Transport for London – Access to the Crossrail Central Operating Section

Consultation Report – Summary of Changes made to access documentation

- 1 On 31 March 2017, Transport for London ("**TfL**") and Rail for London (Infrastructure) Limited ("**RfL(I)**") launched a consultation in relation to its draft template access documentation relating to the Crossrail Central Operating Section (the "**CCOS**"). The consultation closed on 26 May 2017. Subsequently, TfL/RfL(I) undertook a consultation in relation to the draft CCOS Performance Data Accuracy Code and draft CCOS Railway Operational Code (which opened on 7 July 2017 and closed on 4 August 2017). Both of these consultations are referred to in this document as the "**Consultation**". TfL/RfL(I) would like to thank all of those who responded to the Consultation: TfL/RfL(I) have carefully considered all of the feedback received and, where appropriate, has sought to incorporate comments into revised template access documentation.
- 2 This document accompanies the publication by TfL/RfL(I) of the following final template documentation for access to and use of the CCOS:
- 2.1 CCOS Track Access Agreement ("CCOS TAA");
- 2.2 CCOS Network Code ("CCOS NC");
- 2.3 CCOS Access Dispute Resolution Rules ("CCOS ADRR");
- 2.4 CCOS Emergency Access Code ("CCOS EAC");
- 2.5 CCOS Railway Systems Code ("CCOS RSC");
- 2.6 CCOS Railway Operational Code (the "CCOS ROC"); and
- 2.7 CCOS Performance Data Accuracy Code (the "CCOS PDAC"),

together, the "Access Documentation".

- 3 Of course, in relation to the CCOS TAA, this will be negotiated on a case-by-case basis with train operators and other access beneficiaries who seek access to the CCOS and will be subject to the approval of the Office of Rail and Road (the "**ORR**") under section 18 of the Railways Act 1993.
- 4 The table set out below is intended to provide a summary of the changes which have been made to the Access Documentation since the Consultation concluded. The changes which have been made by TfL/RfL(I) can largely be categorised as follows:
- 4.1 **Response to Consultation feedback**: in certain areas, amendments have been made directly as a result of feedback received from consultees in response to the Consultation;
- 4.2 **Updates to Network Rail documents**: as TfL/RfL(I) has largely (but not exclusively) based the Access Documentation on Network Rail equivalent documents, TfL/RfL(I) have considered any updates which Network Rail has made to its equivalent documents and incorporated these where appropriate;
- 4.3 **Discussions with the ORR**: certain amendments have been made to the Access Documentation following discussions with the ORR, particularly following on from the ORR's consultation in relation to whether to grant RfL(I) an exemption from the requirement to hold a network licence;
- 4.4 **Other changes**: there are a number of other changes which TfL/RfL(I) have made to the Access Documentation as progress towards the opening of the CCOS has been made and various aspects relating to access have become clearer.
- 5 The table does not set out where minor changes (such as typographical errors, duplicated provisions or where text has been moved) have been made and instead focuses on the substantive amendments to the Access Documentation.

	Clause	Summary of change made	Rationale for change	
	reference			
CCC	CCOS TAA			
1	11.6.3	New clause requiring RfL(I) to become and remain party to such industry-standard claims allocation and handling arrangements as may exist from time to time. This also requires RfL(I) to ensure that each train operator using the CCOS also becomes a party to those arrangements.	This requirement is typically included in network licences. As it is intended that RfL(I) will be granted an exemption from the requirement to hold a network licence, this provision has been included in lieu of the equivalent network licence requirement.	
2	11.7	New clause requiring RfL(I) to take out and maintain insurance meeting certain minimum requirements and	This requirement is typically included in network licences. As it is intended that RfL(I) will be granted an exemption	

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		provide evidence that it is holding such policies.	from the requirement to hold a network licence, this provision has been included in lieu of the equivalent network licence requirement.
3	Schedule 5, 1.3	Clarification that "Day" is to be defined by reference to departure from the origin point of the service (where the scheduled departure point of that Train is on the CCOS) or on entry to the CCOS (where the first point at which the service is to pick up passengers is on a network other than the CCOS).	This is intended to be clarificatory as it is acknowledged that a large number of services will commence on a network other than the CCOS (such as the Network Rail network or the Heathrow network). Accordingly, this is intended to make clear which Day access rights fall on.
4	Schedule 5, 7.1	This has been deleted and marked "not used".	This is consistent with the equivalent amendment made to the Network Rail model form track access agreement.
5	Schedule 7, Part 3, definition of "CCOS Asset Management Plan"	Addition of "operations" in the definition.	It has now been confirmed that the CCOS Asset Management Plan will also set out the operation of the CCOS and accordingly this reference has been included.
6	Schedule 7, Part 3, definition of "CCOS Asset Management Policy"	Definition amended so that performance levels are defined by reference to the Sponsors' Requirements for the CCOS.	The CCOS has been designed to deliver the Sponsors' Requirements and accordingly the CCOS Asset Management Policy should be to deliver those objectives.
7	Schedule 7, Part 3, General	Various changes have been made to expressly entitle RfL(I) to review the cost of capital used in the calculation of the charges set out in the Schedule 7. This is particularly relevant to the calculation of the Investment Recovery Charge. Appropriate grounds for disputing the proposed revised cost of capital value have also been included in the CCOS TAA to ensure the Train Operator can challenge proposed decisions of RfL(I).	As part of an interim or periodic review, cost of capital assumptions will need to be revisited in light of prevailing circumstances at the time. This will be relevant to all aspects of the charges, but particularly in relation to the Investment Recovery Charge (Annual Investment Recovery Charge, Additional Slot Investment Recovery Charge and Further Investment Recovery Charge) as the key driver of this will be cost of capital. However, appropriate elements have been built in to the dispute

