AMENDED AND RESTATED USAGE CONTRACT

This Amended and Restated Usage Contract (the ***Contract***) is dated 30th of December, 2002 and made between:

INFRACO JNP LIMITED (registered number 3923425) of 55 Broadway, London SW1H 0BD (the ***Company***) (which expression shall include its successors, permitted assigns and transferees)

and

ALSTOM NL SERVICE PROVISION LTD (formerly known as GEC Alsthom NL Service Provision Limited) (registered number 2849400) whose registered office is at PO Box 6760, Leigh Road, Washwood Heath, Birmingham, B8 2YT (the ***Contractor***).

WHEREAS

(A) By an agreement dated 7 April 1995 (the "***Original Contract***") made between London Underground Limited ("***LUL***") and GEC Alsthom NL Service Provision Limited, London Underground Limited desired that it be provided with the Trains, Equipment, Services and Existing Train Services, and that the Enabling Works be carried out to facilitate such provision, to enable it to operate and run a railway service on the Northern Line, on the terms and subject to the conditions set out in the Original Contract.

(B) The Contractor agreed to provide the Trains, Equipment, Services and Existing Train Services to LUL, and to carry out such Enabling Works, on the terms, and subject to the conditions, set out in the Original Contract as such contract has been amended, varied and supplemented.

(C) Pursuant to the proposals announced in March 1998 to establish a public private partnership for London's Underground network, LUL incorporated the Company as a wholly owned subsidiary undertaking, and, with effect from the Initial Vesting Date, London Regional Transport transferred LUL's staff, assets, contracts and other property, rights and liabilities which previously formed part of the business of the Jubilee, Northern and Piccadilly Lines (other than its property, rights in, and liabilities under, the NLTSC) to the Company by means of the Initial Transfer Scheme.

(D) It is intended that with effect from the PPP Transfer Date, London Regional Transport will transfer all of LUL's property, rights in and liabilities under, inter alia, the Contract (other than in respect of (i) the Depot Leases and the other Real Property Documents entered into or to be entered into pursuant to the Agreement to Lease/Licence and the other documents and agreements listed in Schedule 2 to the Northern Line Transfer Scheme, (ii) the LUL Continuing Obligations, (iii) such matters as are addressed in Schedule 12 Parts A-D of the Original Contract and (iv) LUL's payment obligations under the NLTSC) to the Company by means of the Northern Line Transfer Scheme. Furthermore, it is intended that with effect from the

PPP Transfer Date the successful bidder as the private partner in such public private partnership in respect of the Jubilee, Northern and Piccadilly Lines will acquire the entire issued share capital of the Company (other than a special share to be retained by LUL).

(E) In order to reflect the vesting of the Original Contract in the Company, pursuant to the Northern Line Transfer Scheme, the parties have agreed partially to amend and restate the Original Contract.

IN WITNESS WHEREOF, each of the Company and the Contractor agrees that the Original Contract shall be further amended and restated as of the date specified at the beginning of this document so that it shall, subject to Clause 1.9 and Clause 1.10, read in its entirety in the attached form, and accordingly each of the parties have caused the Contract to be executed and delivered as a deed on the date first above written.

EXECUTED AND DELIVERED)
as a **DEED** by)
INFRACO JNP LIMITED)
acting by a director and the secretary:)

Director **M. CALLAGHAN**

Secretary **FRANCES LOWE**

EXECUTED and **DELIVERED** as a) **P. K. DIX**
DEED by **P. K. DIX**)
as authorised attorney)
for **ALSTOM NL SERVICE**)
PROVISION LTD)

D. POTTER Signature of witness

Dylan Potter Name

Freshfields Bruckhaus Deringer Address
65 Fleet Street
London EC4Y 1HS

1. INTERPRETATION

1.1 The words and expressions used in this Contract shall, unless the context otherwise requires, have the meanings assigned to them in Schedule 1.

1.2 Unless the context otherwise requires, references herein to ***the Contract*** or ***this Contract*** shall include references to the recitals and the Schedules hereto, the Standards, the Contract Safety Conditions, the Engineering Instructions and the Rule Book.

1.3 In this Contract, unless the context requires otherwise, words denoting the singular number shall include the plural number and vice versa, words denoting the masculine person shall include the female person and vice versa, words denoting the neuter shall be construed as including the masculine or the feminine as the case may be and vice versa, and references to persons or parties shall include firms, partnerships, corporations and any other person having legal capacity and vice versa and include the successors and permitted transferees and assigns of such persons or parties.

1.4 In this Contract, unless the context otherwise requires, references to a specified Clause, Part of a Schedule or Schedule shall be construed as references to that specified Clause of, Part of that Schedule to, or Schedule to, this Contract and references in a Part of a Schedule or a Schedule to a specified paragraph shall be construed as references to that specified paragraph of that Part of that Schedule or that Schedule.

1.5 The headings and table of contents in this Contract are inserted only for the purpose of convenience and shall not affect the construction hereof.

1.6 Any reference in this Contract to any statute, order, regulation or other legislative measure or any part of any thereof shall be deemed to include a reference to the same as from time to time amended or supplemented unless the context expressly requires otherwise, provided that any reference to any of the same in this Clause 1.6, Sections 1, 2 and 3 of Part B of Schedule 10, the definition of ***Holding Company*** and the definition of ***Subsidiary*** shall be construed in accordance with the law in force at the date of the Original Contract and, in the case of such definitions, the Companies Act 1985.

1.7 In this Contract, references to an agreement, document or other instrument shall be construed as references to such agreement, document or other instrument as contractually amended, varied, novated, assigned or supplemented from time to time, excluding for the purposes of this Clause 1.7 references to the Original Contract and the Original NLTSC.

1.8 References in this Contract to the Project Manager, or an Operator shall be construed as references to the Company (acting through, as the case may be, the Project Manager or the relevant Operator).

1.9 The parties agree and acknowledge that this Contract amends and restates the relevant provisions of the Original Contract as set out herein and reflects both the

effect of the Northern Line Transfer Scheme and supplemental amendments agreed between the parties. (For the avoidance of doubt, where an obligation of the Company is referenced herein, which is not an obligation which has been transferred to the Company pursuant to the Northern Line Transfer Scheme, that obligation shall be interpreted as an obligation which has been assumed by the Company pursuant to an amendment effected by this Agreement). Any reference to a Schedule in this Contract, to the extent that such Schedule is not amended and/or restated herein, shall be deemed a reference to such Schedule in the Original Contract.

1.10 This Contract is without prejudice to any other amendment, variation or supplement to the Original Contract including those contained in the Settlement Agreement and the Connect Amendment Agreement which shall survive the entry into force of this Contract and which accordingly shall take effect to amend, vary or supplement the terms hereof, as the case may be, in accordance with their terms.

1.11 In this Contract all references to the "Company's railway network" shall be deemed references to LUL's railway network.

1.11A In Schedule 6 to this Contract all references to the "Company Specification" and the "Company Information" shall be deemed to be references to the specification and information of LUL.

1.12 For the avoidance of doubt the property, rights and liabilities of LUL under any procedures, practices or other arrangements (in respect of the Original Contract) entered into between LUL and the Contractor after the date of the Original Contract but prior to the date hereof (or from time to time agreed between the parties) whether evidenced in writing or not and any other amendment, variation, or supplement to the Original Documents entered into after the date of the Original Contract shall continue as if the Company had at all times been a party to such procedures, practices or other arrangements. All Documentation previously supplied by the Contractor to LUL under the Original Contract shall be deemed to have been supplied to the Company.

1.13 To the extent that the Contractor has performed any obligation owed to LUL under the Original Contract prior to this Contract becoming effective then such performance shall be deemed to constitute performance to such extent in favour of the Company for the purposes of this Contract.

2. EFFECTIVENESS OF THIS CONTRACT

2.1 Subject to Clause 2.2, this Contract shall become effective from, and the obligations of the parties hereunder are conditional upon, the satisfaction or waiver of all conditions precedent set forth in Clause 5.2 of the NLTSC Restructuring Agreement, and until such time this Contract shall be of no effect.

2.2 The payment obligations of the Company hereunder shall, in accordance with Clause 5A.3 of the NLTSC Restructuring Agreement, become effective from and are conditional upon the satisfaction or waiver of the Additional Conditions Precedent, and until such time shall be of no effect.

3. [NOT USED]

[3. Not used.]

4. RELEASE OF TENDER BOND

4. The parties acknowledge that RBS has been unconditionally released from its obligations pursuant to the tender bond dated 14 December 1994 and executed in favour of LUL by RBS.

5. OBLIGATIONS OF THE CONTRACTOR

5.1.1 The Company requires the Contractor to provide, and the Contractor agrees to provide to the Company, in accordance with the provisions of this Contract, the Trains, the Equipment and the Services to replace the Existing Trains and other related assets, and the Company requires the Contractor to carry out, and, pursuant to the Agreement to Lease/Licence, the Contractor agrees to carry out, the Enabling Works to the extent provided for in this Contract, in each case to enable the Company to discharge its obligations to LUL so as to enable LUL to operate and provide to the general public at all times during the Contract Duration a safe, reliable, regular, fast, comfortable, clean and punctual Passenger-carrying railway service on the Northern Line and the Contractor agrees that the Trains and the Equipment provided hereunder, and the Enabling Works, carried out pursuant to the Agreement to Lease/Licence shall, for the Contract Duration, retain their utility and be fit for use on the Northern Line in accordance with the requirements of this Contract, so as to enable LUL to operate and provide such a railway service.

5.1.2 The Company requires the Contractor to provide, and the Contractor agrees to provide to the Company for the period specified in Clause 11.1.2, in accordance with the provisions of this Contract, the Existing Train Services.

5.2.1 The Contractor and the Company agree that:

(a) the Timetable:

(i) specifies the locations (the ***entry points***) and times (the ***start times***) at which Trains and Existing Trains shall be offered for service by the Contractor to the Company;

(ii) specifies the locations (the ***stabling points***) and times (the ***exit times***) at which the Company is scheduled to return Trains and Existing Trains to the Contractor; and

(iii) provides sufficient information to enable the parties to calculate the total loaded scheduled fleet kilometreage that would result from operating the Timetable for one year (***scheduled annual fleet kilometreage***);

(b) the Company (at all times acting reasonably) may revise or amend the Timetable provided that it is not different to the timetable from time to time

prepared by LUL (***LUL Timetable***), (a copy of which shall be provided by the Company to the Contractor forthwith upon receipt of the same from LUL) in any way including in respect of additions, deletions or alterations to any or all of the entry points, start times, stabling points, exit times or scheduled annual fleet kilometreage specified in the Timetable and so as to specify whether it is a Train or an Existing Train that is to be offered for service at each entry point and start time and whether it is to carry De-icing Equipment upon giving the Contractor not less than 30 days' written notice prior to the revised or amended Timetable taking effect save that:

(i) shorter, oral notice may be given (but which shall be confirmed in writing as soon as reasonably practicable thereafter) in cases of emergency or, during the Delivery Period, in respect of amendments specifying only whether it is a Train or an Existing Train that is to be offered for service at any particular entry point and start time; and

(ii) shorter reasonable written notice may be given in cases of temporary Timetable revisions (including over holiday periods).

It is expressly agreed and acknowledged that the notice requirements of this Clause 5.2.1(b) apply, inter alia, to revisions or amendments to entry points, start times, stabling points and exit times specified in the Timetable and do not apply to the operational movement of Trains or Existing Trains on the Northern Line details of which may also be specified in the Timetable but which may be under the control of LUL and over which the parties hereto acknowledge that neither of them shall have any control; and

(c) the Contractor shall be entitled to make a claim to recover costs or claim an extension of time pursuant to a Variation Order issued by the Project Manager following the issue by it of a Notice of Company Proposed Variation (to the exclusion of any claim under Clause 33 or Clause 12, respectively) by reason of, or in connection with, any revision or amendment to the Timetable but only if and to the extent that such revision or amendment:

(i) provides for any start time or exit time specified in the Timetable (in excess of those provided for in the Timetable set out in Schedule 15) to occur between the hours 2400 and 0600 and the Contractor determines that the effect of such provision has a material adverse effect on the Contractor's ability to perform any of its obligations under this Contract and/or if the cost to the Contractor of the performance of its obligations under this Contract is in fact increased by reason of any such revision or amendment; or

(ii) results in the scheduled annual fleet kilometreage exceeding 12,250,000 km.

5.2.1.1A The Company confirms that it has appointed LUL as its agent pursuant to Clause 14.1 of the NLTSC Restructuring Agreement for the purposes of accepting Trains and Existing Trains for service and of returning them to the Contractor following periods of service in the manner provided in this Clause 5.2 and for such

other purposes as are expressly required by the terms of Clauses 14.6.1 and 16.2 of this Contract. The Company hereby agrees with the Contractor that it will not revoke the appointment of LUL as its agent and any purported revocation by it will be of no effect and shall not be binding on the Contractor unless and until it receives not less than five (5) Working Days advance written confirmation from LUL that it has accepted such revocation of its appointment as agent and the Company hereby confirms that the Contractor shall not incur any liability to the Company under this Contract as a consequence of having taken or refrained from taking any action in accordance with the directions of LUL (acting through any Operator which is an LUL Employee including any of the Train Operators) at any time prior to the receipt of a written confirmation from LUL accepting the revocation of its appointment as agent of the Company. The Company and the Contractor hereby agree to be bound by LUL's directions for the purposes of this Clause 5.2 (acting through any Operator which is an LUL Employee, including any of the Train Operators) except where LUL has confirmed revocation of its appointment pursuant to Clause 14.1 of the NLTSC Restructuring Agreement.

5.2.1.2A The Company agrees that it shall not revoke the appointment of LUL as its agent pursuant to Clause 5.2.1.1A above without ensuring that arrangements suitable to the Contractor are effected so as to enable the Company to accept Trains and Existing Trains for service and to return them to the Contractor following periods of service in the manner provided in this Clause 5.2.

5.2.2 The Contractor and the Company agree that:

(a) subject to Clause 5.2.4.1, the Contractor shall be fully responsible for offering Trains or Existing Trains (as specified in the Timetable) for service to the Company by handing over to LUL (acting through the relevant Train Operator) at the relevant entry point, at least 20 minutes before each of the start times, physical possession and control of a Train or Existing Train (as specified in the Timetable) which has been tested and certified by the Contractor as being fit for service in accordance with Schedule 6 and which is in the condition required by the provisions of this Contract;

(b) if a Train or an Existing Train offered for service to the Company pursuant to Clause 5.2.2(a) does not substantially meet the full requirements of this Contract, LUL (acting through the relevant Train Operator) may refuse to accept such Train or Existing Train for service (and, if it does so, the Company shall ensure that LUL (acting through the relevant Train Operator) shall forthwith notify the Contractor's representative (which may include an employee of the Maintenance Company) if present at the relevant Depot or Outstation where it has been handed physical possession and control of the Train or Existing Train) or, without prejudice to any other rights or remedies the Company may have under this Contract or otherwise, accept such Train or Existing Train for service and, if it does so, the Company shall ensure that LUL (acting through the relevant Train Operator) shall notify the Line Controller by Radio as soon as reasonably practicable of the reason for which he would have been entitled to refuse to accept such Train or Existing Train and the Line Controller shall forthwith notify the same to the Contractor's

representative in the Northern Line Main Control Centre. Whether a Train Operator rejects or accepts a Train or an Existing Train, the provisions of Clause 11.3.2 shall apply; and

(c) at the end of each period of use of a Train or an Existing Train by LUL, the Contractor shall take physical possession and control of such Train or Existing Train from LUL (acting through the relevant Train Operator) as agent of the Company at the relevant stabling point or at such other stabling point where and at the time at which the Company delivers such Train or Existing Train.

5.2.3 The Company and the Contractor agree that:

(a) subject to Clause 5.2.2(b), LUL (acting through any Operator which is an LUL Employee, including any of the Train Operators) as agent of the Company shall take physical possession and control of Trains or Existing Trains (as the case may be) offered for service by the Contractor to the Company in accordance with Clause 5.2.2(a);

(b) the Company shall use its reasonable endeavours to cause LUL (in its capacity as the Company's agent) to ensure that the physical possession and control of Trains and Existing Trains is handed over by its Train Operators at the relevant exit times and stabling points. If the Company fails to cause LUL (in its capacity as the Company's agent) to hand over physical possession and control of any Train or Existing Train within 30 minutes of the relevant exit time and/or at the relevant stabling point and, as a result of such failure, the cost to the Contractor of complying with its obligations under Clause 5.2.2 is materially increased, the Contractor shall be entitled to make a claim for costs in accordance with Clause 33 provided that the Contractor shall not be entitled to make a claim for costs pursuant to this Clause 5.2.3(b) where such failure was attributable to the failure by the Contractor to comply with its obligations under Clause 5.2.2 or any Service Performance Failure to the extent attributable to the Contractor;

(c) the Contractor shall provide (in accordance with its obligations under paragraph 3.14.2 of Part G of Schedule 6) a suitably qualified representative of the Contractor, and the Company shall cause LUL to grant him access to the Northern Line Main Control Centre at any time (for which purpose the Company shall cause LUL to provide reasonable office facilities for such representative in the Northern Line Main Control Centre) and access to service information at any such time.

5.2.4.1 [redacted]

(a) [redacted]

[redacted]

(b) [redacted]

(c) [redacted]

5.2.4.2 [redacted]

5.3 Without limiting the obligations of the Contractor set out in Clauses 5.1 and 5.2, the Contractor shall for the Contract Duration, but, in the case of Clause 5.3(b), from the Transfer Date until the date of disposal of the last Existing Train, be responsible for the:

(a) design, manufacture, engineering, supply, testing, commissioning, servicing, maintenance, support, cleaning, inspection, and repair, of, and remedy of defects in, the Trains strictly in accordance with Schedule 6 and the other provisions of this Contract and any procedures, practices or other arrangements entered into prior to the date of this Contract or from time to time agreed between the parties;

(b) servicing, maintenance, support, cleaning, inspection, and repair, of, and remedy of defects in, the Existing Trains strictly in accordance with Schedule 6 and the other provisions of this Contract and any procedures, practices or other arrangements entered into prior to the date of this Contract or from time to time agreed between the parties;

(c) design, manufacture, engineering, supply, installation, testing, commissioning, servicing, maintenance, support, cleaning, inspection, and repair, of, remedy of defects in, and making available to the Company or LUL, the Equipment strictly in accordance with Schedule 6 and the other provisions of this Contract and any procedures, practices or other arrangements entered into prior to the date of this Contract or from time to time agreed between the parties;

(d) supply and installation of the Trainborne Equipment and other Equipment on the relevant parts of the Site, and ensuring that the Trains and the Equipment together operate safely, as specified in Schedule 6 and the other provisions of this Contract provided that, subject always to compliance by the Contractor with its obligations under this Clause 5.3(d), the Contractor shall have no liability to the extent that any failure of the Trains and/or the Equipment to

operate separately or together in such manner is attributable to a breach by the Company of its obligations under this Contract, Improper Use by the Company or any Company Employee or LUL or any LUL Employee or other fault of the Company or LUL in operating the Northern Line. Further, it is acknowledged by the Company that the Contractor shall not operate, or be responsible for operating, the Trains or the Existing Trains on the Northern Line;

(e) design, construction, manufacture, selection, supply, installation, testing, commissioning, servicing, maintenance, support, inspection, carrying out (pursuant to the Agreement to Lease/Licence), and repair, of, and remedy of defects in, the Enabling Works strictly in accordance with Schedule 6 and the other provisions of this Contract; and

(f) provision of all design services, labour (including the supervision thereof), plant, goods, materials, equipment, work facilities, transport to and from and in and about the Site and other resources and everything whether of a temporary or permanent nature, required for the performance of its obligations under this Contract so far as the necessity for providing the same is specified in this Contract or could reasonably be inferred therefrom by a contractor experienced in work of similar nature and scope as that required under or in connection with this Contract and such technical assistance and advice as the Project Manager may reasonably require in connection, and in accordance, with this Contract.

5.4 The Contractor shall perform its obligations under this Contract and the Real Property Documents and in doing so shall afford reasonable co-operation to the Company.

6. DURATION OF CONTRACT

6.1 This Contract shall be deemed to have commenced and shall be deemed to have come into effect from the time that the Contractor commenced carrying out the Advance Works and thereupon to have replaced and superseded in all respects the Advance Works Authorisation which thereupon ceased to have effect with the intent that the Advance Works shall be deemed to have been carried out pursuant to this Contract.

6.2.1 Without prejudice to the Contractor's right to terminate this Contract pursuant to Clause 27, the Company is hereby granted by the Contractor the right, exercisable upon the Company giving to the Contractor (not later than the date which is 2 years (or such lesser period in accordance with the following provisions of this Clause 6.2) prior to the expiry of the Primary Usage Period) written notice (substantially in the form set out in Part A of Schedule 7) to require the Contractor to continue to provide the Trains, the Equipment and the Services in the Secondary Usage Period on the same terms and conditions as apply at the expiry of the Primary Usage Period (except for the level of Usage Payments then payable by the Company). The level of Usage Payments payable during the Secondary Usage Period shall be determined in accordance with Clause 18 and Schedules 9 and 10. In the event that

this Contract is not renewed into the Secondary Usage Period in accordance with this Clause 6.2, Clause 26.3 shall apply.

6.2.2 Without prejudice to Clause 6.2.1, the Company, not later than the date which is 2 years prior to the expiry of the Primary Usage Period, unless it has at such time given the Contractor notice pursuant to Clause 6.2.1, shall give written notice to the Contractor (substantially in the form set out in Part B of Schedule 7) stating that it does not intend to give notice pursuant to Clause 6.2.1 and its reasons therefor. The Company shall be required to obtain LUL's written consent to the giving of any such notice prior to serving the same, which consent shall be evidenced by the countersignature of the relevant notice by a director of LUL, and any notice given pursuant to this Clause 6.2.2 shall not be validly served without such countersignature.

6.2.3 If the Company gives the Contractor notice pursuant to Clause 6.2.2, the Contractor may, no later than the date which is 18 months prior to the expiry of the Primary Usage Period, put alternative proposals to the Company in writing in relation to the Company's reasons stated in such notice with a view to the Company electing to require the Contractor to provide the Trains, the Equipment and the Services in the Secondary Usage Period as aforesaid. In such event, the Company shall be obliged to discuss such proposals in good faith with the Contractor with a view to extending the term of this Contract into the Secondary Usage Period. The Company shall be required to obtain the prior written consent of LUL, which shall be submitted to the Contractor, before making any election pursuant to this Clause 6.2.3, and any election made pursuant to this Clause 6.2.3 shall not be validly made without such consent having been obtained, but otherwise, and subject to the preceding provisions of this Clause 6.2.3 relating to good faith discussions of the relevant proposals, the Company shall determine whether or not to make such election as it in its discretion thinks fit.

