

TEMPLATE

DATED _____ 20[]

Between

[] as Depot Facility Owner

- and -

[] as Beneficiary

[name of Depot]

DEPOT ACCESS AGREEMENT

(Access to a depot by a non-train
operating beneficiary using the
services of a third party train
operator)

TABLE OF CONTENTS

CLAUSE	PAGE NO.
1. INTERPRETATION	7
1.1 Definitions	7
1.2 References	13
1.3 Sub-contractors	13
1.4 Depot Code	14
2. CONDITIONS PRECEDENT	14
2.1 Conditions Precedent	14
2.2 Obligation to satisfy Conditions Precedent	14
2.3 Entry into effect	15
2.4 Non-satisfaction	15
3. PERMISSION TO USE THE DEPOT	15
4. DEPOT CODE	16
5. CONTRACT REVIEWS	16
5.1 Reviews by the parties	16
5.2 Not used	17
5.3 Existing Agreements	17
6. TERM AND TERMINATION	17
6.1 Term	17
6.2 Events of default	17
6.3 Suspension	19
6.4 Termination	22
6.5 Exclusion of common law termination rights	24
6.6 Not used	24
6.7 Termination by either party	24
6.8 Suspension of Notice of Termination	24
7. CHARGES FOR PERMISSION TO USE THE DEPOT	25
8. REMEDIES	25
8.1 Delays and specified performance defaults	25
8.2 Performance incentives	30
8.3 Indemnities	30
8.4 Limitation on claims	30
8.5 Replacement or repair of parts	33
9. WHOLE AGREEMENT, AMENDMENT AND ASSIGNMENT	33
9.1 Whole agreement	33
9.2 Amendment	33
9.3 Assignment	34
9.4 Novation	34
9.5 Sub-contracting	35
9.6 Ceasing to be a facility owner	35

10.	NOT USED	35
11.	NOTICES AND COMMUNICATIONS	35
12.	GOVERNING LAW AND SUBMISSION TO JURISDICTION	36
12.1	Governing law	36
12.2	Jurisdiction	36
13.	RIGHTS OF THIRD PARTIES	36
13.1	Application to Third Parties	36
13.2	Application to the Secretary of State	36
14	GENERAL	36
14.1	Confidentiality	36
14.2	Payments, default interest and VAT	38
14.3	Invalidity and waiver	40
	SCHEDULE 1	
	CONTRACT PARTICULARS	41
	APPENDIX TO SCHEDULE 1	
	Depot Plan	44
	SCHEDULE 2	
	NOTICES	45
	SCHEDULE 3	
	FLEET VEHICLES	46
	SCHEDULE 4	
	APPLICABLE SYSTEMS INTERFACES	47
	SCHEDULE 5	
	FLEET MAINTENANCE	48
	APPENDIX 1 TO SCHEDULE 5	
	Fleet Maintenance and Level of Services	55
	APPENDIX 2 TO SCHEDULE 5	
	Charges	57
	APPENDIX 3 TO SCHEDULE 5	
	Train Presentation Specification	58
	SCHEDULE 6	
	FUELLING AND FUEL POINT EXAMS	59
	APPENDIX 1 TO SCHEDULE 6	

Fuelling and Fuel Point Exams	63
APPENDIX 2 TO SCHEDULE 6	
Charges	64
APPENDIX 3 TO SCHEDULE 6	
Train Presentation Specification	65
SCHEDULE 7	
EXTERIOR CLEANING	66
APPENDIX 1 TO SCHEDULE 7	
Exterior Cleaning	69
APPENDIX 2 TO SCHEDULE 7	
Charges	70
APPENDIX 3 TO SCHEDULE 7	
Washing Specification	71
APPENDIX 4 TO SCHEDULE 7	
Train Presentation Specification	72
SCHEDULE 8	
STABLING	73
APPENDIX 1 TO SCHEDULE 8	
Stabling Specification	77
APPENDIX 2 TO SCHEDULE 8	
Charges	78
APPENDIX 3 TO SCHEDULE 8	
Train Presentation Specification	79
SCHEDULE 9	
WHEEL RE-PROFILING	80
APPENDIX 1 TO SCHEDULE 9	
Charges	82
APPENDIX 2 TO SCHEDULE 9	
Authority	83
APPENDIX 3 TO SCHEDULE 9	
Train Presentation Specification	84
SCHEDULE 10	
INTERIOR CLEANING	85

APPENDIX 1 TO SCHEDULE 10	
Regular Cleaning.....	88
APPENDIX 2 TO SCHEDULE 10	
Charges.....	89
APPENDIX 3 TO SCHEDULE 10	
Cleaning Specification.....	90
APPENDIX 4 TO SCHEDULE 10	
Train Presentation Specification	91
SCHEDULE 11	
OFF-DEPOT SERVICES	92
APPENDIX 1 TO SCHEDULE 11	
Off-Depot Services.....	93
APPENDIX 2 TO SCHEDULE 11	
Charges.....	94
APPENDIX 3 TO SCHEDULE 11	
Train Presentation Specification	95
SCHEDULE 12	
DEPOT ACCESS.....	96
APPENDIX 1 TO SCHEDULE 12	
Depot Access	99
APPENDIX 2 TO SCHEDULE 12	
Charges.....	100
SCHEDULE 13	
BENEFICIARY MINUTES DELAY	101
SCHEDULE 14	
DFO MINUTES DELAY	102
SCHEDULE 15	
PERFORMANCE RELATED PAYMENTS	
BY BENEFICIARY.....	103
SCHEDULE 16	
PERFORMANCE RELATED PAYMENTS BY	
DEPOT FACILITY OWNER.....	104

SCHEDULE 17	
EXISTING AGREEMENTS	105
SCHEDULE 18	
NOTIFIABLE CONDITION	111
SCHEDULE 19	
CET SERVICING	112
APPENDIX 1 TO SCHEDULE 19	
Depot Access.....	113
APPENDIX 2 TO SCHEDULE 19	
Charges.....	114
SCHEDULE 20	
DFO'S OWN SERVICES.....	115

THIS AGREEMENT is made on [REDACTED]

BETWEEN:-

- (1) The party specified in paragraph 1 of Schedule 1 (the "Depot Facility Owner");
and
- (2) The party specified in paragraph 2 of Schedule 1 (the "Beneficiary").

BACKGROUND

- (A) The Depot Facility Owner is the facility owner of the Depot.
- (B) The Beneficiary wishes to obtain permission to use the Depot.
- (C) The Depot Facility Owner has agreed to grant the Beneficiary and its Associates such permission on the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

Unless the context otherwise requires:

"1993 Act" means the Railways Act 1993;

"2026 Act" means the Railways Act 2026;

"Aggregate Beneficiary Minutes Delay" means, in respect of any Accounting Period, the aggregate number of Beneficiary Minutes Delay in that Accounting Period, subject to the proviso in Clause 8.1.4(a)(i);

"Aggregate DFO Minutes Delay" means, in respect of any Accounting Period, the aggregate number of DFO Minutes Delay in that Accounting Period, subject to the proviso in Clause 8.1.9(a)(i);

"Allowable Beneficiary Minutes Delay" means the number of Beneficiary Minutes Delay per Accounting Period specified in Part A of Schedule 13;

"Allowable DFO Minutes Delay" means the number of DFO Minutes Delay per Accounting Period specified in Part A of Schedule 14;

"Applicable Systems Interfaces" means the Systems Interfaces described in Schedule 4;

"Beneficiary Depot Services" means all those services described in Schedules 5 to 12 inclusive together with any temporary holding, shunting or marshalling required from time to time in the provision of such services;

"Beneficiary Event of Default" has the meaning attributed to it in Clause 6.2.1;

"Beneficiary Minutes Delay" means either:

- (a) the difference, expressed as a number of minutes and rounded up to the nearest whole minute, between the Diagram Departure Time and the Train Ready Time of any train other than one operated by or on behalf of the Train Operator (as an Associate of the Beneficiary); or
- (b) where a train other than one operated by or on behalf of the Train Operator (as an Associate of the Beneficiary) is cancelled or for any other reason no Train Ready Time occurs in respect of it, the number of minutes comprised in the Beneficiary Minutes Delay Cap;

to the extent only (in either case) that the incidence of delay represented by such number of minutes is caused by a breach by the Beneficiary of its obligations under this Agreement (not being a breach caused by an event of Force Majeure affecting the Beneficiary);

"Beneficiary Minutes Delay Cap" means, in respect of any Beneficiary Minutes Delay, the cap specified in Part B of Schedule 13;

"Beneficiary Minutes Delay Threshold" means, in respect of any Beneficiary Minutes Delay, the relevant de minimis threshold specified in Part C of Schedule 13;

"Change of Law" has the meaning given to it in the Depot Code;

"Commencement Date" means the date upon which this Agreement becomes fully effective in accordance with Clause 2.3.2;

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

"Default Interest Rate" means an interest rate of 2 per cent per annum above the base lending rate published from time to time by the Bank of England (or such other financial institution as the parties may agree) during the relevant period;

"Depot" means the light maintenance depot specified in paragraph 4 of Schedule 1;

"Depot Code" means, in respect of the Depot, the GBR Depot Code published on [**] as modified from time to time;

"Depot Facility Owner Event of Default" has the meaning attributed to it in Clause 6.2.3;

"DFO Change Proposal" has the meaning given to it in the Depot Code;

"DFO Minutes Delay" means either:

- (a) the difference, expressed as a number of minutes and rounded up to the nearest whole minute, between the Diagram Departure Time and the Train Ready Time of any train operated by or on behalf of the Train Operator (as an Associate of the Beneficiary); or
- (b) where a train operated by or on behalf of the Train Operator (as an Associate of the Beneficiary) is cancelled or for any other reason no Train Ready Time occurs in respect of it, the number of minutes comprised in the DFO Minutes Delay Cap;

other than to the extent (in either case) that the incidence of delay represented by such number of minutes is caused by either:

- (i) a breach by the Beneficiary or any of its Affiliates of any contractual obligation owed to the Depot Facility Owner; or
- (ii) an event of Force Majeure affecting the Depot Facility Owner;

"DFO Minutes Delay Cap" means, in respect of any DFO Minutes Delay, the relevant cap specified in Part B of Schedule 14;

"DFO Minutes Delay Threshold" means, in respect of any DFO Minutes Delay, the de minimis threshold specified in Part C of Schedule 14; **"Event of Default"** means a Beneficiary Event of Default or a Depot Facility Owner Event of Default, as the context requires;

"Excess Beneficiary Minutes Delay" means, in respect of any Accounting Period, the number of Beneficiary Minutes Delay by which the Aggregate Beneficiary Minutes Delay for that Accounting Period exceeds the Allowable Beneficiary Minutes Delay for that Accounting Period;

"Excess DFO Minutes Delay" means, in respect of any Accounting Period, the number of DFO Minutes Delay by which the Aggregate DFO Minutes Delay for that Accounting Period exceeds the Allowable DFO Minutes Delay for that Accounting Period;

"Existing Agreement" has the meaning given to it in the Depot Code;

"Fleet Vehicle" means those railway vehicles operated by or on behalf of the Train Operator (as an Associate of the Beneficiary) and of a type specified in Schedule 3;

"GBR" means Great British Railways Limited, a company registered in England under number [**] having its registered office at [**];

"GBR Code" means the document of that name as published by GBR on [**];

"Insolvency Event" means, in relation to either of the parties, where:

- (a) any step which has a reasonable prospect of success is taken by any person with a view to its administration under Part II of the Insolvency Act 1986;

- (b) it stops or suspends or threatens to stop or suspend payment of all or a material part of its debts, or is unable to pay its debts, or is deemed unable to pay its debts under section 123(1) or (2) of the Insolvency Act 1986, except that in the interpretation of this paragraph:
 - (i) section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for "£750" there were substituted "£50,000" or such higher figure as the parties may agree from time to time in writing;
 - (ii) section 123(1) and (2) of the Insolvency Act 1986 shall have effect as if the words "it is proved to the satisfaction of the court that" did not appear in those sections; and
 - (ii) it shall not be deemed to be unable to pay its debts for the purposes of this paragraph if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is satisfied before the expiration of 21 days from such demand;
- (c) its directors make any proposal under section 1 of the Insolvency Act 1986, or it makes any agreement for the deferral, rescheduling or other readjustment (or makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors) of all or a material part of its debts, or a moratorium is agreed or declared in respect of or affecting all or a material part of its debts;
- (d) any step is taken to enforce Security over or a distress, execution or other similar process is levied or sued out against the whole or a substantial part of its assets or undertaking, including the appointment of a receiver, administrative receiver, manager or similar person to enforce that Security;
- (e) any step is taken by any person with a view to its winding-up or any person presents a winding-up petition which is not dismissed within 14 days, or it ceases or threatens to cease to carry on all or a material part of its business, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation on terms approved by the other party before that step is taken (which approval shall not be unreasonably withheld or delayed); or

- (f) any event occurs which, under the law of any relevant jurisdiction, has an analogous or equivalent effect to any of the events listed above,

unless:

- (i) in any case, a railway administration order (or application for it) has been made or such order (or application) is made within 14 days after the occurrence of such step, event, proposal or action (as the case may be) in relation to that party pursuant to sections 60, 61 or 62 of the 1993 Act and for so long as any such order (or application) remains in force or pending; or
- (ii) in the case of paragraphs (a), (d), (e), or (f) in relation to matters analogous or equivalent to the matters referred to in paragraphs (a), (d) and (e), the relevant petition, proceeding or other step is being actively contested in good faith by that party with timely recourse to all appropriate measures and procedures;

"Long-stop Date" means the date specified in paragraph 3 of Schedule 1;

"Off-Depot Services", in relation to a User, has the meaning ascribed to it in Schedule 11 and, in the case of the Depot Facility Owner, means services outside the Depot which the Depot Facility Owner shall provide to railway vehicles operated by or on behalf of the Depot Facility Owner using the Depot Facilities;

"Operating Notice" means any notice to be given by one party to this Agreement to the other in respect of any matters contained or referred to in Schedules 5 to 12 inclusive and in respect of any matters contained or referred to in Conditions N3.3, N3.5, N3.9, N3.10 and N3.13;

"Relevant Agreement" means any agreement or other instrument incorporating any or all of the Depot Code;

"Safety Certificate" and **"deemed Safety Certificate"** have the meanings given to "safety certificate" and "deemed safety certificate" in the Railways and Other Guided Transport Systems (Safety) Regulations 2006;

"Scottish Ministers" has the meaning given in section 44 of the Scotland Act

1998;

"Secretary of State" means the Secretary of State for Transport and/or where this agreement relates to matters within their responsibility, the Scottish Ministers;

"Security" means any mortgage, pledge, lien (other than a lien arising by operation of law), hypothecation, security interest or other charge or encumbrance;

"SNRP" has the meaning given to it by the Railway (Licensing of Railway Undertakings) Regulations 2005;

"Suspension Notice" means a notice served by one party on the other pursuant to Clause 6.3;

"Termination Notice" means a notice served by one party on the other pursuant to Clause 6.4.1 or 6.4.2, as the case may be;

"Track Access Agreement" means the agreement for use of track, referred to in paragraph 6 of Schedule 1; and

"Train Operator" means the train operating company specified in paragraph 10 of Schedule 1.

