **“MCC’s Business”** means the business of [operating the Station, running services for the carriage of passengers by railway and acting in its capacity as tenant of the Station] [operating the Network and acting in its capacity as landlord of the Station];

**“MCC Costs”** means thereasonable and direct costs, losses and expenses including but not limited to all costs reasonably incurred by the MCC in evaluating and responding to the MCP (whether or not the MCP is implemented) and any loss of profit or loss of revenue (but not consequential costs, losses or expenses save for loss of profit or loss of revenue) and any net increase in Qualifying Expenditure incurred by the MCC to the extent that the same are directly attributable to the implementation of the MCP but taking into account and netting off against such costs, losses and expenses:

### the benefit (if any) to be obtained or likely to be obtained by the MCC as a consequence of the implementation of the MCP; and

### the ability or likely future ability of the MCC to recoup any costs, losses and expenses from third parties including passengers and customers;

**“MCP”** means a Material Change Proposal for the Station issued on [ ];

**“Proposer”** means the proposer of a Material Change Proposal being the first party to this Agreement;

**“Relevant Agreement”** means [a lease] [an access agreement] dated [ ] made between the Proposer and the MCC incorporating the SACs;

**“Required Interference”** has the meaning given that expression in clause 3.1 of this Agreement;

**“Required Interference Proposal”** has the meaning given that expression in clause 5.1 of this Agreement;

**“SACs”** means the Station Access Conditions and Annexes applicable to the Station;

**“Savings Suggestion”** has the meaning given that expression in clause 11.2 of this Agreement;

**“Station”** means [ ] Station;

**“Unplanned Interference”** has the meaning given that expression in clause 7.1 of this Agreement.

* + 1. In this Agreement the following rules of interpretation shall apply:
			1. References in the singular shall include the plural and vice versa and words denoting natural persons shall include corporations and any other legal entity and vice versa;
			2. References to a particular clause or sub-clause shall be references to that clause or sub-clause in this Agreement (except to the extent that the context requires otherwise);
			3. Reference to this Agreement is a reference to this agreement as amended, supplemented or novated from time to time and includes a reference to any document which amends, is supplemental to, novates, or is entered into, made or given pursuant to it or in accordance with any terms of it;
			4. Any reference to a statute (whether specifically named or not) shall include any amendment or re-enactment of it for the time being in force, and all instruments, orders, notices, regulations, directions, bye-laws, permissions and plans for the time being made, issued or given under it, or deriving validity from it;
			5. Headings are included for convenience only and are to be ignored for the purposes of interpretation; and

### Unless a contrary intention appears, words and expressions defined in the SACs shall have the same meanings when used in this Agreement.

# CO-OPERATION

The parties shall co-operate with one another and act reasonably and in good faith in and about the performance of their respective obligations and the exercise of their respective rights as set out in this Agreement.

# FINANCIAL UNDERTAKING

* + 1. When undertaking the implementation of the MCP, the Proposer shall use its reasonable endeavours not to prevent, hinder, obstruct, delay or interfere with the MCC’s Business except insofar as it cannot reasonably be avoided or, acting reasonably, it is nevertheless necessary to do so in order to implement the MCP (the **“Required Interference”**).
		2. MCC Costs arising by reason of a material adverse impact upon the MCC’s Business from the Required Interference, or any MCC Costs arising by reason of the impact upon the MCC’s Business from the MCP following completion, shall be compensated to the MCC in accordance with clauses 4, 6, 7 or 8, as applicable.
		3. The Proposer of the MCP shall pay emerging costs in accordance with clauses 6, 7 and 8, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum in accordance with clause 4.
		4. To the extent that the net costs of operating the Station are increased as a result of the implementation and completion of the MCP, the Proposer shall compensate the MCC for any increased Qualifying Expenditure (as defined in the SACs) that the MCC is to be charged under the Relevant Agreement either by reducing the relevant Qualifying Expenditure payable pursuant to the Relevant Agreement or alternatively the Proposer may make a separate payment or payments to the MCC of a sum equivalent to the increase in Qualifying Expenditure, whichever is appropriate.
		5. For the avoidance of doubt, the costs and payments for procuring the works and services in order to carry out the works or activities referred to in the MCP will be paid in accordance with the MCP.
	1. **PAYMENT OF COMPENSATION BY WAY OF A FIXED SUM**
		1. If the MCC desires to recover compensation by way of a Fixed Sum, it shall within a reasonable period after the date of this Agreement serve notice on the Proposer identifying the fixed amount of compensation it will accept (the **“Fixed Sum”**) in full and final settlement of all MCC Costs.
		2. Within 40 Business Days following the receipt of any such notice the Proposer shall serve notice on the MCC indicating whether it accepts or rejects such offer and if it fails to serve any such notice it shall be deemed to have rejected such offer.
		3. If the Proposer in its discretion accepts the MCC’s offer (both the form of payment and the amount) in relation to a Fixed Sum, the Proposer shall, subject to clause 4.4, pay the Fixed Sum to the MCC within [20 Business Days] from the date of any agreement under clause 4.2 and from the date of such agreement the provisions of clauses 6, 7 and 8 shall cease to apply.
		4. At the request of the Proposer and in circumstances where it would be reasonable to do so having regard to the cashflow implications on the Proposer’s and the MCC’s respective Businesses, the Proposer shall be entitled to pay the Fixed Sum by instalments of such sums and at such intervals as the Proposer and the MCC may agree (on the assumption that, wherever possible, the MCC should be entitled to receive instalments as and when costs are incurred by it) but in default of agreement over the circumstances in which it would be reasonable to pay by instalments, or over the amount or frequency of such instalments, the same may be referred by either party to dispute resolution under clause 14.

# NOTICE OF A REQUIRED INTERFERENCE

* + 1. Where the Proposer is able to reasonably anticipate that the implementation of the MCP or a phase of the MCP will result in Required Interference then the Proposer shall so far as reasonably possible provide 40 Business Days’ written notice to the MCC of the relevant Required Interference together with:
			1. a description of the relevant Required Interference and those parts of the MCC’s Business that the Proposer considers are likely to be materially affected by it; and
			2. such supporting information as is available to the Proposer at that time and which will be reasonably required by the MCC for the purpose of complying with its obligations under clause 6.3 (save that such supporting information does not need to be provided where compensation for MCC Costs is being paid by way of a Fixed Sum under clause 4).