6.2.4 In the event that the Company and the Contractor shall not have reached agreement on the proposals made by the Contractor pursuant to Clause 6.2.3 by the date which is 12 months prior to the expiry of the Primary Usage Period, the Company shall confirm in writing to the Contractor (substantially in the form set out in Part C of Schedule 7) whether or not it requires the Contractor to provide the Trains, the Equipment and the Services in the Secondary Usage Period on the basis of such proposals. The Company shall be required to obtain the written consent of LUL prior to issuing any such confirmation, which consent shall be evidenced by the countersignature of the relevant confirmation by a director of LUL, and any confirmation given pursuant to this Clause 6.2.4 shall not be validly served without such countersignature. If the Company requires the Contractor to provide the Trains, the Equipment and the Services on the basis of such proposals, then the Contractor's obligations shall be as if the Company had exercised its rights under Clause 6.2.1 subject to the reference to "the same terms and conditions" being construed as a reference to such terms and conditions as modified in accordance with any agreement reached pursuant to Clause 6.2.3. If the Company does not so require, the Company shall be obliged to discuss in good faith with the Contractor any proposals made by the Contractor for alternative uses for the Trains on branches of LUL's railway network other than the Northern Line and/or for provision by the Contractor of

replacement trains for the Northern Line but, subject thereto, the Company shall have an absolute discretion as to whether or not to proceed with any such proposals.

6.3 Without prejudice to the Contractor's right to terminate this Contract pursuant to Clause 27, the Company is hereby granted by the Contractor the right, exercisable upon the Company giving to the Contractor (not later than the date which is 12 months prior to the expiry of the Secondary Usage Period) written notice (substantially in the form set out in Part D of Schedule 7) to require the Contractor to continue to provide the Trains, the Equipment and the Services in the Unextended Tertiary Usage Period on the same terms and conditions as apply at the expiry of the Secondary Usage Period (except for the level of Usage Payments then payable by the Company). The level of Usage Payments payable during the Unextended Tertiary Usage Period shall be determined in accordance with Clauses 18 and Schedules 9 and 10. In the event that this Contract is not renewed into the Unextended Tertiary Usage Period in accordance with this Clause 6.3, Clause 26.4 shall apply.

6.4.1 Without prejudice to the Contractor's right to terminate this Contract pursuant to Clause 27, the Company is hereby granted by the Contractor the right (subject to Clause 6.4.2), exercisable upon the Company giving to the Contractor (not later than the date which is 12 months prior to the expiry of the Unextended Tertiary Usage Period) written notice (substantially in the form set out in Part E of Schedule 7) to extend the Tertiary Usage Period from the last day of the Unextended Tertiary Usage Period for a reasonable period commensurate with the needs of the Company's Business prevailing at the time and to require the Contractor to continue to provide the Trains, the Equipment and the Services for such period.

6.4.2 If the Company exercises its right pursuant to Clause 6.4.1, the Contractor shall continue to provide the Trains, the Equipment and the Services during the Extended Tertiary Usage Period subject to the parties agreeing a fixed period (without prejudice to the possible further renewal of this Contract by agreement between the parties) during which the Contractor will continue to provide the Trains, the Equipment and the Services and the level of the Services Element of the Usage Payments that will be payable by the Company during the Extended Tertiary Usage Period. The parties shall be obliged to negotiate in good faith to agree such matters prior to the expiry of the Unextended Tertiary Usage Period. In the event that the parties reach agreement on such matters, the Contractor shall continue to provide the Trains, the Equipment and the Services in the Extended Tertiary Usage Period and, for the avoidance of doubt, for the Extended Tertiary Usage Period, and subject to the other provisions of this Contract, the Trains Element of the Usage Payments, the Equipment Element of the Usage Payments and the Enabling Works Element of the Usage Payment (if any is payable at the date of expiry of the Unextended Tertiary Usage Period) shall remain at the level they were at on expiry of the Unextended Tertiary Usage Period and the Services Element of the Usage Payments shall be payable at the level agreed pursuant to this Clause 6.4.2. In the event that the parties fail to reach agreement on such matters and therefore this Contract is not renewed into the Extended Tertiary Usage Period in accordance with Clause 6.4.1, Clause 26.5 shall apply.

6.5 In relation to the non-renewal or expiry of this Contract at the end of the Primary Usage Period, Secondary Usage Period or Unextended Tertiary Usage Period or termination by the Company of the Contractor's obligations under this Contract to provide all the Trains and the Equipment pursuant to Clauses 26.1.1, 26.2.1 or 28.1.1, the Company may elect to extend this Contract for the Hand Back Extension Period by giving written notice (substantially in the form set out in Part F of Schedule 7) at any time prior to the date which is 12 months before the non-renewal or expiry of the relevant period (and notwithstanding that the Company is, at the time the notice is given, required to be in bone fide discussions in relation to alternative proposals made by the Contractor) or in the termination notice served by it pursuant to Clauses 26.1.1, 26.2.1 or 28.1.1 as the case may be. If the Company makes such election, the terms of this Contract shall continue to apply for the Hand Back Extension Period.

6.6.1.1 The Company shall specify in any written notice given in accordance with Clause 6.5 or in the relevant termination notice (as the case may be):

(a) the duration of the Hand Back Extension Period (which shall not be more than 5 years from the date on which this Contract would otherwise expire or terminate); and

(b) a period within which the Contractor shall remove the Trackside Equipment (other than the Trackside Equipment in relation to which the Company is to act as sales sub-agent of the Finance Parties in accordance with Clause 30.1.1 or 30.1.2) from the Northern Line and subsequently from the Depots, the Outstations and the Sidings and the Equipment (other than the Trackside Equipment, the Trainborne Equipment and the Existing Equipment) from the Depots, the Outstations and other parts of the Site. Not less than six months prior to the commencement of such period, the Company shall give notice to the Contractor (substantially in the form set out in Part G of Schedule 7) specifying a schedule of dates on which the Contractor shall remove such Trackside Equipment and Equipment and other related terms relating to such removal, with which schedule and terms the Contractor shall comply and which schedule the Company may revise at any time during the Hand Back Extension Period provided that, if any revision to such schedule requires the Contractor to remove any such Equipment prior to the date specified in the earlier schedule, the Contractor shall only be obliged to comply with such revision if it has been given written notice of the revision at least 30 days prior to the revised date; and

(c) a period within which the Contractor shall remove the Trains (and any Trainborne Equipment) from the Depots, the Outstations and the Sidings. Not less than six months prior to the commencement of such period, the Company shall give notice to the Contractor (substantially in the form set out in Part G of Schedule 7) specifying a schedule of dates on which the Contractor shall remove the Trains (and any Trainborne Equipment) and other related terms relating to such removal (including the last date on which each Train shall be offered for service pursuant to Clause 5.2.2(a)), with which schedule and terms the Contractor shall comply and which schedule the Company may revise at any time during the Hand Back Extension Period provided that:

(i) if any revision to such schedule requires the Contractor to remove any Train prior to the date specified in the earlier schedule, the Contractor shall only be obliged to comply with such revision if it has been given written notice of the revision at least 30 days prior to the revised date; and

(ii) such schedule or revised schedule shall specify that the first Trains to be removed shall be the NL Trains;

provided however that the duration of the Hand Back Extension Period and the schedule (or any revised schedule) of dates specified in accordance with Clause 6.6.1(c) shall be such that the Contractor shall not be obliged to remove the Trains from the Depots, the Outstations and the Sidings at a rate greater than 5 Trains per month.

6.6.1.2 The Contractor shall be entitled, pursuant to Clause 33, to make a claim for costs that are reasonably and properly incurred in the event that the Company revises the schedules of dates specified pursuant to Clauses 6.6.1.1(b) or (c) and the result of such revision materially increases the cost to the Contractor of complying with its obligations under such Clauses or causes the Contractor to suffer increased financing costs under the Finance Documents.

6.6.2 The Company or LUL (as appropriate, and as described in the NLTSC Real Property Amendment Agreement) shall have the right in any Hand Back Extension Period to terminate the Real Property Documents. If either exercises such right, the Contractor's obligation to provide the Services and the Existing Train Services shall cease accordingly.

6.7 The Contractor shall be entitled to be paid Usage Payments by the Company in accordance with the provisions of Clause 18 and Schedules 9 and 10 during any Hand Back Extension Period elected pursuant to Clause 6.5 provided however that:

(a) during any Hand Back Extension Period, the Trains Element of the Usage Payments shall accrue from (and including) the commencement of the Hand Back Extension Period in respect of each Train at the rate determined in accordance with paragraph 7 of Part I of Section 1 of Part B of Schedule 10 until (and including) the last date on which such Train is required to be offered for service by the Contractor in accordance with this Contract; and

(b) the parties shall be obliged to negotiate in good faith the basis on which the Services Element of the Usage Payments shall be reduced, such basis to take into account, inter alia, the Contractor's yearly forward programme of work prepared pursuant to Part G of Schedule 6 to take into account the Hand Back Extension Period, and the number of Trains that the Contractor has been required to remove from the Site at any time provided further that the Services Element of the Usage Payments shall cease to accrue if the Company or LUL (as appropriate) exercises its rights to terminate the Real Property Documents; and

(c) the Equipment Element of the Usage Payments and the Enabling Works Element of the Usage Payments shall continue to accrue in accordance with Clause 18 and Schedules 9 and 10 until (and including) the last date on which Trains are required to be offered for service by the Contractor in accordance with this Contract or (in the case of the Enabling Works Element of the Usage Payments) if earlier, the first to occur of:

(i) the date on which the Company or LUL (as appropriate) exercises its rights to terminate the Real Property Documents; and

(ii) the date on which the Finance Parties exercise their put option pursuant to the Put and Call Option Agreement; and

(iii) the date on which the Company exercises its call option pursuant to the Put and Call Option Agreement; and

(iv) the date on which the Company discharges its payment obligation under Clause 14.4 of the Depot Direct Agreement.

7. CONTRACT MANAGEMENT

7.1 Schedule 4 shall have effect.

7.2 No act of, or omission by, the Project Manager in performing any of his duties under this Contract shall in any way operate to relieve the Contractor of any of the duties, responsibilities, obligations or liabilities imposed upon the Contractor by any of the provisions of this Contract.

7.3 The Project Manager shall exercise such rights, powers, discretions or options as he has under this Contract on behalf of the Company, but in each case (to the extent practicable and in particular having regard to LUL's requirements of an operational railway) having first considered any views of LUL or the Contractor which are made known to him in respect of the relevant matter provided that, unless he is expressly required to do so hereunder, he shall not be bound to solicit such views from LUL or the Contractor prior to exercising the same.

7.4 The giving or issue of any approval, consent or certificate by the Company, LUL, the Project Manager or any other Company Employee or LUL Employee under, or in connection with, this Contract shall not be taken as relieving the Contractor from any liability to the Company arising out of, or in any way connected with, the performance or non-performance of the Contractor's obligations under this Contract.

7.5 The obligations imposed on the Contractor in Schedule 4 are in addition to, and shall not limit, its obligations under the other provisions of this Contract and satisfactory performance of its obligations under Schedule 4 or any of them shall not discharge the Contractor from any failure to perform, or partial performance of, its obligations under this Contract.

8. DELIVERY AND COMMISSIONING OF TRAINS

8.1.1 The Contractor shall deliver a Train to Ruislip Depot, London Underground Limited, West End Road, Ruislip, Middlesex, or such other place as is connected by railway to LUL's railway network as the Project Manager may from time to time by reasonable prior notice specify, on each of the Train Target Delivery Dates and (subject to the Project Manager's rights to reject or defer delivery pursuant to Clauses 8.3 and 8.4) the Company shall permit delivery of all Trains delivered in accordance with this Clause 8.1.1.

8.1.2 Two weeks in advance of each Train Target Delivery Date, the Contractor shall confirm to the Project Manager by written notice (substantially in the form set out in Part H of Schedule 7) that it will deliver a Train on such date to the specified delivery location determined pursuant to Clause 8.1.1 and two days after that Train Target Delivery Date, such Train will be ready to be transferred to the Northern Line by the Company pursuant to Clause 8.2.2.

8.2.1 On delivery of a Train in accordance with Clause 8.1.1, the Company shall make reasonable space and facilities available to the Contractor for it to carry out such limited works as are required (if any) to enable such Train to be transferred onto the Northern Line by the Company pursuant to Clause 8.2.2.

8.2.2 When the Train is ready for transfer to the Northern Line, the Contractor shall give written notice thereof to the Company (substantially in the form set out in Part I of Schedule 7) and such notice shall confirm the Contractor's previous notice that the Company transfer such Train from Ruislip Depot (or other specified delivery location) to the Northern Line to enable the Acceptance of Delivery Tests to be carried out and the Company shall, at its own expense, comply with such request and:

(a) if it receives such notice on a Monday, effect such transfer within 6 days of receipt thereof;

(b) if it receives such notice on a Tuesday, effect such transfer within 5 days of receipt thereof;

(c) if it receives such notice on a Wednesday or Thursday, effect such transfer within 4 days of receipt thereof;

(d) if it receives such notice on a Friday, effect such transfer within 9 days of receipt thereof;

(e) it if receives such notice on a Saturday, effect such transfer within 8 days of receipt thereof;

(f) if it receives such notice on a Sunday, effect such transfer within 7 days of receipt thereof,

in each case, excluding the day of receipt of such notice. The Company shall, if requested by the Contractor, transfer a maximum of two Trains to the Northern Line pursuant to this Clause 8.2.2 within the periods specified in this Clause 8.2.2.

8.3 If the Contractor fails:

(a) to comply with Clause 8.1.1 in respect of any Train;

(b) to notify the Project Manager in accordance with Clause 8.1.2;

(c) to carry out the works referred to in Clause 8.2.1 in respect of any Train in the timescale referred to in Clause 8.1.2 with the result that space at the specified delivery location or space on the Company's Railway for the carrying out of Acceptance of Delivery Tests becomes constrained; or

(d) to comply with Clause 8.5 in respect of any Train or Trains with the result that space at the delivery location becomes constrained;

the Project Manager shall have the right to give notice to the Contractor (substantially in the form set out in Part J of Schedule 7) deferring delivery or proposed delivery of any Train or Trains affected thereby and specifying a new delivery date or dates. In addition, the Project Manager may give notice to the Contractor not to deliver a Train and/or Trains if the space available at the specified delivery location or at the Depots or the Outstations becomes constrained for any other reason attributable to the Contractor or as a result of the occurrence of any Force Majeure Event. Any such notice given by the Project Manager shall state that he is exercising his rights under this Clause 8.3. The Company shall not be liable for any additional costs whatsoever incurred by the Contractor as a result of the Company and/or the Project Manager exercising the rights referred to in this Clause 8.3 (save, in respect of storage costs, but then only if the reason for the Project Manager exercising such rights was the occurrence of the Force Majeure Event specified in Clause 21.1.1(g) which costs the Contractor shall be entitled to claim pursuant to Clause 33) or, for the avoidance of doubt, to make any payment pursuant to Clause 8.4.2.

8.4.1 If, for any reason other than those specified in Clause 8.3, space at the specified delivery location is not available, or for any other reason attributable to the Company, the Project Manager may give notice in writing (substantially in the form set out in Part K of Schedule 7) to the Contractor (a ***Clause 8.4.1 hold order***) not for the time being to deliver the relevant Train(s) or any other Train(s) due to be delivered in the period specified in the Clause 8.4.1 hold order. Any Clause 8.4.1 hold order given by the Project Manager shall state that he is exercising his rights under this Clause 8.4.1 and shall specify the period for which it is in effect. The Contractor shall, so far as it is able, comply with any such hold order without cost to the Company or the Contractor. For the avoidance of doubt, if the Project Manager issues a Clause 8.4.1 hold order, the Contractor shall be entitled to make a claim for an extension of time under Clause 12 and/or a claim for costs (other than any for which the Company is responsible under the provisions of paragraph 4 of Part II of each of Sections 1, 2 and 3 of Part B of Schedule 10) under Clause 33 and, subject to the provisions of Clause 8.4.2, to payment from the Company pursuant to Clause 8.4.2 if the conditions specified in Clause 8.4.2 are satisfied.

8.4.2.1 If (and only if) the Project Manager issues a Clause 8.4.1 hold order, then the following provisions of this Clause 8.4.2 shall apply.

8.4.2.2 The Company shall pay to the Contractor, in accordance with Clause 8.4.2.2(b) an amount in respect of Trains affected by the Clause 8.4.1 hold order that were scheduled to have obtained Take Over Certificates or Qualified Take Over Certificates in accordance with the Train Milestone Dates that were in effect as at the date of the Clause 8.4.1 hold order whilst the Clause 8.4.1 hold order is in effect (the ***held Trains***) which shall be determined and payable as follows:

(a) the amount payable in respect of each held Train shall be equal to the amount that would have been payable in accordance with paragraph 1 of Part I of each of Sections 1, 2 and 3 of Part B of Schedule 10 had the held Train obtained its Take Over Certificate or Qualified Take Over Certificate on the date on which it was to have obtained its Take Over Certificate in accordance with the Train Milestone Dates that were in effect as at the date of the Clause 8.4.1 hold order for the period ending on the last day of the month in which such Train was to have obtained its Take Over Certificate in accordance with such Train Milestone Dates if the Clause 8.4.1 hold order had not been in effect;

(b) any amount as may be payable pursuant to Clause 8.4.2.2(a) shall accrue owing and due for payment in all respects in accordance with the provisions of this Contract that relate to payment of Usage Payments and as if such Certificate had been issued on the first date referred to in Clause 8.4.2.2(a);

(c) no amount (other than any applicable interest) shall be payable under this Clause 8.4.2 or Clause 18 in respect of a held Train for the month following the date on which such held Train was to obtain its Take Over Certificate or any subsequent month prior to the month following the date on which any Take Over Certificate or Qualified Take Over Certificate is actually issued in respect of such held Train.

8.4.3.1 The provisions of this Clause 8.4.3 shall apply if and only if Take Over Certificates or Qualified Take Over Certificates have not been issued in respect of the aggregate number of Trains specified in Column 1 of the table set out in paragraph 1.2 of Schedule 5 by the relative Train Milestone Date specified in Column 2 of the table set out in paragraph 1.2 of Schedule 5 (disregarding any extensions made thereto pursuant to Clause 12 or the variation procedure set out in paragraph 8 of Schedule 4).

[redacted]

[redacted]

8.4.3.4 [redacted]

Over Certificate in accordance with paragraph 1.7 of Schedule 4. If the parties agree that:

(a) [redacted]

(b) [redacted]

(c) [redacted]

8.4.3.5 [redacted]

8.5 The Contractor shall have obtained the issue of a Take Over Certificate or a Qualified Take Over Certificate, or shall have become entitled to obtain, pursuant to Clause 8.12, the issue of a Take Over Certificate or, pursuant to Clause 8.11.3(a), a Qualified Take Over Certificate, in respect of the aggregate number of Trains specified in Column 1 of the table set out in paragraph 1.2 of Schedule 5 on or before the corresponding Train Milestone Date (as the same may be extended pursuant to Clause 12 or the variation procedure set out in paragraph 8 of Schedule 4). Whether the Contractor has complied with its obligations under this Clause 8.5 shall be determined on (and not before) each Train Milestone Date and, for such purpose, no account shall be taken of Trains that prior to the relevant Train Milestone Date held a Qualified Take Over Certificate but on the relevant Train Milestone Date hold a Rejection Notice.

8.6 Subject to Clause 8.4.1, the Company shall have the right to recover compensation from the Contractor in accordance with Clause 20 and paragraph 1 of Schedule 11 if for any reason the Contractor fails to comply with its obligations under Clause 8.5.

8.7 Following delivery of each Train to the Northern Line the Contractor shall conduct the Acceptance of Delivery Tests in respect of such Train (and its Trainborne Equipment). The Company undertakes to provide such facilities and personnel as are agreed in the test and inspection programme pursuant to paragraph 4.1.1.1 of Schedule 4 to enable the Contractor to conduct the Acceptance of Delivery Tests.

8.8 The Project Manager shall have the right to witness the Acceptance of Delivery Tests.

8.9 Following the conduct of the initial or any repeat Acceptance of Delivery Tests for each Train (and its Trainborne Equipment), the Contractor shall submit copies of such part of the Documentation as relates to the manufacture, testing (including the results of the Acceptance of Delivery Tests) and quality assurance of such Train, or (in the case of any repeat Acceptance of Delivery Tests) any of such part of the Documentation not previously submitted to the Company and the results of the repeat Acceptance of Delivery Tests, to the Project Manager who shall, within seven (7) days of the receipt of such part of the Documentation, either:

(a) issue a Take Over Certificate; or

(b) issue a Rejection Notice; or

(c) issue a Qualified Take Over Certificate;

in respect of such Train (and its Trainborne Equipment) in accordance with the following provisions of this Clause 8.

8.10 In the event that any Train (and its Trainborne Equipment) completes and passes its initial or any repeat Acceptance of Delivery Tests, but, by the date on which the Project Manager would, but for this Clause 8.10, be required to issue a Take Over Certificate in respect of that Train, any one or more of the following circumstances exists:

(a) the Contractor has not obtained, pursuant to Clause 10.7, the issue of the Certificate of Substantial Completion; or

(b) the Contractor has not obtained a licence under the Railways Act 1993 to operate the Depots and the Outstations or an exemption from obtaining such licence or, if it has obtained such licence or exemption, it has been revoked or withdrawn or has expired;

then the Project Manager shall not be obliged to issue a Take Over Certificate in respect of such Train pursuant to Clause 8.12 but may (in his absolute discretion) issue a Qualified Take Over Certificate in respect of such Train or reject such Train and issue a Rejection Notice in respect thereof. If, in such circumstances, the Project Manager issues a Qualified Take Over Certificate in respect of a Train, it shall be deemed to include and be subject to a condition requiring the Contractor to rectify the circumstances referred to in Clauses 8.10(a) and (b).

8.11.1 The Project Manager shall not be required to issue any Take Over Certificate or Qualified Take Over Certificate in respect of any Train until the Project Manager has issued a Take Over Certificate or Qualified Take Over Certificate in respect of the Trackside Equipment (which, for the purposes of this Clause 8, shall include the Enhanced Existing VHF Train Radio in respect of the section of the Northern Line from Edgware to Golders Green but shall exclude the same in respect of other sections of the Northern Line and shall exclude the Final UHF Trunked Radio) to be provided by the Contractor under this Contract and unless the same remains in effect.

8.11.2 Once the Project Manager has issued a Take Over Certificate in respect of the Trackside Equipment:

(a) he shall issue, pursuant to Clause 8.12, a Take Over Certificate in respect of any Train (and its Trainborne Equipment) which subsequently completes and passes its initial or any repeat Acceptance of Delivery Tests to the satisfaction of the Project Manager;

(b) he may (in his absolute discretion) issue a Qualified Take Over Certificate in respect of any Train (and its Trainborne Equipment) pursuant to Clause 8.14.1; or

(c) he may issue a Rejection Notice in respect of any Train (and its Trainborne Equipment) pursuant to Clause 8.13.