1.2 **References**

References to this Agreement include its schedules and, unless otherwise indicated, references to recitals, Clauses, sub-Clauses, Schedules, Appendices and paragraphs are to recitals, clauses and sub-clauses of, and schedules to and appendices to schedules to, this Agreement and paragraphs of such schedules. References to this Agreement include, unless otherwise indicated, the Depot Code. References to any Condition shall be construed as a reference to the relevant Depot Code.

1.3 **Sub-contractors**

Where a party has sub-contracted its rights or obligations under this Agreement to any third party in accordance with Clause 9.5, references to that party in this Agreement shall, with the exception of Clause 7 and without prejudice to Clause 9.5, include references to any sub-contractor so appointed.

1.4 **Depot Code**

Unless the context otherwise requires, words and expressions defined in the Depot Code or which fall to be construed in accordance with such Conditions shall bear the same meanings and constructions in this Agreement and the rules of interpretation set out in the Depot Code shall apply throughout this Agreement.

2. **CONDITIONS PRECEDENT**

2.1 **Conditions Precedent**

Subject to Clauses 2.2 to 2.4, the provisions of this Agreement shall not have effect until the following conditions precedent (so far as they are applicable to each party) shall have been satisfied in full:

2.1.1 Not used

2.1.2 the Depot Facility Owner is authorised to be the operator of the Depot by a licence granted under section [7B] of the 1993 Act or is exempt from the requirement to be so authorised under section 7 of the 1993 Act;

2.1.3 the Track Access Agreement becoming effective in accordance with its terms (save for any condition relating to this Agreement becoming effective);

2.1.4 the Train Operator (as an Associate of the Beneficiary) holds a Safety Certificate or a deemed Safety Certificate in relation to its operation of trains; and

2.1.5 an Insolvency Event not having occurred in relation to either of the parties.

2.2 **Obligation to satisfy Conditions Precedent**

The parties shall use all reasonable endeavours to secure that the following conditions precedent are respectively satisfied in full by them (and that notice of such satisfaction is promptly given by each party to the other party) as soon as practicable and, in any event, not later than the Long-stop Date:

2.2.1 in the case of the Depot Facility Owner, the conditions precedent contained in Clause 2.1.2; and

2.2.2 in the case of the Beneficiary, the conditions precedent contained in Clauses, 2.1.3 and 2.1.4.

2.3 Entry into effect

2.3.1 Clauses 1, 2, 4, 6, 9, 11,12,14.1 and 14.3 and Condition A1 shall come into effect and be binding on the parties immediately upon this Agreement being signed and dated by the parties.

2.3.2 All other Clauses and Conditions shall come into effect and be binding on the parties on the date on which the last of the conditions precedent contained in Clause 2.1 has been satisfied.

2.4 Non-satisfaction

2.4.1 If any of the conditions precedent in Clause 2.1 shall not have been satisfied in full on or before the Long-stop Date, this Agreement (except Clause 2.4.2) shall lapse and neither party shall have any liability to the other under or in respect of it, save in respect of a pre-existing breach of any of Clauses 2, 4, 6, 9, 11, 12,14.1 and 14.3 and Condition A1.

2.4.2 The obligations of confidence provided for in the Depot Code shall continue in force for the period specified in Clause 14.1.1 after this Agreement has otherwise ceased to have effect pursuant to Clause 2.4.1.

3. PERMISSION TO USE THE DEPOT

3.1 The Depot Facility Owner hereby grants the Beneficiary and its Associates permission to use the Depot.

3.2 The Depot Facility Owner undertakes to provide to the Beneficiary and its Associates the Beneficiary Depot Services in accordance with this Agreement and shall comply with its other obligations contained in this Agreement.

3.3 In consideration of the permission granted to the Beneficiary and its Associates by the Depot Facility Owner in Clause 3.1 and the performance by the Depot Facility Owner of its other obligations under this Agreement, the Beneficiary shall pay the Access Charge in accordance with Clause 7 and Part F of the Depot Code and shall comply with its other obligations contained in this Agreement.

4. DEPOT CODE

4.1 The Depot Code is incorporated in and shall form part of this Agreement.

4.2.1 The Depot Facility Owner shall ensure that all operators of trains having permission to use the Depot agree to comply with the Depot Code.

4.2.2 To enable the Depot Facility Owner to comply with its obligations in Clause 4.2.1, and in so far as the Train Operator, as an Associate of the Beneficiary, is a User of the Depot within the meaning of the Depot Code:

4.2.3

(a) the Beneficiary shall ensure that the Train Operator performs and complies with the Depot Code; and

(b) for the purposes of this Agreement, any acts or omissions of the Train Operator arising in connection with this Agreement shall be considered to be acts and omissions of the Beneficiary.

4.3 During the term of this Agreement, each of the parties shall duly and punctually perform, observe and comply with its obligations set out in the Depot Code as incorporated in this Agreement pursuant to Clause 4.1.

4.4 The Train Operator:

(a) shall have such rights and remedies as it would have had if it had been party to this Agreement instead of the Beneficiary; and

(b) may enforce such rights and remedies directly

5. CONTRACT REVIEWS AND MODIFICATIONS

5.1 Reviews by the parties

5.1.1 The parties shall:

(a) [at intervals of not more than three months during the period specified in Clause 5.1.2, formally review with each other, the operation of this Agreement; and

(b) at the conclusion of any such review, negotiate in good faith and on a reasonable basis with a view to reaching agreement (subject to Condition B9) on any amendments to this Agreement which either

party may, in the light of experience gained as to the operation of this Agreement, reasonably consider necessary or desirable.

5.1.2 The period referred to in Clause 5.1.1(a) shall be the period of 12 months from the Commencement Date.]

5.2 Not used

5.3 Existing Agreements

This Agreement shall have effect with any modifications to the Existing Agreements in Schedule 17 agreed as part of limb (b) of a DFO Change Proposal pursuant to Part C of the Depot Code, and on such date agreed as part of such DFO Change Proposal.

6 TERM AND TERMINATION

6.1 Term

This Agreement shall continue in force until the earliest to occur of:

6.1.1 lapse pursuant to Clause 2.4;

6.1.2 termination pursuant to Clause 5 or this Clause 6; and

6.1.3 the Depot Facility Owner ceasing to be the facility owner of the Depot, save where the rights and obligations of the Depot Facility Owner under this Agreement have been novated or have been transferred to another train operating company by a statutory transfer scheme made by the Secretary of State or otherwise, in either case to another train operator which is the facility owner of the Depot.

6.2 Events of default

6.2.1 Beneficiary Events of Default

The following shall be Beneficiary Events of Default:

(a) Insolvency

An Insolvency Event occurs in relation to the Beneficiary;

(b) Breach of the Agreement

The Beneficiary commits a material breach of its obligations under this Agreement;

(c) **Force Majeure**

The Beneficiary fails to perform its obligations under this Agreement to any material extent for a continuous period of 90 days as a result of an event of Force Majeure;

(d) **Loss of Licence**

The Train Operator (as an Associate of the Beneficiary) ceases to be authorised to be the operator of trains by a licence granted under section 8 of the 1993 Act or a licence or SNRP granted or recognized under the Railway (Licensing of Railway Undertakings) Regulations 2005 (whether by revocation or otherwise) unless it is exempt from the requirement so to be authorised;

(e) **Loss of Safety Certificate**

The Train Operator (as an Associate of the Beneficiary) ceases to hold a Safety Certificate or deemed Safety Certificate whether because it has been revoked or otherwise;

(f) **Track Access Termination**

Termination of the Track Access Agreement unless the Train Operator (as an Associate of the Beneficiary) shall become a party to an access agreement in relation to track which is contiguous to the Depot on or before the date which is not later than 30 days after the termination of the Track Access Agreement (any such agreement being thereafter treated as the Track Access Agreement); and

(g) **Non operation**

The Beneficiary does not require the Depot Facility Owner to carry out at least an average of ninety-five per cent. (95%) by value of the Minimum Level of Services in six consecutive Accounting Periods.

6.2.2 The Beneficiary shall notify the Depot Facility Owner promptly on becoming aware of the occurrence of a Beneficiary Event of Default.

6.2.3 Depot Facility Owner Events of Default

The following shall be Depot Facility Owner Events of Default:

(a) Insolvency

An Insolvency Event occurs in relation to the Depot Facility Owner;

(b) Breach of the Agreement

The Depot Facility Owner commits a material breach of its obligations under this Agreement;

(c) Force Majeure

The Depot Facility Owner fails, for a continuous period of 90 days, to perform its obligations under this Agreement to any material extent as a result of an event of Force Majeure; and

(d) Loss of Licence

The Depot Facility Owner ceases to be authorised to be the operator of the Depot by a licence granted under section [7B] of the 1993 Act (whether by revocation or otherwise) unless it is exempt from the requirement so to be authorised under section 7 of the 1993 Act.

6.2.4 The Depot Facility Owner shall notify the Beneficiary promptly on becoming aware of the occurrence of a Depot Facility Owner Event of Default.

6.3 Suspension

6.3.1 Right to suspend

(a) The Depot Facility Owner may serve a Suspension Notice where a Beneficiary Event of Default has occurred and is continuing, provided the relevant Event of Default is reasonably capable of remedy.

(b) The Beneficiary may serve a Suspension Notice where a Depot Facility Owner Event of Default has occurred and is continuing, provided the relevant Event of Default is reasonably capable of remedy.

6.3.2 Contents of a Suspension Notice

A Suspension Notice shall specify:

- (a) the nature of the relevant Event of Default;
- (b) the date and time at which suspension is to take effect;
- (c) in the case of a Suspension Notice served on the Beneficiary, reasonable restrictions imposed on the grant to the Beneficiary and its Associates of permission to use the Depot and the provision of the Beneficiary Depot Services while the Suspension Notice is in force;
- (d) in the case of a Suspension Notice served on the Depot Facility Owner, details of any suspension of the grant to the Beneficiary of the permission to use the Depot and of the provision of the Beneficiary Depot Services while the Suspension Notice is in force;
- (e) the steps reasonably required to remedy the relevant Event of Default; and
- (f) a reasonable grace period for the defaulting party to remedy it (and where the relevant Event of Default is a failure to pay any part of the Access Charge, seven days shall be a reasonable grace period unless otherwise agreed).

6.3.3 Effects of a Suspension Notice served by the Depot Facility Owner

Where the Depot Facility Owner has served a Suspension Notice on the Beneficiary:

- (a) it shall have the effect of suspending the permission to use the Depot and the provision of the Beneficiary Depot Services to the extent specified in such Suspension Notice;
- (b) the Beneficiary shall comply with any reasonable restriction thereby imposed on it;

- (c) the Suspension Notice shall remain in full force and effect until it has been revoked either in whole or in part by notice from the Depot Facility Owner to the Beneficiary pursuant to Clause 6.3.5(d); and
- (d) service of a Suspension Notice shall not affect the Beneficiary's continuing obligation to pay the Access Charge.

6.3.4 Effect of a Suspension Notice served by the Beneficiary

Where the Beneficiary has served a Suspension Notice on the Depot Facility Owner:

- (a) it shall have the effect of suspending the permission to use the Depot and the provision of the Beneficiary Depot Services to the extent specified in such Suspension Notice;
- (b) the Suspension Notice shall remain in full force and effect until it has been revoked either in whole or in part by notice from the Beneficiary to the Depot Facility Owner pursuant to Clause 6.3.5(d); and
- (c) without prejudice to the Beneficiary's rights under Clause 8, the Beneficiary shall not be obliged to pay the Access Charge in respect of such Beneficiary Depot Services.

6.3.5 Suspension to be proportionate to breach

- (a) A Suspension Notice served pursuant to Clause 6.3.1 in respect of any Beneficiary Event of Default which relates only to particular Beneficiary Depot Services shall, so far as reasonably practicable, apply only to those Beneficiary Depot Services (or (as the case may be) parts or part of them) and the remainder of the rights and obligations of the parties shall remain in full force and effect.
- (b) A Suspension Notice served pursuant to Clause 6.3.1 in respect of any Depot Facility Owner Event of Default which relates only to particular Beneficiary Depot Services shall, so far as reasonably practicable, apply only to those Beneficiary Depot Services (or (as the case may be) parts or part of them) and the remainder of the rights and obligations of the parties shall remain in full force and effect.

- (c) The party served with a Suspension Notice shall, with all reasonable diligence, take such steps as shall be reasonable and necessary to remedy the Event of Default and shall keep the party serving the Suspension Notice fully informed of the progress which is being made in remedying the Event of Default.
- (d) Where a party served with a Suspension Notice has complied with its obligations under Clause 6.3.5(c) (whether in whole or in part) and it is reasonable for the suspension effected by the Suspension Notice to be revoked (whether in whole or in part), the party which shall have served the Suspension Notice shall revoke the suspension to that extent. Such revocation shall be effected as soon as practicable after the remedy in question, by notice to the other party specifying the extent of the revocation and the date on which it shall have effect.