The Proposer shall be permitted to serve further notice(s) together with appropriate supporting information in relation to the relevant Required Interference if and whenever the Proposer reasonably believes there is a change that will impact upon the level of relevant Required Interference and the adverse effect caused to the MCC’s Business arising from implementation of the relevant phase of the MCP (the original notice and any such further notice shall each be a **“Required Interference Proposal”**).

# ANTICIPATED MCC COSTS OF REQUIRED INTERFERENCE

* + 1. This clause 6 shall apply, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum.
		2. Following receipt of any Required Interference Proposal and any supporting information given pursuant to clause 5.1, the MCC shall within 15 Business Days or within such longer period as the MCC may propose to be reasonably practicable and to which the Proposer may consent (such consent not to be unreasonably withheld or delayed) respond to the Proposer with the information required under clause 6.3 to a degree of completeness and certainty consistent with the level of detail provided at that time by the Proposer, and state clearly any assumptions made in providing that response. Any failure to agree the period for response shall be referred for resolution in accordance with clause 14.
		3. The MCC's response to the Proposer under clause 6.2 shall:
			1. confirm whether or not MCC Costs will be directly attributable to the relevant Required Interference Proposal and if so provide the Proposer with reasonable information in support thereof;
			2. state the estimated amount of any MCC Costs directly attributable to the relevant Required Interference Proposal and provide the Proposer with reasonable information in support thereof;
			3. make any proposal for a mechanism for determining the MCC Costs (or any adjustment thereto) in relation to the relevant Required Interference Proposal;
			4. make any proposals for reaching agreement in relation to the terms on which any MCC Costs are to be compensated; and
			5. make any proposals for satisfying the mitigation obligation under clause 11 and estimate the costs of performing such obligation.
		4. The Proposer shall be entitled
			1. to undertake the relevant Required Interference after service of any Required Interference Proposal under clause 5.1 regardless of whether or not the MCC has provided the response under clause 6.3; and/or
			2. to submit a Savings Suggestion as outlined at clause 11; and/or
			3. either to agree the MCC response in relation to the level and manner of MCC Costs payable in the response issued pursuant to clause 6.3 or refer the MCC response and its contents to dispute resolution in accordance with clause 14.
		5. For the avoidance of doubt, the Proposer shall be entitled to undertake the implementation of the MCP and phases of the same without having identified any Required Interference or having served notices in accordance with clause 5.1 but shall make payment of MCC Costs in accordance with clause 8.

# UNPLANNED MATERIAL INTERFERENCE WITH THE MCC’S BUSINESS

## This clause 7 shall apply, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum, and it applies where as a consequence of the implementation of the MCP there is:

* + - 1. unanticipated or unplanned interference that results in a prevention, hindrance, obstruction, delay or interference with the MCC’s Business at the Station; and/or
			2. some Required Interference that has not (for any reason) been the subject of a Required Interference Proposal given by the Proposer in accordance with clause 5.1 above

 (each of which circumstances are referred to below as an **“Unplanned Interference”**).

* + 1. After an Unplanned Interference event, the MCC shall within 30 Business Days or such longer period as the MCC may propose as being reasonably practicable and to which the Proposer may consent (such consent not to be unreasonably withheld or delayed) provide to the Proposer a notice that shall:
			1. describe the Unplanned Interference to a degree of completeness and certainty as shall be reasonably sufficient to allow the Proposer to investigate the same, including but not limited to the date, time and location of the same and stating clearly any assumptions made in providing that notice. Any failure to agree the period for such notice shall be referred for resolution pursuant to the dispute resolution in accordance with clause 14;
			2. confirm the extent to which the MCC Costs have or will arise in relation to the relevant Unplanned Interference and provide the Proposer with reasonable information in support thereof;
			3. make any proposal for a mechanism for determining the MCC Costs (or any adjustment thereto) as a result of the relevant Unplanned Interference; and
			4. provide details of any actions or steps the MCC has taken to satisfy the mitigation obligation under clause 11 and estimate the costs of performing such obligations.
		2. The Proposer shall be entitled either to agree the MCC notice provided in accordance with clause 7.2 in relation to the level and manner of the MCC Costs payable in relation to the Unplanned Interference or refer the same to dispute resolution under clause 14.
	1. **PAYMENT OF MCC COSTS**

## This clause 8 shall apply, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum.

* + 1. The Proposer shall pay any MCC Costs within 20 Business Days of agreement or determination (whether under clause 6.4 or 7.3 in relation to MCC Costs arising from the Required Interference or the Unplanned Interference, or under clause 14 in relation to other MCC Costs) of the level and manner of payment of the MCC Costs (or the relevant instalment of them).
		2. At the request of the MCC and in circumstances where it would be reasonable to do so having regard to the cashflow implications on the MCC’s Business, the Proposer shall make payments on account of the MCC Costs payable under clause 8.2 on a without prejudice basis of such sums and at such intervals as the Proposer and the MCC may agree but in default of agreement over the circumstances in which it would be reasonable to make payments on account, or over the amount or frequency of such payments, the same may be referred by either party to dispute resolution under clause 14.
	1. **REPAYMENT OF OVERPAID MCC COSTS**

## As soon as practicable after the total amount of MCC Costs (the “Final MCC Costs”) is agreed or determined pursuant to this Agreement the Proposer shall calculate the total of any instalments of MCC Costs and/or of any MCC Costs paid on account (the “Total MCC Costs Paid”) and if the Total MCC Costs Paid exceeds the Final MCC Costs then the Proposer shall serve notice on the MCC of the overpaid amount (the “Overpaid MCC Costs”).

* + 1. The MCC shall be entitled to agree the Overpaid MCC Costs specified in the Proposer’s notice, or either party may refer the same to dispute resolution under clause 14.
		2. The MCC shall repay to the Proposer any Overpaid MCC Costs within [20] Business Days of agreement or determination of the amount of such costs under clauses 9.1 and 9.2. If any Overpaid MCC Costs are still outstanding on the day after the date falling 20 Business Days after the notice in clause 9.1 (the **“Interest Commencement Date”**), interest on such outstanding amounts shall accrue at the average of the base lending rates published from time to time by The Royal Bank of Scotland plc during any relevant period, from the Interest Commencement Date until the date of actual repayment.

## Where compensation of MCC Costs is being paid by way of a Fixed Sum, this clause 9 shall only apply where the MCP is only partially implemented or is withdrawn following commencement of implementation.