8.11.3 If the Project Manager has issued a Qualified Take Over Certificate in respect of the Trackside Equipment and has not subsequently issued a Take Over Certificate or a Rejection Notice in respect thereof (in which event Clauses 8.11.2 or 8.11.4, respectively, will apply):

(a) he may not issue a Take Over Certificate in respect of any Train (and its Trainborne Equipment) which completes and passes its initial or any repeat Acceptance of Delivery Tests to the satisfaction of the Project Manager but shall issue a Qualified Take Over Certificate in respect thereof;

(b) he may not issue a Take Over Certificate in respect of any Train (and its Trainborne Equipment) pursuant to Clause 8.14.2;

(c) he may (in his absolute discretion) pursuant to Clause 8.14.1, or shall pursuant to Clause 8.11.3(a), issue a Qualified Take Over Certificate in respect of any Train (and its Trainborne Equipment) and such Qualified Take Over Certificate shall be deemed to include, and be subject to, a condition requiring the Contractor to satisfy (in addition to any condition or qualification set out therein) any condition or qualification set out in the Qualified Take Over Certificate for the Trackside Equipment by the requisite date; or

(d) he may not issue a Rejection Notice in respect of any Train (and its Trainborne Equipment) pursuant to Clause 8.13 solely on grounds of the Trackside Equipment being subject to a Qualified Take Over Certificate but may do so for any other cause permitted by the terms of this Contract.

8.11.4 If, in accordance with this Contract, the Project Manager issues a Rejection Notice in respect of the Trackside Equipment at any time, he shall be entitled to issue a Rejection Notice in respect of:

(a) any Train (and its Trainborne Equipment) that at the time of such issue has had a Qualified Take Over Certificate issued in respect thereof; and

(b) any Train (and its Trainborne Equipment) subsequently submitted for its initial Acceptance of Delivery Tests by the Contractor;

in either case until such time as a Take Over Certificate or Qualified Take Over Certificate has been issued in respect of the Trackside Equipment from which time the other applicable provisions of this Clause 8.11 shall apply.

8.12 Subject to Clauses 8.10, 8.11.3(a) and 8.11.4, the Project Manager shall, within the period referred to in Clause 8.9, issue a Take Over Certificate to the Contractor for each Train upon receipt of evidence satisfactory to the Project Manager that the Train (and its Trainborne Equipment) has completed and passed its initial or any repeat Acceptance of Delivery Tests.

8.13 In the event that any Train (and its Trainborne Equipment) fails to complete and pass its initial Acceptance of Delivery Tests to the satisfaction of the Project Manager, the Project Manager shall be entitled to reject such Train and issue a Rejection Notice in respect thereof and if the Project Manager does so the Contractor shall undertake promptly such remedial works as may be necessary on the rejected Train (and its Trainborne Equipment) to enable it to complete and pass the Acceptance of Delivery Tests and the Contractor shall carry out repeat Acceptance of Delivery Tests on such Train (and its Trainborne Equipment) until the Contractor shall have obtained the issue of a Take Over Certificate or Qualified Take Over Certificate, or shall have become entitled to obtain, pursuant to Clause 8.12, the issue of a Take Over Certificate or, pursuant to Clause 8.11.3(a), a Qualified Take Over Certificate, in respect thereof.

8.14.1 Notwithstanding Clause 8.13, in the event that any Train (and its Trainborne Equipment) fails to complete and pass its initial or any repeat Acceptance of Delivery Tests to the satisfaction of the Project Manager and the Project Manager is of the opinion that such failure does not prevent the Train (and its Trainborne Equipment) being fit for use on the Northern Line, the Project Manager may (in his absolute discretion) issue a Qualified Take Over Certificate in respect of such Train. The Contractor shall be obliged to satisfy the conditions and qualifications subject to which the said Qualified Take Over Certificate is issued within the timescale(s) set out in such Qualified Take Over Certificate and to the satisfaction of the Project Manager.

8.14.2 Subject to Clauses 8.11.3(b) and 8.14.3, if the Contractor completes the remedial work and satisfies the conditions or qualifications specified (or deemed, pursuant to Clause 8.11.3(c), to be specified) in any Qualified Take Over Certificate or Rejection Notice issued in respect of any Train to the satisfaction of the Project Manager, the Project Manager shall issue a Take Over Certificate in respect of such Train (and its Trainborne Equipment) provided always that, if the Project Manager

determines that, notwithstanding that such work has been completed and such conditions or qualifications have been satisfied, such Train does not comply with Schedule 6 or is not fit for use on the Northern Line, he may issue a Rejection Notice in respect of such Train or may issue a Qualified Take Over Certificate in respect thereof.

8.14.3 If the Contractor fails to carry out any remedial or outstanding work or to fulfil any of the conditions and qualifications subject to which a Qualified Take Over Certificate is issued (including any deemed to be specified therein pursuant to Clause 8.11.3(c)) within the timescale specified, or deemed to be specified, in the relevant Qualified Take Over Certificate to the satisfaction of the Project Manager, then the Project Manager may revoke such Qualified Take Over Certificate and issue a Rejection Notice in respect of such Train (and its Trainborne Equipment) or may issue a further Qualified Take Over Certificate in respect thereof.

8.15 The Contractor shall be afforded all reasonable opportunity by the Company for taking such steps as may reasonably be necessary in accordance with the other provisions of this Contract, at the cost and expense of the Contractor, to permit the issue of a Take Over Certificate or Qualified Take Over Certificate in respect of each Train (and its Trainborne Equipment).

8.16 If the Project Manager issues a Rejection Notice in respect of a Train (and its Trainborne Equipment) pursuant to Clauses 8.11.4(a), 8.13, 8.14.2 or 8.14.3, Usage Payments in respect of the rejected Train shall cease to be payable and the Company shall have the right to recover from the Contractor compensation in accordance with Clause 20 and paragraph 1 of Schedule 11 if the Contractor fails to comply with its obligations under Clause 8.5 as a result of such rejection. Notwithstanding the provisions of paragraph 1 of Schedule 11, in such circumstances, such compensation shall accrue in respect of any Train from the date on which physical possession of such Train was first returned to the Contractor following the issue of the relevant Qualified Take Over Certificate for the Contractor to carry out the remedial works specified therein provided however that the Company shall not be entitled to recover such compensation to the extent that, by any relevant Train Milestone Date, the required number of Trains have received Take Over Certificates or Qualified Take Over Certificates.

8.17 The Project Manager shall not be obliged to issue a Take Over Certificate or Qualified Take Over Certificate in respect of any Train until such Train has been delivered to the Northern Line by the Company in accordance with Clause 8.2.2.

8.18 If the Project Manager does not issue to the Contractor before the Final Leasing Date:

(a) a Certificate of Substantial Completion; and

(b) a Take Over Certificate or Qualified Take Over Certificate in respect of the Trackside Equipment (other than the Final UHF Trunked Radio);

then the Contractor shall (subject to Clause 31.13) be entitled to make a claim, pursuant to Clause 33, to recover costs from the Company in respect of such loss and

damage as it may have suffered as a consequence thereof provided always that the Contractor had satisfied all of the requirements of this Contract in relation to such issue and was properly entitled to require the Project Manager to issue the same in accordance with the terms of this Contract.

8.19 Without prejudice to the generality of Clause 7.4, the issue of any Take Over Certificate or Qualified Take Over Certificate in respect of a Train shall not be taken as relieving the Contractor from any liability to the Company arising out of or in any way connected with the performance of the Contractor's obligations under this Contract. Without prejudice to the generality of the foregoing, the parties to this Contract agree that the issue of a Take Over Certificate in respect of a Train (and its Trainborne Equipment) records the point in time at which the Project Manager is satisfied with the results of the Acceptance of Delivery Tests, the said Tests having been carried out by the Contractor (and the results thereof presented to the Project Manager by the Contractor). It is further agreed between the Contractor and the Company that the issue of a Take Over Certificate in respect of any Train (and its Trainborne Equipment) and in particular the issue of a Take Over Certificate in respect of the Final Train records the fact that the relevant Train (and its Trainborne Equipment) was satisfactorily tested as being fit for service and operation on the Northern Line for the purpose of the Company's Business as at the issue of the relevant Take Over Certificate and the issue of a Take Over Certificate or a Qualified Take Over Certificate shall in no way denote, or be evidence of, the fitness for service and operation of any Train (and its Trainborne Equipment) at any time following the issue of a Take Over Certificate or a Qualified Take Over Certificate, it being agreed between the parties to this Contract that it is the obligation of the Contractor to carry out the Services in such a way as to ensure that any Train (and its Trainborne Equipment) shall be available, in accordance with the provisions of this Contract, for use and operation by the Company throughout the Contract Duration and shall be of the state, condition, standard and quality as required by the provisions of this Contract throughout the Contract Duration and so as to enable the Contractor to provide the Services and LUL to operate the railway service to the extent described in Clause 5.1.1.

9. DELIVERY, INSTALLATION AND COMMISSIONING OF THE TRACKSIDE EQUIPMENT

9.1.1 For the purposes of this Clause 9, references to the Trackside Equipment shall be deemed to exclude the Final UHF Trunked Radio but, for the avoidance of doubt, shall include the Enhanced Existing VHF Train Radio.

9.1.2 The Contractor shall deliver and install the Trackside Equipment at the places of delivery or installation specified in Schedule 6 or, where not specified, at such place(s) as the Contractor may determine, unless the Project Manager objects to such place(s), in which event the Contractor shall deliver and install the relevant Trackside Equipment at such place(s) as the parties agree, on or before the Trackside Equipment Target Completion Dates therefor.

9.2 The Contractor shall notify the Project Manager in writing (substantially in the form set out in Part O of Schedule 7) of the exact delivery date and installation

date for each major item of Trackside Equipment two weeks in advance of such delivery or installation date. Any notification given under this Clause 9.2 shall not affect the Contractor's obligation to comply fully with the access procedures referred to in Clause 14.5.11.

9.3.1 If the Contractor fails to comply with Clause 9.1.2 and/or fails to notify the Project Manager in accordance with Clause 9.2 and/or a Force Majeure Event occurs and/or the Contractor is in breach of its obligations under this Contract, which would, in any such case, in the Company's reasonable opinion, prevent the Contractor from complying with Clause 9.1.2, the Project Manager shall have the right to defer delivery or proposed delivery or installation or proposed installation of the relevant Trackside Equipment by giving written notice to the Contractor (substantially in the form set out in Part P of Schedule 7). Any such notice given by the Project Manager shall state that he is exercising his rights under this Clause 9.3.1. The Company shall not be liable for any additional costs whatsoever incurred by the Contractor as a result of the Company or the Project Manager exercising the rights referred to in this Clause 9.3.1 (save in respect of storage costs, but then only if the reason for the Project Manager exercising such rights was the occurrence of the Force Majeure Event specified in Clause 21.1.1(g), which costs the Contractor shall be entitled to claim pursuant to Clause 33) or, for the avoidance of doubt, to make any payment pursuant to Clause 8.4.2.

9.3.2 The Project Manager may, for any reason attributable to the Company give notice in writing (substantially in the form set out in Part Q of Schedule 7) to the Contractor (a ***Clause 9.3.2 hold order***) not for the time being to deliver or install any item(s) of the Trackside Equipment due to be delivered in the period specified in the Clause 9.3.2 hold order. Any Clause 9.3.2 hold order given by the Project Manager shall state that he is exercising his rights under this Clause 9.3.2. The Contractor shall, so far as it is able, comply with any such hold order without cost to the Company. For the avoidance of doubt, if the Project Manager issues a Clause 9.3.2 hold order, the Contractor shall be entitled to make a claim for an extension of time under Clause 12 and/or a claim for costs (other than any for which the Company is in any event responsible under the provisions of paragraph 4 of Part II of each of Sections 1, 2 and 3 of Part B of Schedule 10) under Clause 33.

9.4 The Contractor shall have obtained the issue of the Take Over Certificate or Qualified Take Over Certificate, or shall have become entitled to obtain, pursuant to Clause 9.8, the issue of the Take Over Certificate, in respect of the Trackside Equipment on or before the Trackside Equipment Target Acceptance Date therefor.

9.5 Following delivery and installation of the Trackside Equipment the Contractor shall conduct the Trackside Equipment Acceptance of Delivery Tests in respect thereof.

9.6 The Project Manager shall have the right to witness the Trackside Equipment Acceptance of Delivery Tests.

9.7 Following the conduct of the initial or any repeat Trackside Equipment Acceptance of Delivery Tests, the Contractor shall submit copies of such part of the Documentation as relates to the manufacture, testing (including the results of the

Trackside Equipment Acceptance of Delivery Tests) and quality assurance of all the Trackside Equipment, or (in the case of any repeat tests) any of such part of the Documentation not previously submitted to the Company and the results of the repeat tests, to the Project Manager. Within seven (7) days of the receipt of such Documentation in relation to the Trackside Equipment, the Project Manager shall either:

(a) issue a Take Over Certificate; or

(b) issue a Rejection Notice; or

(c) issue a Qualified Take Over Certificate;

in respect of such Trackside Equipment.

9.8 The Project Manager shall, within the period referred to in Clause 9.7, issue a Take Over Certificate to the Contractor for the Trackside Equipment upon receipt of evidence satisfactory to the Project Manager that such Trackside Equipment has successfully completed and passed the Trackside Equipment Acceptance of Delivery Tests or any repeat tests.

9.9 In the event that the Trackside Equipment fails to complete and pass the initial Trackside Equipment Acceptance of Delivery Tests to the satisfaction of the Project Manager, the Project Manager shall be entitled to reject such Trackside Equipment and issue a Rejection Notice in respect thereof and the Contractor shall undertake promptly such remedial works as may be necessary on the rejected Trackside Equipment to enable it to complete and pass the Trackside Equipment Acceptance of Delivery Tests and the Contractor shall carry out repeat Trackside Equipment Acceptance of Delivery Tests on such Trackside Equipment until the Contractor shall have obtained the issue of the Take Over Certificate or Qualified Take Over Certificate, or shall have become entitled to obtain, pursuant to Clause 9.8, the issue of the Take Over Certificate, in respect thereof.

9.10 Notwithstanding Clause 9.9, in the event that the Trackside Equipment fails to complete and pass its initial or any repeat Trackside Equipment Acceptance of Delivery Tests to the satisfaction of the Project Manager and the Project Manager is of the opinion that such failure does not prevent such Trackside Equipment being fit for use on the Northern Line, the Project Manager may (in his absolute discretion) issue a Qualified Take Over Certificate in respect thereof. The Contractor shall be obliged to satisfy the conditions and qualifications subject to which the said Qualified Take Over Certificate is issued within the timescale(s) set out in such Qualified Take Over Certificate and to the satisfaction of the Project Manager.

9.11 Subject to Clause 9.12, if the Contractor completes the remedial work and satisfies the conditions or qualifications specified in any Qualified Take Over Certificate issued in respect of the Trackside Equipment to the satisfaction of the Project Manager, the Project Manager shall issue a Take Over Certificate in respect of such Trackside Equipment provided always that, if the Project Manager determines that, notwithstanding that such work has been completed and such conditions or qualifications have been satisfied, such Trackside Equipment does not comply with

Schedule 6 or is not fit for use on the Northern Line, he may issue a Rejection Notice in respect thereof or may issue a further Qualified Take Over Certificate in respect thereof.

9.12 If the Contractor fails to carry out any remedial or outstanding work or to fulfil any of the conditions and qualifications subject to which a Qualified Take Over Certificate in respect of the Trackside Equipment is issued within the timescale specified in the relevant Qualified Take Over Certificate to the satisfaction of the Project Manager, then the Project Manager may revoke such Qualified Take Over Certificate and issue a Rejection Notice in respect of such Trackside Equipment or may issue a further Qualified Take Over Certificate in respect thereof.

9.13 The Contractor shall be afforded all reasonable opportunity by the Company for taking such steps as may reasonably be necessary in accordance with the other provisions of this Contract, at the cost and expense of the Contractor, to permit the issue of a Take Over Certificate or a Qualified Take Over Certificate in respect of the Trackside Equipment.

9.14 Without prejudice to the generality of Clause 7.4, the issue of any Take Over Certificate or Qualified Take Over Certificate in respect of the Trackside Equipment shall not be taken as relieving the Contractor from any liability to the Company arising out of or in any way connected with the performance or non-performance of the Contractor's obligations under this Contract. Without prejudice to the generality of the foregoing, the parties to this Contract agree that the issue of a Take Over Certificate in respect of the Trackside Equipment records the point in time at which the Project Manager is satisfied with the results of the Trackside Equipment Acceptance of Delivery Tests in respect of the Trackside Equipment, the said Tests having been carried out by the Contractor (and the results thereof presented to the Project Manager by the Contractor). It is further agreed between the Contractor and the Company that the issue of a Take Over Certificate in respect of the Trackside Equipment records the fact that the Trackside Equipment was satisfactorily tested as being fit for service and operation on the Northern Line for the purpose of enabling LUL to operate and provide the railway service referred to in Clause 5.1.1 as at the issue of the relevant Take Over Certificate and the issue of a Take Over Certificate or a Qualified Take Over Certificate in respect of the Trackside Equipment shall in no way denote, or be evidence of, the fitness for service and operation thereof any time following the issue of the Take Over Certificate or the Qualified Take Over Certificate, it being agreed between the parties to this Contract that it is the obligation of the Contractor to carry out the Services in such a way as to ensure that all of the Trackside Equipment shall be available, in accordance with the provisions of this Contract, for use and operation by the Company and LUL or any LUL Employee throughout the Contract Duration and shall be of the state, condition, standard and quality as required by the provisions of this Contract throughout the Contract Duration and so as to enable the Contractor to provide the Services and LUL to operate the railway service to the extent described in Clause 5.1.1.

9.A DELIVERY, INSTALLATION AND COMMISSIONING OF THE FINAL UHF TRUNKED RADIO

9.A.1 The Contractor shall deliver and install the Final UHF Trunked Radio at the places of delivery or installation specified in Schedule 6 or, where not specified, at such place(s) as the Contractor may determine, unless the Project Manager objects to such place(s), in which event the Contractor shall deliver and install the Final UHF Trunked Radio at such place(s) as the parties agree, on or before the Trackside Equipment Target Completion Date therefor.

9.A.2 The Contractor shall notify the Project Manager in writing (substantially in the form set out in Part U of Schedule 7) of the exact delivery date and installation date for each sub-system of the Final UHF Trunked Radio two weeks in advance of such delivery or installation date. Any notification given under this Clause 9.A.2 shall not affect the Contractor's obligation to comply fully with the access procedures referred to in Clause 14.5.11.

9.A.3.1 If the Contractor fails to comply with Clause 9.A.1 and/or fails to notify the Project Manager in accordance with Clause 9.A.2 and/or a Force Majeure Event occurs and/or the Contractor is in breach of its obligations under this Contract which would, in any such case, in the Company's reasonable opinion, prevent the Contractor complying with Clause 9.A.1, the Project Manager shall have the right to defer delivery or proposed delivery or installation or proposed installation of the Final UHF Trunked Radio (or any part thereof) by giving written notice to the Contractor (substantially in the form set out in Part V of Schedule 7). Any such notice given by the Project Manager shall state that he is exercising his rights under this Clause 9.A.3.1. The Company shall not be liable for any additional costs whatsoever incurred by the Contractor as a result of the Company or the Project Manager exercising the rights referred to in this Clause 9.A.3.1 (save in respect of storage costs, but then only if the reason for the Project Manager exercising such right was the occurrence of the Force Majeure Event specified in Clause 21.1.1(g), which costs the Contractor shall be entitled to claim under Clause 33) or, for the avoidance of doubt, to make any payment pursuant to Clause 8.4.2.

9.A.3.2 The Project Manager may, for any reason attributable to the Company give notice in writing (substantially in the form set out in Part W of Schedule 7) to the Contractor (a ***Clause 9.A.3.2 hold order***) not for the time being to deliver or install any item(s) comprising the Final UHF Trunked Radio due to be delivered in the period specified in the Clause 9.A.3.2 hold order. Any Clause 9.A.3.2 hold order given by the Project Manager shall state that he is exercising his rights under this Clause 9.A.3.2. The Contractor shall, so far as it is able, comply with any such hold order without cost to the Company. For the avoidance of doubt, if the Project Manager issues a Clause 9.A.3.2 hold order, the Contractor shall be entitled to make a claim for an extension of time under Clause 12 and/or a claim for costs (other than any for which the Company is in any event responsible under the provisions of paragraph 4 of Part II of Sections 1, 2 and 3 of Part B of Schedule 10) under Clause 33.

9.A.4 The Contractor shall have obtained, or shall have become entitled to obtain, pursuant to Clause 9.A.3, the issue of the Final Train Radio Certificate on or before the Trackside Equipment Target Acceptance Date therefor.

9.A.5 Following delivery and installation of the Final UHF Trunked Radio the Contractor shall conduct the Trackside Equipment Acceptance of Delivery Tests in respect thereof.

9.A.6 The Project Manager shall have the right to witness such Trackside Equipment Acceptance of Delivery Tests.

9.A.7 Following the conduct of the initial Trackside Equipment Acceptance of Delivery Tests or any repeat Trackside Equipment Acceptance of Delivery Tests in respect of the Final UHF Trunked Radio, the Contractor shall submit copies of such part of the Documentation as relates to the manufacture, testing (including the results of its Trackside Equipment Acceptance of Delivery Tests) and quality assurance of the Final UHF Trunked Radio, or (in the case of any repeat tests) any of such part of the Documentation not previously submitted to the Company and the results of the repeat tests, to the Project Manager. Within seven (7) days of the receipt of such Documentation in relation to the Final UHF Trunked Radio, the Project Manager shall either:

(a) issue the Final Train Radio Certificate; or

(b) issue a Rejection Notice; or

(c) issue a Qualified Take Over Certificate;

in respect of the Final UHF Trunked Radio.

9.A.8 The Project Manager shall, within the period referred to in Clause 9.A.7, issue the Final Train Radio Certificate to the Contractor upon receipt of evidence satisfactory to the Project Manager that the Final UHF Trunked Radio has successfully completed and passed the Trackside Equipment Acceptance of Delivery Tests or any repeat tests therefor.

9.A.9 In the event that the Final UHF Trunked Radio fails to complete and pass its initial Trackside Equipment Acceptance of Delivery Tests to the satisfaction of the Project Manager, the Project Manager shall be entitled to reject the Final UHF Trunked Radio and issue a Rejection Notice in respect thereof and the Contractor shall undertake promptly such remedial works as may be necessary on the rejected Final UHF Trunked Radio to enable it to complete and pass its Trackside Equipment Acceptance of Delivery Tests and the Contractor shall carry out repeat Trackside Equipment Acceptance of Delivery Tests on the Final UHF Trunked Radio until the Contractor shall have obtained the issue of the Final Train Radio Certificate or a Qualified Take Over Certificate in respect thereof, or shall have become entitled to obtain, pursuant to Clause 9.A.8, the issue of the Final Train Radio Certificate.

