The CCOS Network Code

(with Explanatory Notes)

October 2021

Note:
This document is available on the RfL(I) website at:

https://tfl.gov.uk/corporate/publications-and-reports/crossrail-central-operating-section

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Preface

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

B. *The purpose of the CCOS Network Code is:*

(i) *to regulate change, including change to the working timetable, change to railway vehicles specified in an access contract, change to the CCOS, change to computer systems and change to the CCOS Network Code itself;*

(ii) *to establish procedures relating to environmental damage;*

(iii) *to establish a performance monitoring system; and*

(iv) *to establish procedures in the event of operational disruption.*

C. *This Preface does not form part of the CCOS Network Code.*

Part A - General Provisions

Explanatory Note

A. Part A sets out certain definitions, general provisions and rules of interpretation which apply generally to this CCOS Network Code. Definitions which are specific to individual parts of this CCOS Network Code are contained in the relevant part.

B. This Explanatory Note does not form part of this CCOS Network Code.

CONDITION A1 - GENERAL

1.1 ***General interpretation***

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

In this CCOS Network Code, unless the context otherwise requires:

(a) *This CCOS Network Code*

References to this CCOS Network Code means this CCOS Network Code as modified from time to time.

(b) *Parts, Conditions and paragraphs*

References to Parts, Conditions and paragraphs are to Parts, Conditions and paragraphs of this CCOS Network Code.

(c) *Definitions in the Act*

Terms and expressions defined in the Act shall, unless the contrary intention appears, have the same meaning in this CCOS Network Code.

(d) *Statutory provisions*

References to statutory provisions shall be construed as:

(1) references to those provisions as amended or re-enacted or as their application is modified by other statutory provisions from time to time and shall include references to any statutory provisions of which they are re-enactments (whether with or without modification); and/or

(2) such other relevant legislation taking effect in Great Britain in respect of the same subject matter as those statutory provisions (including in relation to the Access Regulations, RIRs and ROGS).

(e) *Interpretation Act*

Words and expressions defined in the Interpretation Act 1978 shall have the same meaning in this CCOS Network Code and the rules of interpretation contained in the Interpretation Act 1978 shall apply to the interpretation of this CCOS Network Code.

(f) *Include*

The words "**include**" and "**including**" and cognate expressions are to be construed without limitation.

(g) *Other documents* etc.

Any agreement, instrument, licence, standard (including any CCOS Standard), timetable, code or other document referred to in this CCOS Network Code or entered into, approved, authorised, accepted or issued by a person pursuant to this CCOS Network Code shall be construed, at the particular time, as a reference to that agreement, instrument, licence, standard (including any CCOS Standard), timetable, code or other document, as it may then have been amended, varied, supplemented or novated.

(h) *Conflict*

In the event of any discrepancy, inconsistency, divergence or anomaly or any conflict of interpretation between this CCOS Network Code, an Access Agreement (not including this CCOS Network Code) and/or the CCOS Operational Codes, unless expressly provided to the contrary the following order of precedence shall apply:

(1) this CCOS Network Code;

(2) the Access Agreement; and

(3) the CCOS Operational Codes.

(i) *Time limits*

Where in this CCOS Network Code any obligation of an Access Party is required to be performed within a specified time limit that obligation shall continue after that time limit if the Access Party fails to comply with that obligation within the time limit.

(j) *Headings*

The headings and references to headings shall be disregarded in construing this CCOS Network Code.

(k) *Ruling language*

All notices served under this CCOS Network Code shall be in the English language.

(l) *References to time*

References in this CCOS Network Code to a time or times shall be construed as references to London time.

(m) *Use of singular and plural*

Use of the singular shall include the plural and vice versa.

1.2 ***Definitions***

In this CCOS Network Code, unless the context otherwise requires:

"**Abbey Wood Boundary**"	means the boundary of the CCOS and the NR Network to the east of Abbey Wood sidings;
"**Act**"	means the Railways Act 1993;
"**Access Agreement**"	means any particular access contract or framework agreement, whether or not entered into pursuant to any directions of the ORR under the Act, incorporating this CCOS Network Code;
"**Access Beneficiary**"	means, in respect of an Access Agreement, the Train Operator or Access Option Holder who is party to that Access Agreement;
"**access option**"	has the meaning ascribed to it in section 17(6) of the Act;
"**Access Option Holder**"	means any person who may exercise an access option in respect of a railway facility: (a) which is not a station or a light

maintenance depot; and

(b) in respect of which the facility owner is RfL(I);

"**Access Parties**" means, in respect of an Access Agreement, RfL(I) and the Access Beneficiary who are party to that Access Agreement;

"**Access Regulations**" means The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016;

"**Affiliate**" means, in relation to any company:

(a) a company which is either a holding company or a subsidiary of such company; or

(b) a company which is a subsidiary of a holding company of which such company is also a subsidiary,

and for these purposes, "**holding company**" and "**subsidiary**" have the meanings ascribed to them in section 1159 of the Companies Act 2006;

"**Applicable Laws**" means any of the following:

(a) any treaty, enactment or legislative provision in England;

(b) any regulation made by the Council or the Commission of the European Union (for as long as the United Kingdom remains a member of the European Union); and

(c) any common law, or any interpretation of law or finding contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirements within paragraphs (a) or (b) above to have effect in a way which is different from that which it previously had effect;

"**Applicable Timetable**" means in respect of a Day, that part of the Working Timetable in respect of that Day which is

	required to be drawn up in accordance with Condition D2.1.1 of Part D of this CCOS Network Code as at 2200 hours on the day prior to that Day;
"**Applicable CCOS Timetable Planning Rules**"	means the CCOS Timetable Planning Rules in force in respect of the Routes on the Effective Date, as from time to time amended or replaced under Part D of this CCOS Network Code;
"**CCOS**"	means the Crossrail central operating section authorised under the Crossrail Act 2008, being the railway between Westbourne Park Junction Connection Point, Pudding Mill Lane Junction Connection Point and Abbey Wood Boundary;
"**CCOS Access Dispute Resolution Rules**" or "**CCOS ADRR**"	means the set of rules regulating the resolution of disputes on the CCOS entitled "**CCOS Access Dispute Resolution Rules**" and annexed to this CCOS Network Code;
"**CCOS Network Change**"	has the meaning ascribed to it in Part G of this CCOS Network Code;
"**CCOS Network Code**"	means this document entitled "**CCOS Network Code**";
"**CCOS Operational Codes**"	means the CCOS Performance Data Accuracy Code, the CCOS Systems Code, the CCOS Emergency Access Code and such other codes or agreements as may be adopted pursuant to Part C of this CCOS Network Code;
"**CCOS Restriction of Use**"	means, in respect of any Day, any restriction of use of all or any part of the Routes (other than one caused by a Recovery Allowance which was contained in the Applicable CCOS Timetable Planning Rules relevant to that Day notified to each Timetable Participant on or before the end of the Drafting Period under Part D of this CCOS Network Code) which results in: (a) a difference between the Applicable Timetable on that Day as compared with the New Working Timetable in respect of that Day; and/or (b) a difference between the New Working Timetable on that Day as compared with the Corresponding Day Timetable

in respect of the Corresponding Day;

"**CCOS Secretary**" has the meaning ascribed to it in the CCOS ADRR;

"**CCOS Standards**" means Railway Group Standards;

"**CCOS Vehicle Change**" has the meaning ascribed to it in Part F of this CCOS Network Code;

"**Change of Law**" means the application to any person of any Legal Requirement which did not previously so apply or the change of any Legal Requirement applying to that person (including any such Legal Requirement ceasing to apply, being withdrawn or not being renewed) other than in relation to:

(a) corporation tax (or any other tax of a similar nature replacing corporation tax on profits or gains); or

(b) Value Added Tax;

"**Compatibility File**" means a document prepared in accordance with the applicable CCOS Standards which describes:

(a) the Specified Equipment;

(b) the proposed changes to the Specified Equipment;

(c) the methods used to assess compatibility of the proposed changes to the Specified Equipment with the CCOS; and

(d) the criteria used to assess compatibility and how those criteria have been derived;

"**Competent Authority**" means any local, national or supra-national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether autonomous or not and including the ORR) whether of the United Kingdom or of the European Union (for as long as the United Kingdom remains a member of the European Union), which has, in respect of an Access Agreement, jurisdiction over either or both of the Access Parties to, or the subject matter of, that agreement, provided that "**Competent**

Authority" shall not include Her Majesty's Government (or any department, minister, official or nominee of it) where acting as shareholder of the Access Party in question or other than pursuant to the Crown prerogative or a statutory function or power;

"**Congested**" occurs when RfL(I) has declared the CCOS to be congested in accordance with regulation 26 of the Access Regulations;

"**Corresponding Day**" means in respect of any Day (the "**First Day**"):

(a) a Day which is contained in the same Timetable Period as the First Day and on which the Services scheduled in the New Working Timetable applicable to that Timetable Period are the same as would have been scheduled on the First Day but for Restrictions of Use reflected in the New Working Timetable for the First Day; or

(b) if no Day is found under paragraph (a), then a Day during the equivalent Timetable Period for that time of the year in the year immediately preceding the Timetable Period which includes the First Day and on which the Services scheduled in the New Working Timetable applicable to that Timetable Period are the same as would have been scheduled on the First Day but for Restrictions of Use reflected in the New Working Timetable for the First Day or;

(c) if no Day is found under paragraph (a) or (b) above, such other Day as the partied may agree or as may be determined;

"**Corresponding Day Timetable**" means, in relation to a Corresponding Day, the New Working Timetable applicable to the relevant Timetable Period or such other timetable as may be agreed between the parties or otherwise determined;

"**Day**" means any period of 24 hours beginning at 0200 hours and ending immediately before the

next succeeding 0200 hours;

"**Delay Attribution Principles and Rules**"	means, subject to Condition A1.1(g), sections 3 to 5 (and associated definitions) of the document of that name, which provides guidance on the attribution of delay on the NR Network and which RfL(I) has adopted to attribute responsibility for capacity, lateness and service interval failures on the CCOS (and as may be updated from time to time in accordance with part B of the Network Rail Network Code);
"**Direction**"	means, in respect of an Access Agreement, any direction, requirement, instruction or rule binding on either or both of the Access Parties, and includes any modification, extension or replacement of any such direction, requirement, instruction or rule for the time being in force;
"**Franchised Services**"	has the meaning ascribed to it in Condition A1.6;
"**Full Opening Date**"	means the date on which revenue-earning passenger services first commence on the CCOS and which connect to and from both of: (a) the NR Network to the east of Pudding Mill Lane Junction Connection Point; and (b) the NR Network to the west of Westbourne Park Junction Connection Point;
"**Legal Requirement**"	means (for the purpose of the definition of Change of Law), in relation to any person, any of the following: (a) any treaty, enactment or legislative provision in England to the extent that it applies to that person; (b) any regulation made by the Council or the Commission of the European Union to the extent that it applies to that person or a decision taken by the Commission of the European Union which is binding on that person to the extent that it is so binding; and

(c) any common law, or any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within paragraphs (a) or (b) above to have effect in a way which is different to that in which it previously had effect;

"**Network Rail**"	means Network Rail Infrastructure Limited, a company registered in England under registered number 2904587 having its registered office at 1 Eversholt Street, London NW1 2DN;
"**Network Rail Network Code**"	means the document commonly known as the "**Network Code**" published by Network Rail which applies to the operation of railway vehicles on the NR Network;
"**New Working Timetable**"	means the version of the New Working Timetable published by RfL(I) at D-26 in accordance with Condition D2.7.1 as may be notified in accordance with Condition D2.7.4;
"**NR Network**"	means the network in respect of which Network Rail is the facility owner and which is situated in England, Wales and Scotland;
"**Office of Rail and Road**"	has the meaning ascribed to it in section 15 of the Railways and Transport Safety Act 2003 and references to "**ORR**" shall be construed accordingly;
"**Potential Access Party**"	means any person who proposes in good faith to enter into an Access Agreement or become an Access Option Holder provided that such person has first undertaken to RfL(I) to be bound by the relevant provisions of this CCOS Network Code and the CCOS ADRR;
"**Principal Change Date**"	has the meaning ascribed to it in Part D of this CCOS Network Code;
"**Publish on a Website**"	means, in relation to any Specified Information to be published on a website, placing such Specified Information on the relevant website in a prominent position and with links which

	enable visitors to that site to locate it quickly and without difficulty and "**Published on its Website**" shall be construed accordingly;
"**Pudding Mill Lane Junction Connection Point**"	means the boundary of the CCOS and the NR Network to the east of Pudding Mill Lane portal;
"**Railway Funding Authority**"	has the meaning ascribed to it in section 45 of the Railways Act 2005;
"**Railway Group Standards**"	means technical standards and operating procedures authorised pursuant to the Railway Group Standards Code issued by Rail Safety and Standards Board Limited and approved by the ORR;
"**Relevant CCOS ADRR Panel**"	means the Panel established under Part E of the CCOS Access Dispute Resolution Rules which is to determine a relevant dispute in accordance with the principles and procedures set out in Part A of the CCOS Access Dispute Resolution Rules;
"**Relevant Item**"	means, in respect of any Specified Information, the whole or part of any information, statement, proposal, draft, instrument or other document which constitutes or forms part of that Specified Information;
"**Relevant Year**"	means the period from (and including) 01 April in any particular year until (and including) the immediately following 31 March;
"**RfL(I)**"	means Rail for London (Infrastructure) Limited, a company registered in England under registered number 09366341 having its registered office at 5 Endeavour Square, London E20 1JN;
"**RIRS**"	means the Railways (Interoperability) Regulations 2011;
"**ROGS**"	means The Railways and Other Guided Transport Systems (Safety) Regulations 2006;
"**Routes**"	means, in respect of an Access Agreement, those parts of the CCOS which a Train Operator has permission to use pursuant to that agreement;

"**Secretary of State**"	means the Secretary of State for Transport;
"**Services**"	means, in respect of an Access Agreement: (a) the services for the carriage of passengers by railway; (b) the services for the carriage of goods by railway; and (c) any other train movement for the purpose of testing the physical or operational characteristics or capabilities of any railway asset, in each case as provided for in that Access Agreement;
"**Specified Equipment**"	means, in respect of an Access Agreement, any railway vehicle the use of which is permitted on all or part of the CCOS pursuant to that Access Agreement;
"**Specified Information**"	means any information, statement, proposal, draft, instrument or other document;
"**Statement of Compatibility**"	means the written statement containing the information prescribed by the applicable CCOS Standards, including: (a) the compatibility between the Specified Equipment and the CCOS; (b) the configuration of the Specified Equipment; (c) operational requirements and limitations; (d) route constraints; and (e) network factors, within which compatibility of the Specified Equipment and the CCOS has been assessed;
"**Technical Specification for Interoperability**"	has the meaning ascribed to the term "**TSI**" in the RIRS;
"**TfL**"	means Transport for London, a body established under the Greater London Authority Act 1999 whose principal office is at 5

	Endeavour Square, London E20 1JN;
"**Timetable Period**"	has the meaning ascribed to it in Part D of this CCOS Network Code;
"**Timetable Year**"	means the period of time between (and including) one Principal Change Date and (but excluding) the immediately succeeding Principal Change Date;
"**Track Access Contract Parties"** or **"TAC Parties**"	means, in respect of any Access Agreement other than an access option, RfL(I) and the Train Operator who are party to that Access Agreement;
"**Train Crew**"	means those persons on a train responsible for the operation of that train;
"**Train Operator**"	means (without prejudice to Condition A1.3), in respect of an Access Agreement, a person (whether or not an operator of trains) who has permission to use the CCOS pursuant to that Access Agreement;
"**Value Added Tax**"	means value added tax as provided for in the Value Added Tax Act 1994, and any tax similar or equivalent to value added tax or any turnover tax replacing or introduced in addition to this and "**VAT**" shall be construed accordingly;
"**Westbourne Park Junction Connection Point**"	means the boundary of the CCOS and the NR Network to the west of Royal Oak portal;
"**Working Day**"	means each of Monday to Friday (inclusive) excluding common law and statutory public holidays on which banks in the City of London are not open for business; and
"**Working Timetable**"	means as set out in Condition D2.1 and D2.1.6.

1.3 ***References to Train Operator***

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

1.4 ***Notices***

1.4.1 Any notice, consent or approval to be given under this CCOS Network Code by any person may be given by:

(a)

personal delivery, express postal delivery or prepaid first class post to the intended recipient's registered address or principal business address within the UK; or

email to the email address of the intended recipient most recently provided by the intended recipient to the sender.

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

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

1.5 ***Good faith***

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

1.6 ***Franchised services***

(a) References to Franchised Services include:

(b) railway passenger services which the appropriate designating authority has designated as eligible for provision under franchise agreements pursuant to section 23 of the Act;

(c) railway passenger services provided by a person appointed as a concessionaire or concession operator by a Railway Funding Authority (including TfL); and

railway passenger services provided by the relevant franchising authority, or another person on behalf of the relevant franchising authority, under section 30 of the Act.

CONDITION A2 - STANDARDS OF DOCUMENTATION

Where in this CCOS Network Code any person is required to prepare, produce or publish any Specified Information, that obligation is an obligation to ensure that the Specified Information:

2.1 is in terms which are, to the greatest extent reasonably practicable, precise, clear and unambiguous; and

2.2 contains the information specified for its contents by the provision of this CCOS Network Code which requires its preparation, production or publication, and this Condition A2 is without prejudice to any further or other requirements specified in this CCOS Network Code and/or the Access Agreement in relation to the Specified Information.

CONDITION A3 - PUBLICATIONS

3.1 ***General Obligation***

3.1.1 Where in this CCOS Network Code RfL(I) is required to publish any Specified Information, RfL(I) shall have satisfied that obligation if the Specified Information is, subject to Condition A3.1.2, Published on its Website.

3.1.2 RfL(I) shall not be obliged to publish, and shall take reasonable steps to avoid publishing, any information which, if published is likely materially to compromise or otherwise prejudice the commercial interests of any Access Party or any of its Affiliates or may reasonably be expected seriously and prejudicially to affect the interests of any person.

3.1.3 Any Train Operator shall be entitled to a copy of any information published pursuant to Condition A3.1.1 subject to paying RfL(I)'s reasonable copying and administration charges.

CONDITION A4 - NOTICE BY THE ORR

4.1 ***Giving of Notice***

(a) Where in this CCOS Network Code there is provision for a notice to be given by the ORR for any purpose, such notice:

(b)

may be given from time to time; and

shall only have effect if it has been:

(i) given to every Access Party, TfL, the Secretary of State, and every other person who has notified the ORR that it wishes to receive any such notice; and

(ii) Published on its Website and placed on the register maintained under section 72 of the Act (as a document issued or made by it under an access agreement).

4.2 ***Deemed Receipt***

A notice given under this CCOS Network Code shall be deemed to have been received:

if sent by hand or express postal delivery, at the time of delivery;

if sent by prepaid first class post from and to any place within the United Kingdom, 3 Working Days after posting unless otherwise proven; and

(a) if sent by email;

(b) (i) upon sending if sent before 1700 hours on a Working Day; or

(c) (ii) in any other case, at 0900 hours on the first Working Day following the day of transmission.

4.3 ***Reasons for decisions***

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

CONDITION A5 - LIMITATION ON LIABILITY

5.1 ***General***

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

(a) an express provision states otherwise in any Part of this CCOS Network Code; or

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

5.2 ***Saving***

Condition A5.1 does not apply to an obligation to pay compensation under Condition F3, Condition G2 or Condition G4 of this CCOS Network Code.

CONDITION A6 - CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

6.1 ***Application to third parties***

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

6.2 ***Application to CCOS Network Code***

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

6.3 ***CCOS Vehicle Change and CCOS Network Change***

Condition A6.1 shall be without prejudice to the right of a Train Operator to recover sums due to it from another Train Operator pursuant to Part F or Part G of this CCOS Network Code.

CONDITION A7 - CONSULTATION

7.1 ***Consultation by a meeting***

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

Part B - Performance Monitoring

Explanatory Note

A. Part B provides for the establishment by RfL(I) of a Performance Monitoring System, designed to record whether trains pass specified monitoring points, the times at which they do so and the difference between those times and the corresponding scheduled times. The system is also designed to enable RfL(I) to determine and record the cause of any lateness, headway failure (excess service interval) or capacity failure (missed station call and cancellation) events. Provision is made for RfL(I) to notify and seek agreement from affected Train Operators having access to the CCOS regarding the cause of any such lateness, headway or capacity failure, and there are procedures specified for resolving cases where RfL(I) and a Train Operator disagree regarding the cause.

B. Part B also incorporates the Delay Attribution Principles and Rules which is a document providing guidance on the attribution of delay. This is the same Delay Attribution Principles and Rules as is used on the NR Network.

C. RfL(I) and Train Operators are given the right to make proposals to change the Delay Attribution Principles and Rules. As the process to change the Delay Attribution Principles and Rules is set out in the Network Rail Network Code, RfL(I) will use reasonable endeavours to procure that the Board considers a change under the provisions set out in the Network Rail Network Code.

D. Train Operators are given the right to notify RfL(I) if the Performance Monitoring System is not fit for purpose and require RfL(I) to investigate the grounds for such notification and report on its findings.

E. Both RfL(I) and Train Operators are given the right to audit and inspect the records and monitoring equipment of the relevant Performance Monitoring System and to require tests of the Performance Monitoring System to be carried out in the presence of an independent expert.

F. Condition B5.3 also makes it clear that the Access Parties can, however, agree a more onerous Performance Monitoring System than that contemplated by Part B. The model set out in Part B is therefore a minimum standard.

G. Part B also incorporates the CCOS Performance Data Accuracy Code which encompasses defined standards of accuracy of performance data.

H. RfL(I) uses the services of the Board for matters relating to the CCOS but will not be involved in the governance processes of such Board.

I. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

In this Part B, unless the context otherwise requires:

"**Board**"	means the Delay Attribution Board which also provides services to the NR Network constituted in accordance with condition B6.2 of the Network Rail Network Code;
"**Board Secretary**"	means the secretary of the Board;
"**CCOS Performance Data Accuracy Code**"	means, subject to Condition A1.1(g), the code relating to the standards of performance data accuracy entitled "**CCOS Performance Data Accuracy Code**";
"**CCOS Proposal for Change**"	has the meaning ascribed to it in Part C of this CCOS Network Code;
"**costs**"	includes expenses;
"**DAB Amendment Proposal**"	means any Proposal for Amendment (as defined in part B of the Network Rail Network Code) in respect of the Delay Attribution Principles and Rules;
"**Performance Monitoring System**"	means the system operated by RfL(I) for monitoring train performance described in Condition B1.

CONDITION B1 - PROCEDURES FOR MONITORING PERFORMANCE

1.1 ***Performance Monitoring System***

(a) RfL(I) shall operate a system for monitoring train performance which accurately records:

(b) the times at which trains arrive at, depart from and pass specified points;

(c) the difference between the time at which a train arrives at, departs from or passes a specified point and the time published for such arrival, departure or passing in the Working Timetable;

(d) all cancelled trains, cancelled station calls and trains failing to pass any specified point;

the cause of train lateness, headway and capacity failures (including missed station calls and cancelled trains); and

the times at which trains arrive at and pass specified interface points with the NR Network.

1.2 ***The CCOS Performance Data Accuracy Code***

1.2.1 *Incorporation*

(e) The CCOS Performance Data Accuracy Code is incorporated into and shall form part of this CCOS Network Code.

1.2.2 *Modifications*

(a) Subject to Condition B1.2.2(b), an Access Party shall be entitled to make a CCOS Proposal for Change to amend the CCOS Performance Data Accuracy Code.

(b) Part C of the CCOS Network Code shall apply to any CCOS Proposal for Change by an Access Party to amend the CCOS Performance Data Accuracy Code and any such proposal shall be treated as if it were a CCOS Proposal for Change (as defined in Part C of this CCOS Network Code).

1.2.3 *Obligations and Rights*

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

1.3 ***The Delay Attribution Principles and Rules***

The Delay Attribution Principles and Rules is incorporated into and shall form part of this CCOS Network Code. If it is proposed to modify the Delay Attribution Principles and Rules at any time:

1.3.1 Condition C6 of this CCOS Network Code shall apply to any modification proposed by Network Rail or a party other than RfL(I), a Train Operator or any Access Option Holder; and

1.3.2 Condition B2.5 of this CCOS Network Code shall apply to any modification proposed by RfL(I), a Train Operator or an Access Option Holder.

CONDITION B2 - DIAGNOSIS OF DELAYS OR CANCELLATIONS

2.1 ***Determination of causes of lateness, headway failure or capacity failure***

RfL(I) shall, in relation to any train lateness, headway failure or capacity failure on the CCOS (subject to any thresholds agreed between RfL(I) and each Train Operator), determine and record the persons and causes which

are responsible for the lateness, headway failure or capacity failure and where more than one, so far as practicable, the extent to which each person or cause is so responsible. RfL(I) shall, in relation to any train delay in respect of a train joining the CCOS at a boundary with the NR Network, determine and record the delay.

2.2 ***Information relating to causes of train lateness, headway failures or capacity failures***

RfL(I) shall, when determining and recording the persons and causes which are responsible for train lateness, headway failure or capacity failure, have due regard to all information which is relevant in the circumstances, including the following:

(a) information from any computerised or other recording system which RfL(I) may, for the time being, be permitted to use for the purposes of a particular Access Agreement;

(b) information supplied by any persons duly authorised to participate in the signalling of trains;

(c) information supplied by any Train Operator, whether such information is within its knowledge or based on information supplied by other Train Operators;

(d) information supplied by RfL(I), Network Rail, Heathrow Airport Limited or other providers of railway networks, whether such information is within that person's knowledge or based on information supplied by persons engaged or acting on behalf of, or otherwise in accordance with or subject to the instructions of, that person;

(e) information supplied by any provider of rolling stock, whether such information is within its knowledge or based on information supplied by other operators of rolling stock; and

(f) information and guidance set out in the Delay Attribution Principles and Rules.

2.3 ***Notification and agreement of lateness, headway failure or capacity failure***

2.3.1 *Notification of lateness, headway failure or capacity failure*

RfL(I) shall, as soon as reasonably practicable following the occurrence on the CCOS of any train lateness, headway failure or capacity failure affecting a Train Operator’s train or any other train operator which is attributed to the Train Operator, notify that operator of the occurrence of that lateness, headway failure or capacity failure and the responsibility, if any, for that lateness, headway failure or capacity failure attributed by RfL(I) to that operator. Any such

notification shall be sent using the Performance Monitoring System (and/or any such other means of notification that has been agreed for this purpose between that Train Operator and RfL(I)) and at the same time provide its reasons for doing so.

2.3.2 *Consideration by a Train Operator*

A Train Operator shall consider each lateness, headway failure or capacity failure attributed to it by RfL(I) and, if that Train Operator wishes to refer the attribution for further investigation it shall do so within 2 Working Days of receipt of that notice utilising the Performance Monitoring System (or any other means of notification that has been agreed for this purpose between that Train Operator and Network Rail, and at the same time providing its reasons for doing so.

2.3.3 *Agreement of delay attribution*

Any attribution shall, unless referred for further investigation by that Train Operator within 2 clear Working Days of receipt of that notice in accordance with Condition B2.3.2, be deemed to be agreed by that Train Operator.

2.4 ***Matters referred for further investigation***

2.4.1 *Procedure for conducting further investigation*

Within the next 2 Working Days after receipt of a notification from a Train Operator in accordance with Condition B2.3.2, Network Rail and that Train Operator shall attempt to resolve the matter referred for further investigation. Such further investigation shall take into account all relevant circumstances of the case and any relevant information set out in the Delay Attribution Principles and Rules.

2.4.2 *Referral for review*

(a)

(b) If agreement has not been reached within:

the 2 Working Days referred to in Condition B2.4.1; or

such longer period as RfL(I) and the Train Operator have agreed in order to continue and conclude their investigations,

the matter shall be referred for review by the designated senior manager appointed by the Train Operator and the designated senior manager appointed by RfL(I) for the purposes of this Condition B2.4.2.

2.4.3 *Referral for further guidance or resolution*

If RfL(I) and the Train Operator are unable to agree on the attribution within:

(a) 20 Working Days of the matter being referred for review by the designated senior managers in accordance with Condition B2.4.2; or

(b) such longer period as RfL(I) and the Train Operator have agreed in order to continue and conclude the designated senior managers' review,

they shall seek guidance from the Board on the appropriate application of the Delay Attribution Principles and Rules or on any other relevant matter.

2.4.4 *Guidance from the Board*

If, within 10 Working Days of guidance being received from the Board or any designated sub-committee pursuant to Condition B2.4.3, RfL(I) and the Train Operator are unable to agree on the attribution, they shall refer the matter for determination in accordance with the CCOS ADRR.

2.4.5 *Precedence*

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

2.5 ***Amendments to the Delay Attribution Principles and Rules***

2.5.1 *Entitlement to make a DAB Amendment Proposal to the Delay Attribution Principles and Rules*

RfL(I), any Train Operator and any Access Option Holder shall be entitled to submit a DAB Amendment Proposal, it being acknowledged that for any such DAB Amendment Proposal to be implemented, it must also be approved pursuant to part B of the Network Rail Network Code. Any DAB Amendment Proposal shall be sent to RfL(I) and copied to all Train Operators and all Access Option Holders and shall:

(a) be in writing;

(b) contain reasonable particulars of the amendment proposed;

be supported by an explanation in reasonable detail of the reasons for the proposed amendment; and

(c) include, to the extent that it is able to do so, for the benefit of any Train Operator and any Access Option Holder to whom a notice is given under Condition B2.5.2(a), an assessment of any wider impact (including commercial impact) that the proposal is likely to have on another Access Party and train operators operating on the NR Network and (in each case) a proposed solution to mitigate such impact.

(d)

2.5.2 *Notice of DAB Amendment Proposal*

RfL(I) shall, within 5 Working Days following circulation or receipt of a DAB Amendment Proposal or, where RfL(I) did not submit that proposal, within 5 Working Days following receipt of a response to any clarification that RfL(I) may reasonably request from the Train Operator or Access Option Holder who submitted the DAB Amendment Proposal:

(a) give notice to each Train Operator and each Access Option Holder of its provisional timescale for consulting on and considering that DAB Amendment Proposal;

(b) give notice to Network Rail and the Board that it has received a DAB Amendment Proposal which RfL(I) may request to be considered and which RfL(I), each Train Operator and each Access Option Holder is considering pursuant to this Part B of this CCOS Network Code; and

(c) invite the submission to RfL(I) of written representations in respect of that DAB Amendment Proposal within such period as is reasonable in all the circumstances (the "**Consultation Period**"), being a period of not less than 10 Working Days from the date of notification under paragraph (a) above. In making representations, a Train Operator or an Access Option Holder should:

(i) specify whether or not it accepts the proposed DAB Amendment Proposal and provide an explanation for its position;

(ii) indicate any wider impact (including commercial impact) that the proposed DAB Amendment Proposal is likely to have on its business; and

(iii) confirm whether it is content with any solution proposed by RfL(I) or the Train Operator or the Access Option Holder who submitted the DAB Amendment Proposal; or

(iv) provide details of any alternative solution it considers appropriate to address the wider impact (including commercial impact); and

(v) indicate whether such an alternative has been discussed and agreed with RfL(I) and/or a potentially affected train operator.

2.5.3 *Material modification of DAB Amendment Proposal*

If at any time a DAB Amendment Proposal is (with the consent of the party proposing such DAB Amendment Proposal) modified in a material way, RfL(I) shall treat the proposal as a new DAB Amendment Proposal and the provisions of Conditions B2.5.1 and B2.5.2 shall apply thereto.

2.5.4 *Meeting to discuss a DAB Amendment Proposal*

Within 5 Working Days following the end of the Consultation Period, unless all parties are in unanimous agreement in support of the DAB Amendment Proposal (in which case, Condition B2.5.6 shall apply), RfL(I) shall give notice to each Train Operator and each Access Option Holder calling a meeting to discuss the DAB Amendment Proposal and any written representations it has received in respect of that DAB Amendment Proposal. RfL(I) shall inform each Train Operator and each Access Option Holder of the date, venue and time of such meeting (having first made reasonable efforts to consult with each Train Operator and each Access Option Holder as to such date, venue and time), such meeting to be held no later than 15 Working Days following the end of the Consultation Period.

2.5.5 *Approval of Changes to Delay Attribution Principles and Rules*

At any meeting to discuss a DAB Amendment Proposal held in accordance with Condition B2.5.4, those present may be asked to vote on whether they support the DAB Amendment Proposal. Upon any such vote, RfL(I), each Train Operator and each Access Option Holder shall be entitled to one vote. A DAB Amendment Proposal shall have been approved only where 75% or more of those present

(a) and voting at the meeting support such DAB Amendment Proposal (and, if approved, Condition B2.5.6 shall apply).

2.5.6 *Submission of DAB Amendment Proposal to the Board*

If a DAB Amendment Proposal is either unanimously agreed pursuant to Condition B2.5.4 or approved pursuant to Condition B2.5.5, RfL(I) shall use reasonable endeavours to procure that the Board considers an amendment to the Delay Attribution Principles and Rules in the same terms as the approved DAB Amendment Proposal pursuant to Condition B2.5.4 or B2.5.5 (as the case may be). If RfL(I),

despite having used its reasonable endeavours, does not procure that the Board considers such amendment to the Delay Attribution Principles and Rules, the DAB Amendment Proposal in question shall not proceed and no Train Operator or Access Option Holder shall have any recourse against RfL(I) in respect of such DAB Amendment Proposal.

In making the DAB Amendment Proposal, RfL(I) shall cooperate with and regularly update each Train Operator and each Access Option Holder on progress in relation to such proposal.

(b) If the Board reasonably requests any information in connection with a DAB Amendment Proposal and RfL(I) becomes aware of such information request, either:

(c)

(i) (to the extent such information is within its reasonable control and subject to any confidentiality restrictions set out in an Access Agreement) RfL(I) shall promptly provide such information to the Board; or

(ii) (to the extent such information is within the reasonable control of a Train Operator or Access Option Holder) RfL(I) shall notify the relevant Train Operator or Access Option Holder and (subject to any confidentiality restrictions set out in an Access Agreement) such Train Operator or Access Option Holder shall promptly provide such information to RfL(I) (who shall promptly provide such information to the Board).