* 1. **FAILURE TO IMPLEMENT MCP**
		1. Where a MCP is only partially implemented or is withdrawn following commencement of implementation then the Proposer shall notify the MCC of its intention to discontinue the MCP and its calculation of the amount of MCC Costs consistent with the maximum total amount as specified in the Relevant Undertaking attributable to the partially implemented MCP (the **“Partial MCC Costs Amount”**) (which amount shall not include the loss of benefit (if any) which would or may have resulted from a full implementation of the MCP although to avoid doubt it shall take account of and net off against such costs the benefit (if any) of such partially implemented MCP).
		2. The MCC shall be entitled to agree the Partial MCC Costs Amount specified in the Proposer’s notice, or either party may refer the same to dispute resolution under clause 14.
		3. The Proposer shall pay any Partial MCC Costs Amount (to the extent not already paid under the provisions of this Agreement) within 20 Business Days of agreement or determination under clause 10.2 of the level of the Partial MCC Costs Amount.
		4. If the total amount paid of any instalments of MCC Costs and/or of any MCC Costs paid on account [or of any Fixed Sum or of any instalments of the Fixed Sum] at the date of the Proposer’s notice given under clause 10.1 exceeds the Partial MCC Costs Amount then the provisions of clause 9 shall apply mutatis mutandis to any such overpaid amount.

# MITIGATION OF ADVERSE IMPACT OF IMPLEMENTATION

* + 1. The MCC is required to take all reasonable steps which are within its power and which are not prohibited by or in breach of any existing Legal Requirement to reduce the extent of the MCC Costs resulting from the implementation of the MCP by the Proposer and without prejudice thereto (without being obliged to incur additional expenditure or loss of revenue unless these are compensated for by the Proposer) take all reasonable steps to mitigate and minimise any adverse impact on the MCC’s Business of the implementation of the MCP and to conduct its business in such manner as responds efficiently to the occurrence of any Required Interference and/or Unplanned Interference.
		2. The Proposer may submit suggestions (each of which is a **“Savings Suggestion”**) to the MCC identifying potential opportunities for making savings in MCC Costs arising from the implementation of the MCP and if the MCC at its discretion accepts the Savings Suggestion then the MCC shall implement the same.
		3. If the MCC accepts and implements the Savings Suggestion then the Proposer shall pay the reasonable and direct losses and expenses of implementation of the Savings Suggestion including loss of profit (but not consequential costs, losses or expenses save for loss of profit) recoverable under this Agreement but the MCC must provide the Proposer with such supporting evidence as it reasonably requires showing the extent of the same.

# LIMITATIONS ON THE FINANCIAL UNDERTAKING

* + 1. The MCC shall not be entitled to claim or be paid under the terms of this Agreement to the extent that the MCC will be or is entitled to payment of a sum or compensation in respect of the works or activities in the MCP or other associated work under the terms of:
			1. any Track Access Agreement with [Network Rail] [the MCC]; and/or
			2. any Network Change under Conditions G and H of the Network Code; and/or
			3. the Relevant Agreement relating to the Station; and/or
			4. any lease from [Network Rail] [the MCC] of premises at the Station; and /or
			5. any other agreement with the Proposer or a third party,

in respect of the same MCC Costs provided always that if only part of an amount payable under this Agreement has been recovered or can be recovered by the MCC under such other agreement, then the remainder of the MCC Costs payable under this Agreement will remain payable to the MCC by the Proposer pursuant to this Agreement.

* + 1. The Proposer shall have no liability under this Agreement in respect of:
			1. MCC Costs arising after a period of five years from the date the Station asset(s) identified in the MCP become operational;
			2. MCC Costs not notified in writing to the Proposer with appropriate supporting information in accordance with the requirements of this Agreement;
			3. matters that result from Repair, Maintenance and/or renewals activity and works that fall within Part D or Part M of the SACs where such activity and works would have been undertaken in any event in accordance with the SACs regardless of whether such works and activities were contemplated by the MCP;
			4. works and activities that are outside of the Station Change process contained in the SACs and/or outside of the MCP[; or]
			5. [works and activities that the MCC is required to undertake by virtue of the provisions of its franchise agreement [concession agreement] (if any)].
		2. Notwithstanding the provisions of clause 12.2(A), in circumstances where the implementation of the MCP straddles more than one [franchise term] [Control Period] [concession agreement] and the MCC costs have not been taken into account by the [Secretary of State] [ORR] in the calculations relating to any subsequent [franchise term] [concession agreement] [Control Period] after the one in which the MCP is made, then the Proposer shall continue to pay the MCC Costs arising during the remainder of the time period set out in clause 12.2(A) to the extent such costs have not been taken into account.

# ALTERNATIVE ACCOMMODATION

* + 1. The Proposer undertakes not to carry out any works to any Core Facility or any Station Facility agreed or determined under clause 13.2 (the **“Additional Accommodation”**) used by the MCC at the Station which would result in the MCC being unable to use such Core Facility or Additional Accommodation until such time as:
			1. alternative accommodation replacing the relevant Core Facility or Additional Accommodation reasonably adequate for the MCC’s Business having regard to the functionality of its previous accommodation; and
			2. arrangements for and timing of the relocation to the alternative accommodation

have been approved by the MCC, such approval not to be unreasonably withheld or delayed; and

* + - 1. the effective date of termination of the use of the relevant Core Facility or Additional Accommodation accords with the approved relocation arrangements.
		1. If the MCC identifies any Station Facility:

### which is affected by the Proposer’s MCP;

### that is reasonably necessary for use in connection with its rail business; and

### in respect of which the MCC demonstrates with supporting evidence, in such detail as is reasonably necessary and appropriate, that it cannot be adequately compensated for MCC Costs directly attributable to the implementation of the MCP

then it shall inform the Proposer that alternative accommodation needs to be provided. The Proposer shall be entitled either to agree with the MCC that such accommodation needs to be provided or refer the matter to dispute resolution under clause 14.

* + 1. For the avoidance of doubt, in considering whether any alternative accommodation is reasonably adequate there shall be no assumption that it shall be a like for like replacement.

## In the event of any dispute under this clause 13 either party may refer the matter for dispute resolution under the terms of clause 14.