6.4 Termination

6.4.1 The Depot Facility Owner's right to terminate

The Depot Facility Owner may serve a Termination Notice on the Beneficiary where:

- (a) the Beneficiary fails to comply with any material restriction in a Suspension Notice provided that the relevant Beneficiary Event of Default is continuing;
- (b) the Beneficiary fails to comply with its obligations under Clause 6.3.5(c) provided that the relevant Beneficiary Event of Default is continuing;
- (c) except during the period of a Suspension Notice relating to it, a Beneficiary Event of Default has occurred and is continuing; or

6.4.2 The Beneficiary's right to terminate

The Beneficiary may serve a Termination Notice on the Depot Facility Owner where:

- (a) the Depot Facility Owner fails to comply with its obligations under Clause 6.3.5(c) provided that the relevant Depot Facility Owner Event of Default is continuing; or

(b) except during the period of a Suspension Notice relating to it, a Depot Facility Owner Event of Default has occurred and is continuing; or

(c) in accordance with Clause 9.2.7.

6.4.3 Contents of Termination Notice

A Termination Notice shall specify:

(a) the nature of the relevant Event of Default or other matter entitling termination under Clause 6.4.1 or 6.4.2 as the case may be;

(b) the date and time at which termination is to take effect, which in the case of any notice shall not be earlier than the expiry of any relevant grace period under Clause 6.4.3(c)(ii); and

(c) where the relevant Event of Default is capable of remedy:

(i) the steps reasonably required to remedy the Event of Default;
and

(ii) a reasonable grace period within which such steps may be taken (and where the Event of Default is a failure of the Beneficiary to pay the Access Charge, seven days shall be a reasonable grace period unless otherwise agreed).

6.4.4 Effects of a Termination Notice

Where either party has served a Termination Notice on the other:

(a) the service of the Termination Notice shall not affect the parties' continuing rights and obligations under this Agreement up to the date of termination as specified in the Termination Notice or such later date as the party which has served the Termination Notice may notify to the other following the service of the Termination Notice but prior to the date upon which it shall have been specified to have effect;

(b) the party which has served the Termination Notice shall withdraw it by notice to the other party upon being reasonably satisfied that any relevant Event of Default has been remedied;

(c) this Agreement shall terminate on the date and time specified in the Termination Notice or such later date and time as the party which has served the Termination Notice may notify to the other prior to the date and time upon which it shall have been specified to have effect;

(d) not used; and

(e) termination of this Agreement by either party shall be without prejudice to any right of action that may have arisen prior to, or may arise in consequence of, such termination.

6.5 Exclusion of common law termination rights

The suspension and termination rights set out in this Clause 6 and Clause 5 shall be the parties' only rights to suspend or terminate this Agreement, whether pursuant to its terms, at law or otherwise.

6.6 Not used

6.7 Termination by either party

Either party may terminate this Agreement by not less than 180 days' notice to the other to be effective not earlier than the first date upon which significant changes may be made to a timetable of railway passenger services published or procured to be published to the public by GBR, such date being one specified by GBR.

6.8 Suspension of Notice of Termination

Any notice of Termination served by the Depot Facility Owner under clause 6.7 shall, without prejudice to any rights of the Beneficiary under applicable law, take effect in accordance with its terms.

7. CHARGES FOR PERMISSION TO USE THE DEPOT

The Access Charge incorporating the specific charges set out in the relevant Appendices to Schedules 5 to 12 shall be calculated and paid in accordance with Part F of the Depot Code.

8. REMEDIES

8.1 Delays and specified performance defaults

8.1.1 The Depot Facility Owner, within 5 Business Days following each relevant Diagram Departure Time, shall notify to the Beneficiary:

(a) the Train Ready Time or other fact as recorded by the Depot Facility Owner pursuant to Condition L1.1, in respect of each train operated by or on behalf of the Train Operator (as an Associate of the Beneficiary), in any case where either:

(i) the Train Ready Time is later than the relevant Diagram Departure Time for that train; or

(ii) that train is cancelled or for any other reason no Train Ready Time occurs in respect of it;

together with (in any such case), where relevant,

(b) both:

(i) the relevant number of DFO Minutes Delay; and

(ii) particulars sufficient to enable the Beneficiary to make a proper assessment of how and the extent to which the Depot Facility Owner considers that any delay referred to in Clause 8.1.1(a)(i) or (a)(ii) but not included in the computation of DFO Minutes Delay was caused by either

(1) a breach by the Beneficiary or any of its Affiliates of any contractual obligation owed to the Depot Facility Owner; or

(2) an event of Force Majeure affecting the Depot Facility Owner.

8.1.2 The Depot Facility Owner, within 5 Business Days following each relevant Diagram Departure Time, shall notify to the Beneficiary, together with the information notified pursuant to Clause 8.1.1:

(a) the Train Ready Time or other fact as recorded by the Depot Facility Owner pursuant to Condition L1.1, in respect of each train other than one operated by or on behalf of the Train Operator (as an Associate of the Beneficiary), in any case where both:

(i) either:

(1) the Train Ready Time is later than the relevant Diagram Departure Time for that train; or

(2) that train is cancelled or for any other reason no Train Ready Time occurs in respect of it; and

(ii) (in either case) the Depot Facility Owner considers that such delay was wholly or partly caused by a breach by the Beneficiary of its obligations under this Agreement (not being a breach caused by an event of Force Majeure affecting the Beneficiary):

together with (in any such case).

(b) both:

(i) the relevant number of Beneficiary Minutes Delay; and

(ii) particulars sufficient to enable the Beneficiary to make a proper assessment of how and the extent to which the Depot Facility Owner considers that any delay referred to in Clause 8.1.2(a)(i)(1) or (2) was caused by a matter referred to in Clause 8.1.2(a)(ii).

8.1.3 The Beneficiary shall be deemed to have agreed any DFO Minutes Delay, any Beneficiary Minutes Delay and any associated particulars of causation or contribution so notified to it, unless and to the extent that, within 5 Business Days of the time of service of the relevant notice, the Beneficiary shall have notified to the Depot Facility Owner that it disputes

any of its contents. Any such notice by the Beneficiary shall specify what is disputed, and state reasons.

8.1.4 Within 5 Business Days of the end of each Accounting Period, the Depot Facility Owner shall:

(a) notify the Beneficiary of the:

- (i) Aggregate Beneficiary Minutes Delay for that Accounting Period, provided that there shall not be included in the calculation of Aggregate Beneficiary Minutes Delay any Beneficiary Minutes Delay which are less than the relevant Beneficiary Minutes Delay Threshold or in excess of the Beneficiary Minutes Delay Cap; and
- (ii) Excess Beneficiary Minutes Delay for that Accounting Period; and

(b) submit an invoice to the Beneficiary covering:

- (i) all such Excess Beneficiary Minutes Delay, charged at the rates specified in Part D of Schedule 13 (or at such higher rates as for the time being shall have taken effect pursuant to Clause 8.1.5); and
- (ii) such other performance related payments as shall be due from the Beneficiary in accordance with Clause 8.2.

8.1.5 The Allowable Beneficiary Minutes Delay shall be decreased or the rates of payment specified in Part D of Schedule 13 shall be increased from time to time in such manner, on such conditions, and for such purposes as shall have been agreed by the Parties [or otherwise determined under Part H5 of the Depot Code.

8.1.6 All invoices submitted under Clause 8.1.4(b) shall:

- (a) be in sufficient detail to enable the Beneficiary to make a proper assessment of the amounts being levied;

- (b) be accompanied by reasonable supporting information (save to the extent already supplied by the Depot Facility Owner to the Beneficiary); and

- (c) be sent by electronic or facsimile transmission (with confirmation copy by prepaid first class post) to the Beneficiary's address for service set out in this Agreement.

8.1.7 Subject to Clause 8.1.8, the Beneficiary shall pay each such invoice within 28 days of receipt of the confirmation copy of the invoice delivered to the Beneficiary in accordance with Clause 8.1.6(c).

8.1.8 If the Beneficiary shall dispute its liability to pay any part of any such invoice, it shall not pay that part which shall be in dispute (pending final resolution of any dispute resolution proceedings which may have been commenced in relation to the matters in dispute) but shall pay the balance. If and to the extent that it is finally determined that the part so unpaid was properly payable by the Beneficiary, so much of the part as should have been paid shall bear interest in accordance with Clause 14.2.1 as though the Beneficiary had defaulted in the payment of it when originally due.

8.1.9 Within 15 Business Days of the end of each Accounting Period, the Beneficiary shall:

- (a) notify the Depot Facility Owner of the:

- (i) Aggregate DFO Minutes Delay in respect of that Accounting Period, provided that there shall not be included in the calculation of Aggregate DFO Minutes Delay any DFO Minutes Delay which are less than the relevant DFO Minutes Delay Threshold or any DFO Minutes Delay to the extent that they are more than the relevant DFO Minutes Delay Cap; and

- (ii) Excess DFO Minutes Delay in respect of that Accounting Period; and

- (b) submit an invoice to the Depot Facility Owner covering:

- (i) all such Excess DFO Minutes Delay, charged at the rates specified in Part D of Schedule 14 (or at such higher rates as for the time being shall have taken effect pursuant to Clause 8.1.10); and

- (ii) such other performance related payments as shall be due from the Depot Facility Owner in accordance with Clause 8.2.

8.1.10 The Allowable DFO Minutes Delay shall be decreased or the rates of payment specified in Part D of Schedule 14 shall be increased from time to time in such manner, on such conditions, and for such purposes as shall have been agreed by the Parties or otherwise determined under Part H5 of the Depot Code.

8.1.11 All invoices submitted under Clause 8.1.9(b) shall:

- (a) be in sufficient detail to enable the Depot Facility Owner to make a proper assessment of the amounts being levied;
- (b) be accompanied by reasonable supporting information (save to the extent already supplied by the Beneficiary to the Depot Facility Owner); and
- (c) be sent by electronic or facsimile transmission (with confirmation copy by prepaid first class post) to the Depot Facility Owner's address for service set out in this Agreement.

8.1.12 Subject to Clause 8.1.13, the Depot Facility Owner shall pay each such invoice within 28 days of receipt of the confirmation copy of the invoice delivered to the Depot Facility Owner in accordance with Clause 8.1.11(c).

8.1.13 If the Depot Facility Owner shall dispute its liability to pay any part of any such invoice, it shall not pay that part which shall be in dispute (pending final resolution of any dispute resolution proceedings which may have been commenced in relation to the matters in dispute) but shall pay the balance. If and to the extent that it is finally determined that the part so unpaid was properly payable by the Depot Facility Owner, so much of the part as should have been paid shall bear interest in accordance with

Clause 14.2.1 as though the Depot Facility Owner had defaulted in the payment of it when originally due.

8.2 Performance incentives

8.2.1 The Depot Facility Owner shall pay the Beneficiary such amounts, by reference to such performance criteria, as are specified in Schedule 16.

8.2.2 The Beneficiary shall pay the Depot Facility Owner such amounts, by reference to such performance criteria, as are specified in Schedule 15.

8.3 Indemnities

8.3.1 Subject to Clause 8.4, the Depot Facility Owner shall (on an after tax basis) indemnify the Beneficiary, and keep it indemnified, against all damage, losses, claims, proceedings, demands, liabilities, reasonable costs, damages, orders and reasonable out of pocket expenses (including costs reasonably incurred in investigating or defending any claim, proceedings, demand or order and any expenses reasonably incurred in preventing, avoiding or mitigating loss, liability or damage) incurred or suffered by it as a result of any breach by the Depot Facility Owner of any of its obligations under this Agreement.

8.3.2 Subject to Clause 8.4, the Beneficiary shall (on an after tax basis) indemnify the Depot Facility Owner and keep it indemnified, against all damage, losses, claims, proceedings, demands, liabilities, reasonable costs, damages, orders and reasonable out of pocket expenses (including costs reasonably incurred in investigating or defending any claim, proceedings, demand or order and any expenses reasonably incurred in preventing, avoiding or mitigating loss, liability or damage) incurred or suffered by it as a result of any breach by the Beneficiary of any of its obligations under this Agreement.

8.4 Limitation on claims

8.4.1 Neither party shall be liable, in respect of any breach of this Agreement, under the indemnities specified in Clause 8.3:

- (a) unless notice of such breach is given by or on behalf of the claimant to the respondent setting out detailed particulars of the grounds on which the relevant claim is based within 6 months after the facts giving rise to such claim first became known by the claimant;

(b) arising from any single occurrence or circumstance (or connected series of occurrences or circumstances) if the amount of the relevant claim does not exceed:

(i) in the case of a claim against the Depot Facility Owner, the amount specified in paragraph 1 of Schedule 17; and

(ii) in the case of a claim against the Beneficiary, the amount specified in paragraph 2 of Schedule 17;

(c) unless the aggregate amount of all claims for which the respondent would otherwise be liable to the claimant exceeds:

(i) in the case of a claim against the Depot Facility Owner the amount specified in paragraph 3 of Schedule 17; and

(ii) in the case of a claim against the Beneficiary, the amount specified in paragraph 4 of Schedule 17;

in any Accounting Year, in which case the liability of the respondent to the claimant shall be limited to the amount of the excess over those amounts respectively;

(d) arising from a single occurrence or circumstance (or connected series of occurrences or circumstances) to the extent that the amount of the relevant claim exceeds:

(i) in the case of a claim against the Depot Facility Owner, the amount specified in paragraph 5 of Schedule 17; and

(ii) in the case of a claim against the Beneficiary, the amount specified in paragraph 6 of Schedule 17,

provided that Clause 8.4.1(d) shall not apply to any liability in respect of physical damage to property;

- (e) in respect of any incidence of delay to a train operated by or on behalf of the Beneficiary, the Depot Facility Owner or any other User under a Depot Access Agreement,

provided that Clause 8.4.1 shall not apply to any liability in respect of death or injury to persons caused by negligence.