(d) RfL(I) shall make such further representations to the Board in relation to the DAB Amendment Proposal as each Train Operator and each Access Option Holder may reasonably request. RfL(I), each Train Operator and each Access Option Holder acknowledge and agree that:

(i) the DAB Amendment Proposal process will take place under part B of the Network Rail Network Code;

(ii) they will not make a submission as part of the DAB Amendment Proposal process which is inconsistent with the DAB Amendment Proposal approved pursuant to this Part B of the CCOS Network Code;

(iii) the agreed or determined outcome of such DAB Amendment Proposal process may or may not result in the Delay Attribution Principles and Rules being

amended in the manner contemplated by the approved DAB Amendment Proposal;

(iv) subject to the outcome of any rights of appeal or any dispute resolution process under the Network Rail Network Code, they shall be bound by the outcome of the DAB Amendment Proposal process, which may or may not result in modifications being made to the Delay Attribution Principles and Rules; and

(v) the Delay Attribution Principles and Rules (as modified, where applicable, pursuant to the DAB Amendment Proposal process) shall apply to this CCOS Network Code (as contemplated by Conditions C6.1 and C6.3.5 of this CCOS Network Code).

2.5.7 *Decision to Approve*

RfL(I), each Train Operator and each Access Option Holder acknowledge and agree that:

(a) any decision under the Network Rail Network Code to approve a DAB Amendment Proposal will state the date from which it is proposed that such approved amendment is to take effect, being a date no earlier than the date on which the decision was made;

(b) Network Rail is required, as soon as reasonably practicable following such decision, to submit the approved DAB Amendment Proposal, any associated impact assessment and proposed solution and the written memorandum contemplated by part B of the Network Rail Network Code to the ORR; and

(c) no DAB Amendment Proposal shall have effect unless the ORR gives notice to the Board in writing that it approves the proposal and confirms the date of introduction.

2.5.8 *Notification of approval*

(a) If the ORR gives its approval of the DAB Amendment Proposal, RfL(I) shall, as soon as reasonably practicable:

(b) notify details of the approved amendment and when it will take effect to all Train Operators and all Access Option Holders; and

circulate the revised version of the Delay Attribution Principles and Rules, as updated by Network Rail to reflect

the approved amendment, to all Train Operators, all Access Option Holders and to the ORR.

2.5.9 *Decision to Reject*

RfL(I) shall, as soon as reasonably practicable following a decision under the Network Rail Network Code, or following receipt of notification of a decision of the ORR, to reject a DAB Amendment Proposal, notify all Train Operators and all Access Option Holders of that decision.

CONDITION B3 - SYSTEM INVESTIGATION

3.1 *Notification of unsatisfactory system*

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

3.2 *Investigation of system*

As soon as reasonably practicable following receipt of a notice from a Train Operator under Condition B3.1, RfL(I) shall investigate the matters complained of and shall, within the period of 28 Working Days following the date of receipt of that notice, prepare and deliver to that Train Operator a report of its investigations which shall include:

(a) details of all relevant tests and checks carried out by RfL(I);

(b) the results of RfL(I)'s investigations;

(c) RfL(I)'s conclusion as to whether the Performance Monitoring System failed to satisfy the requirements set out in Condition B1 in the manner alleged by that Train Operator or in any other respect;

(d) RfL(I)'s reasons for its conclusions and copies of all relevant data and documentation in respect thereof; and

(e) any steps which RfL(I) is taking or proposes to take in respect of any failure to satisfy the said requirements.

3.3 *Adjustment to prior results*

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

reasonable in order to correct those results (but without requiring RfL(I) to amend such results in the Performance Monitoring System).

CONDITION B4 - RECORDS, AUDIT AND TESTING

4.1 *Obligation to keep information*

The Access Parties shall, for a period of not less than six years, keep summaries of all material information relating to the monitoring of train performance.

4.2 *Right to audit and inspect*

Any Access Party may, without prejudice to Condition B3.2 and on giving at least 5 Working Days' prior notice to the other Access Party:

(a) audit and inspect at any reasonable time all processes, systems and records of the Performance Monitoring System applicable to an Access Agreement to which it is a party for any particular period and in relation to the Train Operator's Services provided pursuant to that Access Agreement;

(b) inspect at any reasonable time all such premises and equipment as are used in connection with the Performance Monitoring System to monitor train performance in respect of the Train Operator's Services provided pursuant to such Access Agreement; and

(c) require the other Access Party to carry out analysis, investigations and tests of the Performance Monitoring System including the processes, systems and equipment used in connection with the Performance Monitoring System in the presence of an independent expert nominated by the first Access Party, such tests to be as reasonably required by the first Access Party to determine its accuracy and suitability to monitor train performance in respect of the Train Operator's Services pursuant to such Access Agreement.

4.3 *Costs to be borne by investigating party*

Subject to Condition B4.4, any audit, inspection, analysis, investigation or testing carried out at the request of an Access Party in accordance with Condition B4.2 shall be at the requesting Access Party's own cost.

4.4 *Costs to be borne by party subject to investigation*

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

CONDITION B5 - CO-OPERATION

5.1 ***Review of operations***

The Access Parties having access to the CCOS shall, not less than once every six months, meet, review train performance and performance of the infrastructure comprised in the CCOS and discuss alterations to their respective operations which will improve train and infrastructure performance and reduce train lateness, headway failure or capacity failure.

5.2 ***Implementation of alterations***

The Access Parties agree to use all reasonable endeavours to implement any alterations agreed under Condition B5.1.

5.3 ***Obligations in Access Agreement***

Nothing in this Part B shall restrict the Access Parties from agreeing, in an Access Agreement, obligations in relation to performance monitoring which are more onerous than those contained in this Part B.

Part C - Modifications to the CCOS Network Code

Explanatory Note

A. Part C provides for a process by which the CCOS Network Code, other operational arrangements (such as the CCOS Emergency Access Code, the CCOS Performance Data Accuracy Code and the CCOS Railway Systems Code) and certain other arrangements such as the CCOS ADRR may be changed. The process set out in Part C is, in certain circumstances, also used in relation to changes to aspects of Access Agreements into which this CCOS Network Code is incorporated.

B. A CCOS Proposal for Change may be initiated by the ORR, an Access Beneficiary or RfL(I) and is subject to a consultation process.

C. As RfL(I) uses the Delay Attribution Principles and Rules for the CCOS, the process set out in this Part C of the CCOS Network Code will not apply in relation to modifications to the Delay Attribution Principles and Rules. Instead, RfL(I) will ensure that where a proposed change to the Delay Attribution Principles and Rules is proposed by Network Rail or a user of the NR Network which may impact on users of the CCOS, RfL(I) will use reasonable endeavours to procure that representations of Access Beneficiaries and RfL(I) are fed into the change process set out in part C of the Network Rail Network Code. However, where an Access Beneficiary who also uses the NR Network proposes a change to the Delay Attribution Principles and Rules under the Network Rail Network Code, that Access Beneficiary shall be responsible for feeding the representations of RfL(I) and other Access Beneficiaries into the process set out in part C of the Network Rail Network Code.

D. The CCOS ADRR may be changed in accordance with the same procedures.

E. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

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

"**CCOS Proposal for Change**"	means any proposal to change any of the Relevant CCOS Arrangements, together with any modification of that proposal as referred to in Condition C1.3;
"**Consultation Period**"	means the period for consultation described in Condition C1.2(b);
"**Relevant CCOS Arrangements**"	means the CCOS Network Code (including this Part C and the CCOS ADRR); the CCOS Emergency Access Code; the CCOS Performance Data Accuracy Code; the CCOS Railway Systems Code or any other arrangement which contemplates being varied in accordance with this Part C of the CCOS Network Code; and
"**Sponsor**"	means the person who proposes a CCOS Proposal for Change.

CONDITION C1 - RECEIPT AND NOTIFICATION OF CCOS PROPOSALS FOR CHANGE SPONSORED BY RFL(I) OR AN ACCESS BENEFICIARY

1.1 ***Entitlement to make CCOS Proposal for Change***

RfL(I) and each Access Beneficiary shall be entitled to make a CCOS Proposal for Change for consideration. Any such CCOS Proposal for Change shall be sent by the sponsor to all other persons entitled to make a Proposal for Change and the ORR and shall:

(a) be in writing;

(b) specify the wording of the proposed change;

(c) specify the date or series of dates on which it is proposed that the change come into effect, if other than the period of 14 days after any approval notified by the ORR pursuant to Condition C2; and

(d) be supported by an explanation in reasonable detail of the reasons for the proposed change.

In relation to the CCOS Network Code, a CCOS Proposal for Change may be made in respect of:

(a) an established part of this CCOS Network Code; and/or

(b) a part for which amendments have been approved or directed by the ORR under Condition C2 or Condition C3 but which have not taken

effect and, in relation to a change being made under Condition C3, no appeal has been received within the timeframe for appeals under Condition C3. In such a case the CCOS Proposal for Change should take account of any such approved or directed amendment. If such a CCOS Proposal for Change would affect any such approved or directed amendment, it can only take effect in relation to that part after the amendment on which it is based takes effect.

1.2 ***Notice of CCOS Proposal for Change***

RfL(I) shall, within 7 days following circulation or receipt of a CCOS Proposal for Change or, if RfL(I) is not the sponsor of that CCOS Proposal for Change, within 7 days following receipt of any clarification that RfL(I) may reasonably request from the sponsor of that CCOS Proposal for Change:

(a) give notice to each Access Beneficiary and to the ORR of its provisional timescale for consulting on and considering that CCOS Proposal for Change; and

(b) invite the submission to RfL(I) of written representations in respect of that CCOS Proposal for Change within such period as is reasonable in all the circumstances, being a period of not less than 30 days from the date of notification under Condition C1.2(a) above.

1.3 ***Modification of CCOS Proposal for Change***

1.3.1 A modification to any CCOS Proposal for Change may be proposed by RfL(I), the ORR or an Access Beneficiary at any time during the Consultation Period and shall be copied to all other persons entitled to make such a modification to a CCOS Proposal for Change.

1.3.2 (a) RfL(I) and the sponsor of the CCOS Proposal for Change (where the sponsor is not RfL(I)) shall consider any modifications which are proposed to a CCOS Proposal for Change and:

(b) where the proposed modification is a material modification, then RfL(I) shall treat the proposal as a new CCOS Proposal for Change; and

where the proposed modification is not a material notification, then RfL(I) shall consider the CCOS Proposal for Change, as modified, but shall not treat the proposal as a new CCOS Proposal for Change,

provided that where RfL(I) and the sponsor of the CCOS Proposal for Change (where the sponsor is not RfL(I)) cannot agree promptly whether or not a proposed modification is material then, for the purposes of this Condition C1.3, the modification will be treated as though it is a material modification.

1.4 ***Clarification***

The sponsor of a CCOS Proposal for Change shall promptly comply with all reasonable written requests of RfL(I), the ORR or an Access Beneficiary for further clarification of the CCOS Proposal for Change.

1.5 ***Meeting to discuss a CCOS Proposal for Change***

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

1.6 ***Further consultation***

If a request is made at any meeting convened pursuant to Condition C1.5 to carry out further consultation in respect of any CCOS Proposal for Change, RfL(I) shall consider whether further consultation is required in order to provide each Access Beneficiary with sufficient time to make all relevant representations, and if RfL(I) determines that further consultation is required, it shall carry out that further consultation as soon as reasonably practicable.

CONDITION C2 - CONSIDERATION OF CCOS PROPOSAL FOR CHANGE SPONSORED BY RFL(I) OR AN ACCESS BENEFICIARY

2.1 ***Submission of CCOS Proposal for Change to ORR***

Following the conclusion of the Consultation Period and, where applicable, following the conclusion of any meeting called by RfL(I) pursuant to Condition C1.5 and any further consultation conducted pursuant to Condition C1.6, RfL(I) shall submit the CCOS Proposal for Change to the ORR, together with a written memorandum:

(a) explaining the reason for the CCOS Proposal for Change;

(b) containing details of the results of the consultation process including, where relevant, any further consultation process (in each case including copies of any representations made during such consultation process);

(c) confirming whether or not RfL(I) supports the CCOS Proposal for Change (including its reasons);

(d) confirming whether or not each Access Beneficiary supports the CCOS Proposal for Change (including their reasons (to the extent that they are known to RfL(I), having made reasonable enquiry)); and

stating the date or series of dates upon which it is considered that the CCOS Proposal for Change should take effect should the ORR approve the CCOS Proposal for Change pursuant to Condition C2.3, such date being no earlier than 14 days after the date on which the ORR gives notice of any such approval.

2.2(e) ***Request for further information from the sponsor of a CCOS Proposal for Change***

The sponsor of the CCOS Proposal for Change, including where such sponsor is RfL(I), shall use its reasonable endeavours to provide any further information required in relation to the consideration of a CCOS Proposal for Change by the ORR.

2.3 ***Notification of approval or rejection of a CCOS Proposal for Change***

2.3.1 The ORR may notify RfL(I) as soon as reasonably practicable of its approval or rejection of a CCOS Proposal for Change sponsored by an RfL(I) or an Access Beneficiary submitted to it pursuant to Condition C2.1 and, where relevant, any further information submitted to it pursuant to Condition C2.2, provided that the ORR may make any minor clarificatory modifications before approving any such CCOS Proposal for Change.

2.3.2 No CCOS Proposal for Change sponsored by RfL(I) or an Access Beneficiary shall have effect unless the ORR gives notice to RfL(I) in writing that it approves the proposal pursuant to Condition C2.3.1 and only if the following conditions have been satisfied (and the ORR has given its reasons in the notice as to why it considers such conditions have been satisfied):

(a) the CCOS Proposal for Change in question promotes or achieves the objectives specified in section 4 of the Act; and

(b) the interests of any relevant person or persons would not be unfairly prejudiced if the CCOS Proposal for Change were made, unless such unfair prejudice is outweighed by or is likely to be outweighed by any prejudice which will or is likely to be sustained by any other relevant person or persons if the CCOS Proposal for Change is not made, having due regard to the need to enable relevant persons to plan the future of their businesses with a reasonable degree of assurance,

provided that, in all cases, the CCOS Proposal for Change in question shall not unduly harm the financial position of RfL(I).

2.4 ***Notification to parties***

Where the ORR gives notice to RfL(I) pursuant to C2.3.2, RfL(I) shall ensure that all Access Beneficiaries shall be notified of the change and its effective date.

2.5 ***Effective date of change***

Any notice given under C2.4 shall specify the effective date(s) of the proposed change which, unless otherwise determined, shall be 14 days from the date of notification made pursuant to Condition C2.4.

CONDITION C3 - MODIFICATION BY THE ORR

3.1 The CCOS Operational Arrangements shall have effect with the modifications specified in any notice given by the ORR for the purposes of this Condition C3, provided that the ORR shall be satisfied as to the need for the modification as provided in Condition C3.2, the procedural requirements of Condition C3.3 shall have been satisfied, and the modification shall not have effect until the date provided for in Condition C3.4.

3.2 A notice given by the ORR under Condition C3.1 shall have effect if it is satisfied on reasonable grounds that either or both of the following conditions has been satisfied:

(a) the modification in question is or is likely to be reasonably required in order to promote or achieve the objectives specified in section 4 of the Act; and

(b) the interests of any relevant person or persons would be unfairly prejudiced if the modification in question were not made, and the need to avoid or remedy such unfair prejudice outweighs or is likely to outweigh any prejudice which will or is likely to be sustained by any other relevant person or persons if the modification is made, having due regard to the need to enable relevant persons to plan the future of their businesses with a reasonable degree of assurance,

provided that, in all cases, the modification in question shall not unduly harm the financial position of RfL(I).

3.3(a) The procedural requirements which require to have been followed for the purposes of Condition C3.1 are:

the ORR shall have sent a copy of its proposal to RfL(I) and each Access Beneficiary which shall:

(i) be in writing;

(ii) specify the wording of the modification proposed;

(iii) specify the date or series of dates on which it is proposed that the modification come into effect; and

(iv) be supported by an explanation in reasonable detail of the reason for the proposed modification, which must include the

reasons why it considers the conditions in C3.2 would be satisfied;

the ORR shall have invited the submission of written representations on the documentation provided pursuant to Condition 3.3(a) above from RfL(I) and each Access Beneficiary within such period as is reasonable in all circumstances;

(b) the ORR shall have taken such representations into account (other than those which are frivolous or trivial) in making its decision on the modification to be made; and

(c) the ORR shall have notified RfL(I) and each Access Beneficiary of its conclusions in relation to the modification in question (including by providing to each such person a copy of the text of the proposed modification) and its reasons for those conclusions, which may be provided at the same time as the notice under Condition C3.1.

(d)

3.4 ***Effect***

A notice under Condition C3.1 shall have effect upon such date, or the happening of such event, as shall be specified in the notice.

CONDITION C4 - NON-EFFECTIVE CCOS PROPOSALS FOR CHANGE

A notice under Part C of this CCOS Network Code shall not have effect in relation to any CCOS Proposal for Change which relates to Condition C2.3.2 or proposed modification which relates to Condition C3.

CONDITION C5 - PROVISION OF REVISED TEXTS

RfL(I) shall, as soon as reasonably practicable following issue of a notice under Condition C3.1 or following approval of a CCOS Proposal for Change by the ORR pursuant to Condition C2.3, supply to all Access Beneficiaries and the ORR a revised version of the amended documentation incorporating the change and shall Publish on a Website a revised copy of such documentation.

CONDITION C6 - MODIFICATION OF THE DELAY ATTRIBUTION PRINCIPLES AND RULES BY NETWORK RAIL, THE BOARD OR AN ACCESS BENEFICIARY

6.1 RfL(I) and each Access Beneficiary acknowledge that:

6.1.1 this CCOS Network Code and each Access Agreement in relation to the CCOS incorporates and uses the Delay Attribution Principles and Rules;

6.1.2 the Delay Attribution Principles and Rules is published by and is subject to the modification process set out in part B of the Network Rail Network Code;

6.1.3 under part B of the Network Rail Network Code, the Delay Attribution Board (as defined in Part B of this CCOS Network Code) has the right to make non-

material modifications to the Delay Attribution Principles and Rules from time to time in accordance with the procedure set out in that part; and

6.1.4 if a modification is made to the Delay Attribution Principles and Rules, such modification will as a result also be made to the arrangements set out in this CCOS Network Code and each Access Agreement in relation to the CCOS.

6.2 If Network Rail or any other person (other than RfL(I) or an Access Beneficiary) proposes a modification to the Delay Attribution Principles and Rules and such modification will or is reasonable likely to have an impact on RfL(I) or any Access Beneficiary:

6.2.1 RfL(I) shall use reasonable endeavours to procure that:

(a) RfL(I) is informed of any proposed modification to the Delay Attribution Principles and Rules;

(b) RfL(I) is entitled to make representations to the Board Secretary (as defined in the Network Rail Network Code) on behalf of RfL(I) in connection with any such proposed modification; and

(c) the Board Secretary (as defined in the Network Rail Network Code) takes into account any representations made by RfL(I) in connection with any such proposed modification;

6.2.2 RfL(I) shall, within 7 days of being notified of such proposed modification, notify each Access Beneficiary of the proposed modification;

6.2.3 RfL(I) shall consult with each Access Beneficiary in relation to the proposed modification;

6.2.4 within 14 days of the notification pursuant to Condition C6.2.2, each Access Beneficiary shall provide representations (if any) it may have in relation to the proposed modification;

6.2.5 RfL(I) shall make equivalent representations to those provided pursuant to Condition C6.2.4 to the Delay Attribution Board on behalf of the Access Beneficiaries (together with any representations which it may have); and

6.2.6 RfL(I) and each Access Beneficiary shall be bound by the modifications made to the Delay Attribution Principles and Rules as a result of the process set out in part B of the Network Rail Network Code (which RfL(I) shall notify each Access Beneficiary the outcome of).

6.3 If: (1) an Access Beneficiary who is also an access beneficiary under the Network Rail Network Code; (2) proposes a modification to the Delay Attribution Principles and Rules under the Network Rail Network Code; and (3) such modification will or is reasonable likely to have an impact on RfL(I) or any other Access Beneficiary:

6.3.1 the Access Beneficiary proposing the modification to the Delay Attribution Principles and Rules shall promptly notify RfL(I) and all other Access Beneficiaries:

(a) that it is proposing a modification to the Delay Attribution Principles and Rules, together with the wording of the proposed modification; and

(b) upon the commencement of the consultation period (as defined in condition B2.5 of the Network Rail Network Code);

6.3.2 the Access Beneficiary proposing the modification to the Delay Attribution Principles and Rules shall consult with RfL(I) and each other Access Beneficiary in relation to such proposed modification promptly following the notification pursuant to Condition C6.3.1(b);

6.3.3 within 14 days of the notification pursuant to Condition C6.3.1(b), RfL(I) and each other Access Beneficiary shall provide to the Access Beneficiary proposing the modification to the Delay Attribution Principles and Rules representations (if any) they may have in relation to the proposed modification;

6.3.4 the Access Beneficiary proposing the modification to the Delay Attribution Principles and Rules shall make equivalent representations to those provided pursuant to Condition C6.3.3 on behalf of RfL(I) and the other Access Beneficiaries in accordance with the process set out in part B of the Network Rail Network Code, and

6.3.5 RfL(I) and each Access Beneficiary shall be bound by the modifications made to the Delay Attribution Principles and Rules as a result of the process set out in part B of the Network Rail Network Code (which the Access Beneficiary proposing the modification to the Delay Attribution Principles and Rules shall notify RfL(I) and each other Access Beneficiary the outcome of).

CONDITION C7 - MODIFICATIONS IN THE FIRST TWO YEARS OF OPERATIONS

7.1 Subject to the remaining provisions of this Condition C7, on or before the date which falls one year after the Full Opening Date, RfL(I) shall be entitled to make such modifications to this CCOS Network Code as may be reasonably necessary and expedient without complying with the requirements of Condition C1 to Condition C6.

7.2 (a) The entitlement set out in Condition C7.1 shall only apply if:

7.2.1 any of the following has occurred (or RfL(I) believes that any of the following is reasonably likely to occur):

(a) any of the provisions of this CCOS Network Code, when operated in practice in accordance with their terms, do not operate as intended by RfL(I);

RfL(I) experiences substantial difficulties in implementing the provisions of this CCOS Network Code in accordance with their terms; or

(b) there are any material issues relating to the interface between the operation of this CCOS Network Code and the operation of equivalent provisions set out in the Network Rail Network Code;

7.2.2 the issue identified under Condition C7.2.1 was not reasonably foreseeable
(c) at the time of entering into the first Access Agreement in respect of the CCOS;

7.2.3 RfL(I) has notified each Access Beneficiary of its proposal to modify this CCOS Network Code in accordance with the process set out in this Condition C7; and

7.2.4 the ORR has approved the proposed modification.

7.3 In exercising its entitlement pursuant to Condition C7.1, RfL(I) shall only be permitted to make such modifications to this CCOS Network Code which are reasonably necessary and expedient to remedy the issue identified under Condition C7.2.1.

7.4 Any such modification made by RfL(I) pursuant to this Condition C7 shall come into effect 14 days after the date on which the ORR gives notice of its approval in accordance with Condition C7.2 to RfL(I), or such earlier date as the ORR may specify in such notice.

7.5
(a)

(b) Subject to the remainder of this Condition C7.5, this Condition C7 shall cease to have effect on the date which falls a year and a day immediately following the Full Opening Date.

(c) Any proposed modifications which are in progress as at the date referred to in Condition C7.5(a) shall be permitted to conclude in accordance with this Condition C7.

Any modifications which have been made to the CCOS Network Code in accordance with this Condition C7 prior to the date referred to in Condition C7.5(a) (or which fall within the scope of Condition C7.5(b)) shall continue in full force and effect notwithstanding this Condition C7 ceasing to have effect.

Part D - Timetable Change

Explanatory Note

A. *Part D of this CCOS Network Code sets out the procedures by which the Working Timetable, CCOS Engineering Access Statement and CCOS Timetable Planning Rules may be changed. Although changes may be made to the Working Timetable at any time, significant changes in the passenger timetable may be made only twice a year, namely at the dates referred to as the Principal Change Date (in December) and the Subsidiary Change Date (in May).*

B. *Significant timetable change may require discussion between Timetable Participants and RfL(I) over a period of several years. At least two years before each Principal Change Date, RfL(I), in collaboration with potential Timetable Participants will commence preparation of a timetable for that year which will incorporate anticipated changes into a single unified timetable plan.*

C. *The development of a robust timetable demands dialogue between RfL(I) and Timetable Participants (i.e. Train Operators and others entitled to take part in the process), between the Timetable Participants themselves, and also between Timetable Participants and their customers or customers' representative bodies.*

D. *RfL(I) has the role of managing the Working Timetable for the CCOS. As the CCOS is connected to the NR Network and it is expected that services will use both the CCOS and the NR Network, RfL(I) expects to work closely with Network Rail, as infrastructure manager of the NR Network, in preparing the Working Timetable to ensure that contiguous services can be operated across all pieces of infrastructure. RfL(I) is responsible for accommodating within the timetable the contractual service specification of each Train Operator. Subject to the application of the Act and the Access Regulations, a Train Operator's Train Slots are protected insofar as they are based on Firm Rights which are not inconsistent with the applicable CCOS Engineering Access Statement and/or applicable CCOS Timetable Planning Rules, provided that the Firm Rights have been asserted no later than the Priority Date.*

E. *Each year, at the start of the timetable development process, RfL(I) is obliged to review the applicable CCOS Engineering Access Statement and applicable CCOS Timetable Planning Rules and decide if any amendments should be made in respect of the period of the annual timetable commencing on the next Principal Change Date. In addition, each year, at the start of the process for development of the timetable changes applying from the Subsidiary Change Date, RfL(I) is obliged to undertake a more limited review of the applicable CCOS Engineering Access Statement and the applicable CCOS Timetable Planning Rules. CCOS Timetable Planning Rules are consulted on each review, and there is a right to refer disputes to the CCOS ADRR.*

F. *Each year at or before the start of the timetable development process there*

will be dialogue between RfL(I) and Timetable Participants regarding the timetable published at D-26 in the process relating to the immediately preceding Timetable Change Date and any variations to those train services which the Timetable Participants aspire to run in that timetable year. Each Timetable Participant will notify RfL(I) of any changes in the contractual rights (as set out in the Timetable Participant's Access Agreement with RfL(I)) that the Timetable Participant will wish to exercise in support of these services, giving reasons for such changes, and will also notify RfL(I) of any changes to the Train Slots which will be sought. The notification must be made on or before the Priority Date.

G. *RfL(I) shall consult with Timetable Participants to establish their aspirations for development of their services in the relevant timetable development periods. Timetable Participants shall, on or before the Priority Date, notify RfL(I) of the Firm Rights they wish to exercise, in respect of the Timetable Periods commencing on the next following Principal Change Date and the next following Subsidiary Change Date. Taking into account the notifications made by the Timetable Participants and the Decision Criteria, RfL(I) will prepare and issue the New Working Timetable on or before the last day of the Timetable Preparation Period.*

H. *Following issue of the New Working Timetable, RfL(I) will continue to work with Timetable Participants to further refine the timetable plan to include any new aspirations of the Timetable Participants. It is not intended that significant service changes should be introduced at this stage but changes may be introduced to the extent that it is reasonably practicable to do so in the available time. RfL(I) will publish its proposed New Working Timetable and Timetable Participants will have a right of appeal against RfL(I)'s decisions reflected in that Timetable.*

I. *In its capacity as manager of the Working Timetable, RfL(I) is required to make a number of decisions, including whether to accept Access Proposals for new or different timetable slots and how to reconcile competing or conflicting Access Proposals. RfL(I) must have due regard to the Act, the Access Regulations and to specified Decision Criteria when making decisions regarding proposed changes to the Working Timetable and to any applicable CCOS Engineering Access Statement and applicable CCOS Timetable Planning Rules. These criteria are to be weighed and balanced by RfL(I) in the light of the particular circumstances surrounding each decision and in certain circumstances RfL(I) must also consider whether it is reasonably practicable for proposed amendments to the Working Timetable to be developed and implemented in the time available.*

J. *Under part D of the Network Rail Network Code, Network Rail develops a calendar of events. This shows events, going forward for a period of at least 4 years, which are likely to require significant changes to the working timetable for the NR Network. RfL(I) may request that Network Rail includes any RfL(I) Event in Network Rail's Calendar of Events to ensure the same approach is adopted to events which may affect the CCOS and the NR Network.*

K. It is expected that the normal means of resolving timetable disputes between RfL(I) and each Timetable Participant will be by negotiation and agreement. However, to deal with those cases where agreement cannot be reached, provision is made for Timetable Participants to appeal against any relevant RfL(I) decision in accordance with the CCOS ADRR.

L. The Annexes to Part D set out the timeframes for the timetable development process and any variations to the Working Timetable requested following D-26.

M. This Explanatory Note does not form part of the CCOS Network Code.

1 Introduction

1.1 *Overview*

1.1.1 It is the responsibility of RfL(I) to establish a timetable for the CCOS, referred to as the "**Working Timetable**".

1.1.2 Those entitled to participate in the processes set out in this Part D are defined as "**Timetable Participants**".

1.1.3 The Working Timetable is re-issued in revised form twice a year. The process for producing the bi-annual revision of the Working Timetable is described in Condition D2.

1.1.4 In the period between bi-annual revisions of the Working Timetable, either RfL(I) or Timetable Participants may wish to vary the Working Timetable, whether by altering or removing a scheduled Train Slot or by inserting a new Train Slot. RfL(I) shall operate the processes described in Condition D3 to facilitate variations to a Working Timetable in appropriate circumstances.

1.1.5 In conducting the processes set out in this Part, decisions must be made by RfL(I) in accordance with the principles set out in Condition D4.

1.1.6 Condition D5 describes the processes by which a Timetable Participant, dissatisfied with a decision of RfL(I) made in respect of this Part D, may in specified circumstances appeal against that decision.

1.1.7 RfL(I) requires access to the CCOS in order to fulfil its obligations in relation to the CCOS. The processes by which:

(a) the Working Timetable is updated on a bi-annual basis (as described in Condition D2); and

(b) variations to the Working Timetable outside that bi-annual process are facilitated (as described in Condition D3),

include arrangements to procure access to the CCOS required by RfL(I). Where such access is required over a period greater than that covered by one revision of the Working Timetable, RfL(I) may wish to conduct an extraordinary process of consultation with parties affected by those works. A process for such consultation is described in Condition D6.