9.A.10 Notwithstanding Clause 9.A.9, in the event that the Final UHF Trunked Radio fails to complete and pass its initial or any repeat Trackside Equipment

Acceptance of Delivery Tests to the satisfaction of the Project Manager and the Project Manager is of the opinion that such failure does not prevent the Final UHF Trunked Radio being fit for use on the Northern Line, the Project Manager may (in his absolute discretion) issue a Qualified Take Over Certificate in respect thereof. The Contractor shall be obliged to satisfy the conditions and qualifications subject to which the said Qualified Take Over Certificate is issued within the timescale(s) set out in such Qualified Take Over Certificate and to the satisfaction of the Project Manager.

9.A.11 Subject to Clause 9.A.12, if the Contractor completes the remedial work and satisfies the conditions or qualifications specified in any Qualified Take Over Certificate issued in respect of the Final UHF Trunked Radio to the satisfaction of the Project Manager, the Project Manager shall issue the Final Train Radio Certificate provided always that, if the Project Manager determines that, notwithstanding that such work has been completed and such conditions or qualifications have been satisfied, the Final UHF Trunked Radio does not comply with Schedule 6 or is not fit for use on the Northern Line, he may issue a Rejection Notice in respect thereof or may issue a further Qualified Take Over Certificate in respect thereof.

9.A.12 If the Contractor fails to carry out any remedial or outstanding work or to fulfil any of the conditions and qualifications subject to which a Qualified Take Over Certificate in respect of the Final UHF Trunked Radio is issued within the timescale specified in the relevant Qualified Take Over Certificate to the satisfaction of the Project Manager, then the Project Manager may revoke such Qualified Take Over Certificate and issue a Rejection Notice in respect of the Final UHF Trunked Radio or may issue a further Qualified Take Over Certificate in respect thereof.

9.A.13 The Contractor shall be afforded all reasonable opportunity by the Company for taking such steps as may reasonably be necessary in accordance with the other provisions of this Contract, at the cost and expense of the Contractor, to permit the issue of the Final Train Radio Certificate or a Qualified Take Over Certificate in respect of the Final UHF Trunked Radio.

9.A.14 Without prejudice to the generality of Clause 7.4, the issue of the Final Train Radio Certificate or a Qualified Take Over Certificate in respect of the Final UHF Trunked Radio shall not be taken as relieving the Contractor from any liability to the Company arising out of or in any way connected with the performance or non-performance of the Contractor's obligations under this Contract. Without prejudice to the generality of the foregoing, the parties to this Contract agree that the issue of the Final Train Radio Certificate records the point in time at which the Project Manager is satisfied with the results of the Trackside Equipment Acceptance of Delivery Tests in respect of the Final UHF Trunked Radio, the said Tests having been carried out by the Contractor (and the results thereof presented to the Project Manager by the Contractor). It is further agreed between the Contractor and the Company that the issue of the Final Train Radio Certificate records the fact that the Final UHF Trunked Radio was satisfactorily tested as being fit for service and operation on the Northern Line for the purpose of enabling LUL to operate and provide the railway service referred to in Clause 5.1.1 as at the issue thereof and the issue of the Final Train Radio Certificate or a Qualified Take Over Certificate in

respect of the Final UHF Trunked Radio shall in no way denote, or be evidence of, the fitness for service and operation of the Final UHF Trunked Radio at any time following the issue of such Certificate, it being agreed between the parties to this Contract that it is the obligation of the Contractor to carry out the Services in such a way as to ensure that the Final UHF Trunked Radio shall be available, in accordance with the provisions of this Contract, for use and operation by the Company throughout the Contract Duration and shall be of the state, condition, standard and quality as required by the provisions of this Contract throughout the Contract Duration and so as to enable the Contractor to provide the Services and LUL to operate the railway service to the extent described in Clause 5.1.1.

10. ENABLING WORKS AND NEW EQUIPMENT

10.1.1 The Contractor shall, pursuant to the provisions of the Agreement to Lease/Licence, carry out or procure the carrying out of:

(a) the Substantial Completion Enabling Works on or before the Enabling Works Target Completion Date for the issue of the Certificate of Substantial Completion;

(b) the Morden Final Completion Enabling Works on or before the Enabling Works Target Completion Date for the issue of the Morden Certificate of Final Completion; and

(c) the Golders Green Final Completion Enabling Works on or before the Enabling Works Target Completion Date for the issue of the Golders Green Certificate of Final Completion;

at the places specified in Schedule 6 or, where not specified, at such place(s) as the Contractor may determine, unless the Project Manager objects to such place(s), in which event the Contractor shall carry out such works at such place(s) as the parties agree.

10.1.2 The Contractor shall deliver and/or install:

(a) the Substantial Completion New Equipment on or before the Enabling Works Target Completion Date for the issue of the Certificate of Substantial Completion;

(b) the Morden Final Completion New Equipment on or before the Enabling Works Target Completion Date for the issue of the Morden Certificate of Final Completion; and

(c) the Golders Green Final Completion New Equipment on or before the Enabling Works Target Completion Date for the issue of the Golders Green Certificate of Final Completion;

at the places specified in Schedule 6 or, where not specified, at such place(s) as the Contractor may determine, unless the Project Manager objects to such place(s), in

which event the Contractor shall deliver and/or install such items of New Equipment at such place(s) as the parties agree.

10.2 The Contractor shall notify the Project Manager in writing (such notice to be substantially in the form set out in Part Y of Schedule 7) of the exact delivery date or, as the case may be, installation date for each major item of New Equipment (or, at the request of the Project Manager, any other item of Equipment) two weeks in advance of such delivery or installation date.

10.3 The Contractor shall have obtained the issue of, or shall have become entitled to obtain, pursuant to Clauses 10.7 and 10.10.1 (respectively), the issue of, the Certificate of Substantial Completion and the Certificates of Final Completion on or before the Enabling Works Target Acceptance Date for each thereof.

10.4 When the Contractor considers that the Substantial Completion Enabling Works have been completed, the Contractor shall conduct the Substantial Completion Enabling Works Acceptance Tests.

10.5 The Project Manager shall have the right to witness the Substantial Completion Enabling Works Acceptance Tests.

10.6 When the Contractor considers that the Substantial Completion Enabling Works have been completed (which shall include delivery and installation of the Substantial Completion New Equipment) and have satisfactorily passed the Substantial Completion Enabling Works Acceptance Tests and any final test that may be prescribed by statute it may give notice in writing (in the form set out in Part Z of Schedule 7) to that effect to the Project Manager. Such notice shall be accompanied by an undertaking to finish any outstanding part of the Enabling Works in accordance with the provisions of Clause 10.9. Further, the Contractor shall give such an undertaking to the Company forthwith upon the receipt by the Contractor of a Certificate of Substantial Completion issued pursuant to Clauses 10.7.1(b) or 10.7.2(b).

10.7.1 The Project Manager:

(a) shall within 7 days of the date of delivery of the notice referred to in Clause 10.6, either:

(i) subject to receipt by him of the Documentation referred to in Clause 10.8, issue to the Contractor the Certificate of Substantial Completion stating the date on which in his opinion the Substantial Completion Enabling Works were completed in accordance with this Contract; or

(ii) give instructions in writing to the Contractor (substantially in the form set out in Part AA of Schedule 7) specifying all the work which in the Project Manager's opinion requires to be done by the Contractor in accordance with this Contract before the Project Manager becomes obliged to issue the Certificate of Substantial Completion; or

(b) may on any date prior to the date which is 7 days after the date of delivery of the notice referred to in Clause 10.6, issue to the Contractor the Certificate of Substantial Completion.

10.7.2 If the Project Manager gives the instructions referred to in Clause 10.7.1(a)(ii) the Contractor shall be entitled to receive a Certificate of Substantial Completion:

(a) within 7 days of completion to the satisfaction of the Project Manager of the work specified in the said instructions; or

(b) on such earlier date as the Project Manager may determine.

10.8 Prior to the issue of any Certificate of Substantial Completion pursuant to Clauses 10.7.1(a)(i) or 10.7.2(a) or as soon as reasonably practicable after the issue of a Certificate of Substantial Completion pursuant to Clauses 10.7.1(b) or 10.7.2(b), the Contractor shall provide the Company with such part of the Documentation as relates to the operation and maintenance instructions for the Substantial Completion Enabling Works and the Substantial Completion New Equipment or (if such Certificate is issued pursuant to Clauses 10.7.1(b) or 10.7.2(b)) the Substantial Completion Enabling Works that have been carried out, and the Substantial Completion New Equipment that has been delivered and/or installed, prior to such issue and any other evidence reasonably required by the Project Manager to satisfy himself that the Substantial Completion Enabling Works that have been carried out prior to the issue of such Certificate have passed the Substantial Completion Enabling Works Acceptance Tests.

10.9 An undertaking given by the Contractor under Clause 10.6 may by agreement between the Project Manager and the Contractor specify a time or times within which the outstanding part of the Enabling Works shall be completed. If no such time or times are specified the Final Completion Enabling Works shall be completed as soon as practicable prior to the Enabling Works Target Acceptance Dates for the issue of the Certificates of Final Completion.

10.10.1 When the Contractor considers that:

(a) the Morden Final Completion Enabling Works have been completed and all the Morden Final Completion New Equipment has been delivered and/or installed; and

(b) the Golders Green Final Completion Enabling Works have been completed and all the Golders Green Final Completion New Equipment has been delivered and/or installed;

the Contractor shall, in each case, conduct the Final Completion Enabling Works Acceptance Tests (which the Project Manager shall have the right to witness). When the Project Manager is satisfied that such Tests have been passed, he shall, subject to Clause 10.10.2, forthwith issue to the Contractor the Morden Certificate of Final Completion or the Golders Green Certificate of Final Completion, as the case may be. If the Project Manager shall not have become obliged to issue both of the Certificates

of Final Completion on or before the later of the Enabling Works Target Acceptance Date for the issue of the Morden Certificate of Final Completion and the Enabling Works Target Acceptance Date for the issue of the Golders Green Certificate of Final Completion, the Usage Payments shall, subject to any deductions or withholdings the Company shall be entitled to make under this Contract in accordance with Clause 18.6.1, remain constant from such date until the date on which all of the Final Completion Enabling Works have been completed, and all of the Final Completion New Equipment has been delivered and/or installed, to the satisfaction of the Project Manager.

10.10.2 Prior to the issue of either of the Certificates of Final Completion pursuant to Clause 10.10.1, the Contractor shall provide the Company with such part of the Documentation as relates to the operation and maintenance instructions for the relevant Final Completion Enabling Works and the relevant Final Completion New Equipment and any other evidence reasonably required by the Project Manager to satisfy himself that the relevant Final Completion Enabling Works have passed the Final Completion Enabling Works Acceptance Tests.

10.11 Without limiting the generality of Clause 7.4, the issue of the Certificate of Substantial Completion and/or either of the Certificates of Final Completion shall not be taken as relieving the Contractor from any liability to the Company, arising out of or in any way connected with the performance or non-performance of the Contractor's obligations under this Contract, it being agreed between the parties to this Contract that it is the obligation of the Contractor to carry out the Enabling Works and to ensure that the Enabling Works shall be available for use and operation by the Contractor in accordance with this Contract and shall be of the state, condition, standard and quality as required by the provisions of this Contract throughout the Contract Duration and so as to enable the Contractor to provide the Services and LUL to operate the railway service to the extent described in Clause 5.1.1.

10.12 Notwithstanding the issue of the Certificate of Substantial Completion and/or either of the Certificates of Final Completion in respect of the Enabling Works, the Contractor shall, as the provider of the Services, remain responsible for the care of and risk in the Enabling Works to the extent required by this Contract at all times from the date on which the Contractor or its sub-contractor commences carrying out the Enabling Works save that the Contractor shall not be liable for any loss or damage to the Enabling Works or any New Equipment to the extent that such loss or damage is attributable to any breach by the Company of its obligations under this Contract or any of the Real Property Documents or any breach by LUL of its obligations under any of the Real Property Documents, any Improper Use by the Company or any Company Employee or LUL or any LUL Employee or any other circumstances where the Contractor shall expressly be entitled to make a claim for costs pursuant to Clause 33 and the Contractor shall be entitled to make a claim for costs, pursuant to Clause 33, as a result of any such loss or damage and/or a claim for an extension of time under Clause 12.

10.13 [redacted]

[redacted]

11. PROVISION OF SERVICES

11.1.1 Subject to the Company's right to terminate this Contract in relation to the Services in accordance with Clauses 26.2.1 or 28.1.1, the Contractor shall provide the Services for the whole of the Contract Duration (including, for the avoidance of doubt, the duration of any Secondary Usage Period, any Unextended Tertiary Usage Period and any Extended Tertiary Usage Period) in all respects in accordance with the applicable provisions of this Contract and any project procedures, practices or other arrangements applicable prior to the date of this Contract or which may be agreed between the parties after the date hereof. In addition, for the avoidance of doubt and subject to such right and Clause 6.6.2, the Contractor shall provide the Services during any Hand Back Extension Period in all respects in accordance with the applicable provisions of this Contract and any project procedures, practices or other arrangements applicable prior to the date of this Contract or which may be agreed between the parties after the date hereof.

11.1.2 Subject to the Company's right to terminate this Contract in relation to the Existing Train Services in accordance with Clause 28.1.1 (excluding, for these purposes, Clause 28.1.1(h), which shall not apply to the Existing Train Services) and without limiting the Contractor's obligations under Clause 29.2, the Contractor shall provide the Existing Train Services from the Transfer Date until (and including) the last day of the last disposal period (as defined in Clause 29.2.2).

11.2 The Contractor shall carry out the Services and the Existing Train Services subject to, and in accordance with, this Contract, and to the satisfaction of the Project Manager, and with the minimum of hindrance, obstruction or interference to the running and operation of LUL's passenger-carrying railway operations on the Northern Line, the Company's Business or any other business carried on by LUL.

11.3.1 Without prejudice to the Company's rights under Clause 5.2.2(b) to reject Trains or Existing Trains, the Company may take such steps as the Project Manager considers appropriate including rejection of the Services, the Existing Train Services or that part of the Services or the Existing Train Services or exercising its rights under Clause 16 in any case where such Services or Existing Train Services do not meet the full requirements of this Contract provided that (save in a case of emergency or in relation to a Service that is of perishable value to the Company and would perish within the scope of any reasonable notice period) the Company has given the Contractor reasonable prior notice and opportunity to remedy the deficiency without cost to the Company. If the deficiency or the shortfall in the Services or the Existing Train Services is not rectified within such notice period so as to meet such requirements or is of a nature not capable of remedy, the Company shall, subject to Clause 11.3.2 and provided that it has complied with Clauses 18.6.1(a) and (b), be entitled to deduct from any amount due or to become due to the Contractor from the Company the amount which relates to provision of the deficient Services, Existing Train Services or relevant part thereof.

11.3.2.1 If LUL (acting through any Operator which is an employee of LUL, including any of its Train Operators) rejects an Existing Train or a Train pursuant to Clause 5.2.2(b), then the Company shall not be entitled to deduct from any amount due or to become due to the Contractor from the Company under this Contract any amount pursuant to Clause 11.3.1 but shall be entitled to deduct therefrom any amount pursuant to Part C-3 of Schedule 10 or paragraph 2 of Part E of Schedule 12.

11.3.2.2 If LUL (acting through any Operator which is an employee of LUL, including any of its Train Operators) accepts a Train or an Existing Train pursuant to Clause 5.2.2(b) that it would be entitled to reject pursuant to such Clause, then, in addition to such other rights and remedies as the Company may have in relation thereto under this Contract, the Company shall, provided that it has complied with Clauses 18.6.1(a) and (b), be entitled to deduct from any amount due or to become due to the Contractor from the Company under this Contract an amount in accordance with paragraph 3.9.4 of Part G of Schedule 6.

11.4 All Services and Existing Train Services shall be carried out or provided, and all Enabling Works shall be carried out, without unreasonable noise and disturbance.

12. EXTENSIONS OF TIME

12.1.1 The Contractor shall not be entitled to make a claim for an extension of time under this Clause 12 in circumstances where the occurrence of a Potential Delay Event has resulted in the Project Manager or the Contractor (as the case may be) issuing a Notice of Variation. In such circumstances, any claim for an extension of time shall be made, and any extension of time shall be granted, in accordance with the procedure set out in paragraph 8 of Schedule 4. Extensions of time in relation to the offering of Trains or Existing Trains for service in accordance with Clause 5.2.2(a) shall not be governed by this Clause 12.

12.1.2 The Contractor shall give written notice (except in cases of emergency when shorter, oral notice may be given but which shall be confirmed in writing as soon as reasonably practicable thereafter) to the Project Manager (substantially in the form set out in Part DD of Schedule 7) as soon as:

(a) any event (including, without limitation, any breach by the Company of its obligations under this Contract or any of the Real Property Documents or any breach by LUL of any of its obligations under any of the Real Property Documents) occurs; or

(b) the Contractor can reasonably foresee an event occurring;

which in either case is liable to cause any delay in the Contractor complying with any of the Target Completion Dates or the Train Milestone Dates and/or the provision of any of the Services or the Existing Train Services (a ***Potential Delay Event***).

12.1.3 On receipt of any notice pursuant to Clause 12.1.2, the Project Manager shall allocate a unique number to the claim (which he shall notify to the Contractor) and he shall also maintain a sequentially numbered register of all claims made, and extensions of time granted, pursuant to this Clause 12. All subsequent

correspondence between the parties in relation to any claim made, or extension of time granted, under this Clause 12 shall bear the allocated number.

12.1.4 Any notice given pursuant to Clause 12.1.2, if it relates to a delay or possible delay in relation to any of the Target Completion Dates or the Train Milestone Dates shall not in any event be given later than 7 days after, and, if it relates to a delay or possible delay in relation to the provision of Services or Existing Train Services, shall be given immediately after, the Contractor becomes aware of the occurrence of such Potential Delay Event, and in either case such notice shall:

(a) state the likelihood and probable extent of the delay; and

(b) specify whether the Contractor considers it is, or may become, entitled to an extension of time.

12.2 The Contractor shall use, and continue to use, its best endeavours (save in respect of an event referred to in Clause 12.4(b), in which case the Contractor shall use its reasonable endeavours) to avoid or reduce the effects or likely effects of any Potential Delay Event on its ability to comply with its obligations under this Contract (including, without limitation, complying with its obligations under Schedule 5) and any right of the Contractor to pursue a claim for an extension of time in respect of the effects of a Potential Delay Event shall be conditional upon the Contractor so using its best or reasonable endeavours, as it is required to do under this Clause 12.2.

12.3.1 The Contractor shall as soon as practicable but in any event within 14 days of the date by which notice is required to be given under Clause 12.1 submit by further written notice to the Project Manager:

(a) full and detailed particulars of the cause and extent of the delay and the effects of the delay on the Contractor's ability to comply with its obligations under this Contract (including, without limitation, complying with its obligations under Schedule 5); and

(b) details of the documents that will be relied upon to support any claim of the Contractor for an extension of time based on the Potential Delay Event; and

(c) details of the measures which the Contractor has adopted and/or proposes to adopt to avoid or reduce the effects of the Potential Delay Event upon its ability to comply with its obligations under this Contract (including, without limitation, complying with its obligations under Schedule 5).

12.3.2 Where a Potential Delay Event has a continuing effect or where the Contractor is unable to determine whether the effect of the Potential Delay Event will actually cause it not to be able to comply with its obligations under this Contract (including, without limitation, complying with its obligations under Schedule 5), such that it is not practicable for the Contractor to submit full and detailed particulars in accordance with Clauses 12.3.1(a) and (b), the Contractor shall instead submit to the Project Manager within 14 days of the date by which notice is required to be given under Clause 12.1:

(a) a statement to that effect with reasons together with interim written particulars (including details of the likely consequences of the Potential Delay Event on the Contractor's ability to comply with its obligations under this Contract and an estimate of the likelihood and likely extent of the delay); and

(b) thereafter at intervals of not more than 14 days further interim written particulars until the actual delay caused (if any) is ascertainable, whereupon the Contractor shall as soon as practicable, but in any event within 28 days thereof, submit to the Project Manager the items referred to in Clauses 12.3.1(a), (b) and (c).

12.4 If the Potential Delay Event notified by the Contractor under Clause 12.1 is:

(a) the Contractor not being given the possession of or access to the Site or any part thereof in accordance with this Contract or the Real Property Documents, to the extent that such possession or access is necessarily and properly required to enable the Contractor to perform the Contractor's obligations under this Contract; or

(b) a cause of disturbance to the progress of the Contractor's work under this Contract or the Real Property Documents for which the Company, or the Project Manager or LUL or any LUL Employee is responsible (including, without limitation, by the Company or LUL (as appropriate) exercising any of its rights under any of the Real Property Documents in the manner referred to in Clause 33.1.1 or any event attributable to a breach by the Company of its obligations under this Contract or any of the Real Property Documents or a breach by LUL of its obligations under any of the Real Property Documents); or

(c) the passing into law after the date of the Original Contract of any Act of Parliament, statutory instrument or order or any other regulation, bye-law or requirement referred to in Clauses 14.5.1 or 14.5.3; or

(d) any revision or amendment to the Standards, the Contract Safety Conditions, the Rule Book, the Rules of Engagement or the Engineering Instructions;

(e) the occurrence of a Force Majeure Event preventing performance of the Contractor's obligations under this Contract; or

(f) inclement weather conditions in excess of those specified in Schedule 6 adversely affecting the Contractor's ability to comply with its obligations or the progress of the work on, under, or in connection with, this Contract (including, without limitation, thunderstorm or rainstorm warning signals); or

(g) in respect of the Enabling Works only, physical conditions (including, for the avoidance of doubt, Ground Conditions but excluding weather conditions or conditions due to weather conditions) or artificial obstructions which conditions or obstructions could not reasonably have been foreseen by an experienced contractor; or

(h) archaeological risks or Environmental Matters (save to the extent that the Environmental Matter arose as a result of any voluntary act or omission of the Contractor) or any act, matter or thing done or omitted to be done by or at the request, or with the approval, of the Contractor or its advisers provided that:

(i) the references to "omission of the Contractor" and "omitted to be done" do not include any failure to carry out remedial or other action in respect of the environmental condition of the Properties existing at the date of the Original Contract; and

(ii) the references to any voluntary act, act, matter or thing done do not include any act, matter or thing done pursuant to this Contract, or Remedial Works, in any case in relation to or as a result of the environmental condition of the Properties existing at the date of the Original Contract;

(i) any other event, the occurrence of which entitles the Contractor, pursuant to express provisions of this Contract, to make a claim for an extension of time under this Clause 12;

then the Project Manager shall in accordance with Clause 12.6 determine whether the Contractor may fairly be entitled to an extension of time to comply with its obligations under this Contract, including, if applicable, an extension of any Train Milestone Date or any Target Completion Date.