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			mechanism to allow issues to be raised by the Train Operator.
8	Schedule 8, 6.3.1(b)	Seconds Delay caused by a Train operating a Service which is not accepted onto the NR Network at the time scheduled in the Applicable Timetable is a Train Operator responsibility incident.	As the Train Operator will have the relationship with Network Rail through its track access agreement, this incentivises the Train Operator to ensure that Network Rail accepts trains onto the NR Network at the correct times.
CCC	DS NC		
9	Part A, 1.1(d)(2) and definition of "Applicable Laws"/ "Competent Authority"	References to statutory provisions include other legislation taking effect in Great Britain in respect of the same subject matter as particular pieces of legislation.	With the withdrawal of the United Kingdom from the European Union, it seems likely that European-derived legislation will, in the short term, be transposed into English law. This includes a number of relevant pieces of railway legislation – this is intended to ensure continuity.
10	Part A, definition of "Delay Attribution Guide", Parts B and C generally	Updated to refer to the parts of the (now renamed) Delay Attribution Principles and Rules which will be relevant for the purposes of the CCOS.	This is consistent with the equivalent amendment made to the Network Rail Network Code, albeit to the relevant parts of the Delay Attribution Principles and Rules which will apply in the context of the CCOS.
11	Part D, Minor amendments to Explanatory notes F, G and H	References to the "base timetable", "draft timetable", "drafting period" and "formal offer" have been updated in line with the Part D processes.	These amendments have been made as a result of feedback from Network Rail made as part of the Consultation.
12	Part D - General	References to the "One Stop Shop" service have been removed.	Network Rail will be primarily responsible for this service – and this change has been made as a result of feedback received from Network Rail as part of the Consultation.
13	Part D, Condition D3.4.2(b)	Updated to refer to the "Rules" (as defined in the Network Rail Network Code).	This amendment has been made as a result of feedback from Network Rail made as part of the Consultation.
14	Part D, Condition D4.2.2(d)	Wording has been included to make clear that satisfying the Order of Priority is key in creating the New Working	This amendment has been made as a result of feedback from MTR made as part of the Consultation.

	Clause reference	Summary of change made	Rationale for change
		Timetable, consistent with Condition D4.6.	
15	Part D, Condition D4.6.1(b)(vi)	Deletion of reference to "apart from the terms of any maintenance contract entered into or proposed by RfL(I)".	This is consistent with the equivalent amendment made to the Network Rail Network Code.
16	Part F, Condition F2.2(a)(ix)	As part of a notice proposing a CCOS Vehicle Change, the Sponsor must confirm that the proposed CCOS Vehicle Change has already been made/tested on a network other than the CCOS or is being made at the same time as the same Vehicle Change proposal is being made/tested on a network other than the CCOS.	As the CCOS is a relatively small piece of infrastructure – and consistent with the CCOS Network Statement – RfL(I) expects CCOS Vehicle Changes to be made/tested on another network first, as a failed test on the CCOS would have a disproportionate impact upon its operation.
17	Part J, Interpretation	A new provision has been included clarifying that, unless otherwise specified, where a party is required to respond to another, the timescale shall be 10 Working Days.	This is consistent with the equivalent amendment made to the Network Rail Network Code.
18	Part J, Condition J4.7	Amendments have been included to make sure that any compensation can be properly demonstrated before it is payable. A new provision has been included making clear that losses should not be double counted – if the Train Operator can recover sums under the track access arrangements for another network, the Train Operator should not also be able to recover those sums in relation to the CCOS access rights.	This is intended to make clear that only demonstrable losses can be recovered under the CCOS Part J mechanism and to avoid the possibility of double recovery under both the CCOS Part J and the Network Rail Part J (given services are likely to operate on both networks).
CCC	OS ADRR		
19	Part H, rules H12 and H17	The number of members required to form a Timetabling Panel has been reduced from four members to three members (plus the Hearing Chair).	This is consistent with the equivalent amendment made to the Network Rail Access Dispute Resolution Rules.
CCC	DS EAC		
No r	material amendments	s have been made to the CCOS EAC.	
	DS RSC		
20	4.8	Deletion of reference to "Amongst other things, Systems Owners are encouraged to develop, as soon as is reasonable and financially practicable, historically shared	Given the CCOS systems which will be in place, this requirement is not relevant to the CCOS arrangements.

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		function systems into separate systems that communicate with Users through published and defined "message pair" interfaces."		
CCC	CCOS ROC			
No	No material amendments have been made to the CCOS ROC.			
CCC	OS PDAC			
21	7	Minor amendments have been made to the heading of this clause.	These amendments have been made as a result of feedback from Network Rail made as part of the Consultation.	
22	Appendix C	Acronyms have been replaced by defined terms	These amendments have been made as a result of feedback from Network Rail made as part of the Consultation.	