1.1.8 It is the responsibility of RfL(I) and all Timetable Participants to collaborate with each other so that the implementation of the procedures in this Part D is carried out with optimal efficiency. RfL(I) and Timetable Participants shall each establish and maintain systems and resources which are necessary and sufficient to

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

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

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

"**Access Proposal**"	shall have the meaning ascribed to it in Condition D2.4.1;
"**Access Rights**"	shall have the meaning ascribed to it in Condition D8.4;
"**Advance Notice of Timetable Change**" or "**ANTC**"	shall have the meaning ascribed to it in Condition D2.3.1;
"**Ancillary Movement**"	a train movement which is not an express part of any Services but which is necessary or reasonably required for giving full effect to the train movements which are an express part of a Service and shall include any such train movement as is referred to in paragraph (c) of the definition of "**Services**" to the extent that it is not expressly provided for in an Access Agreement;
"**Calendar of Events**"	is a calendar, produced by Network Rail for the NR Network, going forward for a period of at least 4 years showing Events and in relation to which RfL(I) may seek to include CCOS Events from time to time in accordance with Condition D7;
"**CCOS Engineering Access Statement**"	a document setting out, for any part of the CCOS, each of the following matters: (a) the location, number, timing and duration of any Restrictions of Use (including Restrictions of Use falling within the Possessions Allowance (as defined in the relevant Train Operator's Access Agreement)); and

(b) any alternative train routes or stopping patterns which may apply during any Restriction of Use referred to in paragraph (a) above;

"**CCOS Railway Operational Code**" shall have the meaning ascribed to it in Part H of this CCOS Network Code;

"**CCOS Timetable Planning Rules**" a document regulating, for any part of the CCOS, the standard timings and other matters necessary to enable trains to be included in the New Working Timetable or scheduled into the Working Timetable applicable to that part of the CCOS, being rules which specify (amongst other matters):

(a) timings (including specified allowances) allowed for travel between specified points on the CCOS for each type of train and for each type of traction used, taking into account any particular constraints imposed by railway vehicles which may form part of the train;

(b) timing margins or allowances for stopping at junctions and other specified points;

(c) minimum timing margins or headways between successive trains travelling on the same section of track;

(d) timing geography;

(e) minimum and maximum time periods for stopping at stations and other specified points;

(f) restrictions as to the speed of railway vehicles on any section of track;

(g) a procedure for generating new or amended values for inclusion in the CCOS Timetable Planning

	Rules; and (h) a procedure for accommodating changes to the CCOS Timetable Planning Rules between D-64 and D-44;
"**CCOS Timetable Risk Register**"	shall have the meaning set out in Condition D7.3;
"**Considerations**"	shall have the meaning ascribed to it in Condition D4.6.1(b);
"**Contingent Right**"	means a right which is not a Firm Right and which is subject to the fulfilment of all competing Exercised Firm Rights and any additional contingency specified in Schedule 5 of the relevant Train Operator's Access Agreement;
"**D-X**"	shall have the meaning ascribed to it in Condition D2.1.5;
"**Decision Criteria**"	shall have the meaning ascribed to it in Condition D4.6;
"**Development Timetable**"	a timetable which may be produced by an Event Steering Group under the Network Rail Network Code which may include in preparation for an RfL(I) Event or an Event having an impact on the CCOS;
"**Draft Calendar of Events**"	a draft Calendar of Events;
"**Draft Rules**"	shall have the meaning ascribed to it in Condition D2.2.3;
"**Event**"	a proposal by an "access party" or "potential access party" (as those terms are defined in the Network Rail Network Code) or an anticipated event which could reasonably be expected to lead to a proposal by such an access party or potential access party, which is likely to require significant changes to the working timetable (as defined in the Network Rail Network Code) in a future bi-annual timetable revision process carried out in accordance D2 of the Network Rail Network Code and shown in the Calendar

of Events;

"**Event Steering Group**"	is a group established under the Network Rail Network Code comprising of representatives from Network Rail, other infrastructure managers, funders and any timetable participants (as defined in the Network Rail Network Code) who: (a) are likely to be affected by the Event; and (b) agree to be on the group, as may be supplemented by RfL(I) and Timetable Participants in respect of a RfL(I) Event or an Event having an impact on the CCOS;
"**Exercised**"	shall mean as a consequence of: (a) submitting an Access Proposal to RfL(I) by the Priority Date in accordance with Conditions D2.4 and D2.5; or (b) a Rolled Over Access Proposal;
"**Firm Right**"	a right: (a) of a Timetable Participant under an Access Agreement in respect of the quantum, timing or any other characteristic of a train movement; or (b) of RfL(I) under the Rules; and which in either such case is not expressed to be subject to any contingency outside the control of the right holder (save that in the case of (a), the right may be subject to the Rules);
"**Flexing Right**"	a right, exercisable by RfL(I) in allocating a Train Slot in the New Working Timetable or relevant Working Timetable, to vary a Train Slot: (a) sought in an Access Proposal ; or

	(b) arising from a Rolled Over Access Proposal; or (c) sought in any Train Operator Variation Request, in any way within and consistent with the Exercised Firm Rights of the relevant Timetable Participant;
"**Initial Consultation Period**"	shall have the meaning ascribed to it in Condition D2.3.3;
"**Long Term Plan**"	any long term plan developed by Network Rail in accordance with condition 7 of Network Rail's network licence;
"**Mayor's Transport Strategy**"	the transport strategy published by the Mayor of London pursuant to the Greater London Authority Act 1999;
"**Network Rail Restriction of Use**"	shall have the meaning ascribed to it in the Network Rail Network Code;
"**Network Services**"	shall have the meaning ascribed to it in section 82(2) of the Railways Act 1993;
"**New Working Timetable**"	shall have the meaning ascribed to it in Condition D2.1.6;
"**Possessions Strategy Notice**"	shall have the meaning ascribed to it in Condition D6.3.1;
"**Possessions Strategy Participants**"	shall have the meaning ascribed to it in Condition D6.1.1;
"**Possessions Strategy Proposal**"	shall have the meaning ascribed to it in Condition D6.1.2;
"**Principal Change Date**"	shall have the meaning ascribed to it in Condition D2.1.3;
"**Prior Working Timetable**"	shall have the meaning ascribed to it in Condition D2.1.6;
"**Priority Date**"	shall have the meaning ascribed to it in Condition D2.4.4;
"**Quantum Access Right**"	shall have the meaning ascribed to it in Part J of this CCOS Network Code;

"**RailNetEurope**"	the association set up by a majority of European rail infrastructure managers and allocation bodies to enable fast and easy access to European rail, as well as to increase the quality and efficiency of international rail traffic;
"**Restriction of Use**"	means a CCOS Restriction of Use or a Network Rail Restriction of Use (as the context may require);
"**RfL(I) Event**"	a proposal by an Access Party or Potential Access Party or an anticipated event which could reasonably be expected to lead to a proposal by such an Access Party or Potential Access Party, which is likely to require significant changes to the Working Timetable in a future bi-annual timetable revision process carried out in accordance D2, that RfL(I) has requested Network Rail to include in the Calendar of Events;
"**RfL(I) Variation**"	shall have the meaning ascribed to it in Condition D3.1.2;
"**RfL(I) Variation Request**"	a request made by RfL(I) for a RfL(I) Variation;
"**Rolled Over Access Proposal**"	where an Access Proposal was submitted in a previous revision of the Working Timetable resulting in Train Slots being included in the Prior Working Timetable which the relevant Timetable Participant does not seek to vary in the New Working Timetable in accordance with this Part D;
"**Rules**"	the CCOS Timetable Planning Rules and the CCOS Engineering Access Statement;
"**Short Term Plan**"	shall have the meaning ascribed to it in Condition D3.7.1;
"**Subsidiary Change Date**"	shall have the meaning ascribed to it in Condition D2.1.3;
"**Timetable Change Date**"	shall have the meaning ascribed to it in Condition D2.1.3;
"**Timetable**	(a) an Access Beneficiary; or

Participant"	
	(b) Potential Access Party;
"**Timetable Period**"	the period of time between (and including) one Timetable Change Date and (but excluding) the immediately succeeding Timetable Change Date;
"**Timetable Preparation Period**"	shall have the meaning ascribed to it in Condition D2.6.1;
"**Timetable Variation**"	shall have the meaning ascribed to it in Condition D3.1.3;
"**Timetable Variation by Consent**"	shall have the meaning ascribed to it in Condition D3.6.1;
"**Timetable Week**"	shall have the meaning ascribed to it in Condition D3.2.1;
"**Timetabling Panel**"	shall have the meaning ascribed to it in the CCOS ADRR;
"**Timing Load**"	in relation to a Service, the timing reference code which details the maximum speed and particular combination of traction type and trailing weight, together with whether any vehicles may be conveyed to which local speed restrictions will apply;
"**Train Operator Variation**"	shall have the meaning ascribed to it in Condition D3.1.1;
"**Train Operator Variation Request**"	shall have the meaning ascribed to it in Condition D3.3.1;
"**Train Slot**"	a train movement or a series of train movements, identified by arrival and departure times at each of the start, intermediate (where appropriate) and end points of each train movement;
"**TW-X**"	shall have the meaning ascribed to it in Condition D3.2.1;
"**Variation Request**"	an RfL(I) Variation Request or a Train Operator Variation Request (as applicable);

"**Working Hours**"	any hour during the period 0900 to 1700 on a Working Day; and
"**Works**"	any inspection, maintenance, renewal, repair, replacement, improvement, enhancement or development of, or any other work in relation to, any part of the CCOS.

2 Bi-Annual Timetable Revision Process

2.1 *Preliminary*

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

(a) every Service;

(b) every Ancillary Movement;

(c) the times of:

(i) departure from origin and arrival at destination;

(ii) arrival at and departure from every intermediate stopping point;

(iii) such passing points, in accordance with the CCOS Timetable Planning Rules, as RfL(I) (acting reasonably) considers appropriate; and

(iv) all relevant timing allowances.

The Working Timetable shall also include documents detailing platform arrangements.

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

2.1.3 The implementation dates for the two annual revisions of the Working Timetable will conform with Schedule 4 of the Access Regulations. To the extent permitted by the Access Regulations, following consultation with other infrastructure managers, RfL(I) may vary the change implementation dates from time to time, provided that all Timetable Participants have been informed of and not objected to the change. Each change implementation date is referred to as a "**Timetable Change Date**". The first and main change implementation date, occurring in the winter of a calendar year, is referred to as the "**Principal Change Date**". The second change implementation date, occurring in the summer after the

Principal Change Date, is referred to as the "**Subsidiary Change Date**".

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

2.1.5 For the purposes of this Part D, a Timetable Change Date shall be designated by the letter "**D**". The sequence of events culminating in the adoption of a revised Working Timetable is designated by a series of milestone dates and steps, all of which refer to a week in the period prior to date "**D**". Each week commences at 0200 on a Sunday and expires at 0159 on the following Sunday. So, for example, "**D minus 26**" (or "**D-26**") refers to the 26th week prior to date "**D**". Where in this Part D any step or event is required or stated to occur by any week designated in this way, it must occur no later than 1700 on Friday of the preceding week. So, for example, a step which is required to occur no later than "**D-26**" must occur no later than:

(a) 1700 on Friday;

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

2.1.6 To produce the timetable to take effect on a Timetable Change Date, RfL(I) shall use as the starting point the timetable published at D-26 in the process related to the immediately preceding Timetable Change Date subject to the following amendments only:

(a) any variations as a result of the appeals process;

(b) where agreed with the relevant Timetable Participant(s) RfL(I) may reflect the content of a Development Timetable produced by an Event Steering Group insofar as it is reasonably expected to have an impact on the CCOS;

(c) RfL(I) may delete any Train Slots in respect of which it believes, acting reasonably and after consultation with the relevant Timetable Participant (if appropriate), that the relevant Timetable Participant, or its successor, will not have the necessary access rights at the time of the intended operation of the Train Slots. This starting point is referred to as the "**Prior Working Timetable**".

2.1.7 Not later than D-73 in relation to the Principal Change Date only, RfL(I) shall publish to all Timetable Participants a calendar showing the milestone dates which will apply (for the purposes of this Condition D2) to the process of planning the New Working

Timetables to take effect as Working Timetables on the Principal Change Date and the Subsidiary Change Date.

2.2 ***Revision of CCOS Timetable Planning Rules and CCOS Engineering Access Statement – D-64 to D-44***

2.2.1 Both the CCOS Timetable Planning Rules and the CCOS Engineering Access Statement (together referred to as the "**Rules**") are revised on a bi-annual basis, each revised version being operative for the same Timetable Period as the Working Timetable to which they pertain. The Rules must be revised and updated, in accordance with the procedures described in this Condition D2.2, as a first stage in the preparation of a New Working Timetable.

2.2.2 Between D-64 and D-60, RfL(I) shall consult with Timetable Participants in respect of any proposed changes to the Rules.

2.2.3 Following consultation in accordance with Condition D2.2.2, and not later than D-59, RfL(I) shall provide to all Timetable Participants a draft of the revised Rules (the "**Draft Rules**"), provided that:

(a) where "**D**" is a Principal Change Date, the Draft Rules to be provided and finalised shall be both those for the Timetable Period commencing on that Principal Change Date and those for the Timetable Period commencing on the immediately succeeding Subsidiary Change Date;

(b) where "**D**" is a Subsidiary Change Date, the Draft Rules to be provided and finalised shall pertain only to the Timetable Period commencing on that Timetable Change Date and shall contain only revisions:

(i) which are not material; or

(ii) the need for which was not reasonably foreseeable at the time when the prior revision of the Rules was made.

2.2.4 Following provision of the Draft Rules and by D-54:

(a) RfL(I) shall consult with Timetable Participants in respect of the Draft Rules provided to them in accordance with D2.2.3 and in respect of any representations made pursuant to Condition D2.2.4(b) below;

(b) Timetable Participants may make representations to RfL(I) in respect of any changes they propose or objections they may have to the Draft Rules provided to them in accordance with D2.2.3.

2.2.5 Following D-54 and by D-44, RfL(I) shall consider the representations and objections made to it by Timetable Participants pursuant to Condition D2.2.4 and may amend the Draft Rules. Not later than D-44, RfL(I) shall issue the final revised Rules to all Timetable Participants.

2.2.6 In preparing revised Rules, RfL(I) shall be required and entitled to act in accordance with the duties and powers set out in Condition D4.1 and to provide to Timetable Participants its reasons for making the revisions to the Rules.

2.2.7 Between D-44 and publication of the New Working Timetable at D-26, RfL(I) may further revise the Rules where it considers, acting reasonably, such revision necessary or desirable in order to optimise that New Working Timetable. Before making any such further revisions to the Rules, RfL(I) must first consult with all Timetable Participants who may be affected by the proposed changes. RfL(I) will then inform all affected Timetable Participants of any such changes as soon as practicable after they are made. The amending power created by this Condition D2.2.7 is without prejudice to the amending power referred to in Condition D3.4.

2.2.8 Subject to Condition D**Error! Reference source not found.** below, any Timetable Participant dissatisfied with any decision of RfL(I) in respect of those Rules (including any decision to revise those Rules pursuant to Condition D2.2.7) is entitled to appeal against any part of it. Any such appeal shall be conducted in accordance with Condition D5 and must be made by a Timetable Participant:

(a) in respect of any decision to revise the Rules pursuant to Condition D2.2.7, within five Working Days of receipt of RfL(I)'s decision;

(b) otherwise within fifteen Working Days of receipt of RfL(I)'s decision.

2.2.9 No appeal may be brought pursuant to Condition D2.2.8 in respect of any part of the Rules which conforms with any Possessions Strategy Notice which has:

(a) not been appealed in the timeframe for appeal set out in Condition D6.4; or

(b) has been appealed but has been finally determined by a Timetabling Panel or the ORR.

2.3 *Timetable consultation – D-55 to D-40*

2.3.1 Each Timetable Participant shall provide to RfL(I) at the earliest opportunity but no later than D-55 an Advance Notice of Timetable Change (ANTC) that either:

(a) summarises, at a high level, any new Services or changes to Services where known by that Timetable Participant for that Timetable Period; and

(b) indicates which new Services or changes to Services that the Timetable Participant proposes to operate in that Timetable Period are within the remit of an Event Steering Group and whether those Services are consistent with the conclusions of that Event Steering Group (including a statement regarding the consistency of plans with any relevant Development Timetable produced by that Event Steering Group); or

(c) states if no new Services or changes to Services are anticipated by that Timetable Participant for that Timetable Period.

If RfL(I) considers that the introduction of any such new Services or changes to Services indicated in an ANTC may necessitate substantial timetable changes changes (either by itself or taken together with ANTCs provided by other Timetable Participants), it may commence the Initial Consultation Period, referred to in Condition D2.3.3 below, before D-55. In any event, RfL(I) shall consult with Timetable Participants who may be affected by the proposed new Services or changes to Services and shall provide them with all available relevant information in respect of those proposals.

2.3.2 RfL(I) shall use its reasonable endeavours to ensure that, by no later than D-48, provisional paths connecting into and from the NR Network have been established in cooperation with Network Rail (taking into account paths which may be available on the NR Network) and included on a provisional basis in the New Working Timetable.

2.3.3 During the period from D-55 to D-40 (or such extended period referred to in Condition D2.3.1):

(a) Timetable Participants shall indicate the changes (if any) that they propose should be made in preparing the New Working Timetable; and

(b) RfL(I) shall consult with Timetable Participants in respect of the New Working Timetable.

The period of consultation required by this Condition is referred to as the "**Initial Consultation Period**".

2.3.4 During the Initial Consultation Period, RfL(I) shall:

(a) use its reasonable endeavours to answer enquiries made by Timetable Participants in connection with matters that may affect or relate to the New Working Timetable; and

(b) facilitate and co-ordinate dialogue with all Timetable Participants and (as may be appropriate) between Timetable Participants in order to identify opportunities to develop strategic initiatives and to promote network benefits such as connections, complementary services patterns and efficiency of operation.

2.3.5 Each Timetable Participant shall co-operate with RfL(I) in order to enable RfL(I) to co-ordinate the timetabling and operation of all services on the CCOS so that all services may be scheduled to operate on the CCOS and other connected networks in a co-ordinated and robust manner, such that there may be a continuous through service from the CCOS to the NR Network and vice versa.

2.3.6 Not later than D-45 RfL(I) shall provide to the Timetable Participants a copy of the Prior Working Timetable. If any changes are made to the Prior Working Timetable as a result of the appeal process under Condition D2.7, then RfL(I) shall notify these changes to Timetable Participants as soon as reasonably practicable.

2.4 ***Submission of Access Proposals by Timetable Participants – before and after the Priority Date at D-40***

2.4.1 A Timetable Participant shall set out its requirements in respect of the New Working Timetable in a written proposal, to be referred to as an "**Access Proposal**" where:

(a) it wishes to exercise any Firm Rights and/or Contingent Rights and/or any expectation of rights to obtain Train Slots in respect of the relevant Timetable Period, where those rights were not exercised to obtain Train Slots in the Prior Working Timetable; and/or

(b) it wishes to make changes to any Train Slot in the Prior Working Timetable; and/or

(c) it wishes to set out its requirements in response to a notification by RfL(I) under Condition D2.4.6.

2.4.2 Where a Timetable Participant does not intend using a Train Slot, which is included in the Prior Working Timetable, in the relevant

Timetable Period, it shall notify this fact to RfL(I) in writing by D-40 or as soon as practicable thereafter.

2.4.3 Access Proposals may be submitted to RfL(I) during the period up to D-28, or in the case of a further or revised Access Proposal submitted under Condition D2.4.1(c), during the period up to D-26. However, Timetable Participants shall submit their Access Proposals (and any revised Access Proposals) as early as reasonably practicable in order to facilitate optimal planning of the New Working Timetable by RfL(I) and to ensure optimal consultation between RfL(I) and all Timetable Participants.

2.4.4 Access Proposals submitted by D-40 (the "**Priority Date**") are given priority in the compilation of the New Working Timetable in certain circumstances set out in Condition D4.2. Access Proposals submitted after the Priority Date but by D-28, and any further or revised Access Proposals submitted under Condition D2.4.1(c) by D-26 will be incorporated by RfL(I) into the New Working Timetable as far as reasonably practicable, taking into account the complexity of the Access Proposal including any reasonable foreseeable consequential impact on the New Working Timetable and the time available before the end of the Timetable Preparation Period, and in accordance with the principles set out in Condition D4.2.

2.4.5 Any subsequent or revised Access Proposal submitted by a Timetable Participant shall amend an Access Proposal submitted earlier where it sets out different requirements to the earlier submitted Access Proposal regarding the manner in which a right is to be exercised. In such case the date on which the subsequent or revised Access Proposal is submitted will be treated, for the purposes of Condition D4.2.2, as the date of notification of the relevant right.

2.4.6 Where a Timetable Participant has:

(a) submitted an Access Proposal which cannot be accommodated in the New Working Timetable; or

(b) a Train Slot in the Prior Working Timetable which cannot be accommodated in the New Working Timetable; or

(c) submitted a proposal purporting to be an Access Proposal but which is defective or incomplete (which may include, as an example, providing insufficient information under Condition D2.5.1); or

(d) submitted an Access Proposal which is within itself inconsistent with the CCOS Timetable Planning Rules,

RfL(I) must notify the Timetable Participant of this fact, as soon as possible after it has become aware of it, so that the Timetable

Participant has the opportunity to submit a further Access Proposal under Condition D2.4.1(c).

2.5 ***Content of an Access Proposal***

2.5.1 Each Access Proposal shall include as a minimum in respect of each Train Slot, save to the extent that RfL(I) expressly agrees in writing to the contrary:

(a) the dates on which Train Slots are intended to be used;

(b) the start and end points of the train movement;

(c) the intermediate calling points;

(d) the times of arrival and departure from and routing between any point specified under Conditions D2.5.1(b) and D2.5.1(c) above;

(e) the railway vehicles or Timing Load to be used;

(f) any required train connections with other railway passenger services;

(g) any proposed Ancillary Movements;

(h) any required platform arrangements at the start, end and all intermediate calling points;

(i) any relevant commercial and service codes;

(j) the proposed maximum train speed and length; and

(k) the proposed previous and next working of the railway passenger vehicles of the proposed Train Slot provided that the vehicles have not left the CCOS.

2.5.2 Where an Access Proposal has been submitted by a Timetable Participant, RfL(I) shall be entitled to require any further information in respect of that Access Proposal that it reasonably considers to be necessary or beneficial to the preparation of the New Working Timetable.

2.6 ***Timetable Preparation – D-40 to D-26***

2.6.1 During the Timetable Preparation Period (D-40 to D-26) (the "**Timetable Preparation Period**"), RfL(I) shall compile the proposed New Working Timetable.

2.6.2 Between D-40 and D-26:

(a) all Timetable Participants shall have access to the evolving draft of the New Working Timetable either:

(i) by way of "read-only" remote computer access or such other electronic means reasonably requested by a Timetable Participant; or

(ii) to the extent that a Timetable Participant does not have the required systems to facilitate remote computer access, by read-only computer access upon attendance at such of RfL(I)'s offices specified by RfL(I);

(b) RfL(I) shall consult further with Timetable Participants in respect of their Access Proposals and the evolving draft of the New Working Timetable, and shall continue to answer enquiries and facilitate and co-ordinate dialogue as stated in Condition D2.3.4.

2.6.3 In compiling the New Working Timetable, RfL(I) shall be required and entitled to act in accordance with the duties and powers set out in Condition D4.2.

2.7 ***New Working Timetable Publication – D-26***

2.7.1 The New Working Timetable shall be published by RfL(I) at D-26, subject only to variations made in the course of the appeal process described in this Condition D2.7.

2.7.2 Any Timetable Participant affected by the New Working Timetable shall be entitled to appeal against any part of it, provided that an appeal is lodged within twenty Working Days of its publication. All such appeals shall be conducted in accordance with Condition D5.

2.7.3 Where a Timetable Participant has enquiries or requires further information from RfL(I) regarding the published New Working Timetable, RfL(I) shall respond fully and promptly and where possible, taking into account the nature of the enquiry or information requested and the date this is received by RfL(I), so as to enable a Timetable Participant to comply with the timescales in Condition D2.7.2.

2.7.4 RfL(I) shall promptly make all revisions to the New Working Timetable required by all appeal decisions, and shall notify all Timetable Participants upon completion of those changes.

2.8 ***Summary***

2.8.1 A timeline, showing a summary of the bi-annual timetable amendment process, is attached at Annex 1. Where there is any

conflict between the timeline and the wording of Conditions D1-7, the wording of Conditions D1-7 shall prevail.

3 Variations to the Working Timetable

3.1 *Overview*

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

(a) adding an additional Train Slot on one or more occasions;

(b) amending the detail of one or more Train Slots;

(c) removing one or more Train Slots.

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

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

(a) adding an additional Train Slot on one or more occasions;

(b) amending the detail of one or more Train Slots;

(c) removing one or more Train Slots,

in order to facilitate a CCOS Restriction of Use or a Network Rail Restriction of Use. Any such variation is referred to as a "**RfL(I) Variation**". The process to be followed where a RfL(I) Variation is sought with more than 12 weeks' notice is set out in Condition D3.4. The process to be followed where a RfL(I) Variation is sought with less than 12 weeks' notice is set out in Condition D3.5.

3.1.3 Train Operator Variations and RfL(I) Variations are collectively referred to as "**Timetable Variations**".

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

3.2 *Timeline for the Planning of Timetable Variations*

3.2.1 RfL(I) Timetable Variations are planned by RfL(I) on a week by week basis. Each week of a Working Timetable is referred to as a "**Timetable Week**". Each Timetable Week commences at 0001 on a

Saturday and expires at 2400 on the following Friday. The sequence of events by which variations are finalised is designated by a series of milestone dates and steps, all of which refer to a week in the period prior to the commencement of Timetable Week "**TW**". So, for example, "**TW minus 12**" (or "**TW-12**") refers to the 12th week prior to the start of a given Timetable Week "**TW**". Where in this Part D any step or event is required or stated to occur by any week designated in this way, it must occur no later than 1700 on Friday of the preceding week. So, for example, a step which is required to occur no later than "**TW-12**" must occur no later than:

(a) 1700 on Friday;

(b) in the week commencing on the Sunday which occurs 13 weeks prior to the commencement of week TW.

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

3.3 ***Train Operator Variations after D-26***

3.3.1 Where a Timetable Participant seeks a Train Operator Variation, it shall submit to RfL(I) a written request, referred to as a "**Train Operator Variation Request**".

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

3.3.3 From D-26 and during the relevant Timetable Period, a Timetable Participant is entitled to make a Train Operator Variation Request and RfL(I) shall have the power to accept, reject or modify it, subject to the timeframes set out in Conditions D3.3.6 and D3.3.7 below and acting in accordance with Condition D4.3.

3.3.4 Where a Train Operator Variation Request is received:

(a) on any day which is not a Working Day; and/or

(b) after 1000 hours on a Working Day,

it shall be deemed to have been received on the next Working Day thereafter.

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

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

(a) as soon as reasonably practicable, where the request is to operate a Train Slot on day 1 or day 2;

(b) by 1500 hours on day 1, where the request is to operate a Train Slot on day 3;

(c) by 1000 hours on day 2, where the request is to operate a Train Slot on day 4;

(d) by 1500 hours on day 2, where the request is to operate a Train Slot on day 5;

(e) by 1500 hours on day 3, where the request is to operate a Train Slot on day 6;

(f) by 1000 hours on day 4, where the request is to operate a Train Slot on day 7;

(g) where Conditions D3.3.6(a), (b), (c), (d), (e) or (f) above do not apply, within five Working Days of receipt of the request unless otherwise agreed between the Timetable Participant and RfL(I), where the parties, acting reasonably, consider the volume of changes requested and the timescales over which the variations are required to operate.

3.3.7 Not used.

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

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

(b) the relevant Working Timetable; or

(c) the Rules,

it shall be deemed to have accepted the request.

3.3.9 Subject to Condition D3.3.10 below, where a Timetable Participant is dissatisfied with any final decision of RfL(I) in response to a Train Operator Variation Request, it may appeal against that decision in accordance with Condition D5, provided that it submits its appeal no later than five Working Days after it is notified of the relevant decision by RfL(I).

3.3.10 Not used.

3.3.11

(a) Where RfL(I) rejects any Train Operator Variation Request it must provide written reasons for its decision.

(b) Where RfL(I) modifies any Train Operator Variation Request it must provide written reasons for its decision upon request from the Train Operator.

3.4 ***RfL(I) Variations with at least 12 Weeks' Notice***

3.4.1 The procedures described in this Condition D3.4 are designed to facilitate the planning of all Restrictions of Use and Network Rail Restrictions of Use at least 12 weeks prior to the start of each Timetable Week.

3.4.2 RfL(I) shall be entitled to make a variation to the Working Timetable provided that:

(a) the RfL(I) Variation is made only for the purpose of taking Restrictions of Use which are consistent with the Rules, as published following the process set out in Condition D2.2 or as amended in accordance with the procedure established pursuant to Condition D3.4.3; or

(b) the RfL(I) Variation is made for the purpose of facilitating a Network Rail Restriction of Use which is consistent with the Rules (as defined in the Network Rail Network Code) applicable on the relevant part of the NR Network; and

(c) (in the case of both Conditions D3.4.2(a) and D3.4.2(b)) RfL(I) complies with the procedure set out in this Condition D3.4.

3.4.3 RfL(I) shall include in the Rules a procedure to enable amendment of the Rules, following their finalisation in accordance with Condition D2.2. This amending power is without prejudice to the amending power referred to in Condition D2.2.7, and is to be utilised in order to facilitate changes which RfL(I) considers necessary to take Restrictions of Use or to facilitate Network Rail Restrictions of Use.

3.4.4 The procedure referred to in Condition D3.4.3:

(a) must require that no amendment to the Rules may be made unless RfL(I) has consulted with all Timetable Participants likely to be affected by the amendment;

(b) must require that all decisions of RfL(I) be made by application of the Decision Criteria in accordance with Condition D4.6;

(c) may authorise changes to the procedure.

3.4.5 All amendments to the Rules made pursuant to the procedure referred to in Condition D3.4.3 shall be subject to the appeal procedures in Condition D5 as if they were made pursuant to a procedure set out in this Part D.

3.4.6 Notwithstanding anything stated elsewhere in this Part D, where any amendment is made to the procedure referred to in Condition D3.4.3 by use of that procedure, the amendment shall not take effect until the determination of any appeal against the same.

3.4.7 Where RfL(I) proposes to make any variation to the Working Timetable consequent upon an amendment to the Rules made in accordance with this Condition D3.4, RfL(I) shall provide to each Timetable Participant, by TW-30, its proposals for Restrictions of Use in respect of the corresponding Timetable Week. All such proposals may be amended or supplemented by RfL(I) at any time prior to TW-26 and such amendments or supplements should also be provided to Timetable Participants prior to TW-26.

3.4.8 After TW-30 but by TW-26, RfL(I) shall consult with each Timetable Participant affected (directly or indirectly) by the Restrictions of Use proposed pursuant to Condition D3.4.7 and shall seek to agree all RfL(I) Variations to be made .

3.4.9 To facilitate the planning of any RfL(I) Variation, RfL(I) may require that any Timetable Participant shall submit a revised Access Proposal in respect of any Train Slot.

3.4.10 Where RfL(I) requires a revised Access Proposal:

(a) the requirement must be notified to the affected Timetable Participant no later than TW-22;

(b) RfL(I) shall specify the aspects of the Access Proposal which need to be revised and its reasons for this;

(c) RfL(I) shall specify a reasonable period in which the revised Access Proposal must be provided, and in any event the revised Access Proposal shall be submitted no later than TW-18.

3.4.11 RfL(I) may modify, accept or reject a revised Access Proposal and where it modifies or rejects any revised Access Proposal, it must provide written reasons for its decision.

3.4.12 Where a revised Access Proposal has not been submitted by a Timetable Participant as required by RfL(I), RfL(I) shall be entitled to make a RfL(I) Variation of any Train Slot in respect of which the revised Access Proposal was required and no appeal may be made in respect of RfL(I)'s decision.

3.4.13 Not later than TW-14, RfL(I) shall notify all Timetable Participants of its decision in respect of RfL(I) Variations to be made pursuant to the procedure in this Condition D3.4.

3.4.14 Not later than TW-13, any Timetable Participant affected by RfL(I)'s decision notified pursuant to Condition D3.4.13 shall inform RfL(I) whether it accepts or disputes that decision.

3.4.15 At TW-12, RfL(I) shall record and provide to all Timetable Participants, in accordance with Condition D3.7.1, the RfL(I) Variations to be made pursuant to this Condition D3.4.

3.4.16 Subject as provided in Condition D3.4.12, any Timetable Participant which is dissatisfied with any final decision of RfL(I) in respect of a RfL(I) Variation may appeal against it in accordance with Condition D5.

3.5 ***RfL(I) Variations with less than 12 Weeks' Notice***

3.5.1 It may be necessary for RfL(I) Restrictions of Use to be arranged by RfL(I) or Network Rail Restrictions of Use to be arranged by Network Rail, with less than 12 weeks' notice or otherwise outside the process described in Condition D3.4. The following paragraphs of this Condition D3.5 are intended to facilitate any such Restrictions of Use.

3.5.2 Where RfL(I) proposes to make any variation to the Working Timetable in circumstances where it is not reasonably practicable to comply with the timing requirements of Condition D3.4, RfL(I) shall follow the procedures set out in Condition D3.4 save that:

(a) the timing requirements specified there; and

(b) Conditions D3.4.13, D3.4.14 and D3.4.15,

shall not apply. In carrying out those procedures, RfL(I) shall be permitted (for itself) and shall prescribe (for affected Timetable Participants) such time periods for each step as are reasonably practicable in the circumstances. RfL(I) shall notify all affected Timetable Participants of its final decision in respect of any such change as soon as reasonably practicable. Any variation to a

Working Timetable made pursuant to this Condition D3.5.2 shall be a "**RfL(I) Variation**" for the purposes of this Part D.

3.5.3 Any Timetable Participant which is dissatisfied with any final decision of RfL(I) in respect of a RfL(I) Variation made pursuant to Condition D3.5.2 may appeal in accordance with Condition D5.

3.6 ***Timetable Variations by consent***

3.6.1 Notwithstanding anything stated in this Condition D3, where RfL(I) and all affected Timetable Participants have so consented in writing, a Timetable Variation may be made without the need for compliance with such of the requirements of this Condition D3 as are specified in the consent. Such a variation is referred to as a "**Timetable Variation by Consent**".

3.7 ***Publication of Timetable Variations***

3.7.1 Where, pursuant to the processes described in this Condition D3, any Timetable Variation or Timetable Variation by Consent has been finalised, it shall be recorded by RfL(I) in one or more schedules (each referred to as a "**Short Term Plan**"). Each Short Term Plan shall be made available to affected Timetable Participants (by the same means as are described in Condition D2.6.2(a)) as soon as reasonably practicable after the relevant variation has been approved by RfL(I), and the affected part(s) of the New Working Timetable or Working Timetable shall be annotated to refer to the relevant Short Term Plan(s).

3.8 ***Operation of Part H***

3.8.1 In addition to any variation to the New Working Timetable or Working Timetable arising pursuant to the procedures set out in this Condition D3, variations may also arise from time to time by reason of the operation of the CCOS Railway Operational Code, and this Condition D3 is subject to the operation of that Code.

3.9 ***Summary***

3.9.1 A timeline, showing a summary of the process for variations to the Working Timetable, is attached at Annex 2. Where there is any conflict between the timeline and the wording of Conditions D1-7, the wording of Conditions D1-7 shall prevail.

4 **Decisions by RfL(I)**

4.1 ***Decisions concerning the Rules***

4.1.1 In conducting the processes set out in Condition D2.2 by which the Rules are revised on a bi-annual basis (including the amendment process described in Condition D2.2.7), RfL(I) shall make all

decisions by application of the Decision Criteria in the manner set out in Condition D4.6.

4.2 ***Decisions arising in the preparation of a New Working Timetable***

4.2.1 In compiling a New Working Timetable in accordance with Condition D2.6, RfL(I) shall apply the Decision Criteria in accordance with Condition D4.6 and conduct itself as set out in this Condition D4.2.

4.2.2 RfL(I) shall endeavour wherever possible to comply with all Access Proposals submitted to it in accordance with Conditions D2.4 and D2.5 and accommodate all Rolled Over Access Proposals, subject to the following principles:

(a) a New Working Timetable shall conform with the Rules applicable to the corresponding Timetable Period;

(b) each New Working Timetable shall be consistent with the Exercised Firm Rights of each Timetable Participant;

(c) in compiling a New Working Timetable, RfL(I) is entitled to exercise its Flexing Right;

(d) where the principles in Conditions D4.2.2(a), D4.2.2(b) and D4.4.2(c) above have been applied but RfL(I) is unable to include all requested Train Slots in the New Working Timetable, subject to RfL(I) satisfying the Order of Priority (as defined in Condition D4.6.1(a)) the Train Slots shall be allocated in the following order of priority:

(i) first to:

(A) the Firm Rights of any Timetable Participant that will subsist during the whole of the Timetable Period and which have been Exercised; and

(B) any rights RfL(I) has for Network Services included in the Rules;

(ii) second to Firm Rights of any Timetable Participant, that were in force at the Priority Date but will expire prior to or during the Timetable Period and which have been Exercised, provided that RfL(I) considers (acting reasonably) that new Firm Rights, substantially the same as the expiring rights, will be in force during the Timetable Period;

(iii) third to Contingent Rights or any expectation of rights of any Timetable Participant which have been Exercised, provided RfL(I) considers (acting

reasonably) they will be Firm Rights or Contingent Rights in force during the Timetable Period;

(iv) fourth to any rights (including any Firm Rights or Contingent Rights), or expectation of any rights (including any Firm Rights or Contingent Rights of any Timetable Participant notified in an Access Proposal submitted after the Priority Date but before D-26 in accordance with Conditions D2.4 and D2.5. Where more than one set of rights or expectation of rights are so notified, capacity is to be allocated in the order in which Access Proposals containing details of the rights (or expectations thereof) are received by RfL(I).

4.2.3 For the purposes of Condition D4.2.2(d)(iv) an Access Proposal shall be deemed to have been received by RfL(I):

(a) if sent by hand or recorded delivery, at the time of delivery;

(b) if sent by prepaid first class post from and to any place in the United Kingdom, three Working Days after posting unless otherwise proven; and

(c) if sent by email before 1700 on a Working Day, on the day of sending, or if sent by email after 1700 or on a day that is not a Working Day, on the next Working Day.