12.5 Notwithstanding the powers of the Project Manager under the provisions of this Clause 12 to decide whether the Contractor is fairly entitled to an extension of time, the Contractor shall not in any circumstances be entitled to an extension of time if and to the extent that the Potential Delay Event is attributable to any breach by the Contractor of its obligations under this Contract or any of the Real Property Documents or by an event which is not described in Clause 12.4 and, without prejudice to the generality of the foregoing, the Contractor shall not, subject to Clause 21, be entitled to an extension of time if the cause of the delay is:

(a) non-availability or shortage of the Contractor’s equipment, labour, utility services, equipment, plant, goods or materials; or

(b) inclement weather conditions other than any in excess of those specified in Schedule 6 adversely affecting the Contractor's ability to comply with its obligations or the progress of the work on, under, or in connection with, this Contract (including, without limitation, thunderstorm or rainstorm warning signals);

(c) the Contractor’s failure to take advantage of access provided by the Company to shared facilities and/or access to the Site in accordance with the dates agreed with the Project Manager; or

(d) the Contractor’s failure to provide sufficient notice to the Company in order to obtain access to the Site.

12.6 If the Project Manager considers that the Contractor is using and will continue to use its best or reasonable endeavours as required by Clause 12.2 to make good any delay, and that the Contractor may fairly be entitled to an extension of time (whether to any Train Milestone Date or any Target Completion Date or otherwise) pursuant to this Clause 12 the Project Manager shall within 30 days, or such further time as may be reasonable in the circumstances, of:

(a) receipt of final, full and detailed particulars of the cause and actual effect of any Potential Delay Event; or

(b) where an event has a continuing effect or where the Project Manager anticipates a significant delay before the actual effect of a Potential Delay Event becomes ascertainable and the Project Manager considers an interim extension of time should be granted, receipt of such particulars as in the Project Manager's opinion are sufficient for him to determine whether the Contractor is fairly entitled to such an interim extension of time;

determine, grant and notify to the Contractor such extension by written notice (substantially in the form set out in Part EE of Schedule 7). The Project Manager in determining any extension shall take into account all the circumstances known to him at that time, provided that:

(i) the Project Manager may at any time following receipt of a notice pursuant to Clause 12.1 determine and notify the Contractor in writing as to whether or not the Potential Delay Event constitutes a potential ground upon which an extension of time may be granted in accordance with Clause 12.4 and the foregoing provisions of this Clause 12.6; and

(ii) the Project Manager may in the absence of any claim assess and determine the delay that he considers has been suffered by the Contractor as a result of any of the events described in Clause 12.4, in which case he shall notify the Contractor in writing of such determination.

12.7 If the Project Manager decides that the Contractor is not entitled to an extension of time, the Project Manager shall as soon as reasonably practicable notify the Contractor in writing accordingly.

12.8 Any extension given by the Project Manager under this Clause 12 to a Train Milestone Date, any Target Completion Date or any period specified in, or pursuant to, this Contract shall not of itself entitle the Contractor to any extension to any other Train Milestone Date, any other Target Completion Date or any other such period and the Contractor shall be obliged to make a claim under this Clause 12 for an extension of time to each such date or period that it considers it is, or may become, entitled under this Clause 12.

12.9 Any extension of time granted by the Project Manager to the Contractor shall, except as expressly provided elsewhere in this Contract (including, for the avoidance of doubt, but without limitation, under Clause 33 and the provisions of paragraph 4 of Part II of each of Sections 1, 2 and 3 of Part B of Schedule 10), be in full compensation and satisfaction for any loss sustained or sustainable by the

Contractor in respect of any matter or thing in connection with which such extension shall have been granted.

12.10 Save as provided in Clause 12.11, it shall be a condition precedent to the Contractor being granted any extension of time under this Clause 12 that it complies strictly with the terms of Clauses 12.1.2, 12.1.4 and 12.2.

12.11 The Project Manager shall be entitled to grant an extension of time at any time, whether prospective or retrospective, whether interim or in full, and whether or not the Contractor shall have made any claim for an extension of time and the Project Manager shall not be bound by or limited to the grounds (if any) in the Contractor's claim. The Project Manager shall notify the Contractor in writing of any extensions of time granted pursuant to this Clause 12.11.

13. GENERAL WARRANTIES

13.1.1 The Contractor warrants and undertakes to the Company (without prejudice to any other warranties expressed elsewhere in this Contract and/or implied by law) in the terms set out in Clause 13.2. Each such warranty shall be construed as a separate warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other warranty or any other term of this Contract.

13.1.2 The Contractor hereby acknowledges and agrees that compliance by it with the warranties (or any of them) referred to in Clause 13.1.1 shall not relieve it of any of its other obligations under this Contract.

13.2.1 For the Contract Duration, the Trains, the Equipment and the Enabling Works shall be fully fit for, and capable of, being used and operated as an integrated system on or in relation to the Northern Line, at all times, in accordance with, and as specified in, this Contract and for the purposes of enabling the Company to carry on the Company's Business so as to permit LUL to operate and provide the railway service referred to in Clause 5.1.1.

13.2.2.1 Without prejudice, to or limiting, the warranty given by the Contractor in Clause 13.2.1:

(a) the Trains and the Equipment shall be designed, manufactured, engineered, supplied, tested, commissioned, serviced, maintained, cleaned, inspected, repaired, delivered, offered for service, and (in the case of the Equipment) installed, and the Enabling Works shall be designed, constructed, manufactured, selected, supplied, installed, tested, commissioned, serviced, maintained, inspected, carried out and repaired, and the Services shall be provided, in each case:

(i) with all due skill, care and diligence to be expected of appropriately qualified and experienced professional designers and engineers with experience in carrying out work of a similar scope, type, nature and complexity to that required under this Contract;

(ii) in accordance with, and the Trains, the Equipment and the Enabling Works shall work in accordance with, and, in providing the Services the Contractor shall work in accordance with, the best modern design and engineering principles and practices in the activity concerned; and

(iii) in a safe manner and free from any unreasonable or avoidable risk to the health and well-being of persons using, operating or maintaining the Trains and/or the Equipment and/or the Enabling Works or involved in the management thereof and free from any unreasonable or avoidable risk of pollution, nuisance, interference or hazard;

(b) the Trains and the Equipment shall be of new manufacture and of sound, good and merchantable quality and the Services shall be provided or carried out, and the Enabling Works shall be carried out, with only materials and goods which are new and of sound, good and merchantable quality;

(c) the Services shall be carried out so that the Trains, the Equipment, the Depots and the Enabling Works shall be fit for the uses for which they were intended and remain so fit for the Contract Duration;

(d) the Trains, the Equipment and the Enabling Works shall be fit for the uses for which they were intended and with a rate of deterioration not worse than that reasonably to be expected of high quality, reliable, well designed and engineered goods, materials and construction and, on the assumed basis that they have been maintained strictly in accordance with the manufacturer's recommendations, the Trains and the Equipment shall be so fit for the said uses and remain so fit for their design life.

13.2.2.2 The Existing Train Services shall be provided, in each case:

(a) with all due skill, care and diligence;

(b) in accordance with the best modern principles and practices in the activity concerned but only to the extent that the Company complies with such principles and practices in respect of the Existing Trains as at the Transfer Date; and

(c) in a safe manner and free from any unreasonable or avoidable risk other than any existing as at the Transfer Date to the health and well-being of persons using, operating or maintaining the Existing Trains or involved in the management thereof and free from the risk of pollution, nuisance, interference or hazard other than any existing as at the Transfer Date.

13.2.3 Neither the execution by the Contractor of, nor the performance of any of its obligations under, this Contract or any of the documents referred to in this Contract to which it is a party, will be ultra vires or in any way contravene any provisions of its memorandum or articles of association or cause it to breach any agreement and that the transactions contemplated by this Contract have been duly authorised and this Contract has been duly executed and, subject to Clause 45, constitutes legal, valid and binding obligations of the Contractor enforceable in accordance with their terms.

13.3 The Company warrants and undertakes to the Contractor (without prejudice to any other warranties expressed elsewhere in this Contract and/or implied by law) that neither the execution by the Company of, nor the performance of any of its obligations under, this Contract or any other of the documents referred to in this Contract to which it is a party, will be ultra vires or in any way contravene any provisions of its memorandum or articles of association or cause it to breach any agreement and that the transactions contemplated by this Contract have been duly authorised and this Contract has been duly executed and, subject to Clause 45, constitutes legal, valid and binding obligations of the Company enforceable in accordance with their terms.

14. OTHER OBLIGATIONS OF THE CONTRACTOR

Financing Arrangements

14.1.1 [redacted]

14.1.2 [redacted].

14.1.3 [redacted]

[redacted]

14.1.4 If and to the extent that any Trains have not received Take Over Certificates or Qualified Take Over Certificates prior to the Final Leasing Date then the following provisions of this Clause 14.1.4 shall apply:

(a) the obligations of the Contractor to obtain a Take Over Certificate in respect of any such Trains and to make the same available to the Company on the terms of this Contract shall, subject to Clauses 14.1.4(b) to (e), continue in all respects unaltered as shall the rights and remedies of each of the Contractor and the Company in relation thereto;

(b) in the event that the Contractor is unable to lease a Train from the Finance Parties under the Trains Head Lease it shall, in its absolute discretion, either acquire absolute title to the Train itself, free from all liens and encumbrances and grant security over such Train to the Company, mutatis mutandis, in the form set out in Schedule 16 or, alternatively, it may obtain the Train on lease on the same terms, mutatis mutandis, as the Trains Head Lease from any other financial institution with a credit rating at least equivalent to that of the Finance Parties as at the date of the Original Contract provided such institution enters into a direct agreement with the Company in respect of such Train on the same terms, mutatis mutandis, as the Trains Direct Agreement;

(c) [redacted]

[redacted]

(d) [redacted]

(i) [redacted]

(ii) [redacted]

(e) [redacted].

14.1.5 Subject to the provisions of Sections 1 and 5 of Part E of Schedule 10, if and to the extent that the Contractor's obligations hereunder require it from time to time to replace any Trackside Equipment or any New Equipment, it shall do so:

(a) by obtaining absolute title to the replacement equipment itself free from all liens and encumbrances and, in the case of such equipment which is not a fixture, shall grant security over such equipment to the Company, mutatis mutandis, in the form set out in Schedule 16; or

(b) by obtaining the replacement equipment on lease on the same terms, mutatis mutandis, as the Equipment being replaced from any financial institution with a credit rating at least equivalent to that of the Finance Parties as at the date of the Original Contract (such institution to be selected in accordance with the procedure set out in Clauses 14.1.4(d) and (e)) provided such institution enters into an agreement with the Company in respect of such equipment on the same terms, mutatis mutandis, as relate to the Equipment under the Trains Direct Agreement.

14.1.6 The Contractor agrees to procure that, if and whenever the Company gives notice to the Contractor in writing (substantially in the form set out in Part FF of Schedule 7) that it wishes to reduce the amount of committed leasing facility in respect of Variations, the Train Manufacturer gives a corresponding notice to the Finance Parties under Clause 3.11 of the Purchase Agreement.

14.1.7 If, three months prior to the Final Leasing Date, either the Company or the Contractor considers that at the Final Leasing Date it is likely that circumstances within Clauses 14.1.4 or 14.1.5 shall prevail, then the parties shall meet together and consult upon a programme to be followed, commencing in good time prior to the Final Leasing Date, with a view to identifying the likely number of Trains that may be affected by such circumstances, and for the effective implementation of the measures for which those Clauses provide.

14.1.8 If an Acceleration Amount falls to be determined before any or all of the New Trains have received Take Over Certificates or Qualified Take Over Certificates then the following provisions of this Clause 14.1.8 shall apply:

(a) the obligations of the Contractor to obtain a Take Over Certificate in respect of any such Train(s) and to make the same available to the Company on the terms of this Contract shall, subject to Clause 14.1.8(b), continue in all respects unaltered as shall the rights and remedies of each of the Contractor and the Company in relation thereto;

(b) [redacted]

(i) [redacted]

(ii) if the Contractor does not exercise the option referred to in Clause 14.1.8(b)(i), the Company shall have the option either:

(aa) [redacted]

(bb) [redacted]

Sub-Contracting

14.2.1 The Contractor shall not assign or transfer (save by way of security assignment of its rights under this Contract pursuant to any of the Finance Documents to which it is a party or as contemplated in any Restructuring Document to which the Finance Parties are a party) or sub-contract this Contract or any or all of its rights or obligations under this Contract, any of the Real Property Documents, the NLTSC or any of the Finance Documents without the prior written consent of the Company (such consent not to be unreasonably withheld) and shall observe such conditions as the Company may impose in respect of any sub-contracts provided that this Clause 14.2 shall not apply to any sub-contract entered into by the Contractor with any of the Contractor Parties or any LUL Employee.

14.2.2 Neither the nomination by the Company of any sub-contractor (including pursuant to Clause 16), the approval by the Company of any other sub-contractor or any other information supplied by the Company, nor, unless otherwise agreed by the Company, any assignment of any of the Contractor's rights or duties under this Contract or sub-contracting (whether made with the Company's approval or not) shall relieve the Contractor of any responsibility for ensuring that the Trains, the Equipment, the Enabling Works, the Services and the Existing Train Services meet the requirements, and are provided and/or carried out in accordance with the provisions, of this Contract.

14.2.3 The Project Manager may after due warning in writing require the Contractor to remove any employee of the Contractor or any sub-contractor from working in connection with this Contract or on the Site who, in the opinion of the Project Manager, mis-conducts himself or is incompetent or negligent in the performance of his duties or fails to conform with the Contract Safety Conditions or any other conditions of this Contract or persists in any conduct which is prejudicial to safety or health and any such sub-contractor shall not be employed again under or in connection with this Contract without the permission of the Project Manager, and shall be replaced by a competent substitute and the cost of his replacement shall be borne by the Contractor.

14.2.4 Notwithstanding the foregoing or the other provisions of this Contract, where this Contract contemplates that the Contractor shall deliver and install any Equipment that is the subject of the Equipment Head Lease or shall carry out or construct the

Enabling Works or do any other matter or thing which under the Purchase Agreement is the responsibility of the Train Manufacturer as supplier and contractor thereunder to the Finance Parties, the Contractor's obligations with respect to those matters under this Contract shall be deemed satisfied by the performance thereof by the Train Manufacturer (though without limiting the Contractor's liability therefor under this Contract) and (without limitation) the obligations of the Contractor relating to such matters, where expressed or contemplated in Clause 5, 9, 9.A or 10, or Schedule 5, shall be construed accordingly (on the basis that the Contractor procures the delivery, installation and/or carrying out of works contemplated thereby). References to the Contractor in Part E of Schedule 10 (and any like references) shall also be construed correspondingly (such that the Contractor may satisfy its obligations thereunder by procuring that the Train Manufacturer perform such obligations and/or by the Contractor acting both for itself and on behalf of the Train Manufacturer (as supplier and contractor to the Finance Parties)).

Sufficient Personnel

14.3.1 For the Contract Duration, the Contractor shall give or provide all necessary superintendence by a suitable number of persons having adequate knowledge of the operations and work required for the provision of the Trains, the Equipment and the Services, and the carrying out of the Enabling Works, in accordance with this Contract. The Contractor shall provide sufficient personnel appropriate to the size, nature and type of work to be carried out under this Contract and shall provide such information relating to the organisation, management and supervision of personnel undertaking the Contractor's obligations on the Contractor's behalf as required under this Contract and such other information as the Project Manager may request from time to time in connection with the Trains, the Equipment, the Enabling Works and/or the Services and this Contract. If the Contractor makes or intends to make any change in personnel whom the Project Manager has previously identified to the Contractor as key personnel in the performance of this Contract, the Contractor shall immediately notify the Project Manager of such change or proposed change.

14.3.2 The Contractor shall employ or cause to be employed in connection with this Contract and in the superintendence thereof only persons who are careful skilled and experienced in their several professions, trades and callings.

Records and Information

14.4.1 The Contractor shall render to the Project Manager, free of charge:

(a) in accordance with Clauses 8.9, 9.7 and 9.A.7, the Documentation in such detail as the Project Manager may reasonably require to enable him to assure himself and be satisfied that the Trains, and the Trackside Equipment and the Final UHF Trunked Radio, have passed the Acceptance of Delivery Tests and the Trackside Equipment Acceptance of Delivery Tests, respectively;

(b) in accordance with Clauses 10.8 and 10.10.2, the Documentation in such detail as the Project Manager may reasonably require to enable him to assure himself and be satisfied that the Substantial Completion Enabling Works and the Final Completion Enabling Works have respectively passed the Substantial

Completion Enabling Works Acceptance Tests and the Final Completion Enabling Works Acceptance Tests;

(c) in accordance with Clause 5.3(f), such technical assistance and advice as the Project Manager may reasonably require in connection and in accordance with this Contract;

(d) as and when requested by the Project Manager, in such detail and format as may reasonably be required by the Project Manager, information in respect of the Contractor's internal programmes, progress of the work under this Contract and personnel available to the Contractor; and

(e) in accordance with Part A of Schedule 6 and Schedule 13, information in respect of the training of Company Employees and LUL Employees by the Contractor.

14.4.2 The Contractor shall, and shall procure that its sub-contractors shall, maintain a true and correct set of records of personnel and all activities relating to the performance of this Contract and all transactions related thereto and a complete up to date and orderly documentary record of all transactions entered into by the Contractor for the purposes of this Contract (and in particular for or in connection with the provision of the Services throughout the Contract Duration and the provision of the Existing Train Services) including copies of the Documentation, all sub-contracts, manufacturer's specifications and details, purchase orders, documents relating to procurement of the Trains, the Equipment, the Enabling Works, the Services and the Existing Train Services (and any part of any thereof) and all such other information reasonably required by the Project Manager and/or specified in this Contract and such information, records, documents and the Documentation shall be available at all reasonable times for inspection by the Project Manager and the Contractor shall make available such items of clarification or substantiation as may be required by the Project Manager in relation thereto. Without prejudice to the foregoing provisions of this Clause 14 or any other provision of this Contract, the Contractor shall provide the Company with a copy of any or all of the said records, documents and information and the Documentation free of charge within 30 days of the Company's request for the same made in any Hand Back Extension Period or in the six months prior to expiry or termination of this Contract or within 30 days after termination of this Contract for any reason whatsoever (save as a result of the occurrence of a Company Event of Default). The Contractor shall ensure that any sub-contract includes a clause requiring the sub-contractor to comply with the provisions of this Clause 14.4.2 as if it were the Contractor.

14.4.3 The Contractor shall prepare and provide all those parts of the Documentation as are detailed in Schedules 4, 5, 6 and 13 in accordance with the provisions contained in those Schedules.

14.4.4 Notwithstanding any other provision of this Contract to the contrary, the Contractor shall be fully responsible for, and bear the cost of:

(a) any mistake, inaccuracy, discrepancy or omission in the Documentation whether or not the same shall have been approved by the Project Manager and the Contractor shall correct the same without delay;

(b) any failure by the Contractor properly to prepare any of the Documentation or submit the same to the Project Manager in due time; or

(c) any failure by the Contractor to draw to the attention of the Project Manager any mistake, discrepancy or omission in any documents, drawings or information provided by the Company, the Contractor having had a reasonable opportunity to do so and the mistake, discrepancy or omission being one which a competent contractor would reasonably have detected.

14.4.5. Neither the submission of Documentation nor review, comment, approval or disapproval by the Project Manager of the Documentation (or any part of any thereof) shall relieve the Contractor of any of its responsibilities under this Contract nor shall such submission, review, comment, approval or disapproval constitute a variation to requirements or grounds for a variation to requirements or involve the Company in any additional cost or expense other than payment of the Usage Payments and the Existing Train Service Payments in accordance with this Contract.

14.4.6 The Contractor agrees, and shall procure that its sub-contractors agree, to retain all records referred to in Clause 14 (and any other records the Contractor is required to keep under this Contract) for a period of not less than 6 years after expiry or earlier termination of this Contract. The Company and LUL shall have the right to audit any and all such records at any reasonable time during the Contract Duration and during the 6 year period following the expiry or termination of this Contract.

Lawful and Safe Operation

14.5.1 Without prejudice to the provisions of paragraph 5.3 of Section 1 of the Contract Safety Conditions, the Contractor shall ensure during the Contract Duration that the Trains, the Equipment, the Enabling Works (and the carrying out thereof) and the provision of the Services and the Existing Train Services comply with all the requirements of the law, common law, any Act of Parliament, statutory instrument or order or any other regulation having the force of law or bye-law or requirement of the Government having the force of law or any European Union legislation from time to time in force in the United Kingdom which are or may become applicable to this Contract, the Trains and/or the Equipment and/or the Enabling Works and/or the Services and/or the Existing Train Services provided that, in the event that any failure by the Contractor to comply with its obligations under this Clause 14.5.1 is attributable to any breach by the Company of its obligations under, or any act or omission of the Company or any Company Employee, (or LUL or any LUL Employee); in connection with, this Contract or any of the Real Property Documents or the Connect Contract, the cost of remedying such failure shall (subject to compliance by the Contractor with the claims procedure set out in Clause 33) be borne by the Company.

14.5.2 The Contractor shall, during the Contract Duration, be responsible for providing, maintaining and updating all necessary parts of the Documentation,

directly related to the Trains, the Equipment, the Enabling Works and the Services provided under this Contract, necessary for the Company or LUL to fulfil the requirements of Engineering Instruction 6000/EI/030 and LUL's legal obligations under The Railways and Other Systems (Approval of Works Plant and Equipment) Regulations 1994, The Railways (Safety Case) Regulations 1993 and any other regulations and legislation affecting the Company's Business or LUL's right to operate the Trains and the Existing Trains on the Northern Line. In addition the Contractor shall be obliged to maintain and update those documents maintained and updated by the Company in relation to the Existing Trains as at the Transfer Date.

14.5.3.1 Subject to Clause 14.5.3.2 and except as expressly provided elsewhere in this Contract or the Real Property Documents, if the cost to the Contractor of the performance of this Contract or the Real Property Documents shall be increased or reduced by reason of the passing into law after the date of the Original Contract of any such Act of Parliament, statutory instrument or order or any other regulation as referred to in Clauses 14.5.1 or 14.5.2 or any of the mandatory requirements or local safety or security regulations referred to in paragraph 5.3 of Section 1 of the Contract Safety Conditions or any European Union legislation that shall be applicable to this Contract or to the Trains, the Existing Trains, the Equipment, the Enabling Works, the Services and/or the Existing Train Services to be provided or carried out hereunder, the variation procedure set out in paragraph 8 of Schedule 4 shall apply and the amount of such increase or decrease (as the case may be) shall be added to or deducted from the Usage Payments or the Existing Train Service Payments in accordance with the procedure set out in that paragraph.