8.4.2 The Beneficiary shall not be liable under the indemnity specified in Clause 8.3.2:

- (a) in respect of any incidence of delay to a train operated by or on behalf of a Relevant Operator; or
- (b) for any liquidated damages which the Depot Facility Owner shall have been required to pay any other User under a Depot Access Agreement.

8.4.3 The Depot Facility Owner shall not be liable under the indemnity specified in Clause 8.3.1:

- (a) in respect of any incidence of delay to any train operated by or on behalf of the Beneficiary; or
- (b) for any liquidated damages which the Beneficiary shall have been required to pay to the Depot Facility Owner.

8.4.4 Without prejudice to the provisions of Clauses 8.1 and 8.2, neither party to this Agreement shall be liable to the other, under the indemnities specified in Clause 8.3, for any loss of revenue suffered by the other or the Train Operator (including fare revenue, subsidy, access charge revenue and incentive payments).

8.4.5 The remedies provided for in this Agreement and, to the extent applicable, the Access Dispute Resolution Rules shall be the sole remedies available to the parties in respect of any matters for which such remedies would, but for the limitations in Clauses 8.4.1, 8.4.2, 8.4.3 and 8.4.4, be available.

8.5 Replacement or repair of parts

Without prejudice to Clauses 8.1 to 8.4, if the Beneficiary requests the Depot Facility Owner to replace or repair any parts in relation to which the Depot Facility Owner shall be in breach of any of its obligations under or arising pursuant to Conditions N1.2, N1.3 and N1.4, the Depot Facility Owner shall comply with such request within 5 Business Days of receipt of such request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that it should not do so.

9. WHOLE AGREEMENT, AMENDMENT AND ASSIGNMENT

9.1 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. This Clause 9.1 shall not have the effect of excluding any term implied by law.

9.2 Amendment

9.2.1 This contract may be varied at any time by agreement in writing between the Parties.

9.2.2 Subject to following the process specified in clauses 9.2.3 to 9.2.6, the Depot Facility Owner may at any time propose and implement a variation to this Agreement where it considers it necessary to do so:

- (a) to comply with, or give effect to, the Depot Facility Owner's licence;
- (b) in order to implement updated model contract terms;
- (c) in order to comply with a Direction, including of the Office of Rail and Road in exercise of its safety functions, duties and powers under the 1993 Act and Railways and Transport Safety Act 2003;
- (d) in order to effect a change under the Depot Code or GBR Code or as a consequence of a change to the Depot Code or GBR Code, including a "Change" under Part C of the GBR Code;
- (e) as a result of a Change of Law.

9.2.3 Before implementing any variation under Clause 9.2.2, the Depot Facility Owner shall:

- (a) give the Beneficiary written notice of the proposed variation, including reasonable details of its nature, the proposed contractual wording of change, the reasons for it, and its anticipated impact;
- (b) consult the Beneficiary for a period of not less than 30 days from the date of such notice (or such longer period as the Parties may agree); and
- (c) during that period, allow the Beneficiary a reasonable opportunity to make representations in respect of the proposed variation, which may include proposing modifications to the variation.

9.2.4 The Depot Facility Owner shall consider any representations made by the Beneficiary in response to the consultation carried out under clause 9.2.3, including any proposed modifications, before deciding whether to proceed with the proposed variation.

9.2.5 The Depot Facility Owner shall notify in writing the Beneficiary of its decision pursuant to clause 9.2.4 and give its reasons for the decision.

9.2.6 If the Depot Facility Owner decides to proceed with the variation as originally proposed or as modified, the Depot Facility Owner shall include in its notice pursuant to clause 9.2.5, the text of the variation to this Agreement, and specify the date on which the variation shall take effect (being no fewer than five Working Days from the date on which the notice is given) and this Agreement shall be varied in accordance with the terms of such notice with effect from the date specified in the notice.

9.2.7 Where the Beneficiary, does not accept a variation notice issued under Clause 9.2.5, it may terminate this Agreement in accordance with Clause 6.4.2.

9.3 **Assignment**

Subject to Clause 9.4, this Agreement shall be binding on and enure to the benefit of the parties and their successors and permitted assignees but neither party may novate, assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the other party.

9.4 **Novation**

The Parties may novate this Agreement subject to agreement between themselves and any incoming party.

9.5 **Sub-contracting**

Either party may subcontract the performance of any of its obligations under this Agreement without thereby relieving it of any such obligations to the other party.

9.6 **Ceasing to be a facility owner**

9.6.1 In this Clause 9.6 "a relevant disposal" means the disposal or the creation of any estate, interest, right or title in or to the Depot which, whether or not with the passage of time or the giving of notice, may result in another person becoming the facility owner in respect of the Depot but does not include the creation of Security over the Depot.

9.6.2 The Depot Facility Owner shall not make a relevant disposal otherwise than to a person holding a light maintenance depot licence in respect of the Depot who prior to the making of the relevant disposal has taken a novation of this Agreement.

9.6.3 A relevant disposal shall not release the Depot Facility Owner from any accrued but unperformed obligation, the consequences of any breach of this Agreement or any liability in respect of any act or omission under or in relation to this Agreement arising prior to the date of that relevant disposal.

10. NOT USED

11. NOTICES AND COMMUNICATIONS

- 11.1 Any notice or other communication, with the exception of Operating Notices, 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 electronic transmission to the party on whom the notice is to be served at the relevant address for service set out in paragraph 1 of 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.
- 11.2 Any Operating Notice shall be in writing and given to the person set out in paragraph 2 of Schedule 2, or to such other person in the United Kingdom as that party may specify by notice to the other party to this Agreement in accordance with the relevant provision of this Agreement or the Depot Code and shall be deemed to have been received by the party to whom it is addressed 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 or other sufficient evidence of transmission.
- 11.3 Any notice or other communication made in accordance with this Clause 11 shall be, or shall be deemed to have been, received by the party to whom it is addressed if sent by hand or recorded delivery when so delivered or in the case of pre-paid first class post, 2 days after posting.

12. GOVERNING LAW AND SUBMISSION TO JURISDICTION

12.1 Governing law

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

12.2 Jurisdiction

Subject to the Depot Code, the parties irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with, this Agreement.

13. RIGHTS OF THIRD PARTIES

13.1 Application to Third Parties

Except as provided in this Clause 13 or as expressly provided elsewhere in this contract, no person who is not a party to this contract shall have any right (whether by virtue of any enactment that is part of the applicable law of this Agreement or otherwise) to directly enforce such rights as have been granted to them under this Agreement.

13.2 Application to the Secretary of State

The Secretary of State shall have the right (whether by virtue of any enactment that is part of the applicable law of this Agreement or otherwise) to directly enforce such rights as have been granted to them under this Agreement.

14 GENERAL

14.1 Confidentiality

14.1.1 Except as permitted by Clause 14.1.2 and 14.1.3, all data and information acquired or received by any party under or pursuant to a Relevant Agreement shall be held confidential during the continuance of such agreement and for a period of six years thereafter, and shall not be divulged in any way to any third party without the prior written approval of the other party.

14.1.2 Any party to a Relevant Agreement shall be entitled in good faith to divulge any data or information to which Clause 14.1.1 applies without the approval of the other party to the following third parties and, where relevant, in the following circumstances:

- (a) to the Secretary of State;
- (b) to the Regulator;
- (c) Not used;
- (d) to any Affiliate of such party upon obtaining an undertaking of strict confidentiality from such Affiliate;
- (e) to any officer or employee of the party in question or any person engaged in the provision of goods or services to or for him if disclosure is necessary or expedient to enable the party in question to perform its obligations under the Relevant Agreement or to

enforce its rights under such Agreement, upon obtaining an undertaking of strict confidentiality from such person;

- (f) to any person who has entered into bona fide discussions with the Depot Facility Owner in relation to the entry by that person into a Depot Access Agreement, in respect of information in any set of financial accounts (and supporting information) in respect of the Depot Services, upon obtaining an undertaking of strict confidentiality from such person;
- (g) to any lender, security trustee, bank or other financial institution from whom such party or any person referred to in Clause 14.1.2(d) to 14.1.2(f) is seeking or obtaining finance, upon obtaining an undertaking of strict confidentiality from such entity or advisers;
- (h) to any professional advisers or consultants of such party or any of the foregoing persons and acting in that capacity, upon obtaining an undertaking of strict confidentiality from such advisers or consultants;
- (i) to the extent required by the 1993 Act or 2026 Act, any licence under the 1993 Act held by the party in question, any other applicable law, the rules of any recognised stock exchange or regulatory body or any written request of any taxation authority;
- (j) to the extent that it has become available to the public other than as a result of any breach of an obligation of confidence; or
- (k) pursuant to the order of any court or tribunal of competent jurisdiction (including the Access Disputes Committee or any sub-committee of it).

14.1.3 The Depot Facility Owner may disclose information to which this Clause 14.1 applies if and to the extent that [Part 9 of Schedule 7] of any access agreement conferring permission to use track for the purpose of operation of trains on that track for the carriage of passengers by railway so provides.

14.2 Payments, default interest and VAT

14.2.1 Default interest

If any party to a Relevant Agreement defaults in the payment, when due, of any sum payable under such agreement (howsoever determined), the liability of such party shall be increased to include interest on such sum from the date when such payment is due until the date of actual payment (both before and after judgment) at the Default Interest Rate. All such interest shall be calculated on the actual number of days elapsed and a 365-day year.

14.2.2 Payments gross

All sums due under a Relevant Agreement shall be paid:

- (a) without deduction or withholding in respect of duties, taxes, taxation or charges otherwise of a taxation nature, unless the deduction or withholding is required by law, in which event the payer shall:
 - (i) ensure that the deduction or withholding does not exceed the minimum amount legally required;
 - (ii) account to the relevant taxation or other authorities within the period for payment permitted by the applicable law for the full amount of the deduction or withholding; and
 - (iii) furnish to the payee within the period for payment permitted by the relevant law either an official receipt of the relevant taxation authorities involved in respect of all amounts so deducted or withheld or, if such receipts are not issued by the taxation authorities concerned, a certificate of deduction or equivalent evidence of the relevant deduction or withholding; and
- (b) free and clear of any other deduction, withholding, set-off or counterclaim save only as may be required or permitted by law or in accordance with the Relevant Agreement.

14.2.3 VAT

- (a) Where any taxable supply for VAT purposes is made under or in connection with a Relevant Agreement by a party to that agreement to

any other party, the payer shall, in addition to any payment required for that supply, pay upon presentation of a valid tax invoice such VAT as is chargeable in respect of that supply.

- (b) Where under a Relevant Agreement a party to that agreement has agreed to reimburse or indemnify any other party in respect of any payment made or cost incurred by the other then the first party shall also reimburse any VAT paid by the other which forms part of its payment made or cost incurred to the extent such VAT is not available for credit for the other, or for any person with which the indemnified party is treated as a member of a group for VAT purposes, under sections 25 and 26 of the Value Added Tax Act 1994.
- (c) Where any rebate or repayment of any amount is payable by one party to a Relevant Agreement to any other party, and the first party is entitled as a matter of law or of Customs & Excise practice to issue a valid VAT credit note, such rebate or repayment shall be paid together with an amount representing the VAT paid on that part of the consideration in respect of which the rebate or repayment is made and the first party shall issue an appropriate VAT credit note to the other party.

14.3 Invalidity and waiver

14.3.1 Invalidity

If any provision in a Relevant Agreement shall be held to be void, illegal, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be deemed not to form part of the Relevant Agreement but the legality, validity and enforceability of the remainder of such agreement shall not be affected.

14.3.2 Waiver

No waiver by any party of any default by any other in the performance of any of the provisions of a Relevant Agreement shall operate or be construed as a waiver of any other or further default, whether of a like or different character. The failure to exercise or delay in exercising a right or remedy under a Relevant Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. No single or partial exercise of any right or remedy

under a Relevant Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

IN WITNESS whereof this Agreement has been signed by or on behalf of the parties.

SCHEDULE 1
CONTRACT PARTICULARS

1. Depot Facility Owner:

Name: [Great British Railways Limited]

Registered office:

2. Beneficiary:

Name:

Registered office:

3. Long-stop Date:

The date which is [1 calendar month] from the date of this Agreement.

4. Depot:

The light maintenance depot known as [], at [insert address].

GBR shall make available further details relating to the Depot on request.

The Depot is shown edged in blue on the plan in Appendix 1 to this Schedule 1 (the Plan) and includes the boundary walls, fences and gates belonging to the Depot (whether or not identified by lettering on the Plan).

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

Colour	Included on Plan	Treatment
Yellow	YES/NO	Represents subway outside blue edging but included in the Depot.
Green	YES/NO	Represents bridge, raft or Depot roof outside blue edging but included in the Depot.

Red hatch	YES/NO	Represents bridge, raft, viaduct, arch or other overlying structure which (with everything above it) is within blue edging but excluded from the Depot.
Green hatch	YES/NO	Represents bridge, viaduct, arch, tunnel or other underlying structure which (with everything within or beneath it) is within blue edging but excluded from the Depot.
Purple	YES/NO	Represents the route of an emergency access from the Depot referred to in Part J.
Brown colour and/or brown colour hatched brown	YES/NO	Represents a right of way referred to in Part J.
Uncoloured brown hatch and/or cross hatch	YES/NO	Represents a right of way referred to in Part K.
Lettering	YES/NO	Represents boundary walls fences and gates belonging to the Depot between the lettered points.

5. **Track Access Agreement:**

Access contract dated [] between GBR and the Train Operator providing permission for the Train Operator to use track in order to operate trains to and from the entrance to the Depot.

6. **Excluded Equipment**

[insert]

7. Existing Works and Adjacent Works

A) Existing Works

[insert]

B) Specifications of Existing Works

[insert]

C) Adjacent Works

[insert]

8. Miscellaneous Provisions

8.1 The provisions referred to in Condition A1.4 are: [].

8.2 The amount referred to in Condition H2.2.1 is £5,000.

8.3 The amount referred to in Condition H2.2.2 is £5,000.

8.4 The amounts in paragraphs 8.2 and 8.3 shall be subject to indexation annually in line with movements in the CPI measured from 1st November to 31st October, with each such adjustment taking effect on 1st April in the following year.