4.3 ***Decisions concerning Train Operator Variations***

4.3.1 In responding to a Train Operator Variation Request, RfL(I) shall conduct itself as follows:

(a) it is entitled to exercise its Flexing Right;

(b) when exercising its power set out in Condition D3.3.3 RfL(I) shall apply the Decision Criteria in accordance with Condition D4.6 except that it shall not accept a Train Operator Variation Request if to do so would give rise to any conflict with any Train Slot already scheduled in:

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

(ii) the Rules;

(c) where the Decision Criteria have been applied as set out in sub-paragraph D4.3.1(b) immediately above but two or more such requests would give rise to conflict were they to be accepted, they shall be prioritised in the order in which they

were received or deemed to have been received by RfL(I) and any conflict resolved accordingly.

4.3.2 Where a Train Operator Variation Request:

(a) pertains to a Train Slot to be used for the carriage of passengers in connection with any sporting or other public event; and

(b) would, if accepted, conflict with any Train Slot already scheduled in the New Working Timetable or Working Timetable; and

(c) would in the absence of such conflict be accepted (or accepted on varied terms) by RfL(I),

RfL(I) shall consult with the Timetable Participant entitled to the Train Slot and shall seek its consent to effect a variation of the scheduled Train Slot to the extent necessary to accommodate the relevant request (or that request as may be varied). Any Timetable Participant so consulted shall not unreasonably withhold or delay its consent to the proposed variation where the relevant request proposes the use of a Train Slot for the carriage of passengers in materially greater numbers than are usually carried on the relevant part of the CCOS on the days and times in question.

4.3.3 Where any Timetable Participant consulted by RfL(I) in accordance with Condition D4.3.2:

(a) consents to the proposed variation of its Train Slot; or

(b) unreasonably withholds or delays its consent in breach of Condition D4.3.2,

RfL(I) shall be entitled to make a variation in respect of that Train Slot (including the removal of that Train Slot) to the extent necessary to facilitate the relevant request. Where, consequent upon such variation, RfL(I) is required by the terms of an Access Agreement to pay any compensation to the affected Timetable Participant, the Timetable Participant which made the relevant Train Operator Variation Request shall reimburse the amount of that payment to RfL(I).

4.3.4 Notwithstanding anything stated elsewhere in this Part D, RfL(I) shall be entitled to reject any Train Operator Variation Request if it:

(a) pertains to a Timetable Variation which has in substance been made previously pursuant to Condition D3 and has been rejected; or

(b) is substantially the same as any part of an Access Proposal made and rejected during the course of the bi-annual timetable revision process described in Condition D2,

unless there has been a material change in circumstances which would affect RfL(I)'s application of the Decision Criteria in Condition D4.6 when deciding whether or not to accept the Train Operator Variation Request.

4.4 ***Decisions concerning RfL(I) Variations***

4.4.1 In making any decision in the course of implementing the procedures set out in Conditions D3.4 or D3.5, RfL(I):

(a) is entitled to exercise its Flexing Right when responding to an Access Proposal submitted under Condition D3.4.10;

(b) may not effect any RfL(I) Variation to the extent that the variation is inconsistent with the Rules;

(c) shall, subject to the over-riding principles set out in sub-paragraphs D4.4.1(a) and D4.4.1(b) above, apply the Decision Criteria in accordance with Condition D4.6.

4.5 ***Decisions concerning Possessions Strategy Notices***

4.5.1 In making any decision concerning the content of a Possessions Strategy Notice, RfL(I) shall apply the Decision Criteria in accordance with Condition D4.6.

4.6 ***The Decision Criteria***

4.6.1 Where RfL(I) is required to decide any matter in this Part D it shall:

(a) reflect the following order of priority in the allocation of capacity:

(i) first, high capacity metro passenger rail services; and

(ii) second, other trains

(the "**Order of Priority**"); and

(b) after the satisfaction of the Order of Priority set out in Condition D4.6.1(a), apply, in accordance with Condition D4.6.2, any or all of the considerations in paragraphs D4.6.1(b)(i) to D4.6.1(b)(ix) below (the "**Considerations**") to Timetable Participants in the same "tier" of the Order of Priority in order to achieve the objective of sharing the capacity on the CCOS for the safe carriage of passengers

and goods in the most efficient and economical manner in the overall interest of current and prospective users, providers and funders of railway services (the "**Allocation Objective**"):

(i) maintaining, developing and improving the capability of the CCOS;

(ii) maintaining and improving train service performance;

(iii) ensuring that journey times are as short as reasonably possible;

(iv) maintaining and improving an integrated system of transport for passengers and goods;

(v) ensuring that the spread of services reflects demand;

(vi) meeting the commercial interests of RfL(I), any Timetable Participant and funder, of which RfL(I) is aware;

(vii) the content of any relevant Long Term Plan and any relevant Development Timetable produced by an Event Steering Group, but only insofar as they directly impact on the operation of services on the CCOS and the connection of services onto the NR Network;

(viii) seeking consistency with the Mayor's Transport Strategy;

(ix) mitigating the effect on the environment; and

(x) enabling operators of trains to utilise their assets efficiently.

4.6.2 When applying the Considerations, RfL(I) must consider which of them is or are relevant to the particular circumstances and apply those it has identified as relevant so as to reach a decision which is fair and is not unduly discriminatory as between any individual affected Timetable Participants or as between any individual affected Timetable Participants and RfL(I). Where, in light of the particular circumstances, RfL(I) considers that application of two or more of the relevant Considerations will lead to a conflicting result then it must decide which of them is or are the most important in the circumstances and when applying it or them, do so with appropriate weight.

4.6.3 The Order of Priority, Allocation Objective and the Considerations together form the Decision Criteria.

4.7 ***Finality of decisions***

4.7.1 Save where expressly otherwise stated in this Part D, where RfL(I) has announced a final decision in respect of any process regulated by this Part D, that decision shall be:

(a) binding on Timetable Participants save to the extent that it is changed by an appeal authorised by this Part D;

(b) binding on RfL(I) save to the extent that:

(i) RfL(I) is expressly permitted by any provision of this Part D to deviate from or amend that decision; or

(ii) a decision is changed by an appeal authorised by this Part D.

5 **Appeals**

5.1 ***Appeal in accordance with the CCOS ADRR***

5.1.1 Where an appeal is expressly authorised by this Part D, a Timetable Participant may refer a decision for determination by a Timetabling Panel in accordance with the CCOS ADRR.

5.1.2 Without prejudice, the Conditions D2.7.2, D3.3.9 and D3.4.12, if any Timetable Participant is dissatisfied with any decision of RfL(I) made under this Part D including:

(a) the application by RfL(I) of the Decision Criteria;

(b) the acceptance or rejection by RfL(I) of any Access Proposal; or

(c) the exercise by RfL(I) of a Flexing Right,

it may refer the matter for determination by a Timetabling Panel in accordance with the CCOS ADRR.

5.1.3 Where a deadline for bringing an appeal is expressly stated in this Part D, an appeal in respect of such a decision must be made by the stated deadline. Otherwise, an appeal brought pursuant to this Part D must be made:

(a) within five Working Days of receipt of the decision to which objection is made; or

(b) where the period referred to in D5.1.3(a) includes Christmas Day, within ten Working Days of that decision.

5.1.4 Where an appeal is made against a New Working Timetable as envisaged by Condition D2.7.2 the appeal shall be determined by the Timetabling Panel within ten Working Days of final submission to it of all relevant information.

5.2 ***Appeal to ORR***

5.2.1 Where either RfL(I) or a Timetable Participant is dissatisfied with the decision of a Timetabling Panel under Condition D5.1, it may refer the matter to the ORR for determination under the CCOS ADRR, provided that any such referral must be made:

(a) within five Working Days of receipt of the Timetabling Panel's written reasoned determination to which objection is made; or

(b) where the period referred to in D5.2.1(a) above includes Christmas Day, within ten Working Days of receipt of such receipt.

5.3 ***Powers of dispute resolution bodies***

5.3.1 In determining any appeal pursuant to this Part D, any Timetabling Panel or the ORR (as the case may be) may exercise one or more of the following powers:

(a) it may give general directions to RfL(I) specifying the result to be achieved but not the means by which it shall be achieved;

(b) it may direct that a challenged decision of RfL(I) shall stand;

(c) it may substitute an alternative decision in place of a challenged decision of RfL(I),

provided that the power described in D5.3.1(c) above shall only be exercised in exceptional circumstances.

5.3.2 Where general directions have been given in accordance with Condition D5.3.1, the relevant appeal body may, on the application of RfL(I) brought in accordance with Condition D5.3.3, make such further orders as it shall consider appropriate in order to provide the parties with guidance as to the interpretation and application of such general directions.

5.3.3 Any application made by RfL(I) pursuant to Condition D5.3.2 must be made within:

(a) five Working Days of the relevant decision; or

(b) where the said period of five Working Days would include Christmas Day, ten Working Days.

5.4 ***Status of Decisions***

5.4.1 Save where expressly stated otherwise in this Part D, where an appeal to a Timetabling Panel pertaining to this Part D is pending, the relevant decision of RfL(I) shall remain binding until such time as the Timetabling Panel determines otherwise.

5.4.2 Save where expressly stated otherwise in this Part D, where an appeal to the ORR pertaining to Part D is pending, the relevant decision of the Timetabling Panel shall remain binding until such time as the ORR determines or orders otherwise.

5.5 ***Binding effect of appeal rulings***

5.5.1 Where an appeal is brought pursuant to this Part D, the parties to the appeal shall be bound by:

(a) the ruling of the Timetabling Panel, unless or until ordered or determined otherwise by the ORR;

(b) the ruling of the ORR.

5.6 ***Implementing an appeal ruling***

RfL(I) shall be bound and empowered to take such steps as may be necessary to implement all rulings made by a Timetabling Panel or the ORR pursuant to this Condition D5. All such steps shall be taken promptly.

5.7 ***Liability of RfL(I)***

Where a decision of RfL(I) is overturned on appeal, RfL(I) shall only be liable to any Timetable Participant in damages in respect of that decision where it was made in bad faith or was unreasonable.

6 **Possessions Strategy Notices**

6.1 ***Possessions Strategy Proposal***

6.1.1 Where RfL(I) proposes implementing any Works which require a programme of Restrictions of Use extending over:

(a) a period of more than one calendar year; or

(b) a period which contains two or more Timetable Change Dates;

it may at its discretion elect to implement the procedure set out in this Condition D6. Where it so elects, the procedure must be implemented by RfL(I) issuing a Possession Strategy Proposal not

later than D-90 and shall be concluded by RfL(I) issuing a Possession Strategy Notice not later than D-64. References in this Condition D6 to "**D-x**" refer to x number of weeks before the Timetable Change Date on which the Working Timetable containing the first proposed Restriction of Use will come into effect. The parties entitled to participate in that procedure shall be all Timetable Participants who may be affected by the proposed Restrictions of Use (who shall be referred to as "**Possessions Strategy Participants**").

6.1.2 Where RfL(I) elects to implement the procedure set out in this Condition D6, it shall do so by serving written notice on all Possessions Strategy Participants, a "**Possessions Strategy Proposal**", not later than D-90, which shall:

(a) provide sufficient particulars of:

(i) the proposed Works; and

(ii) the proposed strategy for Restrictions of Use pertaining to the Works;

as will enable each recipient to understand the likely effect of the proposed Works on its Services;

(b) provide an explanation of RfL(I)'s reasons for the proposed Restrictions of Use strategy.

6.2 ***Consultation***

Following service of a Possessions Strategy Proposal, RfL(I) shall consult with all parties on whom it has been served. Each recipient shall be afforded a reasonable period (to be specified by RfL(I), having regard to the likely effect of the Possessions Strategy Proposal on each recipient's Services) in which to make submissions and counter-proposals to RfL(I) in respect of the proposed strategy for Restrictions of Use pertaining to the Works.

6.3 ***Finalisation of Possessions Strategy – Possessions Strategy Notice***

6.3.1 Following the consultation process described in Condition D6.2, RfL(I) shall make its final decision concerning the strategy for Restrictions of Use that will be adopted in order to effect the Works, and will notify its decision to all Possessions Strategy Participants not later than D-64, by means of a formal notice detailing the strategy (to be referred to as a "**Possessions Strategy Notice**").

6.3.2 Where, in finalising a Possessions Strategy Notice, RfL(I) has rejected counter-proposals put to it by a Possessions Strategy Participant, it shall give to that party written reasons for that rejection when it serves its Possession Strategy Notice.

6.4 ***Appeal***

Where any Possessions Strategy Participant is dissatisfied with any aspect of any Possessions Strategy Notice, it may appeal in accordance with Condition D5. Any such appeal must be made within twenty Working Days of the Possessions Strategy Notice being served on it.

6.5 ***Relationship with the Rules***

6.5.1 The fact that the process under this Condition D6 has been followed and a Possession Strategy Notice issued does not in any way affect the applicability of the process set out in Condition D2.2 which, in those circumstances, still must be followed. However, where any part of the Rules conform with a Possession Strategy Notice then a decision of RfL(I) regarding that part of the Rules cannot be appealed in the circumstances set out in Condition D2.2.9.

6.5.2 In the event of any inconsistency between any Possessions Strategy Notice and the Rules, once they have been finalised in accordance with the process set out in Condition D2.2, the Rules shall prevail.

6.6 ***Relationship with Part G***

This Condition D6 is without prejudice to Part G of this CCOS Network Code.

6.7 ***Amendment of Possessions Strategy Notice***

6.7.1 RfL(I) shall include within the CCOS Timetable Planning Rules a procedure to enable amendment or withdrawal of a Possessions Strategy Notice. That procedure shall provide that:

(a) no such change shall be made unless RfL(I) has consulted, to the extent reasonably practicable, with any Possessions Strategy Participant likely to be affected by that change;

(b) that all decisions of RfL(I) made pursuant to that procedure shall be made by application of the Decision Criteria in accordance with Condition D4.6.

6.7.2 All amendments to a Possessions Strategy Notice made pursuant to the procedure referred to in Condition D6.7.1 shall be subject to the appeal procedures in Condition D5.

7 **Managing Change**

7.1 ***Calendar of Events***

7.1.1 RfL(I) shall provide Network Rail with relevant details of any events ("**RfL(I) Events**") that RfL(I) wishes to be included in Network Rail's Draft Calendar of Events. RfL(I) shall provide updates to Network Rail on any RfL(I) Events previously notified to Network Rail,

together with any changes to such RfL(I) Events and, where applicable, shall use its reasonable endeavours to procure that Network Rail incorporates such RfL(I) Events into the Draft Calendar of Events, in each case as part of the consultation undertaken by Network Rail under condition D7.1.1 of the Network Rail Network Code.

7.1.2 Timetable Participants, other infrastructure managers and funders may make representations to RfL(I) in respect of any changes they propose or comments they have on the RfL(I) Events within the Draft Calendar of Events no later than four weeks after the date on which Network Rail issues each draft Calendar of Events in accordance with condition D7.1.1 of the Network Rail Network Code.

7.1.3 No later than four weeks after the deadline specified in Condition D7.1.2, RfL(I) shall consider the representations made to it by Timetable Participants, other infrastructure managers and funders pursuant to Condition D7.1.2 and shall pass on such representations to Network Rail (copying in relevant Timetable Participants and funders) (which may result in Network Rail amending the Draft Calendar of Events).

7.1.4 No later than five weeks after the deadline specified in Condition D7.1.2, RfL(I) shall use its reasonable endeavours to procure that Network Rail updates and republishes the Calendar of Events and where Network Rail has not accepted changes proposed under Condition D7.1.2, shall use its reasonable endeavours to procure that Network Rail provides an explanation to RfL(I), the relevant Timetable Participant, other infrastructure manager or funder.

7.2 ***Event Steering Group***

7.2.1 RfL(I) shall use its reasonable endeavours to procure that each RfL(I) Event is included on the agenda of an appropriate Event Steering Group held by Network Rail under the Network Rail Network Code.

7.2.2 Where an Event Steering Group is considering any matter relating to or having an impact on a RfL(I) Event or any Event having an impact on the CCOS, RfL(I) shall use its reasonable endeavours to procure that it is represented on that Event Steering Group.

7.2.3 RfL(I) shall use its reasonable endeavours to procure that the objectives of an Event Steering Group in respect of RfL(I) Events shall be to:

(a) agree a plan to achieve a smooth transition for the necessary timetable changes, arising from the RfL(I) Event, through Condition D2 by way of timely industry input into the process (the "**Project**");

(b) oversee and facilitate delivery of the Project;

(c) carry out appropriate consultation with Transport Focus and London TravelWatch and other infrastructure managers, during the course of the Project.

7.3 ***CCOS Timetable Risk Register***

7.3.1 RfL(I) shall maintain and publish a CCOS Timetable Risk Register. Timetable Participants shall provide sufficient relevant information in a timely manner to enable RfL(I) to keep the CCOS Timetable Risk Register up-to-date.

7.3.2 The CCOS Timetable Risk Register shall include any other matter considered by RfL(I) or any Timetable Participant to have the potential to materially and adversely affect the use of Train Slots to be included in the Working Timetable or in relation to a future Timetable Period.

7.3.3 RfL(I), in consultation with Timetable Participants, shall regularly review and update the CCOS Timetable Risk Register. RfL(I) shall publish the CCOS Timetable Risk Register to Timetable Participants every four weeks.

7.4 ***Applicable Law***

7.4.1 Where compliance by RfL(I) with this Part D would be inconsistent with any Applicable Law (including the Act or the Access Regulations) RfL(I) shall:

(a) comply with such Applicable Law and shall be relieved from its failure to comply with this Part D but only to the extent that it could not act in a manner compliant with this Part D in complying with such Applicable Law; and

(b) as soon as reasonably practicable develop and submit a Proposal for Change in accordance with Part C of this CCOS Network Code, which would modify this Part D so that it is compliant with all Applicable Laws.

8 Miscellaneous

8.1 ***Directions issued by the ORR***

Notwithstanding anything else stated in this Part D, RfL(I) shall be bound and entitled to make or give effect to such amendments or changes to a Working Timetable as may be directed from time to time by the ORR in the exercise of its statutory powers, except in relation to any amendment or change which would be impossible to make without infringing the Firm Rights of another.

8.2 ***Confidentiality***

RfL(I) shall not be required to keep confidential the identity of, or any information provided to it by, any Timetable Participant.

8.3 ***Not used.***

8.4 ***Removal of Train Slots from Working Timetable where no Access Rights exist***

Any movements of trains operated by any person must be made pursuant to permission to use the track for the purpose of or in connection with the operation of those trains under an Access Agreement ("**Access Rights**"). If, by 2200 hours on the day before a Timetable Change Date and after consultation with the person proposing to move the trains, RfL(I) reasonably considers that the person proposing to move the trains will not have the necessary Access Rights by the intended date of operation of the Train Slots, then it may remove the Train Slot(s) for the movement of those trains from the Working Timetable due to commence the following day.

8.5 ***Not used***

8.6 ***Consultation***

Where in this Part D, any party is under an obligation to consult with another, the party obliged to initiate the consultation shall provide the consultee with:

8.6.1 sufficient information for the consultee to be able to comment on the subject matter of the consultation; and

8.6.2 a reasonable time in which to respond to the information provided.

Annex 1 - Timeline for the timetable development process

Milestone	What happens
D-73	RfL(I) issues the timetable process dates for both the Principal Change Date and the Subsidiary Change Date 73 weeks before the Principal Change Date
Revision of the CCOS Timetable Planning Rules and CCOS Engineering Access Statement (collectively known as the Rules)	
D-90	If RfL(I) wants to rely on a Possessions Strategy Notice it must issue a Possessions Strategy Proposal to all Possessions Strategy Participants for consultation
D-64	RfL(I) issues its decision in a Possessions Strategy Notice which Possessions Strategy Participants may appeal within 20 Working Days of receipt
D-64 to D-60	RfL(I) consults Timetable Participants on its proposed changes to the Rules and its anticipated Restrictions of Use
D-59	RfL(I) issues the draft Rules for consultation
D-59 to D-54	Timetable Participants may make representations or objections to the draft Rules
D-54 to D-44	RfL(I) considers all representations or objections and prepares revised Rules
D-44	RfL(I) issues revised Rules which Timetable Participants may appeal within 15 Working Days of receipt
D-44 to D-26	After consultation with any affected Timetable Participants RfL(I) may make minor revisions to the Rules in order to optimise the New Working Timetable. Timetable Participants may appeal these revisions within 5 Working Days of receipt
Timetable consultation, preparation and publication	
Up to D-64	Timetable Participants and funders inform RfL(I) of any events they think should be included in Network Rail's Draft Calendar of Events
D-64	Network Rail issues Draft Calendar of Events
D-64-59	Timetable Participants and funders make any representations or objections to the Draft Calendar of Events
D-55	Timetable Participants planning significant new services or significant amendments to their services must notify RfL(I) as soon as possible and before D-55 if possible. Each Timetable Participant shall provide to RfL(I) at the earliest opportunity but no later than D-55 an Advance Notice of Timetable Change.
D-55 to D-40	Initial Consultation Period. Timetable Participants discuss their proposals with RfL(I) which carries out a consultation and facilitation process with other Timetable Participants
D-45	RfL(I) issues the Prior Working Timetable which will be the starting point for the New Working Timetable
D-40	Priority Date

D-40 to D-26	Timetable Preparation Period Throughout this period a draft of the emerging New Working Timetable is available online. Timetable Participants may submit Access Proposals at any time and RfL(I) will, as far as reasonably practical, incorporate these in the New Working Timetable
D-26	New Working Timetable is published (subject to the result of any appeals which must be made with 20 Working Days of its publication)

Annex 2 - Timeline for Timetable Variations under Condition D3

Train Operator Variations

Milestone	What happens
n/a	A Timetable Participant can request variations to its Train Slots at any time between D-26 and the end of the relevant Timetable Period
n/a	If the request is to vary a Train Slot which is due to operate within 7 days, RfL(I) must respond within the timescales set out in Condition D3.3.6 which increase incrementally with the number of days' notice given by the Timetable Participant. If the request is to vary a Train Slot with more than 7 days' notice, RfL(I) must respond to the request within 5 Working Days
n/a	If RfL(I) fails to notify its response within the specified time and the requested variation, if accepted, would not conflict with the Rules or any Train Slots already scheduled in the timetable, RfL(I) will be deemed to have accepted the request
n/a	If RfL(I) rejects or modifies a Train Operator Variation Request it must give its reasons
n/a	A Timetable Participant may appeal RfL(I)'s decision as soon as reasonably practicable but not later than 5 Working Days after being notified of the decision

RfL(I) Variations with at least 12 weeks' notice

Milestone	What happens
TW-30	RfL(I) provides to Timetable Participants its proposals for Restrictions of Use in respect of the Corresponding Week
TW-30 to TW-26	RfL(I) consults with each Timetable Participant likely to be affected and seeks to agree all RfL(I) Variations. During this time RfL(I) may amend or supplement its proposals as long as they are provided to Timetable Participants by TW-26
TW-22	RfL(I) may require a Timetable Participant to submit a revised Access Proposal in respect of any Train Slot within a reasonable timeframe and by no later than TW-18
TW-18	The latest date by which a Timetable Participant can be required to submit a revised Access Proposal. If a Timetable Participant does not submit one in the required timeframe, RfL(I) may vary the Train Slot and the Timetable Participant may not appeal
TW-14	RfL(I) notifies Timetable Participants of its decision
TW-13	Timetable Participant to notify RfL(I) whether it accepts or disputes the decision
TW-12	RfL(I) records the Timetable Variation in the Short Term Plan

RfL(I) Variations with less than 12 weeks' notice

Milestone	What happens
n/a	In such cases RfL(I) must follow the procedure in Condition D3.4 but with timescales for each step as are reasonable in the circumstances
n/a	Timetable Participant may appeal in accordance with Condition D5

Timetable Variations by Consent

Milestone	What happens
n/a	With the written consent of RfL(I) and all affected Timetable Participants a timetable variation may be made without having to comply with Condition D3

Part E - Environmental Protection

Explanatory Note

A. *Part E is concerned with environmental protection. RfL(I) and Train Operators must each develop and update at least once a year an environmental policy which, amongst other things, is consistent with good industry practice. Train Operators are also required to develop and implement an environmental management system. Such system must be reviewed at least once a year and kept up to date.*

B. *RfL(I) is entitled to carry out environmental audits of a Train Operator to assess the extent to which the Train Operator is complying with its environmental policy and environmental management system and its other obligations under this Part E.*

C. *Train Operators are required to notify RfL(I) of any materials they propose to transport which would, by virtue of their nature or the quantity transported, be likely to give rise to Environmental Damage if they were to escape, and are required to provide RfL(I) with a copy of any relevant authority for their carriage (such as a licence or certificate of registration).*

D. *RfL(I) and Train Operators must promptly notify each other of any circumstances which are reasonably foreseeable as likely to give rise to Environmental Damage.*

E. *Where RfL(I) becomes aware or is given a direction by a competent authority that as a direct or indirect result of the activities of a Train Operator, Environmental Damage has occurred or is likely to occur and action is required to prevent, mitigate or remedy that damage, it must make an assessment on the best information available to it at that time as to which of RfL(I) and the Train Operators using that part of the CCOS is or are the most appropriate persons to take such action.*

F. *In making its assessment, RfL(I) is obliged to have due regard to certain specified criteria. RfL(I) is further obliged to give notice to affected Train Operators within specified time limits of its decision and the reasons therefore. If an affected Train Operator disagrees with RfL(I)'s assessment, it may appeal in accordance with the CCOS ADRR.*

G. *If a Train Operator fails to take any action required of it to prevent, remedy or mitigate Environmental Damage within a reasonable time or to the reasonable satisfaction of RfL(I) or otherwise in cases of urgency, provisions exist for RfL(I) to take the necessary action.*

H. *Subject to RfL(I) having complied with the conditions relating to CCOS Vehicle Change and CCOS Network Change imposed by competent authorities and to having given to all affected Train Operators as much notice as shall be reasonably practicable, RfL(I) has the right to restrict track access on a*

temporary basis where necessary to deal with Environmental Damage but must use its reasonable endeavours to minimise those restrictions.

I. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

In this Part E, unless the context otherwise requires:

"**Environmental Condition**"	means: (a) any Environmental Damage; or (b) any event, circumstance, condition, operation or activity which it is reasonably foreseeable is likely to result in Environmental Damage, which (in either case) in RfL(I)'s reasonable opinion could result in RfL(I) incurring any material liability or being subject to the Direction of any Competent Authority;
"**Environmental Damage**"	means any material injury or damage to persons, living organisms or property (including offence to man's senses) or any pollution or impairment of the environment resulting from the discharge, emission, escape or migration of any substance, energy, noise or vibration;
"**Environmental Policy**"	means a written policy regarding environmental protection and sustainability which complies with all Applicable Laws and CCOS Standards and reflects good industry practice and TfL's published environmental policies and strategies;
"**relevant liability**"	means the obligation of any person to make any payment or to take or secure the taking of any action in relation to an Environmental Condition or the Direction of a Competent Authority of the kind referred to in Condition E2.1.1(b);
"**relevant steps**"	in relation to a Train Operator, means the steps of the kind referred to in Condition E2.1.3(e);
"**RfL(I) Environmental Documentation**"	shall have the meaning given to it in Condition E1.1(b); and
"**Train Operator Environmental Documentation**"	shall have the meaning given to it in Condition E1.2.1(c).

CONDITION E1 - ENVIRONMENTAL INFORMATION REQUIREMENTS

1.1 ***RfL(I) general environmental obligations***

RfL(I) shall:

(a) provide the Train Operator with a copy of its Environmental Policy. RfL(I) shall review its Environmental Policy from time to time and at least once every Relevant Year and, where applicable, update its Environmental Policy so as to ensure that it continues to comply with all Applicable Laws and CCOS Standards and reflects good industry practice and TfL's published environmental policies and strategies;

(b) develop and operate an environmental management system giving effect to tis Environmental Policy, which has regard to the requirements of ISO 14001 (or any successor standard) and TfL's published environmental policies and strategies, which together with its Environmental Policy shall constitute the "**RfL(I) Environmental Documentation**";

(c) review the RfL(I) Environmental Documentation from time to time and at least once every Relevant Year and update it as appropriate so as to ensure that it:

(i) complies with all Applicable Laws and CCOS Standards; and

(ii) reflects good industry practice and TfL's published environmental policies and strategies; and

(d) notify each Train Operator of the person or persons who is/are responsible for managing environmental issues arising from that Train Operator's use of the CCOS.

1.2 ***Train Operator general environmental obligations***

(a)

1.2.1 Each Train Operator shall:

(b) develop and comply with an Environmental Policy which has due regard to the Environmental Policy of RfL(I) and TfL's published environmental policies and strategies (each as may be amended from time to time) and specifically with due regard to adopting good industry practice in relation to energy efficiency, recognising the desirability of improving on energy efficiency including reducing energy use;

develop and operate an environmental management system giving effect to its Environmental Policy, which has regard to the requirements of ISO 14001 (or any successor standard) and TfL's published environmental policies and strategies;

by the Effective Date have provided RfL(I) with a copy of its current environmental policy and environmental management system (together the "**Train Operator Environmental Documentation**");

(c) review its Train Operator Environmental Documentation from time to time and at least once every Relevant Year commencing from the date of the Access Agreement and, where appropriate, update such Train Operator Environmental Documentation so as to ensure that it:

(d)
(i) complies with all Applicable Laws and CCOS Standards;

(ii) reflects good industry practice; and

(iii) continues to have regard to the Environmental Policy of RfL(I) and TfL's published environmental policies and strategies;

(e) by the Effective Date have notified RfL(I) of the member of its staff who is responsible for managing environmental issues arising from that Train Operator's use of the CCOS.

1.3 ***Mutual general environmental obligations***

1.3.1 RfL(I) and each Train Operator shall respectively ensure that all of their staff (including contractors, agents and employees) are aware of the environmental requirements that are relevant to activities carried out by them on the CCOS and each Train Operator shall (each acting reasonably) work together in a co-operative fashion with a view to continuous improvement of their respective environmental performance in relation to the operation and use of the CCOS.

1.3.2 (a) RfL(I) and each Train Operator shall co-operate with the other in providing reasonable information and reasonable assistance to the other to enable any assessment (which is itself reasonably requested):

(b) by RfL(I) as to the extent to which that Train Operator is complying with its Train Operator Environmental Documentation and its obligations under this Part E;

by the relevant Train Operator as to the extent to which RfL(I) is complying with RfL(I) Environmental Documentation and its obligations under this Part E.

1.3.3 RfL(I) shall be entitled to carry out environmental management audits of a Train Operator from time to time so as to assess the extent to which that Train Operator is complying with its Train Operator Environmental Documentation and its obligations under this Part E.

1.4 ***Information as to materials to be transported***

Each Train Operator shall from time to time, and within a reasonable time of being requested to do so by RfL(I), provide RfL(I) with:

information as to any materials it proposes to transport on the CCOS which would by virtue of their nature or the quantity transported be likely to give rise to Environmental Damage if those materials were to be discharged or emitted or to escape or migrate;

(a) in relation to such materials as are referred to in sub-paragraph E1.4(a) above, a copy of any licence, authorisation, consent or certificate of registration required for their carriage.

1.5[(b)] ***General information - Train Operator***

Each Train Operator shall promptly notify RfL(I) (and where such notification is given orally shall promptly confirm such notification in writing) of any circumstances of which the Train Operator is aware and which it is reasonably foreseeable are likely to give rise to Environmental Damage as a result of or affecting the activities of the Train Operator. Each Train Operator shall at all times exercise due diligence to inform itself of any circumstances which would require such notification.

1.6 ***General information – RfL(I)***

RfL(I) shall promptly notify a Train Operator (and where such notification is given orally shall promptly confirm such notification in writing) of any circumstances of which RfL(I) is aware and which it is reasonably foreseeable are likely to give rise to Environmental Damage which may affect the Train Operator. RfL(I) shall at all times exercise due diligence to inform itself of any circumstances which would require such notification.

1.7 ***Information following Environmental Damage***

1.7.1 Following the occurrence of any Environmental Damage, each Train Operator shall promptly provide or procure the provision to RfL(I) of access to train maintenance records, environmental incidents records and such other records as are, in the reasonable opinion of RfL(I), relevant in connection with such Environmental Damage.

1.7.2 Following the occurrence of any Environmental Damage, RfL(I) shall on request of a Train Operator, provide to such Train Operator access to RfL(I)'s environmental incidents records as are, in the reasonable opinion of the Train Operator, relevant in connection with such Environmental Damage.

CONDITION E2 - REMEDIAL ACTION

2.1 *Assessment as to appropriate persons to take relevant steps*

2.1.1 *RfL(I)'s assessment*

Where:

(a) RfL(I) becomes aware that, as a direct or indirect result of the activities of a Train Operator, an Environmental Condition exists or has occurred and RfL(I) reasonably considers that action is required to prevent, mitigate or remedy that Environmental Condition; or

(b) RfL(I) is given a Direction by a Competent Authority that some action is required to prevent, mitigate or remedy an Environmental Condition resulting directly or indirectly from the activities of a Train Operator,

RfL(I) shall make an assessment, on the best information available to it at the relevant time, as to which of RfL(I) and the Train Operators with permission to use the relevant part of the CCOS is or are the persons who would be the most appropriate to take any relevant steps, and, if more than one is appropriate, in what proportions.

2.1.2 *Relevant criteria*

In making an assessment under Condition E2.1.1, RfL(I) shall have due regard:

(a) to the likelihood that the person in question may be liable (other than pursuant to this Part E) to make any payment or to take or omit to take any action in relation to the Environmental Condition or Direction in question, whether under any Access Agreement to which it is a party or otherwise;

(b) in relation to the steps to be taken and the objectives of those steps, to the efficiency and economy with which the steps may be taken, and the effectiveness of those steps, if that person takes those steps, irrespective of the matters referred to in paragraph E2.1.2(a) above; and

(c) all other relevant circumstances of the case.

2.1.3 (a) *Notice of RfL(I)'s assessment*

Within 60 days of making its assessment, RfL(I) shall give notice to each affected Train Operator of:

the Environmental Condition or Direction of Competent Authority in question;

the assessment;

its reasons for reaching the assessment;

the availability for inspection by the Train Operator of such information as RfL(I) shall have used in making the assessment; and

(b) the steps which RfL(I) reasonably considers:

(c)

(d) (i) will be necessary to prevent, mitigate or remedy the Environmental Condition or the events or circumstances giving rise to the Direction of the Competent Authority in question, or to comply with the Direction in question; and

(e)

(ii) which should be taken by the Train Operator in question.

2.1.4 *Compliance with Train Operator's request for information*

RfL(I) shall comply with any reasonable request of an affected Train Operator for additional information in relation to the relevant liability or RfL(I)'s assessment, within a reasonable time of the request.