14.5.3.2 The Contractor agrees with the Company that in the event that the Trains' door systems require modification to accommodate HMRI requirements on the door force passenger interface, the Contractor shall undertake all necessary modification works to the satisfaction of HMRI and LUL. All costs so incurred shall be borne by the Contractor and shall not be reflected by an adjustment to the Usage Payments.

14.5.4 The Contractor shall give all notices and pay all fees required including, but not limited to, licence application and renewal fees required to be given or paid by any enactment or any regulation or bye-law of any relevant authority in relation to the provision of the Trains, the Equipment, the Services and the Existing Train Services and the carrying out of the Enabling Works as required or necessary for the proper performance of the Contractor's duties and obligations under this Contract and (subject to Clause 15.7) the Real Property Documents. The Contractor shall in particular obtain and maintain for the Contract Duration any licence or any exemption from obtaining such licence which the Contractor shall be required to hold under the Railways Act 1993.

14.5.5 In addition to complying with the requirements of paragraph 5.30 of Section 1 of the Contract Safety Conditions, the Contractor shall not use any equipment or materials having a toxic hazard or other hazard to the safety or health of persons or property unless use of the same is permitted by Schedule 6 and in that event the Contractor shall give the Project Manager 14 days' notice of the delivery under this Contract of any such equipment or materials identifying those hazards and giving full details of the precautions to be taken by the Contractor, the Company, the

Company Employees, or LUL or any LUL Employees on the delivery of such equipment or materials and its subsequent storage, handling and use, which shall not preclude the use of the Trains, the Existing Trains or the Equipment, the provision of the Services or the Existing Train Services or the carrying out of the Enabling Works in accordance with this Contract.

14.5.6 All resources, goods, materials, work procedures, facilities and any other matter provided and/or undertaken by the Contractor in connection with the Services, the Trains, the Enabling Works and/or the Equipment, not otherwise specified in Schedule 6 or the other provisions of this Contract, shall be in accordance with the Standards and, in connection with the Existing Trains and the Existing Train Services shall be in accordance with those Standards that the Company is obliged to comply with as at the Transfer Date.

14.5.7 In addition to complying with paragraph 5.5 of Section 1 of the Contract Safety Conditions, the Contractor shall, for the Contract Duration, keep the Properties and, during such period as it has access to other parts of the Site, keep such other parts, in an orderly state appropriate to the avoidance of damage to property and shall inter alia, in connection with the provision of the Trains, the Equipment, the Services and the Existing Train Services and carrying out of the Enabling Works, provide and shall, at its own cost, maintain at the Properties (other than the Sidings) and, during such period as it has access to other parts of the Site, maintain at such other parts (other than the Sidings), all lights, guards, fencing, warning signs and watchmen when and where necessary or as required by any competent statutory or other authority for the safety of persons and the convenience of the public.

14.5.8.1 The Contractor shall, and shall procure that its sub-contractors shall, comply with the provisions of the Contract Safety Conditions, the Rule Book, the Rules of Engagement and the Engineering Instructions and observe any other rules applicable to the Site and/or instructions given by the Project Manager in relation to work undertaken or to be undertaken by or on behalf of the Contractor in connection with this Contract.

14.5.8.2 Without prejudice to or limiting the generality of Clause 14.5.8.1, the Contractor shall, and shall procure that its sub-contractors shall, in particular comply with the safety requirements contained in Schedule 8.

14.5.8.3 If the cost to the Contractor of the performance of this Contract or the Real Property Documents shall be increased or reduced by reason of any amendment or revision, after the date of the Original Contract, to the Standards, the Contract Safety Conditions, the Rule Book, the Rules of Engagement, the Engineering Instructions or the safety requirements contained in Schedule 8, the procedure set out in paragraph 8 of Schedule 4 shall apply and the amount of such increase or decrease (as the case may be) shall be added to or deducted from the Usage Payments or the Existing Train Service Payments in accordance with the procedure set out in that paragraph.

14.5.9 All operations necessary for the execution of the Contractor's duties and obligations under this Contract and the Real Property Documents shall be carried on so as not to interfere unnecessarily or improperly with traffic or the convenience of the public or the access to, use and occupation of, public or private roads or footpaths

to or of properties whether in the possession of the Company or LUL or of any other person.

14.5.10 The Contractor shall not obstruct, interrupt or hinder, or permit any obstruction, interruption or hindrance by its employees or sub-contractors or any of their respective servants or agents to, the use of the Company's or LUL's premises by the Company, LUL or any of LUL's Employees, the Company's Employees or any other person permitted to use the same by the Company or LUL.

14.5.10A The Company shall ensure that the Company Employees or any of their sub-contractors, servants or agents shall comply with the Contractor's safety procedures from time to time in force and notified in writing to the Company.

14.5.11 The Contractor shall arrange access to the Depots and the Outstations in the period prior to the grant of each of the Depot Leases and the Outstation Licences in accordance with Clause 5 of the Agreement to Lease/Licence and to other parts of the Site for the Contract Duration in accordance with paragraph 5.4 of Schedule 4 (or the procedure specified therein as revised or amended from time to time). For the avoidance of doubt, such access shall be arranged through the Project Manager.

14.5.12 In addition to complying with the requirements of paragraph 8.5.5 of Section 2 of the Contract Safety Conditions, the Contractor shall stack and place all materials, plant and appliances in a manner so as to prevent them causing injury or damage to persons or property and at a safe distance from the Northern Line tracks and platform edges. The Contractor will also strictly observe any directions given by the Project Manager as to the precautions to be taken and the distance from the said tracks and platform edges within which materials, plant and appliances may not be stacked or placed.

14.5.13 In addition to complying with paragraph 5.18 of Section 2 of the Contract Safety Conditions, the Contractor shall not at the Site at any time give, sell or barter any alcoholic liquors or drugs or permit or suffer any such sale, gift or barter to be made by any sub-contractor, or any employee or agent of the Contractor or any sub-contractor. The Contractor and its employees and agents shall observe and comply, and shall ensure that its sub-contractors, their employees and agents observe and comply, with the Transport and Works Act 1992 and the Company's or LUL's policies and rules on alcohol and drugs as amended from time to time.

14.5.14 The actual cost to the Company of providing Protection Masters shall be borne by the Contractor.

14.5.15 The Company shall use its reasonable endeavours at the request of the Contractor, to procure the training of nominated employees of the Contractor as Protection Masters at the Contractor's cost.

14.5.16 The Contractor shall participate in any emergency training operations if required by the Company and/or LUL.

Miscellaneous

14.6.1 The Project Manager shall during the Contract Duration, and in circumstances where Clause 14.6.3 is not applicable, have power to order in writing by reasonable prior notice (except in cases of emergency when shorter, oral notice may be given by the Project Manager or by LUL (which in such circumstances shall also have such power, acting as the Company's agent) but which shall be confirmed in writing as soon as reasonably practicable thereafter) from time to time:

(a) the removal from the Site, within such time or times as may be specified in the order, of any materials, equipment or other item supplied by or on behalf of the Contractor which in the opinion of the Project Manager is Defective;

(b) the substitution of proper and suitable materials or equipment therefor;

(c) the re-execution, in accordance with Clause 14.6.3 and notwithstanding any previous tests and/or payments in respect thereof, of any work done which in respect of materials or workmanship or design by the Contractor for which it is responsible is, or will be, in the opinion of the Project Manager, Defective.

14.6.2 The Contractor shall if required by the Project Manager in writing investigate and search for the cause of any Defect or fault in the Trains and/or (during the period in which the Contractor is required to provide the Existing Train Services) the Existing Trains and/or the Equipment and/or plant, facilities and equipment used by the Contractor in the provision of the Services and/or the Existing Train Services and/or the carrying out of the Enabling Works. If such Defect or fault shall be one for which the Contractor is liable, the cost of the work carried out in investigating and searching shall be borne by the Contractor and the Contractor shall in such case repair, rectify and make good such Defect or fault at the Contractor's own expense. In the event that a Defect or fault arises from an investigation and search under this Clause 14.6.2 for which the Contractor is liable and further investigations and searches are instructed by the Project Manager to establish the extent of such Defect or fault, the cost of the further investigations and searches shall be borne by the Contractor regardless of the results of the further investigations and searches.

14.6.3 If at any time the Project Manager decides that any work done, plant or equipment or materials used by the Contractor or any sub-contractor or design by the Contractor for which it is responsible is Defective or that the Trains, the Equipment, the Enabling Works, the Services and/or the Existing Train Services or any part of any thereof is or are Defective (all such matters in this Clause being called ***Defects***), then the Contractor shall, without delay and (subject to Clause 14.6.4) at its own expense, make good the Defects identified by the Project Manager and, in addition, whether or not identified by the Project Manager, the Contractor shall execute all work of repair, amendment, rectification and make good all Defects or other faults arising consequent upon the Contractor's performance or non-performance of its obligations in the provision of the Trains, the Equipment, the Services and the Existing Train Services, and the carrying out of the Enabling Works, or from any act, omission or neglect of the Contractor that may develop or become apparent.

14.6.4 The Company shall bear the reasonable costs of the Contractor making good any Defect pursuant to Clause 14.6.3 if such Defect was caused by a failure of the Company to comply with its obligations in respect of track maintenance under paragraph 4.8 of Part A of Schedule 6 or to maintain any other part of the Northern Line properly or adequately in accordance with Company Standards for such maintenance from time to time or Improper Use of the Trains and/or the Existing Trains and/or the Equipment and/or the Enabling Works by the Company or any Company Employee. Any claim for costs by the Contractor pursuant to this Clause 14.6.4 shall be made in accordance with Clause 33.

14.6.5 The Contractor shall bear all third party costs and charges for any access required by it additional to the access provided by the Company in accordance with this Contract and for any special or temporary wayleaves or licences or consents required by it in connection with such access to the Site.

14.6.6 The Contractor shall provide at its own cost any additional accommodation, or land or buildings outside the Site which are required by the Contractor for the purposes of providing the Trains, the Equipment, the Services and the Existing Train Services and/or carrying out of the Enabling Works in accordance with this Contract. If the Contractor provides such land the Company agrees, to the extent it has the right, at its own cost, to grant to the Contractor any easements, wayleaves, licences or consents reasonably required by the Contractor from the Company to enable it to perform its obligations hereunder.

14.6.7 Subject to the Contract Safety Conditions and the terms of this Contract, the Contractor shall be allowed partial or complete occupation of the Northern Line running lines or sidings to carry out work necessitating the electric traction current being switched off on the Northern Line or any part thereof during the period or periods as may be specified in this Contract or for such extended period as may be allowed in writing by the Project Manager.

14.6.8 The Contractor shall upon request by the Company demonstrate to the Project Manager's satisfaction that all design, workmanship, materials, goods and any other resource or facility or item provided by the Contractor in connection with this Contract comply with the requirements of this Contract.

14.6.9 Without prejudice to, or limiting, any of the Contractor's other obligations under this Contract or the Real Property Documents, the Contractor shall take all reasonable precautions to prevent loss of, or damage to, the Trains, the Existing Trains, the Equipment (and any equipment owned by the Company or LUL or operated by the Company or LUL and owned by any third party) and the Enabling Works, the Depots, the Outstations, the Accommodation Properties and the Sidings resulting from theft or vandalism at all times when the same are in the possession of the Contractor or any of its sub-contractors and (in the case of the Enabling Works) at all other times and, during such periods as it may have access thereto, damage to such other parts of the Site and shall take all precautions which are, in the opinion of the Contractor, reasonable to prevent such loss of, or damage to, the Trains and the Equipment when the same are in the possession of the Company or LUL.

14.6.10 The Contractor shall deliver certified copies of the Sub-Lease and the Sub-Sub-Lease to the Company forthwith upon such documents having been duly executed by the respective parties thereto.

14.6.11.1 The Contractor is required, pursuant to Part E of Schedule 6, to provide optic fibre cables in such places as are specified in Schedule 6. The Contractor acknowledges that it only requires the use of 12 fibres to enable it to perform its obligations under this Contract (together with ancillary services related thereto) and hereby grants the Company, and any person nominated by the Company, the right to use the remainder of the fibres in any such cable and also, if the Contractor in its discretion does not require the use of 12 fibres in any cable, those fibres that it does not use.

14.6.11.2 The Contractor is required, pursuant to Part F of Schedule 6, to provide cable trunking and hereby grants the Company, and any person nominated by the Company, the right to use any capacity therein that the Contractor does not require to enable it to perform its obligations under this Contract.

14.6.12 The Contractor shall in accordance with the requirements of the Project Manager afford all reasonable facilities (having regard to the Contractor's own requirements for the facilities to enable it to perform its obligations hereunder) for any other contractors employed by the Company or LUL and for the Company Employees or the LUL Employees and the employees of any other properly authorised authorities or statutory bodies who may require to have access to, or be employed in carrying out any work not provided for in this Contract on or near, the Depots, the Outstations, the Accommodation Properties or the Sidings.

14.6.13 The Contractor hereby acknowledges that all fossils, coins, articles of value or antiquity and structures or other remains or things of geological or archaeological interest discovered on the Site shall, as between the Company, and LUL and the Contractor, be deemed to be the absolute property of LUL and the Contractor shall take reasonable precautions to prevent its employees, sub-contractors or any other person from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal inform the Project Manager of such discovery and carry out the Project Manager's orders as to the examination and removal thereof. The Contractor shall be entitled to make a claim under Clause 12 and/or Clause 33 in respect of any adverse consequence resulting from the foregoing provisions of this Clause 14.6.13.

14.6.14 The parties agree and acknowledge that the Contractor is responsible for the performance of the Trackside Equipment in all operating conditions provided that the second sentence of this Clause 14.6.14 shall apply if any conditions in the underground sections of the Northern Line would render it unfit for the operation of Trains (save by virtue of a breach by the Contractor of its obligations under this Contract), even if the functionality required of the Trackside Equipment was available. If and to the extent that the Trackside Equipment fails to function during and, as a result of such conditions, the Contractor shall be entitled to make a claim, pursuant to Clause 33, to recover from the Company reasonable costs incurred by it in remedying such failure and, subject to using its best endeavours to effect such

remedy, the Contractor shall not be liable to the Company for any failure to perform its obligations under this Contract to the extent that such performance is frustrated by the lack of functionality of such Trackside Equipment.

15. OBLIGATIONS OF THE COMPANY

15.1 The Company shall not and shall ensure that LUL shall not without the consent of the Contractor (such consent not to be unreasonably withheld or delayed) make any alteration (during the Contract Duration) to the Trains or the Equipment (save prior to the Transfer Date in respect of the Existing Equipment) nor to the Existing Trains (save prior to the Transfer Date (when it shall be entitled to carry out restorative or routine maintenance in respect of the same)), except in an emergency [redacted]

15.2.1 For the Contract Duration, the Company shall ensure that neither LUL or itself shall hold themselves out as the owner of the Trains (save by virtue of the livery thereof), the Equipment (other than the Existing Equipment) or (save in relation to its interest in the relevant land) the Enabling Works or sell, offer for sale, assign, pledge, charge or otherwise encumber the Trains, the Equipment or (save in relation to its interest in the relevant land) the Enabling Works or cause or permit title to the Trains, the Equipment or (save in relation to its interest in relevant land) the Enabling Works or any part of any thereof to become vested, whether by voluntary transfer or operation of law, in any party other than the Contractor Parties or the Finance Parties save that the restriction in this Clause 15.2 shall not apply to the creation of any repairer's liens or any security interest or other encumbrance created by, or pursuant to, any of the Finance Documents.

15.2.2 [redacted]

15.3 The Company shall notify the Contractor of any loss, theft or destruction of, or damage to, the Trains or the Existing Trains or the Equipment or the Enabling Works of which it becomes aware.

15.4.1 [redacted]

(a) the aforegoing restriction shall not apply where the Company sub-lets to LUL or any Subsidiary of LUL; and

(b) [redacted]

(i) the relevant items shall be used in the United Kingdom for the purposes of a United Kingdom trade; and

(ii) references to the Company herein shall include references to the relevant sub-lessee.

[redacted]

15.4.2 [redacted]

15.5 The Company shall and shall ensure that LUL and any LUL Employee shall for the Contract Duration, use and operate the Trains and (after the Transfer Date) the Existing Trains, the Equipment (other than the Existing Equipment) and (after the Transfer Date) the Existing Equipment, and utilise the Services, in compliance with all the requirements of the law, common law, any Act of Parliament, statutory instrument or order or any other regulation having the force of law or bye-law or requirement of the Government having the force of law or any European Union legislation from time to time in force which are or may become applicable to this Contract, the Trains and/or the Existing Trains and/or the Equipment and/or the Services.

15.6 Subject to the Contract Safety Conditions, the Rules of Engagement and the other provisions of this Contract, the Company shall, provided that the Contractor has complied with Clause 14.5.11, provide the Contractor with access to the Depots, the Outstations, the Accommodation Properties and the Sidings in the period prior to the grant of the relevant Real Property Documents, on the terms set out in Clause 5 of the Agreement to Lease/Licence, and, for the Contract Duration, to other parts of the Site on the terms set out in paragraph 5.4 of Schedule 4 (or the procedure specified therein as revised or amended from time to time), for the purposes of enabling the Contractor to perform its obligations under this Contract (including, without limitation, its obligations under Clauses 6.6.1.1 and 29.1).

15.7 The Company shall apply for and obtain all (if any) planning consents required in respect of the Enabling Works, and (as soon as reasonably practicable) satisfy or perform any and all conditions attached to such consents. The Contractor agrees that it shall afford all reasonable co-operation to the Company to enable it to comply with its obligations under this Clause 15.7 and shall carry out any work required to satisfy any such condition if the Company issues a Variation Order in respect of such work.

15.8 To the extent that the Contractor requires the co-operation of the Company to enable it to comply with its obligations under this Contract, the Real Property Documents or the Finance Documents, the Company agrees that it shall afford all

reasonable co-operation to the Contractor to enable it to comply with its obligations under this Contract, the Real Property Documents or the Finance Documents.

15.9 The Company undertakes that contemporaneously with its giving a notice to the Contractor to terminate, or, as the case may be, that it will not exercise its right to extend, this Contract (in whole or in part) pursuant to Clauses 6.2.1, 6.2.2, 6.2.4, 6.3, 6.4.1, 26.1.1, 26.2.1 or 28.1.1, for a Hand Back Extension Period pursuant to Clause 6.5, it shall deliver a copy of such notice to each of the Finance Parties provided that the Company shall not be liable in respect of any failure to comply with its obligations under this Clause 15.9.

15.10 The Company hereby expressly covenants and agrees and shall procure that LUL will covenant and agree:

(a) to the rights of the Finance Parties (and their exercise of such rights) to inspect the New Trains and/or the New Equipment pursuant to Clause 13.3 of the Trains Head Lease and Clause 13.3 of the Equipment Head Lease, respectively; and

(b) to the performance by the Contractor of its obligations under Clause 11.3(E) of the Equipment Head Lease and Clause 11.3(E) of the Trains Head Lease to affix nameplates on items of Equipment (to the extent practicable) and on each Car of the New Trains, respectively, reflecting ownership thereof by the Finance Parties; and

(c) if required by the Contractor, that the Contractor shall be permitted to maintain in a prominent position (for example, the sole bar) of each Car of the NL Trains an engraved fireproof nameplate having dimensions of not less than 8 centimetres by 4 centimetres including words to the effect that such Cars are owned by the Contractor.

15.11 The Company agrees with the Contractor to make the payment to the Finance Parties that is provided for in Clause 14.4 of the Depot Direct Agreement as required by the terms of that Clause. For the avoidance of doubt, it is expressly declared that the provisions of this Clause 15.11 are to be regarded as constituting a payment obligation for the purposes of Clause 27.1.

16. RIGHTS OF THE COMPANY TO AUTHORISE WORK BY OTHERS

16.1 If the Contractor shall fail to provide the Services, the Existing Train Services, the Trains or the Equipment or carry out the Enabling Works (or any part of any thereof) in accordance with, or shall fail to carry out any activity required under, this Contract or refuse to comply with any requirement of the Project Manager under this Contract within the period specified therefor pursuant to this Contract or, if no period is specified, within a reasonable time, the Project Manager may (subject always to Clause 28.4) give the Contractor 10 days' notice in writing, substantially in the form set out in Part GG of Schedule 7 (or such shorter period of notice as the Project Manager considers necessary) requiring the Contractor to remedy such failure, carry out such activity or comply with such requirement of the Project Manager. If, in relation to the Services or the Existing Train Services, the Contractor fails to comply

with the requirements of the Project Manager specified in such notice, the Company shall be entitled to carry out any such Service(s), Existing Train Service(s) or part thereof or any such activity or requirement by means of its own personnel and/or other resources obtained from LUL, a third party or other alternative source. Without prejudice to any other right or remedy of the Company hereunder or under the general law, all additional expenditure properly incurred by the Company in having such Service(s), Existing Train Service(s) or part thereof, activity or requirement carried out (including, without limitation, any Value Added Tax for which the Company is unable to obtain credit as input tax) shall (without prejudice to, or limiting, the generality of Clause 31.1) be recoverable by the Company from the Contractor and the Company shall be entitled to deduct such amounts from any amount due or to become due to the Contractor under this Contract provided that the Company has complied with Clauses 18.6.1(a) and (b). The limits on the Contractor's liability specified in Clause 31.2.1 shall apply to expenditure for which the Contractor is liable under this Clause 16.

16.2 If, by reason of any accident, emergency or failure or other safety related event occurring to, on, in, or in connection with, the Trains, the Existing Trains, the Equipment, the Enabling Works, the Services and/or the Existing Train Services, any remedial or other work shall in the opinion of the Project Manager or LUL be urgently necessary and the Contractor is unable or unwilling promptly to do such remedial or other work (or where the occurrence of a Force Majeure Event prevents the Contractor from providing the Services or the Existing Train Services in accordance with, or complying with its obligations under, this Contract), the Project Manager or LUL (acting as the Company's agent) may authorise the carrying out of such remedial or other work by a person other than the Contractor and/or by Company Employees. If the remedial or other work so authorised by the Project Manager or LUL (acting as the Company's agent) is work which in the Project Manager's opinion the Contractor was liable to do under this Contract, the Company shall, provided that it has complied with Clauses 18.6.1(a) and (b) and subject to the limit on liability specified in Clause 31.2.1, be entitled to deduct all expenses properly incurred in carrying out the same from any amount due or to become due to the Contractor from the Company under this Contract provided that the Project Manager or LUL (acting as the Company's agent) shall as soon after the occurrence of any such emergency as may reasonably be practicable notify the Contractor thereof in writing. In the event of the Project Manager or LUL (acting as the Company's agent) wrongly determining that the Contractor was liable to carry out such work, the Company shall repay to the Contractor any amount wrongly recovered under this Clause together with interest in accordance with Clause 18.7. In the event that the Contractor receives instructions in respect of matters set forth in this Clause 16.2 from the Project Manager and LUL which conflict, it is expressly agreed that in such circumstances instructions from LUL shall prevail.