9. Beneficiary's Train Preparation

[insert]

10. Train Operator:

Name:

Registered office:

**APPENDIX 1 TO SCHEDULE 1
DEPOT PLAN**

SCHEDULE 2 NOTICES

1. Formal Notices

Address for service on the Depot Facility Owner:

(Attention: [])

[Address]

[Contact Details:]

Address for service on the Beneficiary:

(Attention: [])

[Address]

[Contact Details]

2. Operating Notices

Details for Service on the Depot Facility Owner:

Relevant Employee

Contact Details

Details for Service on the Beneficiary:

Relevant Employee

Contact Details

**SCHEDULE 3
FLEET VEHICLES**

**Type of Railway Vehicle
defined in Schedule 5)**

Running Maintenance Programme (as

SCHEDULE 4
APPLICABLE SYSTEMS INTERFACES

The Applicable Systems Interfaces are such Systems Interfaces as are in full operational use by the parties at the Commencement Date for the exchange between the parties of all relevant information in respect of the following matters:

[]

together with, when fully developed and operational, the following specific Systems Interfaces:

[].

SCHEDULE 5 FLEET MAINTENANCE

1 Definitions

In this Schedule:

"Abnormal Work" means that work which needs to be carried out on any Part which is Incomplete in order to restore that Part to a condition in which Repair Work may properly be performed on it;

"Abnormal Work Costs" means, in respect of any Abnormal Work, the reasonable costs and expenses reasonably and properly incurred in carrying out or procuring that Abnormal Work;

"Appendix" means an appendix to this Schedule;

"Component" means any spare part of a type specified in paragraph 6 of Appendix 1 fitted to a Fleet Vehicle by the Depot Facility Owner in the performance of Vehicle Maintenance, Work Arising or Vehicle Repairs;

"Incomplete" means missing material components or being otherwise materially damaged, fair wear and tear excepted;

"Part" means any item of a type which when removed (other than temporarily) from a Fleet Vehicle is, as part of normal Depot procedures, ordinarily returned to its supplier for Repair Work;

"Repair Work" means that work normally carried out on a Part in order to overhaul it and return it to a condition in which it can properly be resupplied for use on or in connection with railway vehicles;

"Running Maintenance Programme" means, in respect of each type of Fleet Vehicle, the specification for Vehicle Maintenance and Work Arising set out in the documentation supplied to the Beneficiary by the owner of that Fleet Vehicle, as listed in column 2 of Schedule 3;

"Train Presentation Specification" means the specification referred to in Appendix 3;

"Vehicle Maintenance" means the maintenance work and procedures set out in paragraph 1 of Appendix 1 to be carried out by the Depot Facility Owner as more fully described in the relevant Running Maintenance Programme;

"Vehicle Repairs" means any repair work and procedures required to be carried out on a Fleet Vehicle to prepare such Fleet Vehicle for service (whether or not arising from Vehicle Maintenance) and for which a Minimum Level of Services has not been specified; and

"Work Arising" means further maintenance and repair work and procedures required to be carried out on a Fleet Vehicle to prepare such Fleet Vehicle for service and arising from Vehicle Maintenance as specified in Appendix 1 to Schedule 5.

2 Vehicle Maintenance

- 2.1 The Depot Facility Owner shall provide the Beneficiary with Vehicle Maintenance up to the Minimum Level of Services as specified in paragraph 2 of Appendix 1.
- 2.2 The Depot Facility Owner shall provide the Beneficiary with additional Vehicle Maintenance up to the Maximum Level of Services as specified in paragraph 3 of Appendix 1 and for such of the Fleet Vehicles, in each case as the Beneficiary may request, except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.
- 2.3 If the Beneficiary does not receive or anticipates that it will not require to receive the whole of the Vehicle Maintenance specified in paragraph 2 of Appendix 1 to be provided in an Accounting Period, the Beneficiary may request that the unperformed Vehicle Maintenance from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot Facility Owner shall provide the Beneficiary with additional Vehicle Maintenance of an amount equal to the unperformed Vehicle Maintenance carried forward except where, and to the extent that:
 - 2.3.1 the unperformed Vehicle Maintenance carried forward exceeds 5% by value of the Vehicle Maintenance specified in paragraph 2 of Appendix 1 to be provided in the Accounting Period from which that Vehicle Maintenance is carried forward; or

- 2.3.2 the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

3 Work Arising

- 3.1 The Depot Facility Owner shall provide the Beneficiary with Work Arising up to the Minimum Level of Services as specified in paragraph 2 of Appendix 1.

- 3.2 The Depot Facility Owner shall provide the Beneficiary with additional Work Arising up to the Maximum Level of Services as specified in paragraph 3 of Appendix 1 and for such of the Fleet Vehicles, in each case as the Beneficiary may request, except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

- 3.3 If the Beneficiary does not receive or anticipates that it will not require to receive the whole of the Work Arising specified in paragraph 2 of Appendix 1 to be provided in an Accounting Period, the Beneficiary may request that the unperformed Work Arising from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot Facility Owner shall provide the Beneficiary with additional Work Arising of an amount equal to the unperformed Work Arising carried forward except where, and to the extent that:

- 3.3.1 the unperformed Work Arising carried forward exceeds 5% by value of the Work Arising specified in paragraph 2 of Appendix 1 to be provided in the Accounting Period from which that Work Arising is carried forward; or

- 3.3.2 the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

4 Depot Facility Owner's Obligations

- 4.1 If the Depot Facility Owner reasonably believes that any Work Arising or Vehicle Repairs are required it shall:

- 4.1.1 carry out such Work Arising or Vehicle Repairs if the applicable Variable Charges or Contingent Charges in respect of such Work Arising or Vehicle Repairs are, in the reasonable opinion of the Depot Facility

Owner, likely to be equal to or less than the amount set out in paragraph 4 of Appendix 1; or

4.1.2 inform the Beneficiary of the requirement for such Work Arising or Vehicle Repairs if the applicable Variable Charges or Contingent Charges in respect of such Work Arising or Vehicle Repairs are, in the reasonable opinion of the Depot Facility Owner, likely to be more than the amount set out in Paragraph 4 of Appendix 1 and carry out such Work Arising or Vehicle Repairs only at the request of the Beneficiary;

except, in relation to Work Arising in excess of the Minimum Level of Services and Vehicle Repairs, where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

4.2 On receipt of a request for Vehicle Maintenance or Work Arising in excess of the Minimum Level of Services or for Vehicle Repairs, the Depot Facility Owner shall, as soon as reasonably practicable, notify the Beneficiary of the date and time for the completion of such Vehicle Maintenance, Work Arising or Vehicle Repairs. The Depot Facility Owner shall provide the Vehicle Maintenance, Work Arising or Vehicle Repairs in question at a time which is reasonably convenient for the Beneficiary, except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

4.3 The Depot Facility Owner shall:

4.3.1 inform the Beneficiary of:

(a) any further work which the Depot Facility Owner reasonably considers necessary or expedient:

(i) as a consequence of any modifications which shall have been made, or which the Beneficiary shall notify the Depot Facility Owner it intends to make, to any Fleet Vehicle; or

(ii) otherwise as a result of any matter which the Depot Facility Owner has discovered in the course of carrying out any Vehicle Maintenance, Work Arising or Vehicle Repairs;

- (b) any defect in a Fleet Vehicle which the Depot Facility Owner has discovered in the course of carrying out any Vehicle Maintenance, Work Arising or Vehicle Repairs and which, in the opinion of the Depot Facility Owner, requires that Fleet Vehicle to be removed from the relevant train and seek consent to such removal from the Beneficiary;
- 4.3.2 use only new goods and materials or goods and materials refurbished in accordance with appropriate industry standards on, or in relation to, Fleet Vehicles, unless otherwise agreed by the Beneficiary;
- 4.3.3 reimburse to the Beneficiary on demand any Abnormal Work Costs paid by the Beneficiary from time to time if, and to the extent that, the Part in respect of which those Abnormal Work Costs are incurred is Incomplete by reason of a breach by the Depot Facility Owner of its obligations under this Agreement.
- 4.4 The Depot Facility Owner, having carried out Vehicle Maintenance, Work Arising or Vehicle Repairs, shall present trains for service in compliance with the Train Presentation Specification.

5 Beneficiary's Obligations

5.1 The Beneficiary shall:

- 5.1.1 as soon as available, provide the Depot Facility Owner with such information in respect of the planned and actual usage of, and known and suspected defects in, the Fleet Vehicles as is reasonably necessary to enable the Depot Facility Owner to plan its Vehicle Maintenance, Work Arising and Vehicle Repairs workload;
- 5.1.2 as soon as available and from time to time, supply to the Depot Facility Owner a copy of the relevant Running Maintenance Programme for each type of Fleet Vehicle; and
- 5.1.3 reimburse to the Depot Facility Owner on demand any Abnormal Work Costs paid by the Depot Facility Owner from time to time if, and to the extent that, the Part in respect of which those Abnormal Work Costs are

incurred is Incomplete other than by reason of a breach by the Depot Facility Owner of its obligations under this Agreement.

6 Performance Information

- 6.1 The Depot Facility Owner shall on a daily basis supply to the Beneficiary the performance information referred to in paragraph 5 of Appendix 1.

7 Warranty

- 7.1 The Depot Facility Owner warrants that it shall carry out Vehicle Maintenance, Work Arising and Vehicle Repairs in accordance with the relevant Running Maintenance Programme.
- 7.2 If the Depot Facility Owner has the benefit of any warranty from its contractor or supplier that a Component will not fail in service for a certain period or will be repaired or replaced in certain circumstances, then, if and to the extent that such warranty is, or becomes, assignable, the Depot Facility Owner, if and when requested by the Beneficiary, shall assign the benefit of and any rights arising under such warranty to the Beneficiary (or to such third party as the Beneficiary may nominate) and any such assignment will be in full and final settlement of any claim by the Beneficiary against the Depot Facility Owner in respect of that Component pursuant to Condition N1.4 or pursuant to Clause 8.5 in respect of a breach of obligation under or arising pursuant to Condition N1.4.
- 7.3 If and when requested by the Beneficiary from time to time, the Depot Facility Owner shall use all reasonable endeavours to establish and shall advise the Beneficiary whether and on what terms the Depot Facility Owner's contractor or supplier will offer to the Depot Facility Owner an assignable warranty in respect of any Component for an alternative period or of an alternative extent to any warranty in respect of such Component given by the contractor or supplier in question to the Depot Facility Owner as at the date of the Beneficiary's request. The Depot Facility Owner shall use all reasonable endeavours to obtain from its contractor or supplier any such warranty requested by the Beneficiary and the Depot Facility Owner shall assign to the Beneficiary (or to such third party as the Beneficiary may nominate) on the same terms as under paragraph 7.2 the benefit of and any rights arising under any warranty so obtained by it, provided that the Beneficiary shall reimburse to the Depot Facility Owner any additional costs and expenses incurred by the Depot Facility Owner in obtaining such warranty.

8 Charging

8.4 The Beneficiary shall pay to the Depot Facility Owner:

8.4.1 the charges set out in paragraph 1 of Appendix 2 in respect of Vehicle Maintenance up to the Minimum Level of Services; and

8.4.2 the charges set out in paragraph 2 of Appendix 2 in respect of Vehicle Maintenance comprised in the Variable Level of Services; and

8.4.3 the charges set out in paragraph 3 of Appendix 2 in respect of Work Arising up to the Minimum Level of Services; and

8.4.4 the charges set out in paragraph 4 of Appendix 2 in respect of Work Arising comprised in the Variable Level of Services; and

8.4.5 the charges set out in paragraph 5 of Appendix 2 in respect of Vehicle Repairs comprised in the Contingent Services.

APPENDIX 1 TO SCHEDULE 5

Fleet Maintenance and Level of Services

1 Vehicle Maintenance

Type of Examination

2 Minimum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Fleet Vehicle

Activity: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Work Arising: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Diagram:

The following Diagrams:

3 Maximum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Fleet Vehicle

Activity: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Work Arising: [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

4 Limit of Authority

Fleet Vehicle

Limit
[£•]

5 Performance Information

5.1 Details of known or suspected defects in Fleet Vehicles which have received Vehicle Maintenance, Work Arising or Vehicle Repairs;

5.2 [other]

6 Components

APPENDIX 2 TO SCHEDULE 5

Charges

1. Vehicle Maintenance up to the Minimum Level of Services

Fleet Vehicle []

Type of Examination Charge (£)

2. Vehicle Maintenance in respect of the Variable Level of Services

Fleet Vehicle []

Type of Examination Charge (£)

3. Work Arising up to the Minimum Level of Services

Charge (£)

4. Work Arising in respect of the Variable Level of Services

Charge (£)

5. Vehicle Repairs

Fleet Vehicle []

Task Fixed Labour Charge (£)

Material Unit Cost (£)

Labour Charge per hour £•

APPENDIX 3 TO SCHEDULE 5
Train Presentation Specification

SCHEDULE 6

FUELLING AND FUEL POINT EXAMS

1. Definitions

In this Schedule:

"Appendix" means an appendix to this Schedule;

"Depot Delivered Price" means the unit charge per litre of Gasoil delivered to the Depot as paid by the Depot Facility Owner;

"Fuel Point Exam" means the work and procedures to be carried out by the Depot Facility Owner as more fully described in the Fuel Point Exam Specification;

"Fuel Point Exam Specification" means, in respect of each type of Fleet Vehicle, the specification for a Fuel Point Exam as set out in the relevant Running Maintenance Programme (as defined in Schedule 5);

"Fuelling" means the replenishing of the Beneficiary's Traction Units with Gasoil to the levels of capacity as are set out in Appendix 3;

"Gasoil" means gasoil for traction conforming with BS 2869 Part II: 1988 Class A2 or better or equivalent, marked and dyed in accordance with HM Customs & Excise Regulations and including any additives which may properly be required;

"RSL VECOMAS" means the data base on which the ownership, lease and hire of Traction Units is registered by GBR as authorised for operation on the Network;

"Traction Unit" means a diesel locomotive, diesel multiple unit or other railway vehicle of a type listed in paragraph 3 of Appendix 1; and

"Train Presentation Specification" means the specification referred to in Appendix 3.