2.1.5 *Disagreement with RfL(I)'s assessment*

If an affected Train Operator shall be dissatisfied with RfL(I)'s assessment or with any other statement or information provided by RfL(I) pursuant to Condition E2.1.3, it shall be entitled to refer the matter for resolution in accordance with the CCOS ADRR. It shall lose that entitlement if it fails to make the reference within 120 days of the later of:

(a) the date of its receipt of RfL(I)'s assessment; and

(b) the date upon which it receives any further information to which it is entitled pursuant to this Condition E2.1.

2.2 ***Requirement to take relevant steps***

2.2.1 *Obligation*

(a) Subject to Conditions E2.1.5, E2.7 and E2.8, the Train Operator shall:

(b) take the steps of which RfL(I) gives it notice pursuant to Condition E2.1.3(e), provided RfL(I) shall have given it a reasonable opportunity to do so; and

bear the costs of taking those steps.

2.2.2 *RfL(I) assistance and supervision*

In cases where the Train Operator reasonably requires access to any part of the CCOS in order to take any relevant steps, RfL(I) shall provide the Train

Operator with such assistance and co-operation as shall be reasonable in that respect.

2.3 ***RfL(I)'s right to take relevant steps***

If:

the Train Operator fails to take any relevant step within a reasonable time or to the reasonable satisfaction of RfL(I); or

in RfL(I)'s reasonable opinion, either:

(a) (i) it is necessary to take any relevant step urgently; or

(b) (ii) it is not reasonably practicable in the circumstances for the Train Operator to take any relevant step,

RfL(I) shall be entitled to take the step in question and to be reimbursed by the Train Operator for a fair proportion of the reasonable costs of doing so. RfL(I) shall give notice to the Train Operator in question of any step taken pursuant to this Condition E2.3.

2.4 ***Liability of RfL(I)***

Where RfL(I) takes any steps in accordance with Condition E2.3, it shall not be liable to the Train Operator for any direct physical damage which is caused as a result of the taking of such steps except to the extent that RfL(I), or any person acting on behalf of or on the instructions of RfL(I), has been negligent or has failed to perform any obligation.

2.5 ***Access to land***

Each Train Operator shall use all reasonable endeavours to procure that RfL(I) shall be given such right of access to any land upon which plant, equipment, rolling stock or machinery of the Train Operator is located as may be reasonably necessary to enable RfL(I) to take any relevant steps.

2.6 ***General right to restrict access to the CCOS***

2.6.1 Subject to having complied with Condition F4 and Condition G5 and to having given to all affected Train Operators as much notice as shall be reasonably practicable, RfL(I) shall have the right to restrict permission to use the CCOS to the extent and for such period as is reasonably necessary to prevent, mitigate or remedy an Environmental Condition or to comply with a relevant Direction of a Competent Authority in respect of an Environmental Condition.

2.6.2 Where permission to use the CCOS is restricted pursuant to Condition E2.6.1, RfL(I) shall use all reasonable endeavours to keep the extent and duration of such a restriction to a minimum and shall keep all affected Train

Operators reasonably and regularly informed of the steps being taken by RfL(I) to remove the restriction.

2.7 ***Payments to be made on without prejudice basis***

Payments by a Train Operator under this Condition E2 shall be made without prejudice to the right of the Train Operator's right to recover the whole or any part of the amounts in question from RfL(I) or any other person, whether under an Access Agreement or in any other way.

2.8 ***Action taken will not prejudice later claim***

No action taken by a Train Operator in compliance with its obligations under this Condition E2 shall prejudice the right of the Train Operator at a later date to claim that any other person has the relevant liability.

Part F - CCOS Vehicle Change

Explanatory Note

A. Part F provides a procedure through which changes to railway vehicles, the use of which is permitted in the access contract and related safety documentation, may be assessed and implemented. CCOS Vehicle Change includes any alteration to the physical characteristics of vehicles, including but not limited to, any increase in the length of any trains beyond that permitted by the relevant access contract and supporting operational documentation and any introduction of different vehicles on to the relevant routes which, in any case, is likely materially to affect the maintenance or operation of the CCOS or the operation of trains on the CCOS.

B. CCOS Vehicle Changes may be initiated by an Access Beneficiary who is termed the 'Sponsor' for that CCOS Vehicle Change.

C. An Access Beneficiary wishing to make a CCOS Vehicle Change must submit a proposal to RfL(I) and to each Access Beneficiary that may be affected by the implementation of the proposed CCOS Vehicle Change. RfL(I) must then consult with the affected parties. In some circumstances, RfL(I) must give the Access Beneficiary proposing the CCOS Vehicle Change a preliminary response within 28 days. Although there is no charge for such a preliminary response, RfL(I) is entitled to reimbursement of 75% of its costs necessary for RfL(I) to carry out the investigation.

D. A Sponsor is entitled to implement a proposed CCOS Vehicle Change except in certain specified circumstances, including where compensation is an inadequate remedy or where it would result in RfL(I) breaching any other Access Agreement.

E. A Sponsor may have to pay compensation to RfL(I) or one or more Access Beneficiaries in respect of any costs, losses or expenses incurred by RfL(I) or any Access Beneficiary as a result of a CCOS Vehicle Change. The benefit of the CCOS Vehicle Change and the chances of recouping costs will be taken into account in determining the amount of such compensation.

F. It is expected that the normal means of resolving differences between RfL(I) and an Access Beneficiary regarding proposed CCOS Vehicle Changes will be by negotiation and agreement, possibly involving some element of financial compensation. However, in order to deal with those cases where agreement cannot be reached, provision is made for a matter to be referred to the CCOS ADRR.

G. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

In this Part F, unless the context otherwise requires:

"**Authorised Variation**" means a variation to an Established CCOS Vehicle Change, where:

(a) the terms and conditions on which the CCOS Vehicle Change in question was Established contain a variation procedure;

(b) that variation procedure has been followed in accordance with its terms; and

(c) the result of the operation of that variation procedure is that the Established CCOS Vehicle Change has been varied;

"**CCOS Vehicle Change**" means, in relation to an Access Beneficiary:

(a) any change to Specified Equipment (or, in the case of an Access Option Holder, any change to the type or performance specification of any vehicle specifically identified within an access option) including by way of:

(i) any alteration (not being a change within paragraph (b) or (c) below) to the physical characteristics of the Specified Equipment (or, in the case of an Access Option Holder, any change to the type or performance specification of any vehicle specifically identified within an access option); or

(ii) any increase in the length of any trains beyond that permitted by that Access Beneficiary's Access Agreement; or

(iii) the inclusion in the Specified Equipment of any railway vehicle which is not so included; or

(iv) the inclusion in an access option of any vehicle which is not so included; or

(b) any change to the Specified Equipment (not being a change within paragraph (c) below) which is likely to materially affect the operation of trains operated or anticipated as being operated in accordance with the terms of any Access

Agreement; or

(c) any material variation to an Established CCOS Vehicle Change which has yet been implemented, other than an Authorised Variation,

which, in respect of any of the preceding paragraphs, is likely materially to affect the maintenance or operation of the CCOS or the operation of trains on the CCOS, but excluding any Authorised Variation;

"**Compatibility Review Forum**" means a meeting convened by the Sponsor with affected parties to exchange information and review the proposal for CCOS Vehicle Change;

"**Established CCOS Vehicle Change**" means a change which the Sponsor is entitled by this Part F to carry out, and "**establish**" and "**establishment**" of a CCOS Vehicle Change shall be construed accordingly;

"**modification**" includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

"**Relevant Response Date**" means, in relation to a proposal for a CCOS Vehicle Change, the later of such dates as are reasonably specified by RfL(I) under either Condition F2.5.1(b)(i) or Condition F2.6.3 (as the case may be) as the date on or before which RfL(I) is to give notice of its response to that proposal under Condition F3.1, having regard to:

(a) the size and complexity of the CCOS Vehicle Change; and

(b) the likely impact of the CCOS Vehicle Change on the operation of the CCOS, other Access Beneficiaries and the operators of other railway assets,

and which shall be 90 days from the date on which:

(x) RfL(I)'s notice under Condition F2.5.1(b) is given; or

(y) notice is given by RfL(I), the affected Access Beneficiary or the affected operator of railway assets (as the case may be) under Condition F2.3.2,

whichever is the later;

"**Sponsor**" means, in relation to a proposal for a CCOS Vehicle Change under Condition F2.1, the Access Beneficiary which has made the proposal;

"**variation**" means any modification to the terms or conditions (including as to the specification of the works to be done, their timing, the manner of their implementation, the costs to be incurred and their sharing, and the division of risk) on which an Established CCOS Vehicle Change is to be carried out, and "**varied**" and any other cognate words shall be construed accordingly; and

"**variation procedure**" means, in relation to an Established CCOS Vehicle Change, a procedure which:

(a) forms part of the terms and conditions on which the CCOS Vehicle Change is Established; and

(b) provides for the Established CCOS Vehicle Change itself to be varied after it has been first Established.

CONDITION F1 - FACILITATION OF CCOS VEHICLE CHANGE

1.1 ***CCOS Standards***

The obligation to comply with the requirements of this Part F shall be without prejudice to the obligations of RfL(I) and all Access Beneficiaries to comply with the CCOS Standards and, to the extent applicable, Technical Specifications for Interoperability.

1.2 ***Applicable Laws***

The obligation to comply with the requirements of this Part F shall be without prejudice to the obligations of RfL(I) and all Access Beneficiaries to comply with all Applicable Laws, including:

(a) the ROGS; and

(b) the RIRS.

1.3 ***Obligation to facilitate CCOS Vehicle Change***

RfL(I) shall take all reasonable steps to facilitate the development, establishment and implementation of any proposal for CCOS Vehicle Change by an Access Beneficiary.

1.4 **Not used.**

1.5 ***Facilitation***

The obligation of RfL(I) under Condition F1.3 means:

the provision to an Access Beneficiary of such information concerning the condition, capacity and/or capability of the CCOS as:

(i) RfL(I) possesses in a reasonably accessible form; and

(ii) that an Access Beneficiary may reasonably request in connection with the development of a proposal for CCOS Vehicle Change (whether the proposal is made by that Access Beneficiary or another person);

(a)

where RfL(I) considers it appropriate, the publication on its website (subject to Condition A3 of this CCOS Network Code) of:

(i) every proposal for CCOS Vehicle Change made by an Access Beneficiary under Condition F2.1;

(b)

(ii) every response to a proposal for CCOS Vehicle Change made by RfL(I) under Condition F3.1;

(iii) every determination of matters which have been referred in accordance with the CCOS ADRR under Condition F5.1; and

(iv) every Authorised Variation;

(c) the provision of a preliminary response to an Access Beneficiary's proposal for CCOS Vehicle Change under Condition F2.6;

(d) such consultation before a notice of a proposal for a CCOS Vehicle Change is submitted by an Access Beneficiary as may reasonably be expected to enable that operator to assess the feasibility and affordability of the proposed change; and

(e)

if requested, provision of the names and contact details of each Access Beneficiary which RfL(I) considers may be affected by the implementation of the proposed CCOS Vehicle Change.

CONDITION F2 - INITIATION OF CCOS VEHICLE CHANGE PROCEDURE

2.1 (a) ***Submission of proposal***

If an Access Beneficiary wishes to make a CCOS Vehicle Change, that Access Beneficiary shall as soon as reasonably possible:

(b)

submit to RfL(I) and each Access Beneficiary that may be affected by the implementation of the proposed CCOS Vehicle Change and the ORR, a proposal for such CCOS Vehicle Change;

provide details to RfL(I) of all Access Beneficiaries to which the proposal for CCOS Vehicle Change has been submitted under Condition F2.1(a); and

permit RfL(I) to consult with the persons specified in Condition F2.1(a) to the extent provided for under Condition F2.5 subject to such requirements as to confidentiality as are reasonable.

2.2 ***Content of Sponsor's notice of proposal***

(c) A notice of proposal for CCOS Vehicle Change given by a Sponsor under Condition F2.1 shall:

state:

(i) the reasons why it is proposed to make the CCOS Vehicle Change;

(a)

(ii) the nature of the CCOS Vehicle Change, including:

(A) any material change which the Sponsor proposes to make to the physical characteristics of any vehicle which is already included within the Specified Equipment; and

(B) a description of any vehicle which is not already included within the Specified Equipment, but which the Sponsor proposes to include within the Specified Equipment;

(iii) in the case of any vehicle of the kind referred to in Condition F2.2(a)(ii)(A):

(A) whether it is proposed to operate such vehicle on any part of the CCOS on which it does not already operate; and

(B) whether it is proposed to operate such vehicle at higher speeds or tonnages or to a larger gauge than it has previously been operated over any part of the CCOS on which such a vehicle already operates;

(iv) in the case of any vehicle of the kind referred to in Condition F2.2(a)(ii)(B), over what parts of the CCOS, and at what speeds, it proposes to operate such vehicle;

(v) the proposed timetable for the implementation of the CCOS Vehicle Change;

(vi) the Sponsor's proposals (if any) for the division of the costs of carrying out the CCOS Vehicle Change, including any proposals in relation to the calculation or payment of compensation to any Access Party in respect of the CCOS Vehicle Change;

(vii) any additional terms and conditions which the Sponsor proposes should apply to the CCOS Vehicle Change, including any proposed variation procedure;

(viii) whether the Sponsor intends to convene a Compatibility Review Forum in accordance with Condition F2.3.1; and

(ix) either:

(A) that a vehicle change which is the same as the proposed CCOS Vehicle Change has already been accepted, implemented and successfully tested in relation to the Specified Equipment operating on a railway network other than the CCOS; or

(B)

(1) the proposed CCOS Vehicle Change is being made at or around the same time as the same proposed vehicle change is being made under an equivalent vehicle change process on a railway network other than the CCOS; and

(2) if the proposed CCOS Vehicle Change is accepted, the Sponsor shall procure that the vehicle change is successfully accepted, implemented and tested on Specified Equipment operating on such other railway network prior to the CCOS Vehicle Change being implemented and tested on Specified Equipment operating on the CCOS; and

(b)

be prepared to a standard, and in such detail, as is reasonably necessary, having due regard to the level of knowledge and expertise reasonably to be expected of the persons specified in Condition F2.1(b), to enable:

(i) RfL(I); and

(ii) any persons specified in Condition F2.1(b),

to assess the likely effect of the proposed CCOS Vehicle Change on its business, its assets and its performance of any obligations or the exercise of any rights or discretions which it has in relation to railway services.

2.3 ***Compatibility Review Forum***

2.3.1 A Sponsor shall be entitled to convene a Compatibility Review Forum if it reasonably considers that such forum would be an appropriate means of assisting RfL(I), the affected Access Beneficiaries and/or affected operators

of railway assets in understanding and assessing a proposal for CCOS Vehicle Change, by notifying each of the affected parties described in Condition F2.1 of the date and location of the Compatibility Review Forum no later than 14 days from the date on which RfL(I)'s notice under Condition F2.5.1(b) is given.

2.3.2 If the Sponsor does not propose to convene a Compatibility Review Forum but RfL(I), an affected Access Beneficiary and/or an affected operator of railway assets reasonably considers that such a forum is the most appropriate forum to understand a proposal for CCOS Vehicle Change, RfL(I), the affected Access Beneficiary or the affected operator of railway assets (as the case may be) shall be entitled to request, by giving written notice to the Sponsor and RfL(I) (unless RfL(I) is giving the notice) no later than 7 days from the date on which RfL(I)'s notice under Condition F2.5.1(b) is given, that a Compatibility Review Forum be convened.

2.3.3 Where RfL(I), an affected Access Beneficiary or the affected operator of railway assets gives notice to a Sponsor in accordance with Condition F2.3.2, the Sponsor shall no later than 7 days from receipt of such notice, notify each of the affected parties described in Condition F2.1 of the date and location of the Compatibility Review Forum.

2.3.4 The date of any Compatibility Review Forum notified pursuant to this Condition F2.3 shall not be earlier than 37, or later than 30 days before the date specified in RfL(I)'s notice under Condition F2.5.1(b) for submission of comments to RfL(I).

2.3.5 A Compatibility Review Forum convened in accordance with this Condition F2.3 shall be chaired by RfL(I). The Sponsor shall assist all participants in understanding the proposed CCOS Vehicle Change. RfL(I) shall produce formal minutes of the Compatibility Review Forum and, subject to Condition A3, shall Publish on a Website such minutes.

2.4 ***CCOS Compatibility Information***

In assessing a proposal for CCOS Vehicle Change, RfL(I) and/or an affected Access Beneficiary shall be entitled to request a copy of the Statement of Compatibility and/or any information comprised in the Compatibility File prepared by the Sponsor in accordance with the applicable CCOS Standards. The Sponsor shall provide any requested information within 5 days of such information having been prepared by the Sponsor.

2.5[(a)] ***Evaluation of proposal and consultation***

2.5.1 If RfL(I) receives a proposal for CCOS Vehicle Change under Condition F2.1, it shall:

evaluate and discuss that proposal with the Sponsor for such period as is reasonable having due regard to the likely impact of the proposed CCOS Vehicle Change on RfL(I) and Access Beneficiaries;

within 30 days of the date on which the Sponsor's notice under Condition F2.1 was given, give a notice to the persons specified in Condition F2.1(a) (with the exception of RfL(I)), with a copy to the Sponsor, inviting them to submit comments on the proposed CCOS Vehicle Change by a specified date, which shall not be earlier than 15, or later than 7 days before the Relevant Response Date. The

(b) notice given by RfL(I) pursuant to this Condition F2.5.1(b) shall state:

(i) the Relevant Response Date and the obligations of Access Parties under Conditions Condition F2 and Condition F3;

(ii) so far as reasonably practicable RfL(I)'s estimate of the likely impact of the CCOS Vehicle Charge on the operation and performance of the CCOS including the operation of trains on the CCOS (such estimate to be binding on RfL(I) unless stated to the contrary by RfL(I)); and

(iii) RfL(I)'s own proposals as to:

(A) the arrangements for, and any proposed terms applicable to, the implementation of the CCOS Vehicle Change;

(B) the arrangements for determining and paying any compensation in respect of the CCOS Vehicle Change;

(C) the timetable for implementation of the CCOS Vehicle Change;

(D) the division of the costs of carrying out the CCOS Vehicle Change;

(E) the additional terms and conditions (if any) which should apply to the CCOS Vehicle Change, including any variation procedure; and

(c) (F) any changes which will need to be made to any Access Agreements as a consequence of the implementation of the CCOS Vehicle Change;

(d) send the proposal for CCOS Vehicle Change to any Access Beneficiary that may be affected by the implementation of the proposed CCOS Vehicle Change if the Sponsor has not already done so in accordance with Condition F2.1(a); and

provide details to the Sponsor of all Access Beneficiaries to which RfL(I) has sent the proposal for CCOS Vehicle Change under Condition F2.5.1(c).

2.5.2 In preparing a notice under Condition F2.5.1(b), RfL(I):

shall comply with the standards specified in Condition F2.2(b); and

in respect of each of the matters specified in Condition F2.5.1(b)(iii):

(i) shall have regard to any relevant statements and proposals contained in the Sponsor's notice under Condition F2.1;

(a)

(b)

(ii) shall give reasons for any differences between those statements and proposals and its own proposals under Condition F2.5.1(b)(iii); and

(iii) may annex to its notice any proposal contained in the Sponsor's notice under Condition F2.1 with which it agrees, stating its agreement, and, where appropriate, that it has no proposals of its own on the matter concerned.

2.5.3 If an Access Beneficiary receives a proposal for CCOS Vehicle Change under Condition F2.1 or Condition F2.5.1(c), without prejudice to its rights to request the convening of, and to participate in, a Compatibility Review Forum in accordance with F2.3.2, it shall:

(a) evaluate and discuss the proposal with RfL(I) for such period as is reasonable having due regard to the likely impact of the proposed CCOS Vehicle Change on that Access Beneficiary; and

(b) within 10 days of receipt of a request from RfL(I), notify RfL(I) of whether it considers that it is entitled to compensation from the Sponsor in relation to the implementation of the CCOS Vehicle Change and an estimate (which shall be binding on that Access Beneficiary unless stated to the contrary by such party) of the amount of such compensation determined in accordance with Condition F3.2, together with all information reasonably necessary to show how such estimate has been calculated.

2.6 ***Preliminary response and estimate***

2.6.1 RfL(I) shall, if requested to do so in writing by the Sponsor, provide at no cost to the Sponsor, as soon as reasonably practicable and in any event within a period of 28 days commencing on the date of the request for a preliminary response:

(a)

(b) a preliminary estimate (which shall be binding on RfL(I) unless stated to the contrary by RfL(I)) of any compensation which RfL(I) considers that it is entitled to in relation to the implementation of the proposed CCOS Vehicle Change, determined in accordance with Condition F3.2, together with all information reasonably necessary to show how such estimate has been calculated; and

a preliminary written response in respect of the proposed CCOS Vehicle Change (which, unless RfL(I) indicates otherwise, shall be

binding on RfL(I)) and if such response is negative, include reasons therefor.

2.6.2 RfL(I) shall not be obliged to comply with a request from the Sponsor under Condition F2.6.1:

unless:

(a)

(i) the Relevant Response Date is 90 or more days after the date on which RfL(I)'s notice under Condition F2.5.1(b) was given; and

(ii) the request is made within 7 days of the Sponsor receiving RfL(I)'s notice under Condition F2.5.1(b); or

to the extent that RfL(I) is unable to comply with such a request, having regard to the information reasonably available to it.

(b)

2.6.3 After consultation with the Sponsor RfL(I) may notify a later Relevant Response Date to the Sponsor and the persons to whom it gave its notice under Condition F2.5.1(b).

2.7 ***Reimbursement of costs***

Subject to Condition F2.6 and Condition F3, RfL(I) and all Access Beneficiaries who received a proposal for CCOS Vehicle Change under Condition F2.1 or F2.5.1(c) shall be entitled to reimbursement by the Sponsor of 75% of their respective costs incurred in assessing and responding to any CCOS Vehicle Change proposed by the Sponsor in accordance with Condition F2.1. Those costs shall be the minimum reasonably necessary for RfL(I) or the affected Access Beneficiary (as the case may be) to carry out that assessment and response.

2.8 ***Provision of estimate of costs***

(a) RfL(I) and each Access Beneficiary who would be entitled to receive or who has received a proposal for CCOS Vehicle Change under Condition F2.1 or Condition F2.5.1(c) shall:

(b) upon request from the Sponsor, provide the Sponsor and RfL(I) (save where RfL(I) is providing the written estimate) with a written estimate of the costs it would incur in assessing and responding to a proposal for CCOS Vehicle Change submitted by the Sponsor (as referred to in Condition F2.7) including its estimated costs of the work to be carried out;

be entitled to require from the Sponsor reasonable assurances of payment in respect of any material work to be carried out for the purposes of that evaluation before commencing such work; and

upon request from the Sponsor from time to time, provide the Sponsor or its agents with such information as may be reasonably necessary to enable the Sponsor to assess the reasonableness of any estimate.

2.9 ***Accuracy of estimates***

(c) RfL(I) and/or each affected Access Beneficiary requested by a Sponsor to provide a written estimate of costs in accordance with Condition F2.8 shall ensure that so far as reasonably practicable:

(a) any estimates given by it are accurate on the basis of the information reasonably available to it; and

(b) each type of cost comprised in the estimate is separately identified.

2.10 ***Obligation to incur no further costs***

(b) RfL(I) and/or each affected Access Beneficiary requested by a Sponsor to provide a written estimate of costs in accordance with Condition F2.8 shall:

(a) if requested at any time by the Sponsor, incur no further costs (except any costs that cannot reasonably be avoided); and

(b) unless otherwise agreed by the Sponsor, incur no costs in excess of the estimate provided pursuant to Condition F2.8,

in respect of any proposal for CCOS Vehicle Change made by the Sponsor.

2.11 ***Relationship with CCOS Network Change***

If the implementation of a CCOS Vehicle Change proposed by the Sponsor also requires the implementation of a CCOS Network Change, the Sponsor shall follow the procedures and satisfy the requirements of both this Part F and Part G and the requirement for a CCOS Network Change shall not preclude the right of the Sponsor to follow the procedure in this Part F for a CCOS Vehicle Change or vice versa.

2.12 ***CCOS Vehicle Change for safety reasons***

To the extent that a CCOS Vehicle Change is required to be made by an Access Beneficiary for safety reasons, the Access Beneficiary shall be obliged to submit a proposal for CCOS Vehicle Change in accordance with the procedure set out in this Part F within 5 days of being notified by RfL(I) or the relevant Competent Authority that the requirement has come into full force and effect.

CONDITION F3 - RESPONSE TO CCOS VEHICLE CHANGE PROPOSAL

3.1 ***Obligation to give notice of response***

RfL(I) shall give notice to the Sponsor of a CCOS Vehicle Change on or before the Relevant Response Date if:

(a) it considers that one or more of the following conditions has been satisfied:

(i) the implementation of the proposed CCOS Vehicle Change would necessarily result in RfL(I) breaching any Access Agreement or access option;

(ii) the Sponsor has failed in a material respect to comply with its obligations under Condition F2.2 provided that RfL(I) shall first have given the Sponsor a reasonable opportunity to remedy that failure; or

(iii) the implementation of the proposed CCOS Vehicle Change would result in a material adverse effect on the maintenance or operation of the CCOS or operation of trains on the CCOS, which in any such case cannot adequately be compensated under this Condition F3;

(b) any Access Beneficiary shall have given notice to RfL(I) that it considers that any of the conditions specified in paragraph F3.1(a) above has been satisfied;

(c) it considers that it should be entitled to compensation from the Sponsor for the consequences of the implementation of the proposed CCOS Vehicle Change either:

(i) in accordance with compensation terms proposed under Condition F2;

(ii) in the absence of any compensation terms proposed under Condition F2; or

(iii) on compensation terms other than those proposed under Condition F2; and/or

any other Access Beneficiary shall have given notice to RfL(I) that it considers that it should be entitled to compensation from the Sponsor for the consequences of the implementation of the change either:

(d)

(i) in accordance with compensation terms proposed under Condition F2;

(ii) in the absence of any compensation terms proposed under Condition F2; or

(iii) on compensation terms other than those proposed under Condition F2.

Any notice of the kind referred to in paragraphs F3.1(a) or F3.1(b) above shall include the reasons for the opinion in question. Any notice of the kind mentioned in paragraphs F3.1(c) or F3.1(d) above shall include a statement of the amount of compensation required and the means by which the compensation should be paid, including any security or other assurances of payment which the Sponsor should provide. Any such statement shall contain such detail as is reasonable to enable the Sponsor to assess the merits of the statement.

3.2 ***Amount of compensation***

Subject to Condition F3.3, the amount of the compensation referred to in Conditions F2.5.3(b) and F3.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which can reasonably be expected to be incurred by RfL(I) or other Access Beneficiaries (as the case may be), as a consequence of the implementation of the proposed CCOS Vehicle Change other than any such costs, losses or expenses which are attributable to the Sponsor improving its ability to compete with other operators of railway assets.

3.3 ***Benefits to be taken into account***

(a) There shall be taken into account in determining the amount of compensation referred to in Conditions F2.5.3(b) and F3.1:

(b)

the benefit (if any) to be obtained or likely in the future to be obtained by RfL(I) or any other operator of trains as a result of the proposed CCOS Vehicle Change; and

the ability or likely future ability of RfL(I) or any other operator of trains to recoup any costs, losses and expenses from third parties including passengers and customers.

CONDITION F4 - CHANGES IMPOSED BY COMPETENT AUTHORITIES

Where an Access Beneficiary is required (other than at the request or instigation of the Access Beneficiary) to implement a CCOS Vehicle Change as a result of any

Change of Law or any Direction of any Competent Authority other than the ORR exercising any of its functions which do not fall within the definition of 'safety functions' as defined in section 4 of the Act:

4.1 each Access Beneficiary shall, except to the extent that the relevant Change of Law or Direction otherwise requires, comply with Conditions F2.1, F2.2 and F2.5 (other than Conditions F2.2(a)(vi) and F2.5.1(b)(iii)(B) and F2.5.1(b)(iii)(D)) in respect of that CCOS Vehicle Change;

4.2 RfL(I) shall make such alterations (if any) to the CCOS as are reasonably necessary to accommodate that CCOS Vehicle Change and each Access Beneficiary or operator of railway assets (as the case may be) shall, except to the extent that the relevant Change of Law or Direction otherwise requires, comply with Conditions G1.1 and G1.2 (other than Condition G1.2(e)(iv)); and

4.3 each Access Beneficiary or operator of railway assets (as the case may be) shall bear its own costs and losses arising out of the implementation of the CCOS Vehicle Change and the consequences thereof.

CONDITION F5 - APPEAL PROCEDURE

5.1 ***Right of appeal in accordance with the CCOS ADRR***

If RfL(I) or any Access Beneficiary is dissatisfied as to:

(a) any matter concerning the operation of the procedure set out in this Part F;

(b) the contents of any notice given by RfL(I) under Condition F3.1 (and, in particular, the amount of any compensation referred to in that Condition); or

(c) any estimate referred to in Condition F2.6; or

(d) in relation to an Access Beneficiary, that its comments have not been taken into account by RfL(I) in its response to the Sponsor making the proposal for CCOS Vehicle Change,

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

CONDITION F6 - ESTABLISHMENT AND IMPLEMENTATION

6.1 ***Implementation of a proposed CCOS Vehicle Change***

6.1.1 With the exception of any CCOS Vehicle Change implemented under Condition F2.12, the Sponsor shall be entitled to implement a proposed CCOS Vehicle Change if:

RfL(I) has not given notice under Condition F3.1 by the Relevant Response Date and RfL(I) has not received any notice from an Access Beneficiary in accordance with Condition F3.1(b); or

(a) RfL(I) has given notice by the Relevant Response Date under Condition F3.1(c) and either the amount of any compensation referred to in Condition F3.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition F5; or

(b) RfL(I) has received notice from an Access Beneficiary under Condition F3.1(d) and either the amount of any compensation referred to in Condition F3.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition F5; and

(c) there is no other unresolved dispute under this Part F (whether under this Condition F6 or otherwise) as regards the proposed CCOS Vehicle Change between the Sponsor, RfL(I) and/or any Access Beneficiary and/or or operator of railway assets; and

(d) the continuing compatibility of the Specified Equipment the subject of the proposed CCOS Vehicle Change and the CCOS, if the CCOS Vehicle Change was implemented, has been confirmed in accordance with the relevant CCOS Standards and, where applicable, has been approved by a Notified Body as defined under the RIRS and/or a Competent Person (as defined under the ROGS).

(e)

6.1.2 The Sponsor may, if it considers it expedient to do so in order to confirm whether or not Condition F6.1.1 has been satisfied, instruct RfL(I) to issue a notice to all affected Access Beneficiaries when the Sponsor reasonably believes that it is entitled to implement a proposed CCOS Vehicle Change and RfL(I) shall then serve such a notice within 7 days of the instruction.

6.1.3 The Sponsor's entitlement to implement a proposed CCOS Vehicle Change shall be treated as confirmed 35 days after RfL(I) has served a notice in respect of that CCOS Vehicle Change in accordance with Condition F6.1.2 unless:

(a)

(b) RfL(I) gives notice to the Sponsor within 35 days disputing the Sponsor's entitlement to implement that CCOS Vehicle Change under Condition F6.1.1 and giving full particulars of its reasons; or

RfL(I) receives notice from an Access Beneficiary within 21 days of the notice served by RfL(I) disputing the Sponsor's entitlement to implement that CCOS Vehicle Change under Condition F6.1.1 and giving full particulars of its reasons.

6.1.4 If the Sponsor does not agree with the contents of a notice served by RfL(I) or an affected Access Beneficiary in accordance with Condition F6.1.3, the Sponsor may:

refer the matter for determination in accordance with the CCOS ADRR and Condition F5 shall apply; or

withdraw the proposed CCOS Vehicle Change.

6.1.5 Where as a consequence of a CCOS Vehicle Change it is necessary to

(a) amend an Access Agreement to reflect that CCOS Vehicle Change, RfL(I) shall provide to the other party to such Access Agreement and to the ORR

(b) written notice of such change, and such change shall be deemed to have been made to such Access Agreement from the date of approval of such amendment by the ORR.

6.2 ***When a CCOS Vehicle Change may not be Implemented***

6.2.1 The Sponsor shall not be entitled to implement a proposed CCOS Vehicle Change unless it is so entitled to do so under Condition F6.1.1.

6.2.2 For the purposes of the Condition F6.1.1, unresolved disputes shall include:

(a) a notice has been served under Condition F3.1(a) or F3.1(b) which has not been withdrawn, resolved under Condition F5 or agreed not to apply; and

(b) a notice has been served under Condition F3.1(c) or F3.1(d) which has not been agreed or resolved as referred to in Condition F6.1.1(b) or F6.1.1(c) or otherwise agreed, resolved or withdrawn.

CONDITION F7 - ACCESS BENEFICIARY'S DUTIES

7.1 ***Compliance with other Requirements***

Nothing in this Part F releases the Sponsor from the duty to comply with any requirements of any other infrastructure manager affected by a proposed CCOS Vehicle Change. The Sponsor has sole responsibility for achieving approval of the proposed CCOS Vehicle Change from each affected infrastructure manager.

Part G - CCOS Network Change

Explanatory Note

A. Part G is concerned with the procedures which Access Parties must go through when certain types of Change to the CCOS (defined as "CCOS Network Change") occur or are proposed.

B. The definition of "CCOS Network Change" is broad, and much of it is expressed in non-exhaustive terms (i.e. after some general words of definition, CCOS Network Change is said to "include" certain specific things by way of illustration or example, but that does not necessarily mean that other things are excluded). The following specific points should also be noted:

(i) only changes which are likely to have a material effect on the operation of the CCOS or of trains operated on the CCOS are CCOS Network Changes;

(ii) CCOS Network Changes can either be physical (e.g. changes to the layout, configuration or condition of the CCOS) or operational (e.g. the introduction of a speed restriction on a section of track, a change to the way RfL(I) maintains track or a change to the monitoring points used in the application of Schedule 8 of the Track Access Agreements), but operational changes are only CCOS Network Changes if they last, or are likely to last, for more than 6 months; and

(iii) the definition of CCOS Network Change includes Changes which will generally be seen in a positive light, as well as Changes which are more likely to be characterised as having a negative impact.

In addition, a Variation to any previously agreed CCOS Network Change is subject to the CCOS Network Change procedure.

C. Part G provides a procedure by which Changes may be made to the CCOS, either by RfL(I) or an Access Beneficiary. Part G divides CCOS Network Changes into two categories: those proposed by RfL(I) and those proposed by an Access Beneficiary. All CCOS Network Changes, whether proposed by RfL(I) or by an Access Beneficiary, are implemented by RfL(I).