16.3 For the purposes of the exercise of the rights reserved to the Company and third parties under this Clause 16, the Contractor hereby grants to the Company and any third party the right to use the Properties and any Contractor's plant and facilities (whether belonging to the Contractor or used by the Contractor in connection with the Trains, the Existing Trains, the Equipment, the Enabling Works, the Services and/or the Existing Train Services) and to use, test, operate and do all such things as may be

required or necessary (in respect of the Trains, the Existing Trains, the Equipment, the Services, the Existing Train Services, the Enabling Works, the Properties, the Contractor's equipment, facilities and anything else under the Contractor's control or possession) to assist or enable the Company and the third party to carry out work to make up for or remedy any deficiency in the Contractor's performance of the Services or the Existing Train Services, or exercise its rights under this Clause 16.

17. QUIET POSSESSION

17. The Contractor covenants with the Company that, provided that no Company Event of Default has occurred and is continuing, the Contractor will not, and will procure that any person (excluding the Finance Parties) claiming by, through or under the Contractor will not, during the Contract Duration, interfere with the quiet use, possession and enjoyment of the Trains and the Equipment and the Enabling Works (or any part of any thereof) by the Company.

18. TERMS OF PAYMENT

18.1.1 The Company shall, subject to, and in accordance with, the provisions of this Contract, pay to the Contractor the Usage Payments and the Existing Train Service Payments in accordance with this Clause 18 and, in the case of Usage Payments, Schedules 9 and 10 and, in the case of Existing Train Service Payments, Part E of Schedule 12.

18.1.2 [redacted]

(a) [redacted]

(b) [redacted]

(c) [redacted]

(i) [redacted]

(ii) [redacted]

(iii) [redacted]

(iv) [redacted]

(d) [redacted]:

(i) [redacted]

(ii) [redacted].

Any reference in this Contract to the date of issue of a Take Over Certificate or a Qualified Take Over Certificate shall be construed as a reference to the date on which such Take Over Certificate or Qualified Take Over Certificate is expressed on its face to take effect (which, for the avoidance of doubt, shall be the date one Working Day after the date of issue of such Take Over Certificate or Qualified Take Over Certificate.

18.1.3 [redacted]

18.2 Save as expressly provided otherwise in this Contract, the Usage Payments and the Existing Train Service Payments payable by the Company are inclusive of all costs and charges whatsoever in relation to the provision of the Trains, the Equipment, the Services and the Existing Train Services and the carrying out of the Enabling Works by the Contractor in accordance with this Contract and, in the case of the carrying out of the Enabling Works, the Agreement to Lease/Licence (including, without limitation, all costs and charges connected with developing the design of the Trains, the Equipment, the Enabling Works and the nature of the Services save in respect of any costs for which the Company is liable under this Contract in connection with developing any additional design required as a result of any variation to this Contract made pursuant to paragraph 8 of Schedule 4) and the Usage Payments specified in Part A to D (inclusive) of Schedule 9 include, without limitation, all fees payable by the Contractor and the Finance Parties which are for the account of the Company in connection therewith (including all legal and other professional advisers' fees) and all premiums payable by the Contractor to enable it to comply with its obligations under Clause 22.

18.3.1 The Usage Payments and the Existing Train Service Payments are denominated in, and shall (together with all other payments payable by the Company or the Contractor under this Contract) be made in, pounds (£) sterling and all payments to the Contractor shall be made by BACS transfer (or such other form of

electronic transfer as may be agreed between the parties) to the Contractor's account at HSBC Bank Plc, City of London Corporate Office, 27-32 Poultry, London EC2P 2BX (account number 21041800, sort code 40-02-50) by 11.00 a.m. or such other account of the Contractor notified by it to the Company from time to time. If the due date for any payment hereunder as determined in accordance with Schedule 9 would otherwise be a day which is not a Working Day, the due date shall be the immediately preceding Working Day.

18.3.2 If, under any applicable law, and whether pursuant to a judgment being made or registered against the Company, or the liquidation of the Company or for any other reason, any payment under this Contract is made or falls to be satisfied in a currency (the ***payment currency***) other than pounds (£) sterling then, to the extent that the amount of such payment actually received by the Contractor, when converted into pounds (£) sterling at the rate of exchange, falls short of the amount due under this Contract, the Company, as a separate and independent obligation, shall pay to the Contractor the amount of such shortfall. Any amount payable by the Company pursuant to this Clause 18.3.2 shall be payable on demand. For the purposes of this Clause 18.3.2, ***rate of exchange*** means the rate at which the Contractor is able on or about the date of payment to purchase pounds (£) sterling with the payment currency and shall take into account any premium and other proper costs of exchange with respect thereto. To the extent that the amount of any such payment, when converted into pounds (£) sterling at the rate of exchange, exceeds the amount due under or in connection with this Contract, the Contractor shall promptly reimburse the Company with the amount of such excess together with interest thereon at the rate set out in Clause 18.7.

18.4 Any variation to the Usage Payments and the Existing Train Service Payments payable by the Company shall be determined strictly in accordance with the provisions of Schedule 4 and/or Schedule 10 and/or Schedule 11 and/or Part E of Schedule 12 and not otherwise.

18.5 Any payment made by the Company under this Contract shall not prevent the Company from recovering any amount overpaid or wrongfully paid by the Company to the Contractor however such payment may have arisen including, but not limited to, those paid to the Contractor by mistake of law or of fact. The Company may, provided that it has, where applicable, complied with Clauses 18.6.1(a) and (b), deduct any amounts payable to it by the Contractor hereunder from any monies in its hands due or which may become due to the Contractor.

18.6.1 Subject to Clause 18.6.2, all damages, costs, charges, expenses, debts, sums or other amounts (including, without limitation, any amount that the Company is entitled to deduct pursuant to Clause 11.3) for which the Contractor is liable to the Company under any provision of this Contract may (without prejudice to any other method of recovery and provided that the Company, where applicable, has complied with Clauses 18.6.1(a) and (b)) be deducted by the Company from monies due to the Contractor under this Contract provided that (save in respect of amounts that the Company is entitled to deduct from the Usage Payments or Existing Train Service Payments pursuant to Clause 20 or Schedules 10 or 11 or Part E of Schedule 12):

(a) in respect of any breach of this Contract by the Contractor which is capable of remedy and which would (but for this proviso) give rise to circumstances in which the Company would have the right to exercise its powers under any provision of this Contract to make any deduction from any monies due to the Contractor under this Contract, the Company has given the Contractor reasonable notice to remedy such breach and the Contractor has failed to do so by the expiry of such notice without cost to the Company; and

(b) the Project Manager shall give the Contractor at least 7 days' notice following (where applicable) expiry of any notice given by the Company pursuant to Clause 18.6.1(a) before making such deduction.

18.6.2 The Company agrees that, notwithstanding any other provisions of this Contract, the Company shall not be entitled, whether pursuant to this Contract or at law or otherwise, to deduct any monies from the amounts payable by the Company under Clauses 25.6, 26.1.1, 26.3 or 27.2 or Clauses 18.3.2, 18.7 or 31A.8 (to the extent that amounts payable under Clauses 18.3.2, 18.7 or 31A.8 relate to amounts payable under Clauses 25.6, 26.1.1, 26.3 or 27.2) and, accordingly the Company shall be absolutely, irrevocably and unconditionally liable to make such payments in full when due.

18.7 In the event of the Company wrongly or improperly deducting any amount from any payment due to the Contractor hereunder purportedly in accordance with the provisions of this Clause 18 or otherwise under this Contract or any failure by the Company to pay any amount under this Contract on the due date therefor, the Company shall pay to the Contractor on demand interest upon any such amount at a rate per annum equal to two per cent. over the base lending rate from time to time of National Westminster Bank PLC (or such other rate applied from time to time by National Westminster Bank PLC in substitution for such rate) from the due date to the date of actual payment (as well after as before judgment).

18.8 All Usage Payments and Existing Train Service Payments shall be paid subject to the terms of Clause 31A.8.

18.9.1 All payments under this Contract, or the Real Property Documents, exclude Value Added Tax (if any). Where any payment by the Contractor to the Company or by the Company to the Contractor pursuant to this Contract or the Real Property Documents (or by the Contractor to LUL or by LUL to the Contractor under the Real Property Documents) constitutes consideration for a taxable supply made by the Company or the Contractor (as the case may be) for the purposes of Value Added Tax or there is otherwise made under the terms of this Contract or the Real Property Documents a taxable supply for such purposes, such payment shall be increased by, or as the case may be there shall be payable at the time of such supply by the party to which such supply is made, the amount of Value Added Tax properly chargeable on such supply subject to prior receipt by the relevant party of a proper tax invoice in respect of such Value Added Tax (and provided further that (a) where a tax invoice in respect of such Value Added Tax is received by the relevant party at a subsequent date the amount of such Value Added Tax shall thereupon be due and payable by such

party and (b) receipt of a tax invoice after 1300 hours on any day shall be treated as receipt at the beginning of the following Working Day).

18.9.2 For the avoidance of doubt:

(a) where any Usage Payment or Existing Train Service Payment is abated under the provisions of this Contract any Value Added Tax payable by the Company pursuant to this Contract shall be no greater than the Value Added Tax properly chargeable on the net amount of the Usage Payment or Existing Train Service Payment as so abated (but so that the foregoing provisions of this Clause 18.9.2(a) shall not apply where and to the extent that such abatement does not reduce the value of the relevant supply made by the Contractor for Value Added Tax purposes for which the Usage Payment or Existing Train Service Payment is consideration); and

(b) where any amount representing a previous Usage Payment or Existing Train Service Payment or part thereof (whether or not identifiable) is rebated to the Company then where and to the extent that such rebate is treated as reducing the value of any supply by the Contractor for Value Added Tax purposes for which the relevant Usage Payment or Existing Train Service Payment is consideration or is treated as consideration for any supply by the Company for Value Added Tax purposes an amount in respect of Value Added Tax at the appropriate rate on such rebate shall also be repaid to the Company.

19. CROSS-BORDER FINANCING AND REVENUE RISK OPTIONS

19.1 The Contractor agrees, at the request of the Company, at any time prior to the issue of the last Take Over Certificate or Qualified Take Over Certificate in respect of a Train and subject to agreement of terms, to procure (at the Company's cost) offers in relation to cross-border financing arrangements with a view to enhancing the cost effectiveness of the financing of the Trains. If any such arrangements are effected the tax benefits and any contingent burden shall be passed through in full to the Company, with the Company having the ability to negotiate and agree the relevant provisions of such arrangements.

19.2 The Company may, at any time prior to the issue of the last Take Over Certificate or Qualified Take Over Certificate in respect of a Train, elect by written notice to the Contractor, and, if the Company so elects, the Contractor shall be obliged, to negotiate in good faith to implement a revenue risk sharing arrangement between the parties in accordance with the principles set out in Part D of Schedule 10 as soon as reasonably practicable after receipt of such notice. If the parties fail to reach agreement on implementing such an arrangement, neither party shall be under any obligation to enter into any such arrangement.

20. COMPENSATION FOR DELAY, TRAIN PERFORMANCE AND POSSESSION OVERRUNS

20.1.1 The Company shall be entitled to recover compensation from the Contractor in accordance with, and to the extent determined by, Schedule 11.

20.1.2 In the event that compensation is recoverable from the Contractor in accordance with Clause 20.1.1, then the Company shall in each case be entitled to recover from the Contractor (by way of an abatement of the next Usage Payment otherwise due and (if necessary) of subsequent Usage Payments or Existing Train Service Payments (as the case may be) payable to the Contractor under this Contract) a sum or sums calculated in accordance with the provisions of Schedule 11. To the extent that the amount of the abatement would exceed the Usage Payment or Existing Train Service Payment that is to be abated in accordance with Schedule 11, the Contractor shall pay any such excess to the Company by way of rebate of Usage Payments previously received.

20.2 Subject to the provisions of Clauses 20.4 and 31.4, the provisions of this Clause 20 shall not prevent the Company from exercising any of its other rights under this Contract and/or the Guarantees and/or in law generally.

20.3 The Contractor acknowledges and agrees that all sums recoverable by the Company from the Contractor pursuant to this Clause 20 and determined in accordance with Schedule 11 represent a genuine pre-estimate of the Company's loss caused by the occurrence of the circumstances set out in Schedule 11 and shall be recoverable by way of compensation and not as a penalty.

20.4 Notwithstanding any other provisions of this Contract (other than Clause 8.4.3 and paragraph 4 of Part II of each of Sections 1, 2 and 3 of Part B of Schedule 10), any loss caused by the occurrence of any of the circumstances set out in Part C of Schedule 10 or Schedule 11 or Part E of Schedule 12 and falling to be compensated under this Part C of Schedule 10, Part E of Schedule 12 or this Clause 20 in accordance with, and to the extent determined by, Schedule 11, shall be compensated only under Part C of Schedule 10 or Part E of Schedule 12 or this Clause 20 (as the case may be) and the Company undertakes not to seek to effect recovery for any such loss under any other provision of this Contract or otherwise (save in respect of loss resulting from death or personal injury or damage to property). Notwithstanding the foregoing provisions of this Clause 20.4, on the occurrence of any of the circumstances set out in paragraph 1 of Schedule 11, each of Clause 8.4.3, paragraph 4 of Part II of each of Sections 1, 2 and 3 of Part B of Schedule 10 and paragraph 1 of Schedule 11 shall apply to the extent applicable.

21. FORCE MAJEURE

21.1.1 Force Majeure Event means any of the following:

(a) war or terrorist activity;

(b) civil commotion;

(c) action taken by the Government;

(d) nuclear accident or, subject to Clause 21.5, act of God;

(e) subject to Clause 21.6, fire;

(f) lawful industrial action by employees of any of the Contractor, the Train Manufacturer or the Maintenance Company;

(g) lawful industrial action by Company Employees or LUL Employees, employees of LRT or any other Infraco;

(h) any lawful industrial action of a sub-contractor (which, for the avoidance of doubt, shall not include the Contractor) over which the party relying on this Clause 21 has no reasonable control (which for the avoidance of doubt, shall not include the Train Manufacturer or the Maintenance Company); or

(i) lawful industrial action by employees of any providers of water and/or electrical power.

21.1.2 The provisions of this Clause 21 shall not apply to the circumstances described in Clause 14.6.14.

21.2.1 If the Contractor can provide evidence to the satisfaction of the Company that its performance under this Contract of:

(a) any of its obligations arising hereunder in respect of:

(i) any Train (and its Trainborne Equipment), during the period ending on the issue of the Take Over Certificate or Qualified Take Over Certificate in respect of such Train;

(ii) the Trackside Equipment (other than the Final UHF Trunked Radio), during the period ending on the issue of the Take Over Certificate or Qualified Take Over Certificate in respect of the Trackside Equipment;

(iii) the Final UHF Trunked Radio, during the period ending on the issue of the Final Train Radio Certificate;

(iv) the Substantial Completion Enabling Works and the Substantial Completion New Equipment, during the period ending on the issue of the Certificate of Substantial Completion;

(v) the Morden Final Completion Enabling Works and the Morden Final Completion New Equipment, during the period ending on the issue of the Morden Certificate of Final Completion; or

(vi) the Golders Green Final Completion Enabling Works and the Golders Green Final Completion New Equipment, during the period ending on the issue of the Golders Green Certificate of Final Completion

is prevented by reason of any, or any combination of the Force Majeure Events; or

(b) any of its other obligations hereunder at any other time, is prevented by reason of any, or any combination, of the Force Majeure Events specified in Clauses

21.1.1(a) to (e), (g), (h) (but only if the Force Majeure Event is lawful industrial action of a sub-contractor of the Company) and (i);

the Contractor shall be entitled to relief from performing such obligation(s) under this Contract for the period specified in Clause 21.3.

21.2.2 If the Company can provide evidence to the satisfaction of the Contractor that its performance under this Contract of any of its non-payment obligations arising hereunder is prevented by reason of any, or any combination, of the Force Majeure Events the Company shall be entitled to relief from performing such obligation(s) under this Contract for the period specified in Clause 21.3 (and accordingly, for the avoidance of doubt, the existence of any Force Majeure Event shall not entitle the Company to relief in respect of any of its payment obligations hereunder).

21.2.3 The parties acknowledge and agree that, if and to the extent that any delay in the issue of a Take Over Certificate or Qualified Take Over Certificate beyond the relevant Train Milestone Date specified in Column 2 of paragraph 1.2 of Schedule 5 occurs that entitles the Contractor to relief under Clause 21.2.1(a) such delay shall (unless the Force Majeure Event that entitles the Contractor to relief was the one specified in Clause 21.1.1(g), in which case such delay shall be attributable to the Company) nevertheless be deemed to be delay attributable to the Contractor for the purposes of allocating the financial consequences of such delay in accordance with the procedure set out in paragraph 1.7 of Schedule 4 and determining the amount of the adjustments (if any) required to be made to the Usage Payments in accordance with paragraph 4 of Part I of each of Sections 1, 2, 3 of Part B of Schedule 10.

21.3 For the purpose of Clauses 21.2.1 and 21.2.2, the period in respect of which a party may claim relief from performance of any of its obligations shall be the period during which such party was or remained prevented from complying with such obligation(s) hereunder provided always that such party shall not be entitled to claim such relief in respect of any period during which it could have complied with such obligation(s) (or any part thereof) by using its best endeavours to avoid, overcome or minimise wholly or partly the effects of the said circumstances.

21.4 Each of the parties hereto shall use all best endeavours to avoid, overcome or minimise wholly or partly the effect of any of the circumstances referred to in Clause 21.1.1 upon the performance of its obligations under this Contract.

21.5 In respect of Acts of God relating to weather conditions, the Contractor or the Company (as the case may be) shall only be entitled to claim relief if the event which prevents it from complying with any of its obligation(s) exceeds the environmental conditions of operation of the Trains and the Equipment specified in Schedule 6.

21.6 In respect of fire, the Contractor or the Company (as the case may be) shall only be entitled to claim relief if it has proved to the other party it has maintained satisfactory procedures and has taken all necessary precautions against fire and subject to the condition that the Contractor or the Company (as the case may be) carries out every three months safety audits and carries out such actions identified by

or determined from those audits and (in the case of the Contractor) to the satisfaction of the Project Manager.

22. INSURANCE

22.1.1 The Contractor shall procure throughout the Contract Duration (save as specified in Clause 22.2.1) with insurers acceptable to and on terms approved by the Company insurance against destruction, damage or loss from any cause whatsoever (subject to Clause 22.1.3) of or to:

(a) the Trains (and any Trainborne Equipment) and the Equipment, whether completely manufactured and/or in the course of manufacture or installation, which insurance shall note the interest of the Finance Parties, the Company and LUL within the terms of the policy;

(b) the Properties and the plant, facilities, the Existing Equipment, the Enabling Works, fixtures, fittings, equipment in the Depots, whether the property of the Contractor or the Company or LUL, which insurance shall be effected in the joint names of the Contractor, the Finance Parties, the Company and LUL; and

(c) all materials acquired by or delivered to the Contractor in connection with this Contract, which insurance shall be effected in the joint names of the Contractor, the Finance Parties, the Company and LUL;

whether the Trains, the Equipment, plant, facilities, the Existing Equipment, the Enabling Works, fixtures, fittings, equipment and/or such materials (for the purposes of this Clause 22, together with the Properties, the ***Insured Assets***) are on the premises of the Contractor or in transit or in the Depots and/or on the Site or on the Northern Line or the premises of the Company or LUL generally and shall keep the Insured Assets insured for:

(i) the full replacement value thereof;

(ii) in the case of each Train, a sum not less than the Contractor and the Finance Parties may agree from time to time pursuant to Clause 14.2(E) of the Trains Head Lease but in any event not less than the Partial Termination Payment (as defined in the Trains Head Lease) in respect of a Train that would be applicable from time to time were such Train to become a Total Loss or, at the option (exercisable annually) of, and at no additional cost to, the Company, the full replacement value thereof; or

(iii) in the case of any temporary or permanent Enabling Works or materials, plant and equipment for incorporation therein, for the full replacement cost thereof plus an additional ten per cent. to cover any additional costs that may arise incidental to the rectification of any loss or damage including professional fees, cost of demolition and removal of debris.

22.1.2 All monies received under such policy or policies of insurance in respect of destruction or damage or loss of any Insured Asset or such proportion of the monies received as is applicable thereto shall be applied (if the relevant Insured Asset is a

New Train or a Car) in accordance with Clause 23 or (otherwise) towards the replacement or repair of the Insured Asset and this provision shall not affect any other obligation of the Contractor or the Contractor's liability under this Contract.

22.1.3 Any insurance taken out by the Contractor pursuant to Clause 22.1.1 shall not be required to cover the following excepted risks: war hostilities (whether war be declared or not), invasions, act of foreign enemies, rebellion, terrorism, revolution, insurrection or military or usurped power, civil war or (otherwise than among the Contractor's or its sub-contractors' own employees) riot, commotion or disorder, ionising radiations or contamination by radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

22.1.4 Notwithstanding the provisions of Clause 21.2.1, the Contractor shall (without prejudice to, or limiting, the generality of Clause 31.1) indemnify the Company, the Company Employees and LUL and the LUL Employees from and against all expense, cost, liability, loss and claims whatsoever that the Company or LUL would have been entitled to recover under the insurances required to be maintained under this Clause 22 if terrorism was not one of the excepted risks referred to in Clause 22.1.3. The Contractor's maximum liability in respect of any claim under this Clause 22.1.4 shall be as specified in Clause 31.2.1 (as adjusted in accordance with Clause 31.2.2).

22.1.5 The Contractor shall have no obligation to insure Existing Trains.

22.2.1 The insurance to be maintained by the Contractor under Clause 22.1.1(b) shall, in respect of the Enabling Works:

(a) cover the Company and LUL and the Contractor from the commencement of the carrying out of the Enabling Works until they have been finally completed; and

(b) without prejudice to the generality of Clause 22.1.1(a), extend to cover any physical loss or damage occasioned by the Contractor in the course of any operation carried out by it for the purpose of complying with its obligations under Clause 10.

22.2.2 Nothing in this Clause 22 shall render the Contractor liable to insure against the necessity for the repair or reconstruction of any work constructed with materials or workmanship not in accordance with the requirements of this Contract unless this Contract otherwise requires.