# DISPUTES

* + 1. Disputes arising out of or in connection with this Agreement shall be resolved in accordance with the following escalation process:
			1. within 5 Business Days of notification by either party to the other that it believes there is a dispute and that such dispute should be escalated in accordance with this clause, the appropriate managers of the parties shall discuss the dispute with a view to resolution;
			2. if the parties are unable to resolve the dispute in accordance with paragraph (A), the dispute shall be escalated within a further 5 Business Days to the parties’ appropriate senior managers for resolution;
			3. if the dispute is not resolved pursuant to paragraphs (A) and (B) then the dispute shall be resolved in accordance with the Access Dispute Resolution Rules in force at the relevant time.
		2. Nothing in clause 14.1 shall prevent either party at any time from referring a dispute arising out of or in connection with this Agreement directly (whether or not the dispute has been escalated in accordance with clause 14.1) for determination in accordance with the Access Dispute Resolution Rules in force at the relevant time.

# ASSIGNATION

This Agreement is personal to the parties and neither the Proposer nor the MCC shall assign all or any part of the benefit of or its rights or benefits under this Agreement.

# GENERAL

* + 1. This Agreement shall not create or be taken to evidence any partnership, joint venture or agency between the parties. Neither party is hereby authorised to act as agent of the other, without the other party’s prior written consent.
		2. No indulgence granted by either party shall constitute or be construed as a waiver of the other party’s strict rights under this Agreement.
		3. If any provision of this Agreement is or at any time becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired.
		4. This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement.
		5. Each party admits that it has not entered into this Agreement in reliance upon any representation or promise of the other party.
		6. No variation of any of the terms of this Agreement shall be effective unless it is in writing and signed on behalf of each of the parties.

# NOTICES

* + 1. Any notice or other document to be given or served under this Agreement shall be in writing and sent by e-mail to such dedicated e-mail address as each of the relevant parties shall have notified in writing to the party serving the notice or delivered to or sent by first class post or facsimile to the other party to be served at its registered office.
		2. Any such notice or document shall be deemed to have been served:
			1. If sent by e-mail, at the time it leaves the electronic gateway of the sender;
			2. if delivered, at the time of delivery;
			3. if sent by facsimile, upon receipt of the appropriate confirmation report; or
			4. if posted by pre-paid first class post, on the second Business Day following that on which the envelope containing the same was posted.

Provided that, for the purposes of Clauses 17.2(A), 17.2(B) and 17.2(C) where the notice is delivered or transmitted outside the hours of 9 a.m. to 5 p.m. on a Business Day, or at any time on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the next Business Day.

# VAT

* + 1. If and to the extent that the fulfilment by either party of an obligation on its part contained or referred to in this Agreement shall constitute or shall at any time be found to constitute a supply of goods or a supply of services for the purposes of the Value Added Tax Act 1994 and/or that VAT is chargeable in respect of any supply made pursuant to this Agreement then the party in receipt of such supply shall pay to the supplier thereof the amount of such VAT payable in connection therewith upon receipt of a valid VAT invoice or invoices giving the requisite details of the taxable supplies.
		2. Where either party agrees to pay the other an amount of money pursuant to this Agreement such amount shall be regarded as being exclusive of VAT and such agreement shall be construed as requiring the additional payment by the payer to the payee of any VAT properly chargeable in respect of the relevant supply made or to be made by the payee to the payer upon receipt of a valid VAT invoice.

# EXECUTION

This Agreement may be executed in duplicate, with each party retaining one executed duplicate.

IN WITNESS WHEREOF this Agreement is executed as follows:

[Note: *Add appropriate execution docquets.*]

[Note: *Clause of consent to registration for preservation and execution?*]

ANNEX 14

TEMPLATE CO-OPERATION AGREEMENT WHERE PROPOSER IS A STATION INVESTOR AND MATERIAL CHANGE CONSULTEE IS NETWORK RAIL OR A RELEVANT OPERATOR

|  |
| --- |
| Co-operation Agreement  |

between

|  |
| --- |
| [ ] LIMITED as the Proposerand[ ] LIMITEDas the MCC |
|  |

relating to

|  |
| --- |
| [ ] Station |
| **Note: this document should only be used in connection with Material Change Proposals made by Station Investors at Franchised Stations.** |

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|  |
| --- |
| **THIS AGREEMENT** is dated and made  |

BETWEEN:

|  |
| --- |
| (1) **[ ]** **LIMITED** (company registration number [ ]) whose registered office is at [ ] (the “Proposer”); and(2) **[ ] LIMITED** (company registration number [ ]) whose registered office is at [ ] (the "MCC”). |

**WHEREAS:**

* + - * 1. The Proposer has issued the MCP to the MCC and this Agreement concerns the implementation of the MCP.
				2. Network Rail and each of the Relevant Operators wish the Proposer to be bound by the provisions of Part C of the Station Access Conditions in respect of the MCP and the Proposer has agreed to be bound by those provisions.

(3) The purpose of this Agreement is:

(i) **co-operation** – to establish appropriate principles concerning the basis upon which the MCC and the Proposer will co-operate with each other throughout the implementation of the MCP in order to minimise any material adverse effect of the MCP upon the MCC’s Business; and

(ii) **financial undertaking** –to provide a financial undertaking to pay to the MCC the MCC Costs and such part of any increased net costs in respect of the Station for which the MCC is responsible pursuant to the Relevant Agreement as shall be directly attributable to the implementation of the MCP and to set out appropriate procedures to be followed in relation to any claim by the MCC pursuant to the financial undertaking.

**IT IS HEREBY AGREED AS FOLLOWS:**

# DEFINITIONS AND INTERPRETATION

* + 1. In this Agreement the following words and phrases shall have the following meanings unless the contrary intention appears:

**“APA”** means an Asset Protection Agreement (as that expression is defined in the SACs) entered into between (1) Network Rail and (2) the Proposer before, on or after the date of this Agreement in relation to the carrying out of the works or other activities [as] [including those] outlined by the MCP;

**“Control Period”** means the period between the reviews of Network Rail’s funding requirements by the ORR;

**“Fixed Sum”** has the meaning given that expression in clause 6.1 of this Agreement;

**“implementation of the MCP”** means the implementation and carrying out of works or other activities within the station change process as outlined by the MCP;

**“MCC”** means the Material Change Consultee being the second party to this Agreement;

### **“MCC’s Business”** means the business of [operating the Station, running services for the carriage of passengers by railway and acting in its capacity as tenant of the Station] [operating the Network and acting in its capacity as landlord of the Station];

### **“MCC Costs”** means the reasonable and direct costs, losses and expenses including but not limited to all costs reasonably incurred by the MCC in evaluating and responding to the MCP (whether or not the MCP is implemented) and any loss of profit or loss of revenue (but not consequential costs, losses or expenses save for loss of profit or loss of revenue) and any net increase in Qualifying Expenditure incurred by the MCC to the extent that the same are directly attributable to the implementation of the MCP but taking into account and netting off against such costs, losses and expenses:

### the benefit (if any) to be obtained or likely to be obtained by the MCC as a consequence of the implementation of the MCP; and

### the ability or likely future ability of the MCC to recoup any costs, losses and expenses from third parties including passengers and customers;

**“MCP”** means a Material Change Proposal for the Station issued on [ ];

[**“Property Agreement”** means an agreement dated [ ] made between [Network Rail] [the MCC] and the Proposer [giving the Proposer access and other rights over or in respect of the Station in connection with the implementation of the MCP;]

**“Proposer”** means the proposer of a Material Change Proposal being the first party to this Agreement;

**“Relevant Agreement”** means [a lease] [an access agreement] dated [ ] made between [Network Rail and the MCC] [the MCC and [ ]] incorporating the SACs;

**“Required Interference”** has the meaning given that expression in clause 5.1 of this Agreement;

**“Required Interference Proposal”** has the meaning given that expression in clause 7.1 of this Agreement;

**“SACs”** means the Station Access Conditions and Annexes applicable to the Station;

**“Savings Suggestion”** has the meaning given that expression in clause 13.2 of this Agreement;

**“Station”** means [ ] Station;

**“Unplanned Interference”** has the meaning given that expression in clause 9.1 of this Agreement.

* + 1. In this Agreement the following rules of interpretation shall apply:
			1. References in the singular shall include the plural and vice versa and words denoting natural persons shall include corporations and any other legal entity and vice versa;
			2. References to a particular clause or sub-clause shall be references to that clause or sub-clause in this Agreement (except to the extent that the context requires otherwise);
			3. Reference to this Agreement is a reference to this agreement as amended, supplemented or novated from time to time and includes a reference to any document which amends, is supplemental to, novates, or is entered into, made or given pursuant to it or in accordance with any terms of it;
			4. Any reference to a statute (whether specifically named or not) shall include any amendment or re-enactment of it for the time being in force, and all instruments, orders, notices, regulations, directions, bye-laws, permissions and plans for the time being made, issued or given under it, or deriving validity from it;
			5. Headings are included for convenience only and are to be ignored for the purposes of interpretation; and

### Unless a contrary intention appears, words and expressions defined in the SACs shall have the same meanings when used in this Agreement.

# PARTICIPATION

In all matters relating to or arising from the MCP, the Proposer shall comply with and be liable under the provisions of Part C of the SACs as if it was a Relevant Operator.

* 1. **LIMITATION**
		1. The Proposer shall not acquire under this Agreement:
			1. any rights or liabilities in connection with any other MCP; or
			2. any rights or liabilities from or to Network Rail or from or to any Relevant Operator in connection with the MCP other than as set out in this Agreement or in Part C of the SACs.
		2. The rights and liabilities set out in this Agreement shall be without prejudice to the rights and liabilities set out in the [APA,] [Property Agreement] or in any other agreement relating to the implementation of the works or the acquisition of rights over or in respect of the Station made between the Proposer and Network Rail to the extent that the rights and liabilities set out in the [APA,] [the Property Agreement] or in any other agreement relating to the implementation of the works or the acquisition of rights over or in respect of the Station do not conflict with the rights and liabilities set out in this Agreement or in Part C of the SACs.

# CO-OPERATION

* + 1. The parties shall co-operate with one another and act reasonably and in good faith in and about the performance of their respective obligations and the exercise of their respective rights as set out in this Agreement.

# FINANCIAL UNDERTAKING

* + 1. When undertaking the implementation of the MCP, the Proposer shall use its reasonable endeavours not to prevent, hinder, obstruct, delay or interfere with the MCC’s Business except insofar as it cannot reasonably be avoided or, acting reasonably, it is nevertheless necessary to do so in order to implement the MCP (the **“Required Interference”**).
		2. MCC Costs arising by reason of a material adverse impact upon the MCC’s Business from the Required Interference, or any MCC Costs arising by reason of the impact upon the MCC’s Business from the MCP following completion, shall be compensated to the MCC in accordance with clauses 6, 8, 9 or 10, as applicable.
		3. The Proposer of the MCP shall pay emerging costs in accordance with clauses 8, 9 and 10, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum in accordance with clause 6.
		4. To the extent that the net costs of operating the Station are increased as a result of the implementation and completion of the MCP, the Proposer shall compensate the MCC for any increased Qualifying Expenditure (as defined in the SACs) that the MCC is to be charged under the Relevant Agreement either by reducing the relevant Qualifying Expenditure payable pursuant to the Relevant Agreement or alternatively the Proposer may make a separate payment or payments to the MCC of a sum equivalent to the increase in Qualifying Expenditure, whichever is appropriate.
		5. For the avoidance of doubt, the costs and payments for procuring the works and services in order to carry out the works or activities referred to in the MCP will be paid in accordance with the MCP.
	1. **PAYMENT OF COMPENSATION BY WAY OF A FIXED SUM**
		1. If the MCC desires to recover compensation by way of a Fixed Sum, it shall within a reasonable period after the date of this Agreement serve notice on the Proposer identifying the fixed amount of compensation it will accept (the **“Fixed Sum”**) in full and final settlement of all MCC Costs.
		2. Within 40 Business Days following the receipt of any such notice the Proposer shall serve notice on the MCC indicating whether it accepts or rejects such offer and if it fails to serve any such notice it shall be deemed to have rejected such offer.
		3. If the Proposer in its discretion accepts the MCC’s offer (both the form of payment and the amount) in relation to a Fixed Sum, the Proposer shall, subject to clause 6.4, pay the Fixed Sum to the MCC within [20 Business Days] from the date of any agreement under clause 6.2 and from the date of such agreement the provisions of clauses 8, 9 and 10 shall cease to apply.
		4. At the request of the Proposer and in circumstances where it would be reasonable to do so having regard to the cashflow implications on the Proposer’s and the MCC’s respective Businesses, the Proposer shall be entitled to pay the Fixed Sum by instalments of such sums and at such intervals as the Proposer and the MCC may agree (on the assumption that, wherever possible, the MCC should be entitled to receive instalments as and when costs are incurred by it) but in default of agreement over the circumstances in which it would be reasonable to pay by instalments, or over the amount or frequency of such instalments, the same may be referred by either party to dispute resolution under clause 16.