D. The general principle is that before any CCOS Network Change can be implemented:

(i) it must be formally proposed under Part G; and

(ii) it must be accepted by those Access Beneficiaries whom it will affect (and, where the CCOS Network Change is proposed by an Access Beneficiary, by RfL(I)); or

(iii) to the extent that there is any dispute as to whether the CCOS Network Change should be implemented, or the terms on which it should be

implemented, such dispute must be resolved (whether by agreement or in accordance with the CCOS ADRR) in favour of the CCOS Network Change being implemented.

A slightly different process applies where RfL(I) proposes a CCOS Network Change using the Complex Projects Procedure.

E. RfL(I), in proposing a CCOS Network Change (and where an Access Beneficiary proposes a CCOS Network Change), has a duty to consult with all affected Access Beneficiaries on any proposed CCOS Network Change. Part G also imposes a general obligation on RfL(I) to facilitate CCOS Network Change, which includes a number of specific obligations to provide information to Access Beneficiaries and to Publish on a Website documents generated under Part G.

F. In some circumstances, RfL(I) must give an Access Beneficiary proposing a CCOS Network Change a preliminary response within 28 days. Although there is no charge for such a preliminary response, RfL(I) is entitled to reimbursement of 75% of all costs of any further investigation of a CCOS Network Change proposal put forward by an Access Beneficiary after the 28 day period. Any such costs are restricted to the minimum reasonably necessary for RfL(I) to carry out an assessment. A similar provision applies in relation to costs incurred by an Access Beneficiary assessing a CCOS Network Change proposed by RfL(I).

G. However, it is recognised that:

(i) safety considerations will sometimes dictate that RfL(I) must make a CCOS Network Change very quickly, without recourse to all the procedures under Part G. In such cases, RfL(I)'s obligations under Part G may be subordinated to the interests of safety to a greater or lesser extent, depending on the circumstances; and

(ii) where a CCOS Network Change is required to be made as a result of a Change of Law or a Direction of a Competent Authority, most of the normal obligations of Access Parties under Part G do not apply.

H. RfL(I) may implement a proposed CCOS Network Change (whether proposed by RfL(I) or an Access Beneficiary) except in certain circumstances, including where any such CCOS Network Change cannot be adequately compensated. RfL(I) can also implement a CCOS Network Change for safety reasons without following the CCOS Network Change procedure for up to three months but upon the expiry of three months RfL(I) is obliged to implement the CCOS Network Change procedure.

I. The proposer of the CCOS Network Change may have to pay compensation in respect of any costs, losses or expenses incurred by (if an Access Beneficiary is the proposer) RfL(I) or any Access Beneficiary and (if RfL(I) is the proposer) by Access Beneficiaries, as a result of a CCOS Network Change. The benefit of the CCOS Network Change to RfL(I) or an Access

Beneficiary and their chances of recouping their costs or losses from third parties shall be taken into account in determining the amount of that compensation. Compensation may also become payable to the infrastructure manager of an adjoining network if the CCOS Network Change in question also has an impact on that adjoining network.

J. The Short Term CCOS Network Change process allows RfL(I) to propose to maintain any part of the CCOS at less than the published capability for a specified period. Condition G8 provides Access Beneficiaries with the ability to request, at RfL(I)'s cost, the reversal of any such Short Term CCOS Network Change should they have a reasonable expectation as to the future use of the relevant part of the CCOS before the expiry of the specified period.

K. Where RfL(I) wishes to make a CCOS Network Change proposal using the Complex Projects Procedure:

(i) prior to issuing the CCOS Network Change notice, RfL(I) must consult with Access Beneficiaries on its proposal to use the Complex Projects Procedure and take into account representations from and information provided by Access Beneficiaries on the proposal;

(ii) RfL(I) must then issue a notice of intended Scope to each Access Beneficiary. Each Access Beneficiary has 30 days to respond to the notice of intended Scope and may only refuse to agree to the Scope on one of the "normal" grounds for rejecting a CCOS Network Change. At any point prior to issuing the CCOS Network Change notice, RfL(I) may issue further notices of intended Scope to consult on the inclusion of further elements within the Scope;

(iii) if the Scope cannot be agreed by RfL(I) and an affected Access Beneficiary, either party can refer the matter to dispute and such dispute must be resolved (whether by agreement or in accordance with the CCOS ADRR) in favour of the CCOS Network Change being implemented;

(iv) if the project in question requires Preparatory Works to be undertaken, RfL(I) may issue a CCOS Network Change notice in accordance with the "normal" CCOS Network Change procedure, with Access Beneficiaries having the same acceptance or rejection rights; and

(v) once the Scope has been agreed by an Access Beneficiary, RfL(I) may issue a CCOS Network Change notice to consult on the implementation of the proposed CCOS Network Change. An Access Beneficiary cannot reject elements of the Scope which are included in such a proposal for CCOS Network Change, unless the Scope has changed from that which was agreed such that it is likely to materially affect that Access Beneficiary.

L. It is expected that the normal means of resolving differences between RfL(I) and each Access Beneficiary regarding proposed CCOS Network Changes

will be by negotiation and agreement. However, in order to deal with those cases where agreement cannot be reached, provision is made for disputes to be referred for determination in accordance with the CCOS ADRR.

M. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

In this Part G, unless the context otherwise requires:

"**Authorised Variation**" means a Variation to an Established CCOS Network Change, where:

(a) the terms and conditions on which the CCOS Network Change in question was established contain a Variation Procedure;

(b) that Variation Procedure has been followed in accordance with its terms; and

(c) the result of the operation of that Variation Procedure is that the Established CCOS Network Change has been varied;

"**CCOS Network Change**" means, in relation to an Access Beneficiary:

(a) any Change in or to any part of the CCOS (including its layout, configuration or condition) which is likely materially to affect the operation of:

(i) the CCOS; or

(ii) trains operated by, or anticipated as being operated in accordance with the terms of an Access Agreement or any access option, by or on behalf of that Access Beneficiary on the CCOS; or

(b) any Change to the operation of the CCOS (being a Change which does not fall within paragraph (a) above) which:

(i) is likely materially to affect the operation of trains operated by, or anticipated as being operated in accordance with the terms of an Access Agreement or any access option, by or on behalf of that Access Beneficiary on the CCOS; and

(ii) has lasted or is likely to last for more than six months,

including:

(x) a temporary speed restriction;

(y) a material change to the location of any of the specified points referred to in Condition B1.1(a); or

(z) a change to the Method of Delivery of any operational documentation (other than CCOS Standards) owned or used by an Access Party; or

(c) any material Variation to an Established CCOS Network Change, other than an Authorised Variation,

but does not include a closure (as defined in the Railways Act 2005) or a change made under the CCOS Railway Systems Code;

"**Change**" includes:

(a) improvement or deterioration, enlargement or reduction; and

(b) for the purposes of paragraph (b) of the definition of CCOS Network Change, a series of changes;

"**Complex Projects Procedure**" means the procedure set out in Conditions G5 to G7;

"**Effective Date**" means the date specified in a notice of proposal of a Short Term CCOS Network Change upon which the Short Term CCOS Network Change is proposed to become effective;

"**Established CCOS Network Change**" means a change falling within the definition of "CCOS Network Change" and which:

(a) in the case of a CCOS Network Change proposed by RfL(I), RfL(I) is entitled to carry out having complied with the procedural and other requirements of this Part G; and

(b) in the case of a CCOS Network Change proposed by an Access Beneficiary, RfL(I) is required by this Part G to carry out,

and "**establish**" and "**establishment**" of a CCOS Network Change shall be construed accordingly;

"**Established Date**" means the first date upon which a Short Term CCOS Network Change can be implemented in accordance with Condition G10, whether or not the Short Term CCOS

Network Change is implemented on that day;

"**Expiry Date**" means the date specified in a notice of proposal in relation to a Short Term CCOS Network Change which shall not be more than two years, or such longer period as is agreed between RfL(I) and each Access Beneficiary that may be affected by the implementation of the proposed Short Term CCOS Network Change or determined in accordance with Condition G11, from the later of the Effective Date and the Established Date;

"**Governmental Body**" means any local, national or supra-national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether autonomous or not and including the ORR);

"**Method of Delivery**" includes the means of securing access to an operational document and the ability to make use of the data contained in an operational document;

"**Modification**" includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

"**Preparatory Works**" means testing, trials, pilot activities, surveys and all other activities reasonably necessary to develop the proposed CCOS Network Change;

"**Relevant Costs**" means, in respect of any CCOS Network Change implemented in accordance with Condition G9, all costs, expenses and losses (including loss of profit, loss of revenue and consequential losses) incurred by RfL(I) and/or any train operator using the CCOS (including the Train Operator) as a consequence of that CCOS Network Change implemented in accordance with Condition G9 (but without double counting);

"**Relevant Response Date**" means:

(a) in relation to a proposal for a CCOS Network Change under Condition G1, the later of such dates as are reasonably specified by RfL(I) under Condition G1.2(a) and Condition G1.3.2 as the date on or before which an Access Beneficiary is to give notice of its response to that proposal under Condition G2.1, having regard to:

(i) the size and complexity of the CCOS Network Change; and

(ii) the likely impact of the CCOS Network Change on the Access Beneficiary,

and which shall not be less than 30 days from the date on which the notice of the proposal for change is given; and

(b) in relation to a proposal for a CCOS Network Change under Condition G3, the later of such dates as are reasonably specified by RfL(I) under Condition G3.3.1(c)(i) and Condition G3.4.3 as the date on or before which it is to give notice of its response to that proposal under Condition G4.1, having regard to:

(i) the size and complexity of the CCOS Network Change; and

(ii) the likely impact of the CCOS Network Change on Access Beneficiaries,

and which shall not be:

(A) less than 60 days; or

(B) unless RfL(I) and the Sponsor agree otherwise in writing, more than 90 days,

from the date on which RfL(I)'s notice under Condition G3.3.1(c) is given;

"**Scope**" means those elements of the scope of a proposed CCOS Network Change that are set out in a notice issued by RfL(I) under Condition G5.4;

"**Short Term CCOS Network Change**" means a CCOS Network Change which RfL(I) specifies as such in any proposal made under Condition G1, being a CCOS Network Change which involves only a temporary reduction in the capability of the CCOS for a defined period of time during which there is no reasonable expectation of a requirement for the capability being temporarily withdrawn;

"**Sponsor**" means, in relation to a proposal for a CCOS Network Change under Condition G3.1, the Access Beneficiary which has made the proposal;

"**Variation**" means any Modification to the terms or conditions (including as to the specification of the works to be done, their timing, the manner of their implementation, the costs to be incurred and their sharing, and the division of risk) on which an Established CCOS Network Change is to be

carried out, and "**varied**" and any other cognate words shall be construed accordingly; and

"**Variation Procedure**" means, in relation to an established CCOS Network Change, a procedure which:

(a) forms part of the terms and conditions on which the CCOS Network Change is established; and

(b) provides for the Established CCOS Network Change itself to be varied after it has been first established.

CONDITION GA - FACILITATION OF CCOS NETWORK CHANGE

A1 ***CCOS Standards***

The obligation to comply with the requirements of this Part G shall be without prejudice to the obligations of RfL(I) and all Access Beneficiaries to comply with the CCOS Standards and, to the extent applicable, Technical Specifications for Interoperability.

A2 ***Applicable Laws***

The obligation to comply with the requirements of this Part G shall be without prejudice to the obligations of RfL(I) and all Access Beneficiaries to comply with all Applicable Laws, including:

(a) the ROGS; and

(b) the RIRS.

A3 ***Obligation to facilitate CCOS Network Change***

RfL(I) shall take all reasonable steps to facilitate the development, establishment and implementation of any proposal for CCOS Network Change.

A4 **Not used.**

A5 ***Facilitation***

The obligation of RfL(I) under Condition GA3 includes:

(a) the provision to an Access Beneficiary of such information concerning the condition, capacity and/or capability of the CCOS as:

(i) RfL(I) possesses a reasonably accessible form; and

(ii) that Access Beneficiary may reasonably request in connection with the development of a proposal for CCOS

Network Change (whether the proposal is made by that Access Beneficiary or another person);

(b) the publication on its website (subject to Condition A3 of the CCOS Network Code) of:

(i) every proposal for CCOS Network Change made by RfL(I) under Condition G1.1 or by an Access Beneficiary under Condition G3.1;

(ii) every response to a proposal for CCOS Network Change made by an Access Beneficiary under Condition G2.1 or by RfL(I) under Condition G4.1;

(iii) the determinations of matters which have been referred for determination in accordance with the CCOS ADRR under Condition G11.1 and which fall to be published in accordance with the CCOS ADRR;

(iv) every Authorised Variation;

(v) standard forms, produced after consultation with every other Access Party and approved by the ORR, for the notification under this Part G of proposals for CCOS Network Change, and of responses to such proposals, which:

(A) may include different forms for different types of CCOS Network Change having regard to the size, complexity and value of the CCOS Network Change in question; and

(B) shall be used by any person notifying or responding to a proposal for CCOS Network Change under this Part G, unless it is not reasonably practicable for it to do so; and

(vi) model terms and conditions, produced after consultation with every other Access Party and approved by the ORR, by way of supplement to the terms of this Part G and on which RfL(I) is prepared to contract for or in connection with the implementation of a CCOS Network Change which:

(A) shall provide appropriate and proportionate forms of contract for different types of CCOS Network Change having regard to the size, complexity and value of the CCOS Network Change in question;

(B) may include Variation procedures; and

(C) shall, so far as reasonably practicable, form the basis of any terms and conditions relating to the

implementation of a CCOS Network Change which are proposed by RfL(I) under Condition G1 or by an Access Beneficiary under Condition G3;

(c) the provision of a preliminary response to a proposal for CCOS Network Change by an Access Beneficiary under Condition G3.5;

(d) such consultation before a notice of a proposal for a CCOS Network Change is submitted by an Access Beneficiary as may reasonably be expected to enable that Access Beneficiary to assess the feasibility and affordability of the proposed CCOS Network Change;

(e) such consultation with the persons specified in Condition G1.1(a) and G3.1(b) before a notice of a proposal for a CCOS Network Change is given by RfL(I) or submitted by an Access Beneficiary as:

(i) RfL(I) considers reasonably necessary; and

(ii) any person specified in Condition G1.1(a) and G3.1(b) may reasonably request,

to enable the proposal to be developed in an efficient and economical manner; and

(f) if requested, provision of the names and contact details of each Access Beneficiary which RfL(I) considers may be affected by the implementation of a proposed CCOS Network Change.

A6 ***CCOS Network Changes affecting multiple networks***

If any proposed CCOS Network Change will or is reasonably likely to affect an adjoining railway network operated by another infrastructure manager:

(a) it is acknowledged that the party proposing a CCOS Network Change may also be required to propose a separate network change to that other infrastructure manager under the terms of its access agreement with such other infrastructure manager;

(b) any separate network change which may be required to the NR Network as a consequence of the CCOS Network Change shall be made to Network Rail by the party proposing the CCOS Network Change;

(c) RfL(I) and each Access Beneficiary shall cooperate with such other infrastructure manager in order to understand the impact of the proposed CCOS Network Change on both the CCOS and the adjoining railway network;

(d) the notices and responses described in this Part G may also refer to the impact on the adjoining railway network wherever appropriate; and

(e) in calculating the amounts payable under Conditions G2.2, G3.6 and G4.2, RfL(I) and (where applicable) each Access Beneficiary shall be entitled to take into account any reasonable costs of cooperating with or required to be paid to such other infrastructure manager.

CONDITION G1- CCOS NETWORK CHANGE PROPOSAL BY RfL(I)

1.1 ***Notice of proposal***

Subject to Conditions G1.9 and G1.10, if RfL(I) wishes to make a CCOS Network Change, it shall:

(a) give notice of its proposal for CCOS Network Change to:

(i) each Access Beneficiary that may be affected by the implementation of the proposed CCOS Network Change;

(ii) TfL (or such Affiliate of TfL with responsibility for procuring services on the CCOS);

(iii) any infrastructure manager of a network adjoining the CCOS; and

(iv) the ORR,

together with particulars of the proposed CCOS Network Change which are reasonably necessary to enable that person to assess the effect of the proposed CCOS Network Change and to enable each Access Beneficiary to assess the effect of the proposed CCOS Network Change on the operation of its trains;

(b) where RfL(I) considers it appropriate, Publish on a Website a summary of its proposal for CCOS Network Change; and

(c) invite the submission of comments from the persons specified in Condition G1.1(a) within such period as is reasonable in the circumstances having due regard to the likely impact of the proposed CCOS Network Change on those persons.

1.2 ***Content of notice of proposed CCOS Network Change***

A notice of a proposed CCOS Network Change given by RfL(I) under Condition G1.1 shall:

(a) state the Relevant Response Date and the obligations of Access Parties under Conditions Condition G1 and Condition G2;

(b) indicate whether and to what extent the proposed CCOS Network Change has been progressed using the Complex Projects Procedure;

(c) indicate whether the proposed CCOS Network Change is a Short Term CCOS Network Change;

(d) invite the persons specified in Condition G1.1(a) to submit comments by the Relevant Response Date;

(e) contain:

(i) the reasons why it is proposed to make the CCOS Network Change, including the effects it is intended or may reasonably be expected to have on the operation of the CCOS or on trains operated on the CCOS;

(ii) a specification of the works to be done (including a plan showing where the work is to be done and the parts of the CCOS and associated railway assets likely to be affected);

(iii) the proposed times within which the works are to be done and when they are intended or may reasonably be expected to be begun and completed;

(iv) RfL(I)'s proposals (if any) for the division of the costs of carrying out the CCOS Network Change, including any proposals in relation to the calculation or payment of compensation to Access Beneficiaries in respect of the CCOS Network Change;

(v) in the case of a Short Term CCOS Network Change:

(A) RfL(I) 's proposals as to the Effective Date;

(B) RfL(I)'s proposals as to the Expiry Date;

(C) the estimated timescale in which the CCOS Network Change could reasonably be reversed if so requested by an Access Beneficiary based on its reasonable expectations as to future use of the CCOS; and

(D) the capability of the relevant section of the CCOS before the proposed Short Term CCOS Network Change (and any Short Term CCOS Network Change which it succeeds) and the proposed reduction to that capability;

(vi) any additional terms and conditions which RfL(I) proposes should apply to the CCOS Network Change, including any proposed Variation Procedure;

(vii) the results of any consultation undertaken in accordance with Condition G5; and

(viii) the results of any Preparatory Works undertaken in accordance with Condition G6;

(f) describe any modifications which will need to be made to any Access Agreement as a consequence of the implementation of the CCOS Network Change; and

(g) be prepared to a standard, and in such detail, as is reasonably necessary, having due regard to the level of knowledge and expertise reasonably to be expected of the persons specified in Condition G1.1(a), to enable any such person to assess the likely effect of the proposed CCOS Network Change on its business and its performance of any obligations or the exercise of any discretions which it has in relation to railway services.

1.3 ***Obligation to provide preliminary response***

An Access Beneficiary shall, if requested to do so in writing by RfL(I), provide at no cost to RfL(I), as soon as practicable and in any event within a period of 28 days commencing on the date of the request for a preliminary response, a preliminary written response in respect of the proposed CCOS Network Change (which, unless an Access Beneficiary indicates otherwise, shall be binding on it) and if such response if negative, include reasons therefore.

1.4 ***Consultation and provision of estimate of costs***

1.4.1 RfL(I) shall, after giving notice of any proposal for CCOS Network Change under Condition G1.1, consult with each operator of railway assets likely to be materially affected by the proposed CCOS Network Change to the extent reasonably necessary so as properly to inform that operator of the CCOS Network Change and to enable that operator to assess the consequences for it of the proposed CCOS Network Change.

1.4.2 After consultation under this Condition G1.3, RfL(I) may notify a later Relevant Response Date to the persons to whom the notice of proposal for CCOS Network Change was given.

1.4.3 Any Access Beneficiary consulted by RfL(I) in accordance with Condition G1.3.1 shall, as soon as and so far as reasonably practicable, provide to RfL(I) an estimate of the costs, direct losses and expenses which can reasonably be expected to be incurred by that Access Beneficiary as a consequence of the implementation of the proposed CCOS Network Change by RfL(I).

1.5 ***Reimbursement of costs***

Subject to Conditions G1.3.3, G1.4, Condition G2 and Condition G5, each Access Beneficiary shall be entitled to reimbursement by RfL(I) of 75% of all costs incurred by it in assessing and responding to any CCOS Network Change proposed by RfL(I) in accordance with Condition G2.1. Those costs

shall be the minimum reasonably necessary for the Access Beneficiary to carry out that assessment and response.

1.6 ***Further information regarding costs***

Each Access Beneficiary shall, upon request from RfL(I) from time to time, provide RfL(I) with written estimates of the costs of assessing and responding to a proposal for CCOS Network Change proposed by RfL(I) (as referred to in Condition G1.5) including estimated costings of the work to be carried out and shall:

(a) be entitled to require reasonable assurances of payment in respect of any material work to be carried out for the purposes of that evaluation before commencing such work; and

(b) upon request from RfL(I) from time to time, provide RfL(I) with such information as may be reasonably necessary to enable RfL(I) to assess the reasonableness of any estimate.

1.7 ***Accuracy of estimates***

Each Access Beneficiary shall ensure that, so far as reasonably practicable:

(a) any estimates given by it are accurate on the basis of the information reasonably available to it; and

(b) each type of cost comprised in the estimate provided pursuant to Condition G1.3.3 is separately identified.

1.8 ***Obligation to incur no further costs***

(a) An Access Beneficiary shall:

(b) if requested by RfL(I) at any time, incur no further costs (except any costs which cannot reasonably be avoided); and

unless otherwise agreed by RfL(I), incur no costs in excess of the estimate provided pursuant to Condition G1.3.3,

in respect of any proposal for CCOS Network Change made by RfL(I).

1.9 ***Changes to the operation of the CCOS***

In the case of a CCOS Network Change within the meaning of paragraph (b) of that term's definition, RfL(I) may commence implementing the procedure set out in this Part G and shall, upon notice being given by the relevant Access Beneficiary to RfL(I) at any time after the expiry of the relevant period, promptly commence implementing and thereafter comply with that procedure as if that change were a CCOS Network Change proposed by RfL(I).

1.10 ***CCOS Network Change for safety reasons***

Subject to Condition G9, to the extent that a CCOS Network Change within the meaning of paragraph (a) of that term's definition is required to be made by RfL(I) for safety reasons, RfL(I) shall not be obliged to implement the procedure set out in this Part G in relation to that CCOS Network Change until the CCOS Network Change has lasted for three months. Upon expiry of the relevant period, RfL(I) shall promptly commence implementing and thereafter comply with the procedure set out in this Part G as if the relevant CCOS Network Change were a CCOS Network Change proposed by RfL(I).

CONDITION G2 - RESPONSE BY ACCESS BENEFICIARY TO CCOS NETWORK CHANGE PROPOSAL

2.1 ***Obligation to give notice of response***

2.1.1 The Access Beneficiary shall give notice to RfL(I) by the Relevant Response Date if it considers that:

(a) one or more of the following conditions has been satisfied:

(i) the implementation of the proposed CCOS Network Change would necessarily result in RfL(I) breaching an access contract to which that Access Beneficiary is a party; or

(ii) RfL(I) has failed, in respect of the proposed CCOS Network Change, to provide sufficient particulars to that Access Beneficiary under Condition G1.2, provided that RfL(I) shall first have been given a reasonable opportunity to remedy that failure; or

(iii) the implementation of the proposed CCOS Network Change would result in a material deterioration in the performance of that Access Beneficiary's trains which cannot adequately be compensated under this Condition G2 or (where that Access Beneficiary is a Train Operator) in respect of a Restriction of Use in connection with the implementation of the proposed CCOS Network Change under that Train Operator's Access Agreement save where the scale of the consequences which cannot adequately be compensated under this Condition G2 or under the Train Operator's Access Agreement are outweighed by the benefits to the Train Operator which would arise or are likely to arise from the implementation of the CCOS Network Change; and/or

(b) one or more of the conditions set out in Condition G2.1.1(a) has been satisfied but it is prevented by Condition G5.7 from objecting to the proposed CCOS Network Change and the proposed CCOS Network Change is not, on the basis of the available evidence and taking account of the alternative solutions available and the progress

made with the proposed CCOS Network Change, to the benefit of the industry as a whole; and/or

(c) it should be entitled to compensation from RfL(I) for the consequences of the implementation of the CCOS Network Change either:

(i) in accordance with compensation terms proposed under Condition G1.2(e)(iv); or

(ii) on terms other than those proposed (if any) under Condition G1.2(e)(iv).

2.1.2 Any notice of the kind referred to in Condition G2.1.1(a) above shall include the reasons for the Access Beneficiary's opinion. Any notice of the kind mentioned in Condition G2.1.1(c)(ii) above shall include the reasons why the Access Beneficiary considers that any compensation terms proposed under Condition G1.2(e)(iv) are inappropriate and shall detail:

(a) the amount of compensation required and the methodology used to calculate the amount of compensation required; or

(b) if the Access Beneficiary is not reasonably able to provide details of the amount of compensation required, the methodology to be used to calculate the amount of compensation required; and in either case

(c) the means by which the compensation should be paid, including any security or other assurances of payment which RfL(I) should provide.

The notice referred to above shall contain such detail as is reasonable to enable RfL(I) to assess the merits of the Access Beneficiary's decision.

2.2 ***Amount of compensation***

Subject to Condition G2.3 and Condition G2.4.1, the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue but excluding any indirect or consequential losses, loss of reputation and loss of opportunity to deploy resources elsewhere) which are reasonably incurred or can reasonably be expected to be incurred by the Access Beneficiary as a consequence of the implementation of the proposed CCOS Network Change.

2.3(a) ***Benefits to be taken into account***

There shall be taken into account in determining the amount of compensation referred to in Condition G2.2:

subject to Condition G2.4.2, the benefit (if any) to be obtained or likely in the future to be obtained by the Access Beneficiary as a consequence of the proposed CCOS Network Change; and

the ability or likely future ability of the Access Beneficiary to recoup any costs, losses and expenses from third parties including passengers and customers.

2.4 ***Restrictions of Use***

2.4.1 (b) The amount of the compensation referred to in Condition G2.2 shall exclude the amount of the costs, direct losses and expenses (including loss of revenue but excluding any indirect or consequential losses, loss of reputation and loss of opportunity to deploy resources elsewhere) which are reasonably incurred or can reasonably be expected to be incurred by the Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed CCOS Network Change.

2.4.2 The benefits taken into account in determining the amount of the compensation for the proposed CCOS Network Change under Condition G2.3 shall exclude the benefit (if any) to be obtained or likely in the future to be obtained by the Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed CCOS Network Change (with that exclusion including any compensation payable to that Train Operator in respect of that Restriction of Use under its Access Agreement).

CONDITION G3 - CCOS NETWORK CHANGE PROPOSAL BY ACCESS BENEFICIARY

3.1 ***Notice of proposal***

An Access Beneficiary shall, if it wishes RfL(I) to make a CCOS Network Change:

(a)

(b) submit to RfL(I) a proposal for such change; and

permit RfL(I) to consult with:

(i) each Access Beneficiary that may be affected by the implementation of the proposed CCOS Network Change;

(ii) TfL (or such Affiliate of TfL with responsibility for procuring services on the CCOS);

(iii) any infrastructure manager of a network adjoining the CCOS; and

(iv) the ORR,

to the extent provided for under Condition G3.3.1(b), subject to such requirements as to confidentiality as are reasonable.

3.2 ***Content of Sponsor's notice of proposal***

A notice of a proposed CCOS Network Change given by the Sponsor under Condition G3.1 shall:

contain:

(a)

(i) the reasons why it is proposed to make the CCOS Network Change, including the effects it is intended or expected to have on the operation of the CCOS or on trains operated on the CCOS;

(ii) a specification of the works to be done (including a plan or plans showing where the work is to be done and the parts of the CCOS and associated railway assets likely to be affected);

(iii) the proposed times within which the works are to be done and when they are intended or expected to be begun and completed;

(iv) the Sponsor's proposals (if any) for the division of the costs of carrying out the CCOS Network Change including any proposals in relation to the calculation or payment of compensation to RfL(I) or any Access Beneficiary in respect of the CCOS Network Change; and

(v) the additional terms and conditions (if any) which the Sponsor proposes should apply to the CCOS Network Change, including any Variation Procedure; and

(b)

be prepared to a standard, and in such detail, as is reasonably necessary, having due regard to the level of knowledge and expertise reasonably to be expected of the persons specified in Condition G3.1(b), to enable:

(i) RfL(I); and

(ii) any person specified in Condition G3.1(b),

to assess the likely effect of the proposed CCOS Network Change on its business and its performance of any obligations or exercise of any discretions which it has in relation to railway services.

(a)

3.3 ***Evaluation of proposal and consultation***

3.3.1 If RfL(I) receives a proposal for CCOS Network Change under Condition G3.1, it shall:

evaluate and discuss the proposal for change with the Sponsor for such period as is reasonable having due regard to the likely impact

of the proposed CCOS Network Change on either or both of RfL(I) and Access Beneficiaries;

consult with each person specified in Condition G3.1(b) likely to be materially affected by the proposed CCOS Network Change to the extent reasonably necessary so as properly to inform them of the proposed CCOS Network Change and to enable them to assess the consequences for them of the proposed CCOS Network Change; and

(b)

for the purpose of the consultation under Condition G3.1(b), within 30 days of the date on which the Sponsor's notice under Condition G3.1 was given, give a notice to the persons specified in Condition G3.1(b), with a copy to the Sponsor, inviting them to submit comments by the Relevant Response Date and stating:

(c)

(i) the Relevant Response Date and the obligations of Access Parties under Condition G3 and Condition G4;

(ii) the reasons given by the Sponsor under Condition G3.2(a)(i) for proposing to make the CCOS Network Change;

(iii) so far as reasonably practicable, RfL(I)'s estimate of the likely impact of the CCOS Network Change on the operation and performance of the CCOS (such estimate not to be binding on RfL(I)); and

(iv) RfL(I)'s own proposals as to:

(A) the arrangements for, and any proposed terms applicable to, the implementation of the CCOS Network Change;

(B) the specification of the works to be done (including a plan or plans showing where the work is to be done and the parts of the CCOS and associated railway assets likely to be affected);

(C) the times within which the works are to be done and when they are intended or expected to be begun and completed;

(D) the division of the costs of carrying out the CCOS Network Change, including any proposals in relation to the calculation or payment of compensation to Access Beneficiaries in respect of the CCOS Network Change and/or any proposals for providing security of payment in relation to the proposed CCOS Network Change and/or associated compensation;

(E) any additional terms and conditions which should apply to the CCOS Network Change, including any proposed Variation Procedure; and

(F) any modifications which will need to be made to any Access Agreement or access option as a consequence of the implementation of the CCOS Network Change.

3.3.2 In preparing a notice under Condition G3.3.1(c), RfL(I):

shall comply with the standard specified in Condition G3.2(b); and

in respect of each of the matters specified in Condition G3.3.1(c)(iv):

(a) (i) shall have regard to any relevant statements and proposals
(b) contained in the Sponsor's notice under Condition G3.1;

(ii) shall give reasons for any differences between those statements and proposals and its own proposals under Condition G3.3.1(c)(iv); and

(iii) may annex to its notice any proposal contained in the Sponsor's notice under Condition G3.1 with which it agrees, stating its agreement, and, where appropriate, that it has no proposals of its own on the matter concerned.

3.3.3 The Sponsor shall use all reasonable endeavours to facilitate the consultation referred to in Condition G3.3.1(a) and G3.3.1(b).

3.4 ***Obligation to provide preliminary response***

3.4.1 RfL(I) shall, if requested to do so in writing by the Sponsor, provide at no cost to the Sponsor, as soon as practicable and in any event within a period of 28 days commencing on the date of the request for a preliminary
(a) response, a preliminary written response in respect of the proposed CCOS
(b) Network Change, which shall:

be binding on RfL(I)), unless RfL(I) indicates otherwise; and

(a) if it is negative, include reasons.

3.4.2 RfL(I) shall not be obliged to comply with a request from the Sponsor under Condition G3.4.2 or G3.5.1:

unless:

(i) the Relevant Response Date is 90 or more days after the date on which RfL(I)'s notice under Condition G3.3.1(c) was given; and

(ii) the request is made within 7 days of the Sponsor receiving RfL(I)'s notice under Condition G3.3.1(c); or

to the extent that RfL(I) is unable to comply with such a request, having regard to the information reasonably available to it.

3.4.3 After consultation with the Sponsor and under Condition G3.3.1(b), RfL(I) may notify a later Relevant Response Date to the Sponsor and the persons to whom it gave its notice under Condition G3.3.1(c).

(b)

3.5 ***Provision of Estimate of Compensation by Access Beneficiaries***

3.5.1 Any Access Beneficiary consulted by RfL(I) in accordance with Condition G3.3.1(b) shall, as soon as and so far as reasonably practicable, provide to RfL(I) an estimate of the costs, direct losses and expenses which can reasonably be expected to be incurred by such Access Beneficiary as a consequence of the implementation of the proposed CCOS Network Change by the Sponsor.

3.5.2 RfL(I) shall, as and when requested by the Sponsor, as soon as and so far as reasonably practicable, provide to the Sponsor, at no cost to the Sponsor, an estimate of the costs, direct losses and expenses which can reasonably be expected to be incurred by RfL(I) or other Access Beneficiaries as a consequence of the implementation of the proposed CCOS Network Change by the Sponsor. Unless RfL(I) indicates otherwise, such estimate shall not be binding on it.

3.5.3 After consultation with the Sponsor and under Condition G3.3.1(b), RfL(I) may notify a later Relevant Response Date to the Sponsor and the persons to whom it gave its notice under Condition G3.3.1(c).

3.6 ***Reimbursement of costs***

Subject to Conditions G3.4, G3.5 and Condition G4, RfL(I) shall be entitled to reimbursement by the Sponsor of 75% of the amount of the costs, direct losses and expenses (including loss of revenue but excluding any indirect or consequential losses, loss of reputation and loss of opportunity to deploy resources elsewhere) incurred by RfL(I) in assessing any CCOS Network Change proposed by the Sponsor. Those costs shall be the minimum reasonably necessary for RfL(I) to carry out that assessment and response.