2. Fuelling and Fuel Point Exams

- 2.1 The Depot Facility Owner shall provide the Beneficiary with Fuelling and Fuel Point Exams up to the Minimum Level of Services as specified in paragraph 1 of Appendix 1.
- 2.2 The Depot Facility Owner shall provide the Beneficiary with additional Fuelling and Fuel Point Exams up to the Maximum Level of Services as specified in paragraph 2 of Appendix 1 at the request of the Beneficiary except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.
- 2.3 If the Beneficiary does not receive or anticipates that it will not require to receive the whole of the Fuelling and Fuel Point Exam specified in paragraph 2 of Appendix 1 to be provided in an Accounting Period, the Beneficiary may request that the unperformed Fuelling and Fuel Point Exam from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot Facility Owner shall provide the Beneficiary with additional Fuelling and Fuel Point Exam of an amount equal to the unperformed Fuelling and Fuel Point Exam carried forward except where, and to the extent that:
- 2.3.1 the unperformed Fuelling and Fuel Point Exams carried forward exceeds 5% by value of the Fuelling and Fuel Point Exams specified in paragraph 1 of Appendix 1 to be provided in the Accounting Period from which that Fuelling and Fuel Point Exams is carried forward; or
- 2.3.2 the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

3. **Depot Facility Owner's Obligations**

The Depot Facility Owner shall:

- 3.1 inform the Beneficiary if any Traction Unit in respect of which Fuelling or a Fuel Point Exam is to be carried out is, as a result of any matter which the Depot Facility Owner has discovered in the course of carrying out any Fuelling or a Fuel Point Exam, in the Depot Facility Owner's reasonable opinion, in an unsafe condition.
- 3.2 on receipt of a request either for Fuelling or Fuel Point Exams in excess of the Minimum Level of Services, the Depot Facility Owner shall, as soon as reasonably practicable, notify the Beneficiary of the date and

time for the completion of such Fuelling or Fuel Point Exams. The Depot Facility Owner shall provide the Fuelling or Fuel Point Exams in question at a time which is reasonably convenient for the Beneficiary, except where, and to the extent that, the Depot Facility Owner shall, having due regard to the [Decision Criteria], determine that the work should not be carried out.

- 3.3 maintain a daily record of the Fuelling and Fuel Point Exams provided to the Beneficiary as specified in paragraph 4 of Appendix 1.
- 3.4 inform the Beneficiary promptly upon request of the average Depot Delivered Price of Gasoil over the preceding three complete calendar months.
- 3.5 provide the Beneficiary with a detailed written record of the Fuelling of and Fuel Point Exams carried out on the Beneficiary's Traction Units with any invoice for charges submitted to the Beneficiary;
- 3.6 ensure that fuelling installations, and metering and gauging equipment, are constructed, operated, maintained and calibrated in accordance with the International Standards for Legal Metrology;
- 3.7 promptly provide the Beneficiary with any sample of Gasoil which the Beneficiary may reasonably demand; and
- 3.8 having carried out Fuelling or Fuel Point Exams, present trains for service in compliance with the Train Presentation Specification.

4. **Beneficiary's Obligations**

The Beneficiary shall use all reasonable endeavours to procure that the correct details of its Traction Units and the name of its accounting manager and the accounting office are entered and maintained on RSL VECOMAS.

5. **General Conditions**

The Depot Facility Owner shall be under no obligation to carry out Fuelling or Fuel Point Exams in respect of any Traction Unit if:

- 5.1 the Beneficiary has failed to comply with its obligations under paragraph 4 in respect of such Traction Unit; or

5.2 in the reasonable opinion of the Depot Facility Owner the mechanical condition of the Traction Unit would render it unsafe to do so.

6. **Charging**

6.1 The Depot Facility Owner's charge per litre of Gasoil shall be the aggregate of the average Depot Delivered Price of Gasoil over the preceding three complete calendar months together with a handling charge as specified in Paragraph 3 of Appendix 2 for the storage and replenishment of Gasoil and the provision of lubricants and coolants.

6.2 The Beneficiary shall pay to the Depot Facility Owner:

6.2.1 the charges set out in paragraph 1 of Appendix 2 in respect of Fuel Point Exams up to the Minimum Level of Services; and

6.2.2 the charges set out in paragraph 2 of Appendix 2 in respect of Fuel Point Exams comprised in the Variable Level of Services.

APPENDIX 1 TO SCHEDULE 6
Fuelling and Fuel Point Exams

1. Minimum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Litres of Gasoil: [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Fuel Point

Exams: [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Diagram:

The following Diagrams:

2. Maximum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Litres of Gasoil: [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Fuel Point

Exams: [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

3. Traction Units

4. Daily Record

APPENDIX 2 TO SCHEDULE 6
Charges

1. Fuel Point Exams up to the Minimum Level of Services

Traction Unit []	Charge (£)
------------------------------	------------

2. Fuel Point Exams comprised in the Variable Level of Services

Traction Unit []	Charge (£)
------------------------------	------------

3. Handling Charge

Minimum Level of Services	£• per litre
---------------------------	--------------

Variable Level of Services	£• per litre
----------------------------	--------------

APPENDIX 3 TO SCHEDULE 6
Train Presentation Specification

SCHEDULE 7 EXTERIOR CLEANING

1. Definitions

In this Schedule:

"Appendix" means an appendix to this Schedule;

"Hand Washing" means the cleaning of the exterior of a Fleet Vehicle by hand in accordance with methods and practices customarily used in good and prudent railway practice (including, where applicable, Railway Group Standards);

"Machine Washing" means the cleaning of the exterior of a Fleet Vehicle by the passage of that Fleet Vehicle through a fully operational mechanised washing plant operated, stocked and maintained in accordance with methods and practices customarily used in good and prudent railway practice (including, where applicable, Railway Group Standards);

"Train Presentation Specification" means the specification referred to in Appendix 4;

"Washing" means Machine Washing and Hand Washing; and

"Washing Specification" means the specification referred to in Appendix 3.

2. Provision of Machine Washing

- 2.1 The Depot Facility Owner shall provide the Beneficiary with Machine Washing up to the Minimum Level of Services as specified in paragraph 1 of Appendix 1.
- 2.2 The Depot Facility Owner shall provide the Beneficiary with additional Machine Washing up to the Maximum Level of Services as specified in paragraph 2 of Appendix 1 for such of the Fleet Vehicles as the Beneficiary may request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the [Decision Criteria], determine that the work should not be carried out.
- 2.3 If the Beneficiary does not receive or anticipates that it will not require to receive the whole of the Washing specified in paragraph 1 of Appendix 1 to be provided

in an Accounting Period, the Beneficiary may request that the unperformed Washing from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot Facility Owner shall provide the Beneficiary with additional Washing of an amount equal to the unperformed Washing carried forward except where, and to the extent that:

- 2.3.1 the unperformed Washing carried forward exceeds 5% by value of the Washing specified in paragraph 1 of Appendix 1 to be provided in the Accounting Period from which that Washing is carried forward; or
- 2.3.2 the Depot Facility Owner shall, having due regard to the [Decision Criteria], determine that the work should not be carried out.

3. Depot Facility Owner's Obligations

- 3.1 On receipt of a request for Machine Washing in excess of the Minimum Level of Services, the Depot Facility Owner shall as soon as reasonably practicable notify the Beneficiary of a date and time for the completion of such Machine Washing. The Depot Facility Owner shall use all reasonable endeavours to provide the Machine Washing in question at a time which is reasonably convenient for the Beneficiary, except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.
- 3.2 If the Depot Facility Owner reasonably believes that Hand Washing should be applied to a Fleet Vehicle, it shall:
 - 3.2.1 carry out such Hand Washing if the applicable Access Charges in respect of such Hand Washing are, in the reasonable opinion of the Depot Facility Owner, likely to be equal to or less than the amount set out in paragraph 3 of Appendix 1; or
 - 3.2.2 notify the Beneficiary of the requirement for such Hand Washing if the applicable Access Charges in respect of such Hand Washing are, in the reasonable opinion of the Depot Facility Owner, likely to be more than the amount set out in paragraph 3 of Appendix 1 and only carry out such Hand Washing at the request of the Beneficiary;

except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

- 3.3 The Depot Facility Owner, having carried out Washing, shall present trains for service in compliance with the Train Presentation Specification.

4. **Warranty**

- 4.1 The Depot Facility Owner warrants that it shall carry out Washing in accordance with the Washing Specification.

- 4.2 Notwithstanding the provisions of Clause 8, the Depot Facility Owner shall not be liable for any failure to clean the exterior of a Fleet Vehicle which arrives at the Depot in a condition such that it cannot be cleaned by Washing.

5. **Charging**

- 5.1 The Beneficiary shall pay to the Depot Facility Owner:

- 5.1.1 the charges set out in paragraph 1 of Appendix 2 in respect of Machine Washing up to the Minimum Level of Services; and

- 5.1.2 the charges set out in paragraph 2 of Appendix 2 in respect of Machine Washing comprised in the Variable Level of Services;

- 5.1.3 the charges set out in paragraph 3 of Appendix 2 in respect of Hand Washing.

APPENDIX 1 TO SCHEDULE 7

Exterior Cleaning

1. Minimum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Number of

Fleet Vehicles: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Diagram:

The following Diagrams:

2. Maximum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Number of

Fleet Vehicles: [] [] [] [] [] [] [] [] [] [] [] [] [] []

3. Limit of Authority

Fleet Vehicle

Limit

[£•]

APPENDIX 2 TO SCHEDULE 7
Charges

1. **Machine Washing up to the Minimum Level of Services**

[£] per Fleet Vehicle

2. **Machine Washing comprised in the Variable Level of Services**

[£] per Fleet Vehicle

3. **Hand Washing**

Labour charge per hour

£[•]

APPENDIX 3 TO SCHEDULE 7
Washing Specification

APPENDIX 4 TO SCHEDULE 7
Train Presentation Specification

SCHEDULE 8

STABLING

1. Definitions

In this Schedule:

"Appendix" means an appendix to this Schedule;

"Custody Period" means the period of time for which Fleet Vehicles are Stabled in accordance with this Schedule;

"Stabling" means the parking or laying up of Fleet Vehicles in accordance with paragraphs 3 to 6 of Appendix 1 between the time of delivery to the Depot as stated in the relevant Diagram and the time of collection from the Depot as stated in the relevant Diagram (other than as required in connection with the provision of Beneficiary Depot Services in accordance with Schedules other than this Schedule), together with ancillary shunting and marshalling and "Stabled" and "Stable" shall be construed accordingly; and

"Train Presentation Specification" means the specification referred to in Appendix 3.

2. Provision of Stabling

2.1 The Depot Facility Owner shall provide the Beneficiary with Stabling up to the Minimum Level of Services as specified in paragraph 1 of Appendix 1.

2.2 The Depot Facility Owner shall provide the Beneficiary with additional Stabling up to the Maximum Level of Services as specified in paragraph 2 of Appendix 1 for such of the Fleet Vehicles as the Beneficiary may request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that it should not do so.

2.3 If the Beneficiary does not receive or anticipates that it will not require to receive the whole of the Stabling specified in paragraph 2 of Appendix 1 to be provided in an Accounting Period, the Beneficiary may request that the unperformed Stabling from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot Facility Owner shall provide the Beneficiary with additional Stabling of an amount equal to the unperformed Stabling carried forward except where, and to the extent that:

2.3.1 the unperformed Stabling carried forward exceeds 5% by value of the Stabling specified in paragraph 1 of Appendix 1 to be provided in the Accounting Period from which that Stabling is carried forward; or

2.3.2 the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that it should not do so.

3. Depot Facility Owner's Obligations

3.1 The Depot Facility Owner shall inform the Beneficiary as soon as reasonably practicable of any loss of, damage to, or material deterioration in the condition of, the Fleet Vehicles of which it becomes aware during the Custody Period.

3.2 The Depot Facility Owner shall allow the Beneficiary's representatives reasonable access to the Depot at all reasonable times and upon reasonable prior notice in order to permit such representatives to review the condition of and, if appropriate, carry out any work on the Fleet Vehicles which the Beneficiary considers to be necessary or expedient provided that the Beneficiary's representatives shall not be entitled to carry out light maintenance services to the Fleet Vehicles whilst at the Depot.

3.3 The Depot Facility Owner, having carried out Stabling, shall present trains for service in compliance with the Train Presentation Specification.

4. Beneficiary's Obligations

4.1 Except to the extent that the Fleet Vehicles in question shall be awaiting the provision of Beneficiary Depot Services (other than Stabling) or awaiting collection following the provision of Beneficiary Depot Services (other than Stabling) the Beneficiary shall ensure that all Fleet Vehicles are in a safe condition and appropriately maintained during the Custody Period.

4.2 The Beneficiary shall ensure that nothing is stored on any Fleet Vehicle unless the Depot Facility Owner has given its prior consent in writing.

4.3 The Depot Facility Owner shall be entitled to refuse to take delivery of a Fleet Vehicle which does not comply with paragraphs 4.1 or 4.2.

5. Movements of Fleet Vehicles within the Depot

5.1 The Depot Facility Owner may, during the Custody Period, move Fleet Vehicles which are the subject of Stabling within the Depot, provided always that the relevant Fleet Vehicles shall be stored in accordance with paragraphs 3 to 6 of Appendix 1.

6. **Failure to Collect**

6.1 If the Beneficiary fails to collect any Fleet Vehicle at the time appointed for such collection in the relevant Diagram, the Depot Facility Owner shall be entitled to charge for the Stabling of such Fleet Vehicle in accordance with the charges referred to in paragraph 7 until such time as the Fleet Vehicle is collected by the Beneficiary.