# NOTICE OF A REQUIRED INTERFERENCE

* + 1. Where the Proposer is able to reasonably anticipate that the implementation of the MCP or a phase of the MCP will result in Required Interference then the Proposer shall so far as reasonably possible provide 40 Business Days’ written notice to the MCC of the relevant Required Interference together with:
			1. a description of the relevant Required Interference and those parts of the MCC’s Business that the Proposer considers are likely to be materially affected by it; and
			2. such supporting information as is available to the Proposer at that time and which will be reasonably required by the MCC for the purpose of complying with its obligations under clause 8.3 (save that such supporting information does not need to be provided where compensation for MCC Costs is being paid by way of a Fixed Sum under clause 6).

The Proposer shall be permitted to serve further notice(s) together with appropriate supporting information in relation to the relevant Required Interference if and whenever the Proposer reasonably believes there is a change that will impact upon the level of relevant Required Interference and the adverse effect caused to the MCC’s Business arising from implementation of the relevant phase of the MCP (the original notice and any such further notice shall each be a **“Required Interference Proposal”**).

# ANTICIPATED MCC COSTS OF REQUIRED INTERFERENCE

* + 1. This clause 8 shall apply, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum.
		2. Following receipt of any Required Interference Proposal and any supporting information given pursuant to clause 7.1, the MCC shall within 15 Business Days or within such longer period as the MCC may propose to be reasonably practicable and to which the Proposer may consent (such consent not to be unreasonably withheld or delayed) respond to the Proposer with the information required under clause 8.3 to a degree of completeness and certainty consistent with the level of detail provided at that time by the Proposer, and state clearly any assumptions made in providing that response. Any failure to agree the period for response shall be referred for resolution in accordance with clause 16.
		3. The MCC's response to the Proposer under clause 8.2 shall:
			1. confirm whether or not MCC Costs will be directly attributable to the relevant Required Interference Proposal and if so provide the Proposer with reasonable information in support thereof;
			2. state the estimated amount of any MCC Costs directly attributable to the relevant Required Interference Proposal and provide the Proposer with reasonable information in support thereof;
			3. make any proposal for a mechanism for determining the MCC Costs (or any adjustment thereto) in relation to the relevant Required Interference Proposal;
			4. make any proposals for reaching agreement in relation to the terms on which any MCC Costs are to be compensated; and
			5. make any proposals for satisfying the mitigation obligation under clause 13 and estimate the costs of performing such obligation.
		4. The Proposer shall be entitled
			1. to undertake the relevant Required Interference after service of any Required Interference Proposal under clause 7.1 regardless of whether or not the MCC has provided the response under clause 8.3; and/or
			2. to submit a Savings Suggestion as outlined at clause 13; and/or
			3. either to agree the MCC response in relation to the level and manner of MCC Costs payable in the response issued pursuant to clause 8.3 or refer the MCC response and its contents to dispute resolution in accordance with clause 16.
		5. For the avoidance of doubt, the Proposer shall be entitled to undertake the implementation of the MCP and phases of the same without having identified any Required Interference or having served notices in accordance with clause 7.1 but shall make payment of MCC Costs in accordance with clause 10.

# UNPLANNED MATERIAL INTERFERENCE WITH THE MCC’S BUSINESS

* + 1. This clause 9 shall apply, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum, and it applies where as a consequence of the implementation of the MCP there is:
			1. unanticipated or unplanned interference that results in a prevention, hindrance, obstruction, delay or interference with the MCC’s Business; and/or
			2. some Required Interference that has not (for any reason) been the subject of a Required Interference Proposal given by the Proposer in accordance with clause 7.1 above

 (each of which circumstances are referred to below as an **“Unplanned Interference”**).

* + 1. After an Unplanned Interference event, the MCC shall within 30 Business Days or such longer period as the MCC may propose as being reasonably practicable and to which the Proposer may consent (such consent not to be unreasonably withheld or delayed) provide to the Proposer a notice that shall:
			1. describe the Unplanned Interference to a degree of completeness and certainty as shall be reasonably sufficient to allow the Proposer to investigate the same, including but not limited to the date, time and location of the same and stating clearly any assumptions made in providing that notice. Any failure to agree the period for such notice shall be referred for resolution pursuant to the dispute resolution in accordance with clause 16;
			2. confirm the extent to which the MCC Costs have or will arise in relation to the relevant Unplanned Interference and provide the Proposer with reasonable information in support thereof;
			3. make any proposal for a mechanism for determining the MCC Costs (or any adjustment thereto) as a result of the relevant Unplanned Interference; and
			4. provide details of any actions or steps the MCC has taken to satisfy the mitigation obligation under clause 13 and estimate the costs of performing such obligations.
		2. The Proposer shall be entitled either to agree the MCC notice provided in accordance with clause 9.2 in relation to the level and manner of the MCC Costs payable in relation to the Unplanned Interference or refer the same to dispute resolution under clause 16.
	1. **PAYMENT OF MCC COSTS**
		1. This clause 10 shall apply, unless the parties agree to compensation of MCC Costs by way of a Fixed Sum.
		2. The Proposer shall pay any MCC Costs within 20 Business Days of agreement or determination (whether under clause 8.4 or 9.3 in relation to MCC Costs arising from the Required Interference or the Unplanned Interference, or under clause 16 in relation to other MCC Costs) of the level and manner of payment of the MCC Costs (or the relevant instalment of them).
		3. At the request of the MCC and in circumstances where it would be reasonable to do so having regard to the cashflow implications on the MCC’s Business, the Proposer shall make payments on account of the MCC Costs payable under clause 10.2 on a without prejudice basis of such sums and at such intervals as the Proposer and the MCC may agree but in default of agreement over the circumstances in which it would be reasonable to make payments on account, or over the amount or frequency of such payments, the same may be referred by either party to dispute resolution under clause 16.
	2. **REPAYMENT OF OVERPAID MCC COSTS**
		1. As soon as practicable after the total amount of MCC Costs (the **“Final MCC Costs”**) is agreed or determined pursuant to this Agreement the Proposer shall calculate the total of any instalments of MCC Costs and/or of any MCC Costs paid on account (the **“Total MCC Costs Paid”**) and if the Total MCC Costs Paid exceeds the Final MCC Costs then the Proposer shall serve notice on the MCC of the overpaid amount (the **“Overpaid MCC Costs”**).
		2. The MCC shall be entitled to agree the Overpaid MCC Costs specified in the Proposer’s notice, or either party may refer the same to dispute resolution under clause 16.
		3. The MCC shall repay to the Proposer any Overpaid MCC Costs within [20] Business Days of agreement or determination of the amount of such costs under clauses 11.1 and 11.2. If any Overpaid MCC Costs are still outstanding on the day after the date falling 20 Business Days after the notice in clause 11.1 (the **“Interest Commencement Date”**), interest on such outstanding amounts shall accrue at the average of the base lending rates published from time to time by The Royal Bank of Scotland plc during any relevant period, from the Interest Commencement Date until the date of actual repayment.