3.7 ***Provision of estimate of costs by RfL(I)***

RfL(I) shall, upon request from the Sponsor from time to time, provide the Sponsor with written estimates of the costs of assessing a proposal for CCOS Network Change submitted by the Sponsor (as referred to in Condition G3.6) including estimated costings of the work to be carried out and shall:

(a) be entitled to require reasonable assurances of payment in respect of any material work to be carried out for the purposes of that assessment before commencing such work; and

(b) upon request from the Sponsor from time to time provide the Sponsor or its agents with such information as may be reasonably necessary to enable the Sponsor to assess the reasonableness of any estimate.

3.8 ***Accuracy of estimates***

RfL(I) shall ensure that:

(a) any estimates given by it are, so far as reasonably practicable, accurate on the basis of the information reasonably available to it; and

(b) so far as reasonably practicable each type of cost can be priced in the estimate provided pursuant to Condition G3.7 is separately identified.

3.9 ***Obligation to incur no further costs***

(a) RfL(I) shall:

(b) if requested by the Sponsor at any time, incur no further costs (except any costs that cannot reasonably be avoided); and

unless otherwise agreed by the Sponsor, incur no costs in excess of the estimate provided pursuant to Condition G3.7,

in respect of any proposal for CCOS Network Change made by the Sponsor.

CONDITION G4 - RESPONSE BY RFL(I) TO CCOS NETWORK CHANGE PROPOSAL

(a)

4.1 ***Obligation to give notice of response***

4.1.1 RfL(I) shall give notice to the Sponsor if:

it considers that one or more of the following conditions has been satisfied:

(i) the implementation of the proposed CCOS Network Change would necessarily result in RfL(I) breaching any Access Agreement or access option;

(ii) the Sponsor has failed in a material respect to comply with its obligations under Condition G3.2 provided that RfL(I) shall first have given the Sponsor a reasonable opportunity to remedy that failure;

(iii) the implementation of the proposed CCOS Network Change would result in a material adverse effect on the maintenance or operation of the CCOS or the operation of any train on the CCOS which in any such case cannot adequately be compensated under this Condition G4 or in respect of a Restriction of Use in connection with the implementation of the proposed CCOS Network Change under the relevant Train Operator's Access Agreement; or

(iv) the proposed CCOS Network Change does not adequately take account of the reasonable expectations of an Access Party (other than the Sponsor) as to the future use of the relevant part of the CCOS;

(b) any Access Beneficiary shall have given notice to RfL(I) that it considers that any of the conditions specified in paragraph (a) above has been satisfied;

(c) it considers that it should be entitled to compensation from the Sponsor for the consequences of the implementation of the CCOS Network Change proposed by the Sponsor either:

(i) in accordance with compensation terms proposed under Condition G3; or

(d) (ii) on terms other than those proposed (if any) under Condition G3; and/or

any Access Beneficiary shall have given notice to RfL(I) that it considers that it should be entitled to compensation from the Sponsor for the consequences of the implementation of the CCOS Network Change proposed by the Sponsor either:

(i) in accordance with compensation terms proposed under Condition G3; or

(ii) on terms other than those proposed (if any) under Condition G3.

4.1.2 Any notice of the kind referred to in Conditions G4.1.1(a) and G4.1.1(b) above shall include the reasons for the opinion in question. Any notice of the kind mentioned in Conditions G4.1.1(c)(ii) and G4.1.1(d)(ii) above shall

include the reasons why RfL(I) or the relevant Access Beneficiary considers that any compensation terms proposed under Condition G3 are inappropriate and shall detail:

(a) the amount of compensation required and the methodology used to calculate the amount of compensation required; or

(b) if RfL(I) or the relevant Access Beneficiary is not reasonably able to provide details of the amount of compensation required, the methodology to be used to calculate the amount of compensation required; and in either case

(c) the means by which the compensation should be paid, including any security or other assurances of payment which the Sponsor should provide.

The notice referred to above shall contain such detail as is reasonable to enable the Sponsor to assess the merits of RfL(I) or the relevant Access Beneficiary's decision.

4.2 ***Amount of compensation***

Subject to Condition G4.3, the aggregate of the amount of the compensation referred to in Condition G4.1 shall be:

(a) subject to Condition G4.4.1, an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue but excluding any indirect or consequential losses, loss of reputation and loss of opportunity to deploy resources elsewhere) which are reasonably incurred or can reasonably be expected to be incurred by RfL(I) or the relevant Access Beneficiary in question as a consequence of the implementation of the proposed CCOS Network Change other than any such costs, losses or expenses which are attributable to the Sponsor improving its ability to compete with other operators of railway assets; and

(b) an amount equal to the amount of costs, direct losses or expenses (including loss of revenue but excluding any indirect or consequential losses, loss of reputation and loss of opportunity to deploy resources elsewhere) which are reasonably incurred or can reasonably be expected to be incurred by RfL(I) as consequence of implementing a CCOS Network Change including the recovery of any payments made by RfL(I) to the relevant Train Operator under that Train Operator's Access Agreement for the relevant Restriction(s) of Use.

4.3 ***Benefits to be taken into account***

There shall be taken into account in determining the amount of compensation referred to in Condition G4.2:

subject to Condition G4.4.2, the benefit (if any) to be obtained or likely in the future to be obtained by RfL(I) or other Access Beneficiaries as a consequence of the implementation of the proposed CCOS Network Change; and

(a) the ability or likely future ability of RfL(I) or other Access Beneficiaries to recoup any costs, losses and expenses from third parties including passengers and customers.

4.4 ***Restrictions of Use***

(b)

4.4.1 The amount of the compensation referred to in Condition G4.2 shall, in respect of any Train Operator, exclude the amount of the costs, direct losses and expenses (including loss of revenue but excluding any indirect or consequential losses, loss of reputation and loss of opportunity to deploy resources elsewhere) which are reasonably incurred or can reasonably be expected to be incurred by that Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed CCOS Network Change.

4.4.2 The benefits taken into account in determining the amount of the compensation for the proposed CCOS Network Change under Condition G4.3 shall in respect of any Train Operator exclude the benefit (if any) to be obtained or likely in the future to be obtained by that Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed CCOS Network Change (with that exclusion including any compensation payable to that Train Operator in respect of that Restriction of Use under its Access Agreement).

CONDITION G5 - SCOPE OF COMPLEX PROJECTS

5.1 ***Consultation prior to making a proposal for CCOS Network Change using the Complex Projects Procedure***

(a) Before submitting a proposal for CCOS Network Change which RfL(I) intends to establish using the Complex Projects Procedure, RfL(I) shall provide the following information to each Access Beneficiary which it considers may be affected by the implementation of the proposed CCOS Network Change:

(b)

(c) that RfL(I) intends to initiate the Complex Projects Procedure in respect of the proposed CCOS Network Change;

the details of the proposed CCOS Network Change which RfL(I) can reasonably make available;

the reasons why RfL(I) believes that the proposed CCOS Network Change is required including the effects it is intended or may reasonably be expected to have on the operation of the CCOS or on trains operated on the CCOS;

the reasons why RfL(I) believes that the proposed CCOS Network Change should be established in accordance with the Complex Projects Procedure;

(d) any other information RfL(I) reasonably believes an affected Access Beneficiary may reasonably require to understand the proposed CCOS Network Change;

(e) a draft plan setting out the intended stages and timetable for the Complex Projects Procedure; and

the Scope that RfL(I) intends to propose under Condition G5.4.

(f)

5.2 ***Consultation with affected Access Beneficiaries***

(g) RfL(I) shall, having provided the information set out in Condition G5.1, consult with each Access Beneficiary which it considers may be affected by the proposed CCOS Network Change. During the consultation process RfL(I) shall give due consideration to the views of each Access Beneficiary and, where RfL(I) disagrees with the views of an Access Beneficiary, shall provide that Access Beneficiary with a written response setting out the reasons why RfL(I) disagrees with the views of that Access Beneficiary.

5.3 ***Facilitation by Access Beneficiaries***

Access Beneficiaries consulted under Condition G5.2 shall take all reasonable steps to make the consultation process effective, including:

(a) the taking of all reasonable steps to provide RfL(I) with such information as RfL(I) reasonably requests in connection with the development of the proposal for CCOS Network Change under Condition G5.1; and

(b) the provision to RfL(I) of a response to RfL(I)'s consultation under Condition G5.2 in relation to the proposed CCOS Network Change within 30 days of being consulted by RfL(I), or such longer period as RfL(I) may specify.

5.4 ***Notice of intended Scope***

Once the consultation procedure set out in Conditions G5.2 and G5.3 has concluded, RfL(I) may, if it wishes to proceed with the proposed CCOS Network Change using the Complex Projects Procedure, issue a notice of intended Scope to each Access Beneficiary which it considers may be affected.

5.5 ***Response to notice of intended Scope***

Each Access Beneficiary that receives a notice of intended Scope from RfL(I) under Condition G5.4 shall, within 30 days, or such longer period as

RfL(I) specifies, of the receipt of such notice, respond to RfL(I) in writing stating either that it:

(a) agrees to the Scope set out in the notice; or

(b) does not agree to the Scope set out in the notice and it considers that there is a reasonable likelihood that, if the Scope were to be proposed as part of a CCOS Network Change under Condition G1, the Access Beneficiary would be likely to succeed in preventing the CCOS Network Change being Established solely due to it being entitled to give notice under Condition G2.1.1(a).

Any notice under (b) above that an affected Access Beneficiary does not agree to the Scope set out by RfL(I) in the notice of intended Scope shall include the reasons why the affected Access Beneficiary does not so agree.

If an Access Beneficiary receives a notice of intended Scope from RfL(I) under Condition G5.4 and fails to respond to RfL(I) in writing within 30 days, or such longer period as RfL(I) specifies, of the receipt of such notice, the affected Access Beneficiary shall be deemed to have agreed to the Scope as if the affected Access Beneficiary had given notice to RfL(I) under Condition G5.5(a).

5.6 ***Failure to agree Scope***

If an Access Beneficiary does not agree to the Scope under Condition G5.5(b), then RfL(I) and the Access Beneficiary may enter into discussions with a view to agreeing the Scope, including any changes to the Scope which may be appropriate. At any time after an Access Beneficiary serves a notice under Condition G5.5(b) any Access Party may refer the issue in accordance with the CCOS ADRR for determination in accordance with Condition G11.

5.7 ***Effect of agreement of Scope***

Once the relevant Scope of the proposed CCOS Network Change has been agreed under Conditions G5.5 or G5.6 or determined under Condition G5.6 with an Access Beneficiary, that Access Beneficiary shall not be entitled to give notice to RfL(I) subsequently under Condition G2.1.1(a) to challenge any elements of the CCOS Network Change to the extent included in the Scope except where there is a change to the Scope which is likely materially to affect the Access Beneficiary since the Scope was agreed under Conditions G5.5 or G5.6 or determined under Condition G5.6.

5.8 ***Costs incurred by Access Beneficiaries due to the consultation process***

An Access Beneficiary shall be entitled to reimbursement by RfL(I) of 100% of all costs reasonably incurred by that Access Beneficiary in complying with its obligations under Conditions G5.3 and G5.5. The costs shall be the

minimum reasonably necessary for that Access Beneficiary to carry out the assessment and response.

5.9 ***Further information regarding costs***

Each Access Beneficiary shall, upon request from RfL(I) from time to time, provide RfL(I) with written estimates of the costs of complying with its obligations under Conditions G5.3 and G5.5 including estimated costings of the work to be carried out and shall:

(a) be entitled to require reasonable assurances of payment in respect of any material work to be carried out for the purposes of that evaluation before commencing such work; and

(b) upon request from RfL(I) from time to time, provide RfL(I) with such information as may be reasonably necessary to enable RfL(I) to assess the reasonableness of any estimate.

5.10 ***Accuracy of estimates***

Each Access Beneficiary shall ensure that, so far as reasonably practicable:

(a) any estimates given by it are accurate on the basis of the information reasonably available to it; and

(b) each type of cost comprised in the estimate provided pursuant to Condition G5.9 is separately identified.

5.11 ***Obligation to incur no further costs***

An Access Beneficiary shall, if requested by RfL(I) at any time:

(a) incur no further costs (except any costs which cannot reasonably be avoided); and

(b) unless otherwise agreed with RfL(I), incur no costs in excess of the estimate provided pursuant to Condition G5.9,

in respect of any consultation in respect of a proposed CCOS Network Change to which this Condition G5 applies.

5.12 ***Further agreement of Scope***

If, at any time before RfL(I) issues a notice of proposed change under Condition G1.1, RfL(I) wishes to agree further elements of the proposed CCOS Network Change to be included in the Scope, RfL(I) may issue further notices of intended Scope in respect of such further elements in accordance with Conditions G5.1 to G5.11 and once agreed or determined in accordance with Conditions G5.5 or G5.6 such further elements will be included in and form part of the Scope.

CONDITION G6 - PREPARATORY WORKS

6.1 ***RfL(I)'s obligations in relation to Preparatory Works***

RfL(I) may, if it wishes to proceed with a proposed CCOS Network Change using the Complex Projects Procedure, make proposals for the implementation of Preparatory Works under Condition G1, and except as provided in this Condition G6, Access Beneficiaries shall have the same rights in respect of such proposals as if each proposal of Preparatory Works was a separate CCOS Network Change proposal.

6.2 ***Obligations of Access Beneficiaries in relation to Preparatory Works***

Each Access Beneficiary which is likely to be affected by the Preparatory Works shall take all reasonable steps to facilitate the Preparatory Works which are undertaken by RfL(I) including by the taking of all reasonable steps to provide RfL(I) with such information as RfL(I) reasonably requests in connection with the development of the Preparatory Works.

6.3 ***Further Preparatory Works***

If at any time RfL(I) is reasonably of the view that further Preparatory Works are required, RfL(I) shall propose such further Preparatory Works in accordance with this Condition G6.

CONDITION G7 - COMPLEX PROJECTS CCOS NETWORK CHANGE

If, having previously agreed or determined the Scope in accordance with Conditions G5.5 or G5.6, RfL(I) wishes to implement a CCOS Network Change which it has progressed using the Complex Projects Procedure, it shall propose the CCOS Network Change in accordance with Condition G1.

CONDITION G8 - SHORT TERM CCOS NETWORK CHANGE

8.1 ***Reversal of a Short Term CCOS Network Change***

8.1.1 An Access Beneficiary may request in writing that RfL(I) reverse the effect of a Short Term CCOS Network Change before its Expiry Date if the effect of the Short Term CCOS Network Change would prevent the Access Beneficiary using the CCOS in a manner consistent with the reasonable expectations of that Access Beneficiary as to the future use of the relevant part of the CCOS.

8.1.2 The Access Beneficiary shall include with any notice requesting the reversal of the effect of a Short Term CCOS Network Change served under Condition G8.1.1 evidence to support the Access Beneficiary's claim of reasonable expectations as to the future use of the relevant part of the CCOS which requires that reversal.

8.1.3 The Access Beneficiary shall provide RfL(I) with such further information as RfL(I) may reasonably require to enable RfL(I) to assess the reasonableness

of the Access Beneficiary's request to reverse the effect of a Short Term CCOS Network Change.

8.1.4 Upon receipt of a notice to reverse the effect of a Short Term CCOS Network Change served under Condition G8.1.1, RfL(I) shall:

reverse the effect of the Short Term CCOS Network Change at its own cost by the later of the following:

(i) the earlier of:

(a) (A) the estimated timescale for reversal set out in the notice of proposed CCOS Network Change served under Condition G1.1; and

(B) the timescale within which RfL(I) can complete the reversal without incurring any greater cost than would have reasonably been incurred by RfL(I) had the effect of the Short Term CCOS Network Change been reversed in accordance with the estimated timescale for reversal set out in the notice of proposed CCOS Network Change served under Condition G1.1; or

(ii) the earliest date for which the Access Beneficiary can demonstrate a reasonable expectation as to future use; or

(b) respond to the Access Beneficiary in writing within 30 days stating that RfL(I) does not believe that the effect of the Short Term CCOS Network Change is preventing the Access Beneficiary using the CCOS in accordance with the reasonable expectations of that Access Beneficiary as to the future use of the relevant part of the CCOS and giving reasons for its decision.

RfL(I) shall not be liable to any Access Beneficiary if and to the extent that the date of the requested reversal is earlier than the date by which RfL(I) must reverse the effect of the Short Term CCOS Network Change as calculated under Condition G8.1.4(a).

8.2 ***Expiry of a Short Term CCOS Network Change***

(a) RfL(I) shall restore at its own cost any part of the CCOS which has been subject to a Short Term CCOS Network Change to its original capability as
(b) set out in the notice of proposal for the Short Term CCOS Network Change by the Expiry Date unless and to the extent that:

a CCOS Network Change has been implemented in place of the Short Term CCOS Network Change; or

a further Short Term CCOS Network Change has been implemented.

8.3 ***Notification of reversal of a Short Term CCOS Network Change prior to the Expiry Date***

RfL(I) shall publish details of each Short Term CCOS Network Change which is reversed prior to the Expiry Date.

CONDITION G9 - CHANGES IMPOSED BY COMPETENT AUTHORITIES

9.1 Where RfL(I) is required (other than at its own request or instigation) to implement a CCOS Network Change as a result of any Change of Law or any Direction of any Competent Authority other than the ORR exercising any of its functions which do not fall within the definition of 'safety functions' as defined in section 4 of the Act:

(a) RfL(I) shall, except to the extent that the relevant Change of Law or Direction otherwise requires, comply with Conditions G1.1 and G1.2 (other than Condition G1.2(e)(iv)) in respect of that CCOS Network Change;

(b) each Access Beneficiary shall make such alterations (if any) to its railway vehicles and its Services as are reasonably necessary to accommodate that CCOS Network Change and shall, except to the extent that the relevant Change of Law or Direction otherwise requires, comply with Conditions F2.1, F2.2 and F2.3 (other than Conditions F2.2(a)(vi) and F2.3.1(c)(v)(B) and (D));

(c) subject to Condition G9.1(d), each Access Party shall bear its own costs or losses arising out of the implementation of the CCOS Network Change or the consequences thereof;

(d) where RfL(I) recovers compensation in respect of that CCOS Network Change from a Competent Authority or some other Governmental Body, it shall pay to Access Beneficiaries:

(i) where any compensation paid to RfL(I) in relation to that CCOS Network Change is sufficient to cover the Relevant Costs of the Access Beneficiary and of RfL(I), the Relevant Costs of the Access Beneficiary; and

(ii) where such compensation is not so sufficient, such proportion of that compensation as the Access Beneficiary's Relevant Costs bears to the sum of RfL(I)'s Relevant Costs and all the Access Beneficiaries' Relevant Costs in respect of that CCOS Network Change; and

(e) RfL(I) shall use reasonable endeavours to negotiate with the relevant Competent Authority or Governmental Body (as applicable) a level of compensation in respect of that CCOS Network Change which is sufficient to ensure that the Access Beneficiaries receive compensation for all of their Relevant Costs. RfL(I) shall from time to time consult with the Access Beneficiaries and keep the Access Beneficiaries informed in reasonable detail of the progress of such negotiations.

CONDITION G10 - ESTABLISHMENT AND IMPLEMENTATION

10.1 ***Implementation of a RfL(I) proposed CCOS Network Change***

10.1.1 RfL(I) shall be entitled to implement a proposed CCOS Network Change if:

(a) it has not received a notice from any Access Beneficiary under Condition G2.1 by the Relevant Response Date or it has received notice under Condition G2.1.1 by the Relevant Response Date but the matter has been agreed or resolved;

(b) there is no other unresolved dispute under this Part G (whether under this Condition G10 or otherwise) as regards the proposed CCOS Network Change between RfL(I) and any affected Access Beneficiary; and

(c) the continuing compatibility of the Specified Equipment operated on the CCOS if the CCOS Network Change (and any associated changes to the Specified Equipment) was implemented has been confirmed in accordance with the relevant CCOS Standards and, where applicable, has been approved by a Notified Body as defined under the RIRS and/or a Competent Person (as defined under the ROGS).

10.1.2 RfL(I) may, if it considers it expedient to do so in order to confirm whether or not Condition G10.1.1 has been satisfied, issue a notice to all affected Access Beneficiaries when it reasonably believes it is entitled to implement a proposed CCOS Network Change.

10.1.3 RfL(I)'s entitlement to implement a proposed CCOS Network Change shall be treated as confirmed 21 days after it has served a notice in respect of that CCOS Network Change in accordance with Condition G10.1.2 unless it receives notice from an Access Beneficiary within those 21 days disputing RfL(I)'s entitlement to implement that proposed CCOS Network Change under Condition G10.1.1 and giving full particulars of its reasons.

10.1.4 If RfL(I) does not agree with the contents of a notice served by an affected Access Beneficiary in accordance with Condition G10.1.3, RfL(I) may:

(a) refer the matter for determination in accordance with the CCOS ADRR and Condition G11 shall apply; or

(b) withdraw the proposed CCOS Network Change.

10.1.5 RfL(I) shall not be entitled to implement a proposed CCOS Network Change unless it is so entitled to implement that CCOS Network Change under Condition G10.1.1.

10.1.6 For the purposes of Condition G10.1.1, unresolved disputes shall include:

a notice has been served under Condition G2.1(a) which has not been withdrawn, resolved under Condition G11 or agreed not to apply; and

a notice has been served under Condition G2.1.1(c) which has not been agreed, resolved or withdrawn.

(a)

10.1.7 Where as a consequence of a CCOS Network Change proposed by RfL(I), it is necessary to amend an Access Agreement to reflect that CCOS Network Change, RfL(I) shall provide to the other party to such Access Agreement and the ORR written notice of such amendment, and such amendment shall be deemed to have been made to such Access Agreement from the date of approval of such amendment by the ORR.

(b)

10.2 ***Implementation of a Sponsor proposed CCOS Network Change***

10.2.1 The Sponsor shall be entitled to instruct RfL(I) to implement a proposed CCOS Network Change if:

(a) RfL(I) does not consider that any of the conditions specified in Condition G4.1.1(a) have been satisfied and RfL(I) has not received any notice from an Access Beneficiary in accordance with Condition G4.1.1(b) (or, in either case, the matter has been agreed or resolved);

(b) RfL(I) has not given notice to the Sponsor pursuant to Condition G4.1.1(c) or RfL(I) has given notice to the Sponsor that Condition G4.1.1(c) applies and either the amount of any compensation referred to in Condition G4.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition G11;

(c)

(d) RfL(I) has not received notice from an Access Beneficiary under Condition G4.1.1(d) or RfL(I) has received notice from an Access Beneficiary under Condition G4.1.1(d) and either the amount of any compensation referred to in Condition G4.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition G11;

(e) there is no other unresolved dispute under this Part G (whether under this Condition G10 or otherwise) as regards the proposed CCOS Network Change between the Sponsor and any Access Party; and

the continuing compatibility of the Specified Equipment operated on the CCOS if the CCOS Network Change was implemented has been confirmed in accordance with the relevant CCOS Standards and, where applicable, has been approved by a Notified Body as defined under the RIRS and/or a Competent Person (as defined under the ROGS).

10.2.2 The Sponsor may, if it considers it expedient to do so in order to confirm whether or not Condition G10.2.1 has been satisfied, instruct RfL(I) to issue a notice to all affected Access Beneficiaries when the Sponsor reasonably believes that it is entitled to instruct RfL(I) to implement a proposed CCOS Network Change and RfL(I) shall then serve such a notice within 7 days of the instruction.

10.2.3 The Sponsor's entitlement to instruct RfL(I) to implement a proposed CCOS Network Change shall be treated as confirmed 35 days after RfL(I) has served a notice in respect of that CCOS Network Change in accordance with Condition G10.2.2 unless:

(a) RfL(I) gives notice to the Sponsor within 35 days disputing the Sponsor's entitlement to require the implementation of that CCOS Network Change under Condition G10.2.1 and giving full particulars of its reasons; or

(b) RfL(I) receives notice from an Access Beneficiary within 21 days of the notice served by RfL(I) disputing the Sponsor's entitlement to require the implementation of that CCOS Network Change under Condition G10.2.1 and giving full particulars of its reasons.

10.2.4 If the Sponsor does not agree with the contents of a notice served by RfL(I) or an affected Access Beneficiary in accordance with Condition G10.2.3, the Sponsor may:

(a) refer the matter for determination in accordance with the CCOS ADRR and Condition G11 shall apply; or

(b) withdraw the proposed CCOS Network Change.

10.2.5 A Sponsor shall not be entitled to require RfL(I) to implement a proposed CCOS Network Change unless it is so entitled to require the implementation of that CCOS Network Change under Condition G10.2.1.

10.2.6 For the purposes of the Condition G10.2.1, unresolved disputes shall include:

(a) a notice has been served under Condition G4.1.1(a) or G4.1.1(b) which has not been withdrawn, resolved under Condition G6 or agreed not to apply; and

(b) a notice has been served under Condition G4.1.1(c) or G4.1.1(d) which has not been agreed or resolved as referred to in Condition G10.2.1(b) or G10.2.1(c) or otherwise agreed, resolved or withdrawn.

10.2.7 Where as a consequence of a CCOS Network Change proposed by an Access Beneficiary it is necessary to amend an Access Agreement to reflect that CCOS Network Change, RfL(I) shall provide to the other party to such Access Agreement and the ORR written notice of such change, and such

change shall be deemed to have been made to such Access Agreement from the date of approval of such amendment by the ORR.

10.3 ***When a CCOS Network Change may not be implemented***

10.3.1 RfL(I) shall not be entitled to implement a proposed CCOS Network Change unless it is so entitled to implement that CCOS Network Change under Condition G10.1.1.

10.3.2 For the purposes of the Condition G10.1.1, unresolved disputes shall include:

(a) a notice has been served under Condition G2.1.1(a) or (b) or Condition G4.1.1(a) or G4.1.1(b) which has not been withdrawn, resolved under Condition G11 or agreed not to apply; and

(b) a notice has been served under Condition G2.1.1(c) or Condition G4.1.1(c) or G4.1.1(d) which has not been agreed or resolved as referred to in Condition G10.1.1(a) or G10.2.1(a), 10.2.1(b) or 10.2.1(c) otherwise agreed, resolved or withdrawn.

CONDITION G11 - APPEAL PROCEDURE

11.1 ***Right of referral in accordance with the CCOS ADRR***

If any Access Party is dissatisfied as to:

(a) any matter concerning the operation of the procedure in this Part G;

(b) the contents of any notice given under Condition G2.1, G4.1, G5.5, G8.1.1 or Condition G10 (and, in particular, the amount of any compensation referred to in those Conditions);

(c) any estimate referred to in Condition G1.6 or G3.7;

(d) the:

(i) proposed Expiry Date; or

(ii) estimated timescale in which a Short Term CCOS Network Change can be reasonably reversed,

(e) in a notice of proposed CCOS Network Change given under Condition G1.1; or

the reasons given by RfL(I) as to why it does not believe that the effect of the Short Term CCOS Network Change is preventing the Access Beneficiary using the CCOS in accordance with the reasonable expectations of that Access Beneficiary as to the future use of the relevant part of the CCOS under Condition G8.1.4(b),

that Access Party may refer the matter for determination in accordance with the CCOS ADRR.

CONDITION G12 - CCOS NETWORK CHANGE

12.1 *Relationship with Vehicle Change*

If the implementation of a CCOS Network Change proposed by RfL(I) or an Access Beneficiary also requires the implementation of a Vehicle Change in respect of the trains operated by an Access Beneficiary, RfL(I) or the Access Beneficiary shall follow the procedures in Part F and satisfy the requirements of both this Part G and Part F and the requirement for a Vehicle Change shall not preclude the right of the Sponsor to follow the procedure in this Part G for a CCOS Network Change or vice versa.

12.2 *Compatibility Information*

In assessing a proposal for CCOS Network Change notified under Condition G1.1(a) or G3.1(a) RfL(I) and/or an affected Access Beneficiary shall be entitled to request a copy of the Statement of Compatibility and/or any information comprised in the Compatibility File prepared by RfL(I) (where RfL(I) has proposed the CCOS Network Change) or by the Sponsor (where the Sponsor has proposed the CCOS Network Change) in accordance with the applicable CCOS Standards. RfL(I) or the Sponsor (as the case may be) shall provide the requested information within 5 days of such information having been prepared.

Part H - Railway Operational Code

Explanatory Note

A. Part H of this CCOS Network Code sets out a requirement for RfL(I), in consultation with the industry, to establish a railway operational code for the CCOS. The purpose of the CCOS Railway Operational Code is to sustain the operation of the train services on the CCOS and to restore the operation of the CCOS following disruption, in accordance with the Working Timetable. The CCOS Railway Operational Code will have regard to the needs of passengers; the interests of safety and security; and the efficient and economical operation of a network designated as specialised infrastructure for use by high capacity metro passenger rail services.

B. The CCOS Railway Operational Code is concerned with notification of disruptive events; contingency plans; clearance of track blockages and assistance to failed trains; emergency timetabling procedures; control arrangements; train regulation; seasonal-preparedness; and other matters required to achieve the Objective.

C. RfL(I) shall regularly review the CCOS Railway Operational Code, once it has been established, to ensure that it continues to meet the Objective.

D. Part H also provides for a process by which the CCOS Railway Operational Code, including all CCOS ROC Sections and Subsidiary Documentation, may be modified. A CCOS ROC Section may set out its own procedure for varying that CCOS ROC Section or any Subsidiary Documentation produced under that CCOS ROC Section. Subsidiary Documentation may contain procedures governing its own variation which may supplement the procedures set out in Part H.

E. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

In this Part H, unless the context otherwise requires:

"**appeal**"	means, in relation to a CCOS ROC Section, the exercise by a person of a right under this Part H to make a reference in that respect in accordance with the CCOS ADRR;
"**Appeal Body**"	means the dispute resolution forum from time to time constituted under or appointed to make the decision in accordance with the CCOS ADRR;
"**CCOS Railway Operational Code**"	has the meaning ascribed to it in Condition H1.1;
"**CCOS ROC Plan**"	means a plan for the establishment of the CCOS Railway Operational Code which shall: (a) comply in all respects with this Part H; (b) specify a clear and achievable timetable for the establishment of each CCOS ROC Section and the full CCOS Railway Operational Code; and (c) show in reasonable detail the proposed organisation of the CCOS Railway Operational Code, and which shall be prepared by RfL(I) in the following four phases: (i) initial development; (ii) partial completion; (iii) substantial completion; and (iv) verification and validation;
"**CCOS ROC Section**"	means a section of the CCOS Railway Operational Code covering one or more of the matters specified in Condition H3 or any part of them;
"**Disruptive Event**"	means any event or circumstance which materially prevents or materially disrupts the operation of trains or any part of the CCOS in accordance with the Working Timetable;

"**established**" means, in relation to a CCOS ROC Section, or a variation to a CCOS ROC Section, as the case may be, that the CCOS ROC Section or the variation has come into effect whether:

(a) following publication of the CCOS ROC Section or the variation (or if publication is not required, notification of the CCOS ROC Section or the variation to affected Train Operators) with no appeal being lodged within the time limit for such appeal or, if such an appeal has been lodged, it has not been proceeded with; or

(b) following any interim or final determination of an appeal in that respect if an appeal is lodged and proceeded with,

and subject always to:

(i) adjustment following final determination of an appeal under Condition H4; or

(ii) variation under Condition H5,

and "**establish**" and "**establishment**" shall be construed accordingly;

"**Extended Disruption**" means a Disruptive Event which is likely to be of sufficient duration as to make it practicable to adopt a revised timetable;

"**Objective**" means the objective of the CCOS Railway Operational Code specified in Condition H1.2; and

"**Subsidiary Documentation**" means all plans, procedures and documents which are required to be produced under one or more CCOS ROC Sections and designated as Subsidiary Documentation under them.

CONDITION H1 - CCOS RAILWAY OPERATIONAL CODE AND ITS OBJECTIVE

1.1 ***CCOS Railway Operational Code***

The CCOS Railway Operational Code is a code to be established under this Part H in accordance with the CCOS ROC Plan and references to the CCOS Railway Operational Code include each CCOS ROC Section when it is established and all Subsidiary Documentation.

1.2 ***Objective***

The objective of the CCOS Railway Operational Code is to sustain and, where necessary, restore expeditiously the operation of Services in accordance with the Working Timetable, having regard to:

(a) the needs of passengers;

(b) the interests of safety and security; and

(c) the efficient and economical operation of a network designated as specialised infrastructure for use by high capacity metro passenger rail services.

1.3 ***Relationship to the CCOS Network Code***

The CCOS Railway Operational Code:

(a) may only be varied under Part H of the CCOS Network Code; and

(b) does not form part of the CCOS Network Code.

CONDITION H2 - OBLIGATION TO OBSERVE THE CCOS RAILWAY OPERATIONAL CODE

RfL(I) and each Train Operator shall comply with the CCOS Railway Operational Code.

CONDITION H3 - SCOPE OF CCOS RAILWAY OPERATIONAL CODE

3.1 The CCOS Railway Operational Code contains:

(a) a specification of the procedures and policies by which RfL(I), in cooperation with Train Operators, will promote achievement of the Objective, including:

(i) a procedure for notification of, and communication in relation to, Disruptive Events or reasonably foreseeable Disruptive Events;

(ii) train regulation policies;

(iii) an emergency timetable procedure in the event of Extended Disruption;

(iv) arrangements for clearance of track blockages and assistance for failed trains;

(v) arrangements for:

(A) the provision of equipment to deal with adverse weather conditions; and

(B) the preparation for and response to seasonal disruptions;

(vi) control arrangements; and

(vii) other matters which it is necessary or expedient should be covered in order to promote achievement of the Objective;

(b) procedures for reviewing and monitoring the effectiveness of the CCOS Railway Operational Code; and

(c) procedures for the production, review, approval and publication of Subsidiary Documentation.

3.2 ***Publication***

The CCOS ROC shall be Published on its Website by RfL(I) subject to Condition A3 of the CCOS Network Code.

3.3 ***Subsidiary Documentation***

(a) All Subsidiary Documentation shall:

(b) be of a standard which is consistent with promoting the achievement of the Objective and the requirement for compliance under Condition H2; and

be subject to procedures for review and (where applicable) approval.

CONDITION H4 - APPEALS

4.1(a) ***Right of appeal in accordance with the CCOS ADRR***

(b) Subject to Condition H4.3, if any Train Operator is dissatisfied as to any matter concerning or in connection with:

any variation of a CCOS ROC Section issued under Condition H5; or

any decision by RfL(I) not to implement a variation proposed by a Train Operator under Condition H5.2,

the Train Operator may refer the matter for determination in accordance with the CCOS ADRR (as supplemented or varied by this Condition H4).

