

SCHEDULE 9

Usage Payments

1. The Usage Payments payable pursuant to Clause 18 shall be calculated in accordance with Clause 18, this Schedule and Schedule 10 and subject to any other deductions or withholdings the Company is entitled to make under this Contract (including, without limitation, in accordance with, and to the extent determined by, Clause 20 and Schedule 11).

2. During the Delivery Period the Usage Payments accruing during any month in respect of each Train shall be as set out in Part A of this Schedule (as determined in accordance with Schedule 10 and as adjusted in accordance with Schedule 10 and paragraph 3 of Part E of Schedule 12) and shall comprise elements in respect of the Trains, the Equipment, the Services and the Enabling Works.

3. Subject to the provisions of Schedule 10, during the Post-Delivery Period the total monthly Usage Payment accruing during any month shall be as set out in Part B of this Schedule (as determined and adjusted in accordance with Schedule 10), during the Secondary Usage Period the total monthly Usage Payment accruing during any month shall be as set out in Part C of this Schedule (as determined and adjusted in accordance with Schedule 10) and during the Tertiary Usage Period the total monthly Usage Payment accruing during any month shall (subject to Clause 6.4.2) be as set out in Part D of this Schedule (as determined and adjusted in accordance with Schedule 10), and shall in each case comprise elements in respect of the Trains, the Equipment, the Services and the Enabling Works.

4.1 Subject to paragraph 4.2, Usage Payments, Existing Train Service Payments and any other amounts payable by the Company to the Contractor under this Contract accrued owing in any month shall be payable subject to the adjustments referred to in

this Schedule and any other deductions or withholdings the Company is entitled to make under this Contract, at the option of the Company either:

- (a) on or before the date which is 30 days after the end of that month without interest; or
- (b) on or before the date which is 90 days after the end of that month with interest on the VAT exclusive amount of the relevant payment, such interest accruing on a daily basis from and including the date which is 31 days after the end of that month to the date of actual payment (as well after as before judgment) at the rate per annum of two per cent. (2%) above the base lending rate from time to time of National Westminster Bank PLC or such other rate applied from time to time by National Westminster Bank PLC in substitution for such rate;

provided that on or before the date which is 10 days after the end of that month, the Contractor has submitted to the Company a request for payment that specifies the aggregate Usage Payments payable by the Company for such month (taking into account all adjustments required to be made thereto in accordance with Clause 18 and Schedules 9 and 10 and all amounts the Company is then entitled to recover from the Contractor in accordance with Clause 20 and Schedule 11), together with all relevant supporting calculations and documentary evidence.

4.2 For the avoidance of doubt, paragraph 4.1 shall not apply to any amounts referred to in Clause 18.6.2, any amounts payable pursuant to Clauses 33.5.1 and any interest payable pursuant to Clause 18.7 and paragraph 5.

5. The Company shall request the Contractor to provide it with a Value Added Tax invoice for each monthly Usage Payment or Existing Train Service Payment at least 14 days prior to the date on which the Company intends to make such payment in accordance with paragraph 4 and the Contractor agrees that it shall not issue such invoice until it has received such a request. Such request shall specify the date on

which the Company intends to make such payment and the requested invoice shall specify its tax point as such date. To the extent that the Contractor is legally obliged to account to HM Customs & Excise for Value Added Tax in respect of an invoice issued in accordance with such a request prior to the date on which the Company actually makes the payment specified in such invoice (but not if the Contractor so accounts before it is legally obliged to do so), the Company shall be obliged to pay interest on the date of such payment at the rate set out in paragraph 4.1(b) on the amount of Value Added Tax paid by the Contractor to HM Customs & Excise from the date of such payment by the Contractor down to the date of payment by the Company. If the Contractor does not receive from the Company, at least 14 days prior to the date which is 90 days after the end of the month in which such payment accrues, such a request for an invoice in respect of such payment, the Contractor shall be entitled to issue an invoice specifying its tax point as such 90th day. The Contractor agrees that any failure of the Company to make a payment on the date specified in any invoice shall not constitute a breach of the Company's payment obligations under this Contract other than any such failure to make payment in respect of any invoice that specifies such 90th day as the due date for payment.