## Where compensation of MCC Costs is being paid by way of a Fixed Sum, this clause 11 shall only apply where the MCP is only partially implemented or is withdrawn following commencement of implementation.

* 1. **FAILURE TO IMPLEMENT MCP**
		1. Where a MCP is only partially implemented or is withdrawn following commencement of implementation then the Proposer shall notify the MCC of its intention to discontinue the MCP and its calculation of the amount of MCC Costs consistent with the maximum total amount as specified in the Relevant Undertaking attributable to the partially implemented MCP (the **“Partial MCC Costs Amount”**) (which amount shall not include the loss of benefit (if any) which would or may have resulted from a full implementation of the MCP although to avoid doubt it shall take account of and net off against such costs the benefit (if any) of such partially implemented MCP).
		2. The MCC shall be entitled to agree the Partial MCC Costs Amount specified in the Proposer’s notice, or either party may refer the same to dispute resolution under clause 16.
		3. The Proposer shall pay any Partial MCC Costs Amount (to the extent not already paid under the provisions of this Agreement) within 20 Business Days of agreement or determination under clause 12.2 of the level of the Partial MCC Costs Amount.
		4. If the total amount paid of any instalments of MCC Costs and/or of any MCC Costs paid on account [or of any Fixed Sum or of any instalments of the Fixed Sum] at the date of the Proposer’s notice given under clause 12.1 exceeds the Partial MCC Costs Amount then the provisions of clause 11 shall apply mutatis mutandis to any such overpaid amount.

# MITIGATION OF ADVERSE IMPACT OF IMPLEMENTATION

* + 1. The MCC is required to take all reasonable steps which are within its power and which are not prohibited by or in breach of any existing Legal Requirement to reduce the extent of the MCC Costs resulting from the implementation of the MCP by the Proposer and without prejudice thereto (without being obliged to incur additional expenditure or loss of revenue unless these are compensated for by the Proposer) take all reasonable steps to mitigate and minimise any adverse impact on the MCC’s Business of the implementation of the MCP and to conduct its business in such manner as responds efficiently to the occurrence of any Required Interference and/or Unplanned Interference.
		2. The Proposer may submit suggestions (each of which is a **“Savings Suggestion”**) to the MCC identifying potential opportunities for making savings in MCC Costs arising from the implementation of the MCP and if the MCC at its discretion accepts the Savings Suggestion then the MCC shall implement the same.
		3. If the MCC accepts and implements the Savings Suggestion then the Proposer shall pay the reasonable and direct losses and expenses of implementation of the Savings Suggestion including loss of profit (but not consequential costs, losses or expenses save for loss of profit) recoverable under this Agreement but the MCC must provide the Proposer with such supporting evidence as it reasonably requires showing the extent of the same.

# LIMITATIONS ON THE FINANCIAL UNDERTAKING

* + 1. The MCC shall not be entitled to claim or be paid under the terms of this Agreement to the extent that the MCC will be or is entitled to payment of a sum or compensation in respect of the works or activities in the MCP or other associated work under the terms of:
			1. any Track Access Agreement with [Network Rail] [the MCC]; and/or
			2. any Network Change under Conditions G and H of the Network Code; and/or
			3. the Relevant Agreement relating to the Station; and/or
			4. any lease from [Network Rail] [the MCC] of premises at the Station; and /or
			5. [the APA; and/or]
			6. [the Property Agreement; and/or]
			7. any other agreement with the Proposer or a third party,

in respect of the same MCC Costs provided always that if only part of an amount payable under this Agreement has been recovered or can be recovered by the MCC under such other agreement, then the remainder of the MCC Costs payable under this Agreement will remain payable to the MCC by the Proposer pursuant to this Agreement.

* + 1. The Proposer shall have no liability under this Agreement in respect of:
			1. MCC Costs arising after a period of five years from the date the Station asset(s) identified in the MCP become operational;
			2. MCC Costs not notified in writing to the Proposer with appropriate supporting information in accordance with the requirements of this Agreement;
			3. matters that result from Repair, Maintenance and/or renewals activity and works that fall within Part D or Part M of the SACs where such activity and works would have been undertaken in any event in accordance with the SACs regardless of whether such works and activities were contemplated by the MCP;
			4. works and activities that are outside of the Station Change process contained in the SACs and/or outside of the MCP[; or]
			5. [works and activities that the MCC is required to undertake by virtue of the provisions of its franchise agreement [concession agreement] (if any)].
		2. Notwithstanding the provisions of clause 14.2(A), in circumstances where the implementation of the MCP straddles more than one [franchise term] [Control Period] [concession agreement] and the MCC costs have not been taken into account by the [Secretary of State] [ORR] in the calculations relating to any subsequent [franchise term] [concession agreement] [Control Period] after the one in which the MCP is made, then the Proposer shall continue to pay the MCC Costs arising during the remainder of the time period set out in clause 14.2(A) to the extent such costs have not been taken into account.
	1. **ALTERNATIVE ACCOMMODATION**
		1. The Proposer undertakes not to carry out any works to any Core Facility or any Station Facility agreed or determined under clause 15.2 (the **“Additional Accommodation”**) used by the MCC at the Station which would result in the MCC being unable to use such Core Facility or Additional Accommodation until such time as:
			1. alternative accommodation replacing the relevant Core Facility or Additional Accommodation reasonably adequate for the MCC’s Business having regard to the functionality of its previous accommodation; and
			2. arrangements for and timing of the relocation to the alternative accommodation

have been approved by the MCC, such approval not to be unreasonably withheld or delayed; and

* + - 1. the effective date of termination of the use of the relevant Core Facility or Additional Accommodation accords with the approved relocation arrangements.
		1. If the MCC identifies any Station Facility:

### which is affected by the Proposer’s MCP;

### that is reasonably necessary for use in connection with its rail business; and

### in respect of which the MCC demonstrates with supporting evidence, in such detail as is reasonably necessary and appropriate, that it cannot be adequately compensated for MCC Costs directly attributable to the implementation of the MCP

then it shall inform the Proposer that alternative accommodation needs to be provided. The Proposer shall be entitled either to agree with the MCC that such accommodation needs to be provided or refer the matter to dispute resolution under clause 16.