6.2 If the Beneficiary fails to collect any Fleet Vehicle for a period of 5 Business Days after the time appointed for such collection in the relevant Diagram, the Depot Facility Owner, upon informing the Beneficiary, shall be entitled to move such Fleet Vehicle:

6.2.1 to another part of the Depot; or

6.2.2 to different premises of the Depot Facility Owner; or

6.2.3 to premises of another responsible person, in which case the Beneficiary shall reimburse the Depot Facility Owner for all associated costs involved in such a move,

and in all such cases the Depot Facility Owner shall not be obliged to effect Stabling in accordance with paragraphs 3 to 6 of Appendix 1 and all movements of such Fleet Vehicle shall be at the risk of the Beneficiary except in the case of a negligent act or omission of the Depot Facility Owner or its Associates.

6.3 If the Depot Facility Owner has moved any Fleet Vehicles to different premises in accordance with paragraph 6.2, the Depot Facility Owner shall return the relevant Fleet Vehicles to the Depot for collection by the Beneficiary within a reasonable period of receiving notice from the Beneficiary requesting such return.

6.4 The Beneficiary shall reimburse the Depot Facility Owner for all associated costs involved in complying with paragraph 6.3.

7. **Charges**

7.1 The Beneficiary shall pay to the Depot Facility Owner:

7.1.1 the charges set out in paragraph 1 of Appendix 2 in respect of Stabling up to the Minimum Level of Services; and

7.1.2 the charges set out in paragraph 2 of Appendix 2 in respect of Stabling comprised in the Variable Level of Services.

APPENDIX 1 TO SCHEDULE 8
Stabling Specification

1. Minimum Level of Services

Fleet Vehicle: Number

Diagram:

The following Diagrams:

2. Maximum Level of Services

Fleet Vehicle: Number

3. Covered Accommodation

Fleet Vehicle:

4. Road Access

Fleet Vehicle:

5. Traction Current

Yes/No If yes, type:

6. Security arrangements required by the Beneficiary

Fleet Vehicle:

APPENDIX 2 TO SCHEDULE 8
Charges

1. Stabling up to Minimum Level of Services

Charge per Fleet Vehicle: £

2 Stabling comprised in the Variable Level of Services

Charge per Fleet Vehicle: £

APPENDIX 3 TO SCHEDULE 8
Train Presentation Specification

SCHEDULE 9

WHEEL RE-PROFILING

1. Definitions

In this Schedule:

"Appendix" means an appendix to this Schedule;

"Train Presentation Specification" means the specification referred to in Appendix 3;

"UAT" means ultra-sonic axle testing;

"Wheel Re-Profiling" means the re-profiling of the wheels of Fleet Vehicles by the operation of either a ground wheel lathe or a centre wheel lathe; and

"Wheel Repairs" means any work required in relation to the wheels or the Fleet Vehicles in consequence or as a result of, or in addition to, Wheel Re-Profiling and/or UAT.

2. Wheel Re-Profiling and UAT

- 2.1 The Depot Facility Owner shall provide the Beneficiary with Wheel Re-Profiling for such of the Fleet Vehicles and at such times as the Beneficiary may request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.
- 2.2 The Depot Facility Owner shall provide the Beneficiary with UAT for such of the Fleet Vehicles and at such times as the Beneficiary may request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.
- 2.3 The Depot Facility Owner shall, upon prior request from the Beneficiary, notify the Beneficiary in writing of the dimensions of the wheels which shall have been subject to Wheel Re-Profiling within 3 Business Days of the Wheel Re-Profiling in question having been carried out.

3. Depot Facility Owner Obligations

- 3.1 If the Depot Facility Owner reasonably believes that any Wheel Repairs are required it shall:

3.1.1 carry out such Wheel Repairs if the applicable Access Charges in respect of such work are, in the reasonable opinion of the Depot Facility Owner, likely to be equal to or less than the amount set out in paragraph 1 of Appendix 2; or

3.1.2 inform the Beneficiary of the requirement for such Wheel Repairs if the applicable Access Charges in respect of such Wheel Repairs are, in the reasonable opinion of the Depot Facility Owner, likely to be more than the amount set out in paragraph 1 of Appendix 2, and only carry out such Wheel Repairs at the request of the Beneficiary,

except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

3.2 The Depot Facility Owner, having carried out UAT, Wheel Re-Profiling or Wheel Repairs, shall present trains for service in compliance with the Train Presentation Specification.

4. **Warranty**

4.1 The Depot Facility Owner warrants that all Wheel Re-Profiling carried out in accordance with this Schedule shall have been carried out in accordance with the relevant Railway Group Standard.

4.2 The Depot Facility Owner warrants that all UAT carried out in accordance with the Schedule shall have been carried out in accordance with appropriate industry standards.

5. **Charging**

The Beneficiary shall pay to the Depot Facility Owner:

5.1 the charges set out in paragraph 1 of Appendix 1 in respect of Wheel Re-Profiling;

5.2 the charges set out in paragraph 2 of Appendix 1 in respect of UAT; and

5.3 the charges set out in paragraph 3 of Appendix 1 in respect of Wheel Repairs.

APPENDIX 1 TO SCHEDULE 9 **Charges**

1. Wheel Re-Profiling

[£] per axle

2. UAT

[£] per axle.

3. Wheel Repairs

Task

Fixed labour charge (£)

Material

Unit Cost (£)

Labour charge per hour

[£•]

APPENDIX 2 TO SCHEDULE 9
Authority

1. Limit of Authority

Fleet Vehicle

Limit

[]

[£•]

APPENDIX 3 TO SCHEDULE 9
Train Presentation Specification

SCHEDULE 10

INTERIOR CLEANING

1. Definitions

In this Schedule:

"Appendix" means an appendix to this Schedule;

"Cleaning" means Exceptional Cleaning and Regular Cleaning;

"Cleaning Specification" means the specification referred to in Appendix 3;

"Exceptional Cleaning" means the non-periodic cleaning of the interior of a Fleet Vehicle in accordance with methods and practices customarily used in good and prudent railway practice;

"Regular Cleaning" means the periodic cleaning of the interior of a Fleet Vehicle in accordance with methods and practices customarily used in good and prudent railway practice; and

"Train Presentation Specification" means the specification referred to in Appendix 4.

2. Provision of Regular Cleaning

2.1 The Depot Facility Owner shall provide the Beneficiary with Regular Cleaning up to the Minimum Level of Services as specified in paragraph 1 of Appendix 1.

2.2 The Depot Facility Owner shall provide the Beneficiary with additional Regular Cleaning up to the Maximum Level of Services as specified in paragraph 2 of Appendix 1 for such of the Fleet Vehicles as the Beneficiary may request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the [Decision Criteria], determine that the work should not be carried out.

2.3 If the Beneficiary does not receive or anticipates that it will not require to receive the whole of the Regular Cleaning specified in paragraph 2 of Appendix 1 to be provided in an Accounting Period, the Beneficiary may request that the unperformed Regular Cleaning from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot

Facility Owner shall provide the Beneficiary with additional Regular Cleaning of an amount equal to the unperformed Regular Cleaning carried forward except where, and to the extent that:

2.3.1 the unperformed Regular Cleaning carried forward exceeds 5% by value of the Regular Cleaning specified in paragraph 1 of Appendix 1 to be provided in the Accounting Period from which that Regular Cleaning is carried forward; or

2.3.2 the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

3. Depot Facility Owner's Obligations

3.1 On receipt of a request for Regular Cleaning in excess of the Minimum Level of Services, the Depot Facility Owner shall as soon as reasonably practicable notify the Beneficiary of a date and time for the completion of such Regular Cleaning. The Depot Facility Owner shall use all reasonable endeavours to provide the Regular Cleaning in question at a time which is reasonably convenient for the Beneficiary, except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

3.2 If the Depot Facility Owner reasonably believes that Exceptional Cleaning should be applied to the vehicle, it shall:

(a) carry out such Exceptional Cleaning if the applicable Access Charges in respect of such Exceptional Cleaning are, in the reasonable opinion of the Depot Facility Owner, likely to be equal to or less than the amount set out in paragraph 3 of Appendix 1; or

(b) notify the Beneficiary of the requirement for such Exceptional Cleaning if the applicable Access Charges in respect of such Exceptional Cleaning are in the reasonable opinion of the Depot Facility Owner, likely to be more than the amount set out in paragraph 3 of Appendix 1 and only carry out such Exceptional Cleaning at the request of the Beneficiary;

except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.

3.3 The Depot Facility Owner, having carried out Cleaning, shall present trains for service in compliance with the Train Presentation Specification.

4. **Warranty**

4.1 The Depot Facility Owner warrants that it shall carry out Cleaning in accordance with the Cleaning Specification.

4.2 Notwithstanding the provisions of Clause 8, the Depot Facility Owner shall not be liable for any failure to clean the interior of a Fleet Vehicle which arrives at the Depot in a condition such that it cannot be cleaned by Cleaning.

5. **Charging**

5.1 The Beneficiary shall pay to the Depot Facility Owner:

5.1.1 the charges set out in paragraph 1 of Appendix 2 in respect of Regular Cleaning up to the Minimum Level of Services;

5.1.2 the charges set out in paragraph 2 of Appendix 2 in respect of Regular Cleaning comprised in the Variable Level of Services; and

5.1.3 the charges set out in paragraph 3 of Appendix 2 in respect of Exceptional Cleaning.

APPENDIX 1 TO SCHEDULE 10

Regular Cleaning

1. Minimum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Number of

Fleet Vehicles: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Diagram:

The following Diagrams:

2. Maximum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Number of

Fleet Vehicles: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

3. Limit of Authority

Fleet Vehicle

Limit

[]

[£•]

APPENDIX 2 TO SCHEDULE 10
Charges

1. Regular Cleaning up to the Minimum Level of Services	
Charge per Fleet Vehicle	£
2. Regular Cleaning comprised in the Variable Level of Services	
Charge per Fleet Vehicle	£
3. Exceptional Cleaning	
Charge per Fleet Vehicle	£

APPENDIX 3 TO SCHEDULE 10
Cleaning Specification

APPENDIX 4 TO SCHEDULE 10
Train Presentation Specification

SCHEDULE 11

OFF-DEPOT SERVICES

1. Definitions

In this Schedule:

"Appendix" means an appendix to this Schedule;

"Off-Depot Services" means those services referred to in paragraph 1 of Appendix 1;

"Services Specification" means the specification referred to in paragraph 2 of Appendix 1; and

"Train Presentation Specification" means the specification referred to in Appendix 3.

2. Depot Facility Owner's Obligations

- 2.1 The Depot Facility Owner shall provide the Beneficiary with Off-Depot Services for such of the Fleet Vehicles and at such times as the Beneficiary may in each case request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that the work should not be carried out.
- 2.2 The Depot Facility Owner, having carried out Off-Depot Services, shall present trains for service in compliance with the Train Presentation Specification.

3. Warranty

The Depot Facility Owner warrants that it shall carry out all Off-Depot Services in accordance with the Services Specification.

4. Charging

The Beneficiary shall pay to the Depot Facility Owner the charges set out in paragraph 1 of Appendix 2 in respect of the Off-Depot Services.

APPENDIX 1 TO SCHEDULE 11
Off-Depot Services

1. **Description of Services**
2. **Services Specification**

APPENDIX 2 TO SCHEDULE 11
Charges

1. Off-Depot Services

Fleet Vehicle []

Services	Charge (£)
----------	------------

APPENDIX 3 TO SCHEDULE 11
Train Presentation Specification

SCHEDULE 12

DEPOT ACCESS

1. Definitions

In this Schedule:

"Access" means the right for Fleet Vehicles to enter and leave the Depot as specified in paragraph 3 of Appendix 1;

"Adjacent Network" means network (other than the Network) of which the Depot Facility Owner is not the facility owner and which is situated adjacent to the Depot Network;

"Adjacent Network Connection" means the physical, electrical and electronic connection severally and integrally between all relevant elements of the Adjacent Network and the corresponding relevant elements of the Depot Network;

"Appendix" means an appendix to this Schedule; and

"Depot Network" means network of which the Depot Facility Owner is the facility owner and which is situated on the Depot.

2. Provision of Access

2.1 The Depot Facility Owner shall provide the Beneficiary with Access up to the Minimum Level of Services as specified in paragraph 1 of Appendix 1.

2.2 The Depot Facility Owner shall provide the Beneficiary with additional Access up to the Maximum Level of Services as specified in paragraph 2 of Appendix 1 for such of the Fleet Vehicles as the Beneficiary may request except where, and to the extent that, the Depot Facility Owner shall, having due regard to the Decision Criteria, determine that it should not do so.

2.3 If the Beneficiary does not receive, or anticipates that it will not require to receive, the whole of the Access specified in paragraph 1 of Appendix 1 to be provided in an Accounting Period, the Beneficiary may request that the unperformed Access from that Accounting Period be carried forward to the next Accounting Period whereupon, in that Accounting Period, the Depot Facility

Owner shall provide the Beneficiary with additional Access of an amount equal to the unperformed Access carried forward except where, and to the extent that:

2.3.1 the unperformed Access carried forward exceeds 5% by value of the Access specified in paragraph 1 of Appendix 1 to be provided in the Accounting Period from which that Access is carried forward; or

2.3.2 the Depot Facility Owner shall, having due regard to the [Decision Criteria], determine that it should not do so.

3. Depot Facility Owner's Obligations

3.1 The Depot Facility Owner shall inform the Beneficiary as soon as reasonably practicable of any loss of, damage to, or material deterioration in the condition of, the Fleet Vehicles of which it becomes aware during Access.

3.2 The Depot Facility Owner shall not sever, nor do or (within the Depot) permit anything which might otherwise terminate, restrict, impair or impede, the Adjacent Network Connection (or any part of it) without the prior agreement of the Beneficiary (which shall not be withheld or delayed unreasonably taking into account both the Depot Facility Owner's need to operate the Depot and the Beneficiary's need for Access) save if and to the extent that any such act or permission is necessary (and in any such case giving to the Beneficiary such notice as is reasonably practicable in all the circumstances) to enable:

3.2.1 the Depot Facility Owner to carry out any works, Repair or Maintenance which it is obliged or entitled to carry out pursuant to the Depot Code; or

3.2.2 Not used; or

3.2.3 any person to deal with the requirements of an Emergency.