4.2 ***Time limits for appeal***

A Train Operator's right of appeal under Condition H4.1 shall lapse if the relevant matter is not referred accordance with the CCOS ADRR in the case of a variation under Condition H5:

(a) if Condition H5.5(a) applies, within 30 days of the later of the date on which it is published and the date on which it is notified to that Train Operator under Condition H5.9, or

(b) if Condition H5.5(b) applies, within the period specified for such appeal in the relevant CCOS ROC Section.

4.3 ***Information to be sent in relation to the appeal***

Without prejudice to Condition H4.5, if there has been a reference for determination in accordance with the CCOS ADRR under Condition H4.1:

(a) in the case of a referral under Condition H4.1, RfL(I) shall provide the Train Operator and the relevant CCOS ADRR Panel with the contact details of every other Train Operator who RfL(I) reasonably considers may be affected by the CCOS ROC Section variation within 7 days of the making of the reference; and

(b) the person making the reference shall:

(i) include with his reference a statement in reasonable detail as to the matter in question and his reasons for making the reference; and

(ii) within 14 days of the reference RfL(I) shall publish a copy of the reference and the statement specified in Condition H4.3(b)(i).

4.4 ***Criteria for appeal***

Any matter referred under Condition H4.1 or H4.2 shall be determined by reference to the most effective manner of promoting the achievement of the Objective.

4.5 ***Publication of adjusted CCOS ROC Section***

If the outcome of any appeal brought under this Condition H4 is the adjustment of the CCOS ROC Section, RfL(I) shall:

(a) promptly Publish on its Website the CCOS ROC Section as adjusted by the outcome of such appeal; and

notify each affected Train Operator, the ORR and any other person who notified RfL(I) that it wished to be consulted under Condition H5.6(c) that the adjusted CCOS ROC Section is available on its website.

CONDITION H5 - VARIATIONS TO RAILWAY OPERATIONAL CODE

(b) Conditions H5.1 to Conditions H5.4 inclusive apply to all variations to the CCOS Railway Operational Code including all Subsidiary Documentation. Notwithstanding the provisions of Conditions H5.1 to H5.4 inclusive:

additional procedures for varying Subsidiary Documentation may be contained in and required by a CCOS ROC Section or the Subsidiary Documentation itself, and

(a) procedures for varying Subsidiary Documentation in substitution for those under all or any of Conditions H5.1 to H5.4 inclusive may also be contained in and required by the relevant Subsidiary Documentation itself.

(b)

Conditions H5.5 and H5.9 apply only to variations to CCOS ROC Sections.

5.1 *Mandatory Variations*

RfL(I) shall propose variations to the CCOS Railway Operational Code:

(a) at any time if it reasonably considers that this is necessary in order better to promote the achievement of the Objective, striking a balance between:

(i) the need for RfL(I) and Train Operators to be able to plan their businesses with a reasonable degree of assurance; and

(ii) the need for flexibility to address new requirements, including new timetables, introduction of new rolling stock and changes to the infrastructure and traffic patterns; and

(b) at any time, whether or not paragraph (a) above applies, if required to do so by notice from the ORR.

5.2 *Variations proposed by a Train Operator*

(a) A Train Operator may propose to RfL(I) variations to the CCOS Railway Operational Code if it reasonably considers that this is necessary in order better to promote the achievement of the Objective and any such proposal shall include:

(b)

the reasons why it is proposed to make the variation; and

details of the proposed variation.

5.3 ***Procedure for variations proposed by a Train Operator***

Following receipt of a proposed variation to the CCOS Railway Operational Code from a Train Operator under Condition H5.2, RfL(I) shall:

evaluate and discuss the proposed variation with that Train Operator for such period as is reasonable having due regard to the likely impact of the proposed variation on any of RfL(I) and other operators of trains; and

(a) following the evaluation and discussion:

(i) implement the variation under Condition H5.4; or

(b) (ii) propose a variation under Condition H5.1 to implement the proposed variation; or

(iii) inform the Train Operator that RfL(I) does not propose to implement the proposed variation, giving reasons for its decision.

5.4 ***Variations by agreement***

(a) Subject to the provisions of Condition H5.4(b), if RfL(I) and any relevant Train Operator agree a variation to the CCOS Railway Operational Code which affects only that Train Operator:

(i) RfL(I) shall notify the ORR of the proposed variation; and

(ii) the variation shall become effective on the date agreed for its implementation (which shall be not less than 7 days from the date of RfL(I)'s notice under Condition H5.4(a)(i));

(b) If RfL(I) and any relevant Train Operator agree a variation to the CCOS Railway Operational Code which affects only that Train Operator and is a variation to Subsidiary Documentation only, the variation shall become effective on the date agreed for its implementation and Condition H5.4(a)(i) and (ii) shall not apply.

5.5 ***Variations proposed by RfL(I)***

(a) Where any change to the CCOS Railway Operational Code under Condition H5.1 is a change to a CCOS ROC Section, RfL(I) shall:

(b) follow the procedure for establishing the variation under Conditions H5.6, H5.7 and H5.8; or

if the proposed variation falls within any modification procedure contained in the relevant CCOS ROC Section as established, RfL(I) shall follow that procedure provided that such modification procedure contains:

(i) a right of appeal for any Train Operator who is dissatisfied as to any matter concerning or in connection with the variation and a time limit for bringing that appeal; and

(ii) a mechanism for establishing the variation,

and in either case, RfL(I) shall specify the reason for the variation and the timing for implementing the variation (which shall not be less than 30 days from the date of notification of the proposed variation in accordance with the relevant procedure).

5.6 ***Consultation on a CCOS ROC Section variation***

Where Condition H5.5(a) applies, RfL(I) shall:

(a) publish and send details of the proposed variation to each affected Train Operator, the Secretary of State, the ORR and TfL;

(b) consult each Train Operator likely to be affected by the proposed variation, and invite the submission to it of representations or objections within a period or not less than 30 Working Days from the date of notification; and

(c) if the Secretary of State, the ORR or TfL gives notice to RfL(I) that it wishes to be consulted on any matter concerning the CCOS ROC Section, consult with that party.

5.7 Each Train Operator or other party consulted under H5.6 shall:

(a) consider the matters on which RfL(I) has consulted it; and

(b) give notice to RfL(I) of any representations or objections it wishes to make in relation to the consultation no later than the date for concluding the consultation specified under Condition H5.6(b).

5.8 Following consideration of all representations and objections received under Condition H5.7, RfL(I) shall consider whether the proposed variation should be implemented and if it concludes that it should, then RfL(I) shall act in accordance with Condition H5.9 and thereby, subject to Condition H4, establish the variation.

5.9 ***Publication of varied CCOS ROC Section***

RfL(I) shall:

(a) Publish on its Website in accordance with Condition H3.2 any variation to a CCOS ROC Section; and

(b) notify each affected Train Operator, the ORR and any other person who notified RfL(I) that it wished to be consulted under Condition

H5.6(c) that the varied CCOS ROC Section is available on its website.

5.10 ***Consequential changes to CCOS ROC Sections***

Where any changes are made to this Part H that require consequential changes to be made to any CCOS ROC Section, those consequential changes shall be made and be effective from the date on which the relevant change to Part H is established. RfL(I) shall, within 30 Working Days of the establishment of the revised Part H, make any necessary changes to the CCOS Railway Operational Code and publish any revised CCOS ROC Sections in accordance with Condition H5.9.

Part J - Changes to Access Rights

Explanatory Notes

A. Part J provides a mechanism for a use it or lose it regime for the CCOS which enables RfL(I) to alter access rights where access rights are not being used. It also establishes a regime for the modification of a Train Operator's access right where all or part of the CCOS has been declared congested in accordance with the Access Regulations and where another train operator would have "better use" of a Train Slot used by a particular Train Operator.

B. Condition J1 sets out a mechanism whereby capacity can be made available to other users if the train operator fails to exercise its access rights as part of a timetabling process. Condition J2 requires the surrender of train slots where they are not being utilised.

C. This Explanatory Note does not form part of the CCOS Network Code.

DEFINITIONS

In this Part J, unless the context otherwise requires:

"**Access Right Change**"	means an amendment or limitation of a Train Operator's Firm Right or Firm Rights in order to achieve Better Use;
"**Better Use**"	means a significant positive impact on the ability of RfL(I) to achieve the allocation objective set out in Condition D4.6.1, that is, to share capacity on the CCOS for the safe carriage of passengers and goods in the most efficient and economical manner in the overall interest of current and prospective users and providers of railway services;
"**Exercised**"	has the meaning ascribed to it in Part D of this CCOS Network Code;
"**Failure to Exercise**"	has the meaning ascribed to it in Condition J1.1.1;
"**Failure to Use**"	has the meaning ascribed to it in Condition J2.2;
"**Failure to Use Notice**"	has the meaning ascribed to it in Condition J2.3;
"**First Train Operator**"	has the meaning ascribed to it in Condition J2.2;
"**Forfeited Rights**"	has the meaning ascribed to it in Condition J2.5.1;
"**Incumbent**"	has the meaning ascribed to it in Condition J4.1.2(b);

"**Qualifying Information**"	means information which RfL(I) has acquired in relation to: (a) any Affected Person; or (b) an Incumbent under an Access Agreement between RfL(I) and that person;
"**Relevant Consultation**"	means a consultation carried out by RfL(I) with a Third Party during negotiation under Condition J4.4 or before an offer of compensation is made under Condition J4.6;
"**Relevant Undertaking**"	means a deed of undertaking from the Third Party to pay the Incumbent: (a) the agreed reasonable costs of providing an estimate of compensation, in advance of those costs being incurred, pursuant to Condition J4.10; and (b) compensation under Condition J4.7, where the Third Party has requested that RfL(I) withdraw the notice of a proposed Access Right Change under Condition J4.15 but the Incumbent has nonetheless suffered costs, direct losses and expenses (including loss of revenue);
"**Surrendered Rights**"	has the meaning ascribed to it in Condition J1.1.2;
"**Suspended Rights**"	means any Firm Rights held by a Train Operator which have been suspended in accordance with Condition J3.1;
"**Third Party**"	means an Access Beneficiary or a Potential Access Party who has submitted an Access Right Change proposal to RfL(I);
"**Unused Capacity**"	means, where a Failure to Exercise has occurred, the difference between: (a) the capacity reserved for the applicable Service (as represented by the number of Train Slots specified in Schedule 5 of the Access Agreement for the relevant Access Beneficiary); and (b) the quantum of Train Slots for the applicable Service contained in the Rolled Over Access Proposal or the Access Proposal made by the Access Beneficiary in either case, in respect of the second consecutive Timetable Year in respect of

which the relevant Failure to Exercise occurred.

INTERPRETATION

Unless otherwise stated in this Part J, where one party is required to respond to another, the timescale for providing such response shall be 10 Working Days.

CONDITION J1 - FAILURE TO EXERCISE ACCESS RIGHTS

1.1 ***Failure to Exercise in Consecutive Timetable Years***

1.1.1 Where in relation to a Service an Access Beneficiary has not, in accordance with Part D of this CCOS Network Code, Exercised the full quantum of capacity reserved for that Service (as represented by the number of Train Slots specified in Schedule 5 of the Access Agreement or access option for that Access Beneficiary) for two consecutive Timetable Years commencing on or after the Timetable Change Date to occur on or immediately following the Full Opening Date (a "**Failure to Exercise**"), RfL(I) may, by giving written notice to that Access Beneficiary, require such Access Beneficiary to refrain from submitting Access Proposals and otherwise exercising any rights it may have for some or all of the Unused Capacity for the remainder of the term of its Access Agreement or access option. Such notice shall only have effect from the date on which the ORR consents to such suspension and the ORR may elect to give its consent to part of that suspension.

1.1.2 Where an Access Beneficiary is required by RfL(I) to refrain from submitting Access Proposals or otherwise exercising any rights it may have in relation to any Unused Capacity in accordance with Condition J1.1.1 ("**Surrendered Rights**"):

(a)

(b) that Access Beneficiary shall comply with that requirement;

(c) any Access Proposal submitted by an Access Beneficiary and/or other exercise of such Surrendered Rights in contravention of this Condition J1.1.2 shall be deemed to have no effect;

(d) RfL(I) shall not be liable to such Access Beneficiary for any direct or indirect losses (including any loss of profit, loss of revenue and/or loss of goodwill), cost or expenses suffered or incurred by that Access Beneficiary arising from the Failure to Exercise, it refraining to submit Access Proposals for any Unused Capacity and/or its inability to exercise any Surrendered Rights; and

that Access Beneficiary shall not be entitled to any form of compensation from RfL(I) or any other person and/or any relief from its obligations under its Access Agreement other than in relation to any charges payable by that Train Operator under Schedule 7 of its Access Agreement in connection with such Surrendered Rights, which with effect from the date that RfL(I) serves notice on that Access Beneficiary in accordance with Condition J1.1.1 shall be deemed to be zero.

1.2 ***Train Operator Variations***

Condition J1.1 shall not limit an Access Beneficiary's right to submit a Train Operator Variation Request for the allocation of capacity on the CCOS provided that such capacity is not the subject of a Firm Right of another Access Beneficiary and RfL(I) shall consider any such Train Operator Variation Request in accordance with Part D of this CCOS Network Code.

CONDITION J2 - FAILURE TO USE TIMETABLED TRAIN PATH

2.1 ***Surrender of Train Path***

A Train Operator shall surrender a Train Slot in the event of a Failure to Use.

2.2 ***Failure to Use***

A Failure to Use in relation to a Train Slot of a Train Operator (the "**First Train Operator**") occurs where the First Train Operator utilises that Train Slot on less than 50% of the occasions when it is available in any 28-day period.

2.3 ***Service of Failure to Use Notice***

If RfL(I) considers there is a Failure to Use by the First Train Operator, it shall serve a notice (a "**Failure to Use Notice**") on the First Train Operator requiring the First Train Operator to surrender the Train Slot.

2.4 ***Contents of a Failure to Use Notice***

A Failure to Use Notice shall specify:

2.4.1 the Failure to Use by the First Train Operator which RfL(I) has determined has occurred;

2.4.2 the Train Slot which RfL(I) requires the First Train Operator to surrender; and

2.4.3 the date from which the First Train Operator shall surrender the Train Slot.

2.5 ***Effect of Surrender***

With effect from the date specified in the Failure to Use Notice:

2.5.1 the First Train Operator shall cease to have Firm Rights in respect of the Train Slot which is the subject of the Failure to Use Notice for the remainder of that Timetable Year ("**Forfeited Rights**") unless the Failure to Use Notice has been contested in good faith by the First Train Operator with timely recourse to all appropriate measures and procedures;

2.5.2 any attempt by the First Train Operator to exercise such Forfeited Rights during the Timetable Year in which the Failure to Use occurred shall have no effect other than where the First Train Operator has Exercised such Forfeited Rights in accordance with Part D of this CCOS Network Code in connection with the preparation of the Working Timetable which will take

effect in respect of the next Timetable Year commencing on a Principal Change Date;

2.5.3 RfL(I) shall not be liable to the First Train Operator for any direct or indirect losses (including any loss of profit, loss of revenue and/or loss of goodwill) costs or expenses suffered or incurred by the First Train Operator arising from the Failure to Use and/or the inability to exercise any Forfeited Rights; and

2.5.4 the First Train Operator shall not be entitled to any form of compensation from RfL(I) or any other person and/or any relief from its obligations under its Access Agreement other than in relation to any charges payable by the First Train Operator under Schedule 7 of its Access Agreement in connection with such Forfeited Rights which with effect from the date specified in the Failure to Use Notice shall be deemed to be zero for the remainder of the applicable Timetable Year.

Where as a consequence of this Condition J2.5 it is necessary to amend an Access Agreement to give effect to the surrender of a Train Slot, RfL(I) shall provide to the other party to such Access Agreement and to the ORR written notice of such change, and such change shall be deemed to have been made to such Access Agreement from the date of approval of such amendment by the ORR, and in accordance with the terms of that approval and the ORR may elect to give its approval to only part of that surrender.

2.6 ***Not used.***

2.7 ***Non-use for non-economic reasons***

2.7.1 The Train Operator may object to the Failure to Use Notice where the non-use was for non-economic reasons beyond the control of the Train Operator.

2.7.2 For the purposes of this Condition "**non-economic reasons**" includes:

(a) non-availability of another network on which the Train Operator's service would, but for the non-availability, operate (unless such non-availability is for reasons within the control of the Train Operator); and

(b) a Force Majeure Event.

CONDITION J3 - MODIFICATIONS TO ACCESS RIGHTS ARISING FROM CONGESTED INFRASTRUCTURE

RfL(I) and the Train Operator shall work together with a view to developing amendments to this CCOS Network Code (which may be reflected in a Proposal for Change) the purpose of which is to ensure that RfL(I) is not in breach or default where the CCOS is declared Congested.

CONDITION J4 - RIGHT OF RFL(I) TO MAKE AN ACCESS RIGHT CHANGE

4.1 ***Obligation to facilitate a proposed Access Right Change***

4.1.1 RfL(I) shall take all reasonable steps to facilitate the development of a proposed Access Right Change, except where the proposed Access Right Change has been submitted by a Third Party who:

(a) has not set out, in as much detail as reasonably possible, the reasons why it believes that:

(i) the proposed Access Right Change will achieve Better Use;

(ii) the positive impact of the Access Right Change was not reasonably foreseeable when the relevant Firm Right took effect; and

(iii) Better Use cannot reasonably be achieved using:

(A) Parts D or G of this CCOS Network Code; or

(B) Conditions Condition J1 or Condition J2 of Part J of this CCOS Network Code; or

(C) relevant provisions of the Act; or

(b) has not provided a Relevant Undertaking.

4.1.2 Where applicable, the obligation of RfL(I) under Condition J4.1.1 includes:

(a) evaluation of a submission for a proposed Access Right Change proposal submitted to RfL(I) by a Third Party;

(b) consultation as may reasonably be expected to enable any Train Operator who holds a Firm Right subject to the proposed Access Right Change (the "**Incumbent**") to make representations, before notice of a proposed Access Right Change is given;

(c) consultation before a notice of a proposed Access Right Change is given with relevant parties including any relevant funder; and

(d) the preparation of a notice given under Condition J4.2.1.

4.2 ***Notice by RfL(I) of a proposed Access Right Change***

4.2.1 RfL(I) shall give notice of a proposed Access Right Change in accordance with Conditions J4.2.3 and J4.2.4:

(a) submitted to RfL(I) by a Third Party; or

(b) identified by RfL(I) on its own initiative,

if it considers that the criteria in Condition J4.2.2 have been satisfied.

4.2.2 A notice of a proposed Access Right Change (whether submitted by a Third Party or identified on its own initiative) may only be given by RfL(I) pursuant to Condition J4.2.1 if RfL(I) reasonably believes that:

the proposed Access Right Change will achieve Better Use;

the positive impact of the Access Right Change was not reasonably foreseeable when the relevant Firm Right took effect; and

(a) Better Use cannot reasonably be achieved using:

(b) (i) Parts D or G of this CCOS Network Code; or

(c) (ii) Conditions J1 or J2 of Part J of this CCOS Network Code; or

(iii) relevant provisions of the Act.

4.2.3 RfL(I) shall give notice of a proposed Access Right Change to:

any Incumbent;

(a)

the ORR; and

(b)

(c) any relevant funder.

4.2.4 RfL(I) shall give notice of a proposed Access Right Change no less than 18 months before the commencement of the relevant Working Timetable during which Access Right Change is proposed to take effect.

4.3 ***Content of notice of a proposed Access Right Change***

4.3.1 (a) Notice of a proposed Access Right Change given by RfL(I) under Condition J4.2.1 shall:

(b) identify the Firm Right of any Incumbent which is subject to the Access Right Change;

(c)

set out the Access Right Change;

(d)

(e) explain, referencing evidence where possible, why RfL(I) believes that each of the criteria in Condition J4.2.2 is met;

(f)

state the date on which the Access Right Change will take effect;

request from the Incumbent an estimate of compensation payable under Condition J4.7, with evidence where possible;

request from the Incumbent an estimate of the Incumbent's reasonable costs of providing an estimate of compensation; and

where the proposed Access Right Change was submitted to RfL(I) by a Third Party, contain a Relevant Undertaking.

4.3.2 For the purposes of:

(g) Condition J4.3.1(d), RfL(I) shall specify a date on which the Access Right Change will take effect which is no later than the Priority Date for the relevant Working Timetable during which the Access Right Change is proposed to take effect;

(a) Condition J4.3.1(e) and subject to Condition J4.5.3, the Incumbent shall provide the estimate of compensation payable under Condition J4.7 (with evidence where possible) to RfL(I) within 60 Working Days of the date on which notice is given by RfL(I) under Condition J4.2.1; and

(b) Condition J4.3.1(f), the Incumbent shall provide the estimate of its reasonable costs of providing an estimate of compensation within 10 Working Days of the date on which notice is given by RfL(I) under Condition J4.2.1.

4.4 ***Negotiation following notice of a proposed Access Right Change***

4.4.1 RfL(I) shall use reasonable endeavours to negotiate with the Incumbent so as to agree:

(a) after giving notice under Condition J4.2, the proposed Access Right Change, if applicable;

(b) after receiving an estimate of reasonable costs under Condition J4.5.2, the reasonable costs payable in advance under Condition J4.10.2; or

(c) after receiving an estimate of compensation under Condition J4.5.1, the compensation payable under Condition J4.7.

4.4.2 In any negotiation carried out under Condition J4.4.1, the Incumbent shall use reasonable endeavours to negotiate with RfL(I) the matters set out at Condition J4.4.1(a) to J4.4.1(c).

4.4.3 If the proposed Access Right Change was submitted to RfL(I) by a Third Party:

(a) RfL(I) shall carry out a Relevant Consultation as appropriate during the negotiation;

(b) the Third Party shall pay to RfL(I) an amount equal to RfL(I)'s reasonable costs of undertaking the obligations set out in this Condition J4; and

the Third Party shall pay to RfL(I) an amount equal to the Incumbent's reasonable costs of: (1) assessing any proposed Access Right Change; and (2) providing an estimate of compensation to be paid by the Third Party.

4.4.4 (c) Subject to Condition J4.4.5, RfL(I) and the Incumbent may agree a proposed Access Right Change at any time before the date on which the ORR makes a direction under Condition J4.16, where applicable.

4.4.5 If the proposed Access Right Change was submitted to RfL(I) by a Third Party, RfL(I) and the Incumbent may not agree a proposed Access Right Change until RfL(I) has obtained the agreement of the Third Party.

4.4.6 If an agreement is reached under Condition J4.4.4, RfL(I) and the Incumbent shall submit the relevant Access Agreement, amended to reflect the proposed Access Right Change, to the ORR for approval under section 22 of the Act.

4.5 ***Response of Incumbent to notice of a proposed Access Right Change***

4.5.1 The Incumbent shall provide an estimate of compensation in accordance with Condition J4.3.1(e).

4.5.2 The Incumbent shall provide to RfL(I) an estimate of the reasonable costs of providing an estimate of compensation in accordance with Condition J4.3.1(f).

4.5.3 An Incumbent who provides an estimate of reasonable costs in accordance with Condition J4.3.1(f) has 40 Working Days from receipt of payment of the agreed reasonable costs to provide the estimate of compensation.

4.5.4 (a) The Incumbent shall give notice to RfL(I) and the ORR if it:

(b) agrees to the proposed Access Right Change;

(c) considers that one or more of the criteria in Condition J4.2.2 is not met;

(d) considers that the notice was not validly provided by RfL(I); or

considers that it does not have enough information in relation to the proposed Access Right Change to agree to or dispute the proposed Access Right Change (setting out in such notice the information it would require in order to agree to or dispute the proposed Access Right Change).

4.5.5 If the Incumbent gives notice under Condition J4.5.2 (b) or (c) or (d), it shall provide reasons, referencing evidence where possible.

4.5.6 Notice shall be provided to RfL(I) and ORR under this Condition J4.5 within 60 Working Days of the date on which notice is given by RfL(I) under Condition J4.2.

4.5.7 A failure to give notice under Condition J4.5.4 shall constitute agreement to the proposed Access Right Change, as if notice had been given under Condition J4.5.4(a).

4.6 ***Offer of compensation***

4.6.1 Subject to Conditions J4.4.1 and J4.6.3, RfL(I) shall, no later than 30 Working Days after receiving an estimate of compensation provided by the Incumbent pursuant to Condition J4.3.1(e), make a written offer of compensation in confidence to the Incumbent.

4.6.2 Subject to Condition J4.6.3, if the Incumbent fails to provide an estimate of compensation pursuant to Condition J4.3.1(e), RfL(I) shall, no later than 90 Working Days after the date on which notice is given by RfL(I) under Condition J4.2.1, make a written offer of compensation in confidence to the Incumbent.

4.6.3 If the proposed Access Right Change was submitted to RfL(I) by a Third Party, RfL(I) shall not make a written offer of compensation under Conditions J4.6.1 or J4.6.2 until it has carried out a Relevant Consultation and obtained agreement of the Third Party to fund the offer of compensation.

4.7 ***Amount of compensation***

4.7.1 Subject to Condition J4.9.2, RfL(I) shall pay compensation to the Incumbent in respect of an Access Right Change.

4.7.2 The amount of compensation referred to in Condition J4.7.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which are demonstrated to have been reasonably incurred or can be demonstrated as being reasonably expected to be incurred by the Incumbent as a consequence of the implementation of the proposed change.

(a)

4.7.3 There shall be taken into account in determining the amount of compensation:

(b)

the demonstrable benefit (if any) to be obtained or likely in the future to be obtained by the Incumbent as a consequence of the Access Right Change; and

the demonstrable ability or likely future ability of the Incumbent to recoup any costs, losses and expenses from third parties including passengers and customers or to otherwise mitigate the costs, direct losses and expenses (including loss of revenue).

For the purposes of Condition J4.7.3(b), any compensation for costs, losses and expenses (including loss of revenue) receivable by the Incumbent:

(i) under a track access agreement or track access option with the infrastructure manager of a network other than the CCOS (including as a result of the operation of provisions equivalent to this Condition J4); and

(ii) relating to access right(s) on such other network(s) which are intended to connect into or out of the access right(s) on the CCOS which are the subject of the proposed Access Right Change,

shall be regarded as a demonstrable ability of the Incumbent to recoup costs, losses and expenses (including loss of revenue) from a third party, with the intention being that the Incumbent shall not be entitled to recover more than once in respect of the same costs, losses and expenses (including loss of revenue).

4.8 ***Acceptance of offer of compensation***

4.8.1 If the Incumbent wishes to accept the compensation offered under Condition J4.6, it shall, within 30 Working Days of receiving the offer, indicate its acceptance in writing.

4.8.2 A failure to indicate acceptance in writing in accordance with Condition J4.8.1 or to refer the matter for determination in accordance with Condition J4.14, shall constitute acceptance of the offer.

4.9 ***Payment of compensation***

4.9.1 Subject to Conditions J4.9.2 and J4.9.3, if the Incumbent has accepted the proposed Access Right Change or it has otherwise been determined that the Access Right Change shall have effect, the compensation payable under Condition J4.7 shall be paid to the Incumbent by RfL(I) on or before the date on which the proposed Access Right Change is due to take effect.

4.9.2 (a) If the proposed Access Right Change was submitted to RfL(I) by a Third Party, the Third Party shall pay RfL(I) an amount equal to the compensation payable under Condition J4.7 on a date agreed with RfL(I) but no later than:

(b)

the Working Day before the date on which the Access Right Change is due to take effect; or

where a matter has been referred for determination under Condition J4.14.1 and the date on which the Access Right Change is due to take effect has been missed or is likely to be missed, a revised date notified to the Incumbent and the Third Party by RfL(I); or

where notice has been given under Condition J4.5.4(b) or J4.5.4(c), the date specified by the ORR pursuant to Condition J4.16.1(b) or J4.16.1(c), where relevant.

4.9.3 RfL(I) shall not be required to pay compensation to the Incumbent until an amount equal to the compensation owed has been received by RfL(I) from the Third Party.

(c)

4.9.4 The Access Right Change shall not take effect until the compensation payable under Condition J4.7 has been received by the Incumbent.

4.9.5 Compensation is not payable under this Condition if it has already been paid pursuant to a Relevant Undertaking.

4.10 ***Reimbursement of assessment costs***

4.10.1 Subject to Conditions J4.10.2 and J4.10.3, the Incumbent shall be entitled to reimbursement by RfL(I) of all reasonable costs incurred by the Incumbent in assessing any Access Right Change.

4.10.2 If the proposed Access Right Change was submitted to RfL(I) by a Third Party, that Third Party shall reimburse RfL(I) for:

(a) the reasonable costs incurred by RfL(I) in giving notice of a proposed Access Right Change;

(b) the Incumbent's reasonable costs of providing an estimate of compensation, to be paid by the Third Party in advance of these costs being incurred; and

(c) the reasonable costs incurred by an Incumbent and reimbursed by RfL(I) pursuant to Condition J4.10.1.

4.10.3 If a Third Party has proposed such Access Right Change, RfL(I) shall not be required to reimburse the Incumbent pursuant to Condition J4.10.1 until it has received reimbursement from the Third Party pursuant to Condition J4.10.2.

4.11 ***Obligation to incur no further costs***

4.11.1 The Incumbent shall, if requested by RfL(I) at any time, incur no further costs (except any costs which cannot reasonably be avoided) in respect of any Access Right Change.

(a)

4.12 ***Confidentiality of the Incumbent***

4.12.1 If RfL(I) has reasonable grounds for believing that, in order to carry out a Relevant Consultation:

it is necessary for it to disclose to the Third Party any Qualifying Information; and

such disclosure would or might, in RfL(I)'s reasonable opinion, seriously and prejudicially affect the interests of the Incumbent,

RfL(I) shall give notice to that effect to the Third Party and such Qualifying Information shall not be disclosed.

4.13 ***Not used.***

(b)

4.14 ***Right of appeal to relevant CCOS ADRR Forum***

4.14.1 If the Incumbent is dissatisfied as to the compensation offered under Condition J4.7, it may, within 30 Working Days of receiving the offer refer the matter for determination in accordance with the CCOS ADRR.

4.14.2 If the Incumbent or Third Party is dissatisfied as to any matter concerning the reimbursement of costs, it may refer the matter for determination in accordance with the CCOS ADRR.

4.15 ***Right to withdraw***

4.15.1 RfL(I) may withdraw the notice of a proposed Access Right Change identified by RfL(I) on its own initiative if it believes that the criteria in Condition J4.2.2 are no longer met.

4.15.2 Subject to Condition J4.15.3, RfL(I) shall withdraw the notice of a proposed Access Right Change as soon as possible if it is requested to do so by the Third Party.

4.15.3 If RfL(I) receives a request to withdraw the notice of a proposed Access Right Change and wishes to pursue the proposed Access Right Change on its own initiative, it may do so without serving another notice under Condition J4.2.3 but must notify the Incumbent and the ORR of its decision as soon as reasonably possible.

4.15.4 If RfL(I) withdraws the notice of a proposed Access Right Change identified by RfL(I) on its own initiative, Condition J4.10 applies to costs incurred up to and including the date on which notice is withdrawn.

4.15.5 Where RfL(I) withdraws the notice of a proposed Access Right Change under Condition J4.15.1 or Condition J4.15.2, Condition J4.7 applies to costs, direct losses and expenses (including loss of revenue) accrued by the Incumbent as a consequence of the proposed Access Right Change.

(a)

4.15.6 If the Third Party requests RfL(I) to withdraw the notice of a proposed Access Right Change, Condition J4.10 applies to costs incurred up to and including:

(b)

the date on which notice is withdrawn; or

the date on which RfL(I) notifies the Incumbent and the ORR under Condition J4.15.3 as applicable.

4.15.7 Where RfL(I) withdraws the notice of a proposed Access Right Change under Condition J4.15.1 or Condition J4.15.2:

(a) the Incumbent shall provide to RfL(I) an estimate of compensation within 40 Working Days of notification of that withdrawal;

(b) negotiation in accordance with Conditions J4.4.1(b), J4.4.2 and J4.4.3 shall take place;

(c) Condition J4.6 shall apply; and

(d) Condition J4.14 shall apply.

4.16 ***ORR power to direct an Access Right Change***

4.16.1 If the ORR receives a notice under Condition J4.5.4(b) or J4.5.4(c) it shall, after assessing objectively the merits of that notice, the notice provided by RfL(I) under Condition J4.2.1, and any other material it considers relevant, whilst having regard to the duties set out at section 4 of the Act:

(a) direct RfL(I) to withdraw notice of the proposed Access Right Change;

(b) approve the proposed Access Right Change and direct that it should take effect on a date specified by the ORR; or

(c) after consultation with RfL(I), the Incumbent, and the Third Party, approve the proposed Access Right Change with modifications and direct that it should take effect on a date specified by the ORR.

4.16.2 The ORR may also take into consideration the determination of the relevant CCOS ADRR Forum made under Condition J4.14, where applicable.

4.16.3 The ORR shall not make a direction in respect of a notice received under Condition J4.5.4(b) until:

(a) a matter referred for determination under Condition J4.14.1 has been so determined; and

(b) the determination has been disclosed to the ORR in confidence.

4.17 ***Exclusion***

4.17.1 Condition J4 has no application to an Access Agreement that already contains provision for compensating an amendment or limitation of Firm Rights, other than a provision contained in this CCOS Network Code.

CONDITION J5 - DETERMINATION OF DISPUTES

5.1 Subject to Condition J5.3, any disputes arising in respect of this Part J shall be resolved in accordance with the CCOS ADRR.

5.2 If any Access Party is dissatisfied with any decision of the relevant Forum in relation to any matter referred to it under Condition J5.1, that Access Party may refer the matter to the ORR for determination under Chapter L of the Rules.

5.3 Any disputes arising in respect of Condition J4 shall be resolved in accordance with that Condition (and not Condition J5.1).

VERSION CONTROL

	Date	Summary of amendment(s)
1	October 2017	Final CCOS Network Code published.
2	April 2018	Updated to reflect change of registered office of TfL entities to 55 Broadway.
3	March 2020	Amendments in light of the announced delay to the Crossrail project (and therefore delayed opening of the CCOS). Incorporating amendments substantially the same as Proposals for Change 75 and 76 for the Network Rail Network Code. Recognition that the Western boundary of the CCOS with the Network Rail network will be at Westbourne Park Junction (as opposed to Portobello Junction) consistent with the Connection Agreement with Network Rail.
4	March 2020	Updated to reflect change of registered office of TfL entities to 5 Endeavour Square.
5	October 2021	Following consultation, updated in line with PfC 78-81, 84-87, 90, 91-94 and 97, 98 – 99 and 102-105 of the Network Rail Network Code, insofar as such changes are directly relevant to the CCOS Network Code.