* + 1. For the avoidance of doubt, in considering whether any alternative accommodation is reasonably adequate there shall be no assumption that it shall be a like for like replacement.

## In the event of any dispute under this clause 15 either party may refer the matter for dispute resolution under the terms of clause 16.

# DISPUTES

* + 1. Disputes arising out of or in connection with this Agreement shall be resolved in accordance with the following escalation process:
			1. within 5 Business Days of notification by either party to the other that it believes there is a dispute and that such dispute should be escalated in accordance with this clause, the appropriate managers of the parties shall discuss the dispute with a view to resolution;
			2. if the parties are unable to resolve the dispute in accordance with paragraph (A), the dispute shall be escalated within a further 5 Business Days to the parties’ appropriate senior managers for resolution;
			3. if the dispute is not resolved pursuant to paragraphs (A) and (B) then the dispute shall be resolved in accordance with the Access Dispute Resolution Rules in force at the relevant time.
		2. Nothing in clause 16.1 shall prevent either party at any time from referring a dispute arising out of or in connection with this Agreement directly (whether or not the dispute has been escalated in accordance with clause 16.1) for determination in accordance with the Access Dispute Resolution Rules in force at the relevant time.

# ASSIGNation

This Agreement is personal to the parties and neither the Proposer nor the MCC shall assign all or any part of the benefit of or its rights or benefits under this Agreement.

# GENERAL

* + 1. This Agreement shall not create or be taken to evidence any partnership, joint venture or agency between the parties. Neither party is hereby authorised to act as agent of the other, without the other party’s prior written consent.
		2. No indulgence granted by either party shall constitute or be construed as a waiver of the other party’s strict rights under this Agreement.
		3. If any provision of this Agreement is or at any time becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired.
		4. This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement.
		5. Each party admits that it has not entered into this Agreement in reliance upon any representation or promise of the other party.
		6. No variation of any of the terms of this Agreement shall be effective unless it is in writing and signed on behalf of each of the parties.

# NOTICES

* + 1. Any notice or other document to be given or served under this Agreement shall be in writing and sent by e-mail to such dedicated e-mail address as each of the relevant parties shall have notified in writing to the party serving the notice or delivered to or sent by first class post or facsimile to the other party to be served at its registered office.
		2. Any such notice or document shall be deemed to have been served:
			1. If sent by e-mail, at the time it leaves the e-mail gateway of the sender;
			2. if delivered, at the time of delivery;
			3. if sent by facsimile, upon receipt of the appropriate confirmation report; or
			4. if posted by pre-paid first class post, on the second Business Day following that on which the envelope containing the same was posted.

Provided that, for the purposes of clauses 19.2(A), 19.2(B) and 19.2(C) where the notice is delivered or transmitted outside the hours of 9 a.m. to 5 p.m. on a Business Day, or at any time on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the next Business Day.

# VAT

* + 1. If and to the extent that the fulfilment by either party of an obligation on its part contained or referred to in this Agreement shall constitute or shall at any time be found to constitute a supply of goods or a supply of services for the purposes of the Value Added Tax Act 1994 and/or that VAT is chargeable in respect of any supply made pursuant to this Agreement then the party in receipt of such supply shall pay to the supplier thereof the amount of such VAT payable in connection therewith upon receipt of a valid VAT invoice or invoices giving the requisite details of the taxable supplies.
		2. Where either party agrees to pay the other an amount of money pursuant to this Agreement such amount shall be regarded as being exclusive of VAT and such agreement shall be construed as requiring the additional payment by the payer to the payee of any VAT properly chargeable in respect of the relevant supply made or to be made by the payee to the payer upon receipt of a valid VAT invoice.

# EXECUTION

This Agreement may be executed in duplicate, with each party retaining one executed duplicate.

IN WITNESS WHEREOF this Agreement is executed as follows:

[Note: *Add appropriate execution docquets.*]

[Note: *Clause of consent to registration for preservation and execution?*]

ANNEX 15

TEMPLATE STATION INVESTOR PARTICIPATION DEED

**Template Station Investor Participation Deed**

Part 1: Template Station Investor Participation Deed (Scotland)

DEED by

(1) [STATION INVESTOR] (the “Station Investor”) in favour of

(2) each other person having rights or obligations in relation to the making of Material Changes under the Station Access Conditions (the **“Conditions”**) relating to [insert details of Station] (the “Material Change Consultees”).

**WHEREAS:**

(A) The Station Investor has made a Material Change Proposal in respect of the Station dated \_\_\_\_\_\_\_\_\_\_\_\_\_, to which this Deed is attached (the “Specified Proposal”);

(B) The Material Change Consultees wish the Station Investor to be bound by the provisions of Part C of the Conditions in respect of the Specified Proposal.

**NOW THIS DEED WITNESSES:**

# DEFINITIONS

Unless the context requires otherwise, words and phrases defined in Part A of the Conditions shall have the same meanings in this Deed.

# PARTICIPATION

In all matters relating to or arising from the Specified Proposal, the Station Investor shall comply with, and be liable under, the provisions of Part C of the Conditions as if it was a Relevant Operator as set out in Part A of the Conditions.

# LIMITATION

The Station Investor shall not acquire under this Deed:

#### any liability in connection with any other Material Change Proposal; or

#### except as provided in Clause 4.2, any other liability to any Material Change Consultee in connection with the Specified Proposal.

# GOVERNING LAW AND DISPUTE RESOLUTION

## Governing law

This Deed shall be governed by and construed in accordance with the laws of Scotland.

## Dispute resolution

Any dispute which may arise out of, or in connection with, this Deed shall be referred for resolution under the Dispute Resolution Procedure, and for these purposes, the Station Investor shall have the same rights and obligations as any other relevant party under the Dispute Resolution Procedure.

# Orr

ORR shall have the right to enforce directly such rights as have been expressed to be granted to it under Part C of the Conditions. Without prejudice to other methods of constitution, registration of this Deed in the Books of Council and Session is intended to constitute such right in favour of ORR.

IN WITNESS WHEREOF this Deed is executed as follows:

[Note: *Add appropriate execution docquets.*]

[Note: *Clause of consent to registration for preservation and execution?*]