3.3 The Beneficiary shall not sever, nor do or (within the Adjacent Network) permit anything which might otherwise terminate, restrict, impair or impede the Adjacent Network Connection (or any part of it) without the prior agreement of the Depot Facility Owner (which shall not be withheld or delayed unreasonably taking into account both the Depot Facility Owner's need to operate the Depot and the Beneficiary's need to operate the Adjacent Network), save if and to the extent that any such act or permission is necessary (and in any such case giving to the Depot Facility Owner such notice as is reasonably practicable in all the

circumstances) to enable any person to deal with the requirements of an Emergency.

4. **Beneficiary's Obligations**

The Beneficiary shall ensure that all Fleet Vehicles are in a safe condition and appropriately maintained during Access.

5. **Charges**

5.1 The Beneficiary shall pay to the Depot Facility Owner:

5.1.1 the charges set out in paragraph 1 of Appendix 2 in respect of Access up to the Minimum Level of Services; and

5.1.2 the charges set out in paragraph 2 of Appendix 2 in respect of Access comprised in the Variable Level of Services.

APPENDIX 1 TO SCHEDULE 12

Depot Access

1. Minimum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Number of

Fleet Vehicles: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Diagram:

The following Diagrams:

2. Maximum Level of Services

Consecutive

Accounting

Periods in each

Accounting Year: 1 2 3 4 5 6 7 8 9 10 11 12 13

Number of

Fleet Vehicles: [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

3. Identified Route

APPENDIX 2 TO SCHEDULE 12
Charges

1. Access up to the Minimum Level of Services

Charge per Fleet Vehicle: £

2 Access comprised in the Variable Level of Services

Charge per Fleet Vehicle: £

SCHEDULE 13
BENEFICIARY MINUTES DELAY

Part A Allowable Beneficiary Minutes Delay

[] minutes per Accounting Period

Part B Beneficiary Minutes Delay Cap

[] minutes in respect of each incidence of Beneficiary Minutes Delay

Part C Beneficiary Minutes Delay Threshold

[] minutes in respect of each incidence of Beneficiary Minutes Delay

Part D Rates of payment

£[] per minute of Excess Beneficiary Minutes Delay

SCHEDULE 14
DFO MINUTES DELAY

Part A Allowable DFO Minutes Delay

[] minutes per Accounting Period

Part B DFO Minutes Delay Cap

[] minutes in respect of each incidence of DFO Minutes Delay

Part C DFO Minutes Delay Threshold

[] minutes in respect of each incidence of DFO Minutes Delay

Part D Rates of payment

£[] per minute of Excess DFO Minutes Delay

SCHEDULE 15
PERFORMANCE RELATED PAYMENTS
BY BENEFICIARY

Part 1: Performance Criteria by reference to which liquidated damages payable by the Beneficiary are calculated

Performance Criteria	Rate of Liquidated Damages

Part 2: Performance Criteria by reference to which incentive payments payable by the Beneficiary are calculated

Performance Criteria	Incentive Payments

SCHEDULE 16
PERFORMANCE RELATED PAYMENTS BY
DEPOT FACILITY OWNER

Part 1: Performance Criteria by reference to which liquidated damages payable by the Depot Facility Owner are calculated

Performance Criteria	Rate of Liquidated Damages

Part 2: Performance Criteria by reference to which incentive payments payable by the Depot Facility Owner are calculated

Performance Criteria	Incentive Payments

SCHEDULE 17 EXISTING AGREEMENTS

The following Existing Agreements apply in relation to the Depot. Copies of such agreements shall be made available by GBR on request.

1.1 Excluded Existing Agreements

Note: In each case the first contracting party is British Railways Board or its predecessors in title unless otherwise stated

Date	Type of Document	Other Party/ies
22.10.1993	Gas Pipes	British Gas
15.10.1990	Small Payment Consents	North West Water Authority
12.09.1961	General Wayleave Agreement	CEGB
20.10.1961	General Wayleave Agreement	Eastern Electricity
06.10.1961	General Wayleave Agreement	East Midlands Electricity
13.11.1961	General Wayleave Agreement	South Western Electricity
04.12.1961	General Wayleave Agreement	London Electricity
20.03.1962	General Wayleave Agreement	South Eastern Electricity

Date	Type of Document	Other Party/ies
16.11.1961	General Wayleave Agreement	Southern Electricity
10.10.1961	General Wayleave Agreement	North Western Electricity
12.10.1961	General Wayleave Agreement	Merseyside and North Wales Electricity
08.01.1962	General Wayleave Agreement	Yorkshire Electricity
22.11.1961	General Wayleave Agreement	North Eastern Electricity
05.10.1961	General Wayleave Agreement	Midlands Electricity
02.04.1962	General Wayleave Agreement	South Wales Electricity
30.07.1991	General Licence Agreement	Racal-Vodafone
21.08.1991	Telecoms Apparatus General Agreement	Microtel Communications (Orange)
02.03.1991	Licence Agreement, Cables and Apparatus	British Cable Services
19.09.1983	Deed of Grant National	Mercury
23.01.1989	Lease of Fibre Optics Liverpool Street -	Mercury

Date	Type of Document	Other Party/ies
	Edinburgh, Leeds - Colton Junction	
30.11.1989	Lease of Fibre Optics Edinburgh to Glasgow	Mercury
17.01.1991	Cables Norton Folgate to Ipswich	Mercury
17.09.1991	Cables Hitchin to Ipswich	Mercury
15.07.1993	General Wayleave for Cables	Mercury
14.12.1988	Cables York to Colton Junction	Mercury
12.10.1964	General Agreement as to Works	London Transport Board
31.12.1962	General Demarcation Agreement	British Waterways Board
11.05.1965	Works Agreement	London Transport Board
10.05.1933	General Wayleave Agreement with Post Master General	Great Western Railway Company
24.05.1933	General Wayleave Agreement with Post Master General	LMS
24.05.1933		LNER

Date	Type of Document	Other Party/ies
	General Wayleave Agreement with Post Master General	
24.05.1933	General Wayleave Agreement with Post Master General	SR
21.07.1993	Licence for Fibre Optics	Energis/National Grid
04.03.1994	Licence for Fibre Optics	Energis/National Grid
12.10.1964	General Demarcation Agreement	London Transport Board
	Global Licence for Wayleave in Yorkshire, Humberside, Durham and Northumberland	British Cable Services
13.12.1989	Cables Joint Venture Birmingham to Manchester	Mercury
15.04.1991	Cables Waterloo to Portsmouth; Waterloo to Guildford	Mercury
20.05.1991	Cables Haughley Junctions to Norwich via Diss	Mercury

1.2 The agreements referred to in limb (a) of the definition of Included Existing Agreements are as follows:

Note: In each case the first contracting party is British Railways Board or its predecessors in title unless otherwise stated.

Date	Type of Document	Other Party/ies
02.08.1989	Property Agreement	Post Office
16.12.1993	Interim Agreement	Post Office
16.12.1993	Property Agreement	Post Office
16.12.1993	Ten Year Agreement	Post Office
02.08.1989	Agreement for Carriage of Letter Mail	Post Office

1.3 The agreements referred to in limb (b) of the definition of Included Existing Agreements are as follows:

- (a) the Supplemental Agreement made 1st April 1994 between (1) British Railways Board and (2) Railtrack and entitled "Agreement for Leases, Site Demarcations, Connection Agreements and BRT Easements", the Supplemental Agreement made 1st April 1994 between (1) Railtrack and (2) British Railways Board and entitled "Supplemental Agreement for Leases (Real Property)" and the Supplemental Agreement made 1st April 1994 between (1) Railtrack and (2) British Railways Board and entitled "Property Miscellaneous Provisions Agreement" which form part of the Railtrack Transfer Scheme;
- (b) the Supplemental Agreement made 1st April 1994 between (1) Railtrack and (2) BR Telecommunications Limited and entitled "Framework Agreement relating to grant of easement and property leases" which forms part of the Railtrack Transfer Scheme and the British Rail Telecommunications Transfer Scheme;

- (c) the Supplemental Agreement made 1st April 1994 between (1) British Railways Board and (2) BR Telecommunications Limited and entitled "Agreement for Leases, Property Licences and Grant of Easements" which forms part of the British Rail Telecommunications Transfer Scheme; and
- (d) the Tripartite Supplemental Agreement made [] between (1) British Railways Board (2) Railtrack and (3) the Depot Facility Owner and entitled "Agreement relating to the grant of leases, easements and other estates and interests at Stations and Passenger Light Maintenance Depots".

1.4 The Demarcation Agreements are provided for in the Agreement supplemental to the Railtrack Transfer Scheme dated 1 April 1994 and made between (1) British Railways Board and (2) Railtrack and entitled "Agreement for Leases, Site Demarcations, Connection Agreements and BRT Easements".

SCHEDULE 18
NOTIFIABLE CONDITION

SCHEDULE 19
CONTROLLED EMISSION TOILET (CET) SERVICING

1. Definitions

In this Schedule:

"**CET**" means controlled emission toilet;

"**CET Servicing**" means in respect of a Fleet Vehicle the emptying of CET tanks, the back-flushing of the CET tanks with water and the refilling of on-board water tanks

APPENDIX 1 to SCHEDULE 19
Controlled Emission Toilet (CET) Servicing
Specification

APPENDIX 2 to SCHEDULE 19
Charges

SCHEDULE 20

DFO'S OWN SERVICES

1.1 In this Schedule 20:

"Fuel Point Exam" means the work and procedures to be carried out by the Depot Facility Owner as more fully described in the Fuel Point Exam Specification.

"Fuel Point Exam Specification" means, in respect of each type of railway vehicle, the specification for a fuel point examination as set out in the relevant Depot Facility Owner's Running Maintenance Programme.

"Gasoil" means gasoil for traction conforming with BS2869 Part II: 1988 Class A2 or better or equivalent, marked and dyed in accordance with HM Customs & Excise Regulations and including any additives which may properly be required.

"Running Maintenance Programme" means, in respect of each type of railway vehicle, the Specification for Vehicle Maintenance and Work Arising in respect of the relevant railway vehicle.

"Vehicle Maintenance" means the maintenance work and procedures to be carried out by the Depot Facility Owner as more fully described in the relevant Running Maintenance Programme.

"Wheel Repairs" means any work required in relation to the wheels or the railway vehicles in consequence or as a result of, or in addition to, Wheel Re-Profiling and/or UAT.

"Wheel Re-Profiling" means the re-profiling of the wheels of railway vehicles by the operation of either a ground wheel lathe or a centre wheel lathe.

"Work Arising" means further maintenance and repair work and procedures required to be carried out on a railway vehicle to prepare such railway vehicle for service and arising from Vehicle Maintenance.

- 1.2 The Depot Facility Owner shall carry out all Depot Facility Owner's Own Services in accordance with the relevant specifications, if any, contained or referred to in this paragraph 1 or, if none are so contained or referred to, in accordance with methods and practices customarily used in good and prudent railway industry practice including Railway Group Standards and Safety Obligations.

Part 1 – Fleet Maintenance and Level of Services

A) Vehicle Maintenance

Type of railway vehicle Type of Examination

[•] [•]

B) Depot Facility Owner's Running Maintenance Programmes

Type of railway vehicle Running Maintenance Programme

[•] [•]

C) Minimum Level of Services

Consecutive Accounting Periods in each
Accounting Year

railway vehicle Activity

Work Arising

1 2 3 4 5 6 7 8 9 10 11 12 13

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Diagram:

The following Diagrams: [•]

D) Maximum Level of Services

Consecutive Accounting Periods in each
Accounting Year

railway vehicle Activity

Work Arising

1 2 3 4 5 6 7 8 9 10 11 12 13

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Part 2 – Fuelling and Fuel Point Exams

A) Minimum Level of Services

Consecutive Accounting Periods in each
Accounting Year

Litres of Gasoil

Fuel Point Exams

1 2 3 4 5 6 7 8 9 10 11 12 13

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Diagram:

The following Diagrams: [•]

B) Maximum Level of Services

Consecutive Accounting Periods in each
Accounting Year

Litres of Gasoil

Fuel Point Exams

1 2 3 4 5 6 7 8 9 10 11 12 13

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Traction Units:

[•]

Part 3 – Exterior Cleaning

A) Minimum Level of Services

Consecutive Accounting Periods in each
Accounting Year

Number of railway vehicles

1 2 3 4 5 6 7 8 9 10 11 12 13

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Diagram:

The following Diagrams: [•]

B) Maximum Level of Services

Consecutive Accounting Periods in each
Accounting Year

1 2 3 4 5 6 7 8 9 10 11 12 13

Number of railway vehicles

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Part 4 – Stabling Specification

A) Minimum Level of Services

railway vehicle Number

[•]

[•]

Diagram:

The following Diagrams: [•]

B) Maximum Level of Services

railway vehicle Number

[•]

[•]

C) Covered Accommodation

railway vehicle

[•]

D) Road Access

railway vehicle

[•]

E) Traction Current

Yes/No. If yes, type: [•]

F) Security arrangements required by the Depot Facility Owner

railway vehicle

[•]

Part 5 – Wheel Re-Profiling

A) _Wheel Re-Profiling:

[•]

B) UAT:

[•]

C) Wheel Repairs:

[•]

Part 6 – Regular Cleaning

A) Minimum Level of Services

Consecutive Accounting Periods in each
Accounting Year

1 2 3 4 5 6 7 8 9 10 11 12 13

Number of railway vehicles

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Diagram:

The following Diagrams: [•]

B) Maximum Level of Services

Consecutive Accounting Periods in each
Accounting Year

1 2 3 4 5 6 7 8 9 10 11 12 13

Number of railway vehicles

[•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•] [•]

Part 7 – Off-Depot Services

A) Description of Services:

[•]

B) Services Specification:

[•]

Signed by [])
duly authorised for and on behalf of)
the Depot Facility Owner)

Signed by [])
duly authorised for and on behalf of)
the Beneficiary)