22.3.1 Without prejudice to its liability to indemnify the Company and LUL under Clause 31 or any other provision of this Contract, throughout the Contract Duration (but without limiting the Contractor's obligations or responsibilities hereunder), the Contractor shall take out and maintain, in the joint names of the Contractor, the Finance Parties, the Company and LUL (to the extent required in Clause 22.3.2(b)) with insurers acceptable to and on terms approved by the Company, insurance against liability for death of or injury to any person and loss of or damage, to any property

(including property belonging to the Company or LUL or for which either of them is responsible) and any other loss, liability, damage, cost or expense resulting therefrom which may arise out of, or in consequence of, the performance or non-performance of this Contract or the presence on the Company's or LUL's premises, the Site and the Depots of the Contractor and/or the Contractor's servants or agents and/or sub-contractors.

22.3.2 The insurance to be arranged and maintained by the Contractor in accordance with Clause 22.3.1 shall:

(a) provide indemnity of not less than £50 million (excluding any deductibles) under the policy or policies in force until the first renewal date therefor (and thereafter the policy or policies maintained under Clause 22.3.1 shall provide indemnity, for the year following each renewal date of such policy or policies, of £50 million as adjusted annually by multiplying such amount by the Indexation Factor (save that in paragraph 6.3.1 of Part A of Schedule 10 references to the adjustment date shall be deemed to be references to the renewal date for such policy or policies and references to the relevant year shall be deemed to be references to the year following the relevant adjustment date) in respect of any one claim or series of claims arising out of any one event in respect of such liability as is referred to in Clause 22.3.1;

(b) include a provision whereby in the event of any claim, in respect of which the Contractor would be entitled to receive indemnity under the policy, being brought against the Company and/or LUL, then the insurer will indemnify the Company and/or LUL as a joint insured against such a claim and any costs, charges and expenses in respect thereof.

22.4 The Contractor shall maintain employers liability insurance and shall be obliged to insure the Contractor's liability as specified in Clause 31.3 during the whole time that any persons are employed by him in connection with this Contract and the provision of the Trains, the Equipment and the Services and the carrying out of the Enabling Works and such insurance shall comply with the requirements of the Employers Liability (Compulsory Insurance) Act 1969.

22.5 The Contractor shall, whenever required and in addition (in respect of the insurance taken out in respect of the Enabling Works) before commencement of the Enabling Works, provide satisfactory evidence that there is in force the insurance for which the Contractor is responsible under this Contract. If the Contractor shall fail upon reasonable request to produce to the Company (for itself and on behalf of LUL) satisfactory evidence of the said insurance, the Company may (but shall not be obliged to), without prejudice to any other rights it may have or acquire hereunder as a result of such failure, effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount so paid as aforesaid from any monies due or which may become due to the Contractor or recover the same as a debt due from the Contractor.

22.6 In circumstances where a claim is made under any of the insurances referred to in this Clause 22 in respect of any loss suffered as a consequence of any negligent act or omission of the Company and/or LUL and, as a result of such claim:

(a) the Contractor pays any excess under such insurance, the Contractor shall, provided that it complies with the claims procedure set out in Clause 33, be entitled to make a claim from the Company for reimbursement of such excess or additional cost; and/or

(b) the cost of the premiums in respect of such insurance shall increase, the Services Element of the Usage Payments shall be adjusted accordingly.

22.7 Each of the Contractor and the Company shall, and shall procure that its respective sub-contractors shall, comply with the terms and conditions of each and every policy of insurance taken out pursuant hereto and shall not do anything, or cause or permit any of its respective sub-contractors to do anything, which could or might render voidable any such policy of insurance (or part thereof).

22.8 The Company and the Contractor shall during the Contract Duration review on an annual (or other agreed) basis the insurance arrangements (including, without limitation, specifically with regard to insured risks, cover, limits, deductibles and claims procedures) required by this Contract and shall vary such arrangements to the extent agreed by the Company and the Contractor.

22.9 The Company shall reimburse the Contractor for each monthly premium paid by it to procure insurance pursuant to Clause 22.1.1(b) for the period from the date of the Original Contract to the Transfer Date, such amount not to exceed £8,000 per month. Each such payment shall be made in accordance with paragraph 4 of Schedule 9, as if each such payment accrues in the month in which the Contractor pays the relevant premium.

23. TOTAL LOSS

23.1 Where a Total Loss occurs in respect of a New Train or a Car during the Delivery Period, the Company shall be entitled to request and direct the Contractor to elect to replace the same (a ***Replacement Train*** or ***Replacement Car***) by notice given to that effect pursuant to this Clause 23.1 within 28 days of the occurrence of the Total Loss, provided that such notice shall be given to the Contractor before delivery of the 75th Train pursuant to Clause 8.1.1. The Replacement Train or Replacement Car shall be delivered to the Company in accordance with Clause 8.1.1 on such date as shall be agreed between the parties. The parties shall also agree the date by which the Contractor shall have obtained a Take Over Certificate or a Qualified Take Over Certificate in respect of the Replacement Train or Replacement Car.

23.2.1 Where Clause 23.1 applies the Contractor shall indemnify and reimburse the Company:

(a) for the extent to which Usage Payments after the occurrence of the Total Loss and before the issue of a Take Over Certificate or Qualified Take Over Certificate in respect of the Replacement Train or Replacement Car are not reduced to take account of the Total Loss (as they would be reduced if a termination or partial termination relating to the Total Loss occurred pursuant to the Trains Head Lease and amounts relating to that termination or partial termination thereunder had been fully discharged); and

(b) for the consequences of any change in Variable Assumptions (as defined in the Notional Trains Schedule forming part of Section 1 of Schedule 10-B (the ***Notional Trains Schedule***)) as a result of the Total Loss;

unless the Total Loss occurs as a consequence of the negligence of the Company or LUL or breach by the Company of its obligations under this Contract.

23.2.2 If the Company does make an election under Clause 23.1 and the Net Insurance Proceeds are less than those which would otherwise be payable in respect of the insurances required to be maintained in accordance with Clause 22 in respect of the relevant New Train or Car forming part thereof, the Company shall indemnify the Contractor to the extent that such shortfall arises for a reason directly attributable to the Company.

23.3 Subject to the following provisions of this Clause 23, if a Total Loss occurs in respect of a New Train or a Car forming a part thereof and no election is, or may be, made under Clause 23.1 then:

(a) the Contractor will pay any termination payment or partial termination payment due to the Finance Parties under the Trains Head Lease (or, as the case may be, due to any other financier of the relevant New Train) in respect of such Total Loss and will have no right to any corresponding payment from the Company (pursuant to Section 1 or 4 of Part B of Schedule 10 or otherwise); and

(b) Usage Payments shall be reduced by the application of the provisions of paragraph 9 of the Notional Trains Schedule consequent on such Total Loss.

23.4 Clause 23.3 is subject to the following provisos:

(a) to the extent that:

(i) the Net Insurance Proceeds are less than those which would otherwise be payable in respect of the insurance required to be maintained pursuant to Clause 22 in respect of a New Train or a Car forming a part thereof, or no Net Insurance Proceeds are received before the Partial Termination Payment Date (as determined in accordance with the Notional Trains Schedule) for a reason directly attributable to the Company or LUL; and/or

(ii) the Termination Payment or Partial Termination Payment (in either case, as determined in accordance with the Notional Trains Schedule) relating to the Total Loss in respect of a New Train or Car forming a part thereof is greater than the higher of (aa) the Net Insurance Proceeds in respect of that New Train or Car forming part thereof and (bb) the insurances required to be maintained at the time of the Total Loss in respect of that New Train pursuant to Clause 22 and that Total Loss occurs as a consequence of the negligence of the Company or LUL or breach by the Company of its obligations under this Contract;

the Company shall, to that extent, pay the Contractor an amount representing the excess of the Termination Payment or Partial Termination Payment (in either case, as determined in accordance with the Notional Trains Schedule) over the Net Insurance Proceeds; if, subsequent to any such payment, Net Insurance Proceeds or further Net Insurance Proceeds are received or any Net Insurance Proceeds are lawfully reclaimed, the Company and the Contractor shall make such adjusting payments as shall give effect to the intent of this provision;

(b) if the Company makes any such payment and subsequently Net Insurance Proceeds (or further proceeds) are received in respect of the New Train or Car, the Contractor shall pay an amount equal thereto to the Company (having deducted therefrom any sum then due and payable by the Company to the Contractor under this Contract, in discharge of such sum) as a rebate of Usage Payments;

(c) if there are no Net Insurance Proceeds in time for a Partial Termination Cash Flow (as contemplated in Section 1 of Schedule 10-B) to be prepared such that Usage Payments (assuming a partial termination) are adjusted for the month in which the Total Loss occurs or (in the Delivery Period) to take account of an assumed Partial Termination Payment in that month, any Usage Payment, Termination Amount or Acceleration Amount subsequently payable by the Company which would otherwise exceed the amount that would have been payable in accordance with Schedule 10-B shall, unless Clause 23.4(a)(i) is applicable, be reduced to the amount that would have been so payable had there been Net Insurance Proceeds in time (the provisions of Schedule 10-B being applied for the purposes of determining the same as if such proceeds had in fact been received by the Notional Lessors therein referred to); and

(d) if there is any dispute about the application of Clause 23.4(a), payments shall be made pending resolution thereof on the basis that the circumstances described in Clause 23.4(a) do not apply, and any reduction referred to in Clause 23.4(c) shall not be given effect until the dispute is resolved. Upon resolution all appropriate adjustments shall be effected between the parties, including to reflect the time cost of money (at the cost of funds applicable to the party in receipt of the relevant adjustment).

23.5 Where the Company has paid an Acceleration Amount to the Contractor in full in respect of the Primary Usage Period or Secondary Usage Period then:

(a) subject to the following provisions of this Clause 23.5, the Company has no liability in respect of the Total Loss of a New Train or a Car forming a part thereof;

(b) if the Acceleration Amount fell payable in the Primary Usage Period, the Contractor shall be entitled to retain from any Net Insurance Proceeds an amount equal to the amount referred to in paragraph 5.5(a) (if a Total Loss occurs in the Primary Usage Period) or 5.5(b) (if a Total Loss occurs in the Secondary Usage Period) of Section 4 of Schedule 10-B (but running interest

or discount to the date the Net Insurance Proceeds are payable) pro-rated down, mutatis mutandis, in accordance with proviso (1) to that paragraph 5.5;

(c) subject thereto, an amount equal to any remaining Net Insurance Proceeds shall (after the Contractor has deducted therefrom any sum then due and payable by the Company to the Contractor under this Contract, in discharge of such sum) be payable to the Company as a rebate of Usage Payments up to the Required Amount (and, unless Clause 23.5(d) applies, the Contractor shall indemnify the Company for any failure of the same) and any residue thereafter shall be retained by the Contractor. For this purpose the ***Required Amount*** is the aggregate of the amounts of the Trains Element of the Usage Payments, pro-rated on the basis applicable to Clause 23.5(b), that would have been payable over the remainder of the Primary Usage Period or Secondary Usage Period (as the case may be) after the occurrence of the Total Loss, as shown in the case of the Primary Usage Period by the A and B Applicable Cash Flows prepared pursuant to and in accordance with the Notional Trains Schedule as the same were current immediately before the Acceleration Amount fell to be determined, discounting such amounts (or adding interest thereto, as the case may be) at the rate of 9.5% per annum using quarterly rests on each Quarter Date to the date of payment of the Net Insurance Proceeds;

(d) if the circumstances fall within Clause 23.4(a)(i), and as a result the Net Insurance Proceeds are lower than the amount which the Contractor would be entitled to retain, pursuant to Clause 23.5(b), the Company shall pay the difference to the Contractor.

23.6 Save as provided in this Clause 23.6, the preceding provisions of this Clause 23 shall not apply to, or to any Car forming part of, the NL Trains; and any Net Insurance Proceeds relating thereto shall be for the account of the Contractor. Notwithstanding the foregoing, if any of the NL Trains suffers a Total Loss, the provisions of Clause 23.2.2 shall apply, mutatis mutandis (and ignoring reference to the making of an election), in respect of such Total Loss.

23.7 To the extent that there is damage to a Train or Car that does not constitute a Total Loss (***Partial Loss***), the Contractor shall be required to repair that Train or Car and apply the proceeds of all insurances received in respect of such damage to the repair.

23.8 After the Delivery Period the obligations of the Contractor under this Contract shall not be diminished by any Total Loss or Partial Loss save to the extent and in the circumstances below:

(a) where a Total Loss or Partial Loss occurs (i) as a consequence of the negligence of the Company or breach by it of its obligations under this Contract or (ii) as a consequence of the negligence of LUL; and

(b) immediately following the Total Loss or Partial Loss there are fewer than 103 Trains available for service (including Trains temporarily withdrawn from service for repair or any other like reasons);

then for so long as the number of Trains so available for service remains fewer than 103 the parties shall agree an appropriate adjustment to the Disturbance Factors (as defined in paragraph 11.1 of Part C-3 of Schedule 10).

23.9 For the avoidance of doubt all risk with respect to any Total Loss or Partial Loss of a New Train or a Car forming part thereof before the Delivery Period commences, or with respect to any New Train or Car forming a part thereof before a Qualified Take Over Certificate or Take Over Certificate is issued in respect thereof, shall be for the Contractor save where a Total Loss occurs in respect of a New Train or Car forming part thereof while that New Train is being transferred (as contemplated by Clause 8.2.2) from Ruislip Depot (or other specified delivery location) to the Northern Line in which case the provisions of Clause 23.2.2 shall, mutatis mutandis (and ignoring reference to the making of an election), apply with respect to that Total Loss.

23.10 The Company shall indemnify the Contractor on demand against any shortfalls in the amount of any Net Insurance Proceeds which the Contractor is entitled to retain as contemplated in this Clause 23 to the extent that the Contractor is not otherwise effectively compensated therefor under this Clause 23, by virtue of any breach or non-payment by the Company of any obligation owed by the Company to the Finance Parties under any agreement, document or instrument.

24. DEPOT HANDOVER ARRANGEMENTS

24. The Company may, at any time prior to the issue of the first Take Over Certificate or Qualified Take Over Certificate in respect of a Train, determine, by not less than 3 months' written notice to the Contractor (substantially in the form set out in Part HH of Schedule 7), the date (the ***Transfer Date***) on which the Contractor shall assume its obligations under this Contract to provide the Existing Train Services and on the date so determined by the Company, the Contractor shall assume such obligations. The provisions of Part B of Schedule 3 and Schedules 12 and 18 shall take effect on the Transfer Date. Each of the Draft Depot Leases will be granted in accordance with the terms of the Agreement to Lease/Licence.

25AA. SUPERVENING EVENTS

25AA.1.1 The provisions of this Clause 25AA shall have effect from the date on which this Contract becomes effective in accordance with Clause 2 until the satisfaction or waiver of the Additional Conditions Precedent (whereupon the provisions of this Clause 25AA shall cease to apply (but without prejudice to any additional security which may have been provided by LUL pursuant to this Clause 25AA prior to this Clause 25AA ceasing to apply, the parties hereto acknowledging that any such additional security shall remain in full force and effect and discharge pro tanto any obligation arising under Clause 25 and Clause 25A to have provided such additional security but shall be amended to the extent necessary to reflect the fact that the Additional Conditions Precedent have been satisfied or waived and/or the LRT Transfer Date shall have occurred, as the case may be) and shall be replaced by the provisions of Clause 25 or Clause 25A, as applicable). The provisions of this Clause 25AA shall have effect if any of the following events (a ***Supervening Event***) occurs:

(a) at any time prior to the occurrence of any permitted vesting or transfer under Clause 25AA.1.1(b), LUL shall cease to be owned by the Crown. For the purposes of this Clause 25AA.1.1(a):

(i) LUL shall be regarded as ***owned by the Crown*** at any time when it is owned and controlled by or on behalf of:

(aa) a Minister of the Crown; or

(bb) London Regional Transport as constituted under the London Regional Transport Act 1984 as at the date of this Contract or any public or statutory corporation or limited company which is wholly owned and controlled by a Minister of the Crown; or

(cc) a wholly owned subsidiary of any of the foregoing; and

(ii) the expression ***owned and controlled*** in relation to LUL shall mean owning and possessing:

(aa) ninety per cent. (90%) or more of the issued equity share capital of LUL or of the voting power exercisable at general meetings of LUL; and

(bb) the power to appoint or remove directors (by whatever name called) of LUL holding between them ninety per cent. (90%) or more of the voting power at meetings of the board of directors (by whatever name called) of LUL; and

(iii) the expression ***wholly owned*** shall have the same meaning as is given to ***owned and controlled*** in Clause 25AA.1.1(a)(ii) for so long as all of LUL's equity share capital is possessed by a person within the terms of Clause 25AA.1.1(a)(i);

(b) any of the payment obligations of LUL under the NLTSC are to be vested in or transferred to any party other than a party which is owned by the Crown (as defined, mutatis mutandis, in Clause 25AA.1.1(a)(i)) and which has, or will have following such vesting or transfer, Net Tangible Assets of not less than the Agreed Amount (a ***Permitted Transferee***). For the avoidance of doubt (i) following any such permitted vesting or transfer pursuant to this Clause 25AA.1.1(b), the provisions of Clause 25AA.1.1 shall continue to apply to each Permitted Transferee in substitution for LUL mutatis mutandis and (ii) the agreement by JNP pursuant to Clause 5A.3 of the NLTSC Restructuring Agreement, Clause 2.2 and any other relevant provision of the NLTSC or the Restructuring Documents to assume certain of LUL's payment obligations under the NLTSC does not constitute a Supervening Event pursuant to this Clause 25AA provided that such assumption occurs in accordance with the terms of such clauses;

(c) subject always to Clause 25AA.1.2, at any time prior to the occurrence of any permitted vesting or transfer under Clause 25AA.1.1(b), the whole or a substantial part of the assets of LUL are to be vested in or transferred to any party (other than a party to whom a permitted vesting or transfer is to contemporaneously occur under Clause 25AA.1.1(b)) such that the Net Tangible Assets of LUL would as a consequence fall below the Agreed Amount. In Clause 25AA.1.1(b) and this Clause 25AA.1.1(c):

(i) ***Net Tangible Assets*** means (a) the unencumbered Tangible Fixed Assets of the relevant party net of depreciation valued by application of the accounting policies used in the preparation of the statutory accounts of LUL for the year ending 31 March 1994 and (b) the unencumbered Tangible Assets of the relevant party net of depreciation valued (as if they were fixed assets) by application of the accounting policies used in respect of fixed assets in the preparation of the statutory accounts of LUL for the year ending 31 March 1994;

(ii) ***Agreed Amount*** means £4,978,960,000;

(iii) ***unencumbered*** means not encumbered by any mortgage, charge, pledge, hypothecation or other security interest;

(iv) ***Tangible Fixed Assets*** means any tangible fixed assets described as such in the relevant party's balance sheet but disregarding any accounting treatment of any such tangible fixed assets which are the subject of a PPP lease to the extent that any of the same are the subject of a lease back to the relevant party which would result in any such tangible fixed assets being recognised as such in the balance sheet of the relevant party at a lower value than their current value;

(v) ***Tangible Assets*** means any tangible assets (but excluding the Tangible Fixed Assets) of the relevant party which are the subject of a PPP lease and which (as a result of the accounting treatment given by the relevant party to such PPP lease) are recognised in the relevant party's balance sheet as assets and which but for the existence of the PPP lease would otherwise have been treated in the relevant party's balance sheet as tangible fixed assets of the relevant party; and

(vi) ***PPP lease*** means each and any of the leases granted or to be granted pursuant to the PPP agreements (as that expression is defined in the GLA Act) entitled PPP Contracts dated 1 April 2000 and made between LUL and each of the Company, Infraco BCV Limited and Infraco SSL Limited,

provided that references above to PPP lease shall be disregarded to the extent that any PPP leases are not being, or have not already been, transferred to such other party;

(d) subject always to Clause 25AA.1.2 below, proposed primary legislation (other than the GLA Act) or proposed secondary legislation (whether pursuant to the

GLA Act or otherwise) is placed before Parliament for the enactment of new or additional statutory or regulatory provisions relating to LUL's public duties or its funding and in either such case the occurrence of such event will or is likely to materially adversely affect the ability of LUL to perform or comply with its payment obligations under the Original Contract as amended in accordance with Clause 5A.2 of the NLTSC Restructuring Agreement;

(e) subject always to Clause 25AA.1.2, any consent, authorisation, licence or approval required by LUL for the performance by it of the statutory functions delegated to it by London Regional Transport is modified or is not granted or is revoked or terminated or expires and is not renewed or otherwise ceases to be in full force and effect and in any such case such event will or is likely to materially adversely affect the ability of LUL to perform or comply with its payment obligations under the Original Contract as amended in accordance with Clause 5A.2 of the NLTSC Restructuring Agreement;

(f) subject always to Clause 25AA.1.2, a Minister of the Crown issues any direction of mandatory effect to LUL under applicable law or LUL is in breach of any such direction, and in either case the occurrence of such event will or is likely to materially adversely affect the ability of LUL to perform or comply with its payment obligations under the Original Contract as amended in accordance with Clause 5A.2 of the NLTSC Restructuring Agreement;

(g) subject always to Clause 25AA.1.2, any Financial Indebtedness of LUL in excess of ten million pounds in respect of a single transaction or the equivalent in any other currency is not paid or discharged on the relevant date or within any period of grace applicable thereto and the person entitled to payment calls a default except where LUL is disputing in good faith its liability to pay or discharge such Financial Indebtedness.

25AA.1.2 Notwithstanding the terms of Clause 25AA.1.1 the other provisions of this Clause 25AA shall not have effect:

(a) in relation to any event within the terms of Clauses 25AA.1.1(d), (e) or (f) unless and until:

(i) the Finance Parties serve written notice on the Company and LUL to the effect that they consider such event will or is likely to have a material adverse effect on LUL's ability to perform its payment obligations under the Original Contract as amended in accordance with Clause 5A.2 of the NLTSC Restructuring Agreement (provided that the Finance Parties shall have served such notice not later than thirty (30) Working Days following the service of any notice by LUL on the Finance Parties pursuant to Clause 25AA.2 informing the Finance Parties of the occurrence of such event); and

(ii) 7 days elapse following receipt of a notice pursuant to Clause 25AA.1.2(a)(i) without LUL serving a notice on the Contractor to the effect that it considers it will be able to perform its payment obligations under the Original Contract as amended in accordance with

Clause 5A.2 of the NLTSC Restructuring Agreement notwithstanding the occurrence of such event;

(b) following service of any notice pursuant to Clause 25AA.1.2(a)(ii), unless and until in proceedings to which LUL, the Finance Parties and the Contractor are party, a judgment is given which is not being or is not capable of being appealed against to the effect that the circumstances of Clauses 25AA.1.1(d), (e) or (f) as the case may be exist and so that the provisions of Clause 47 shall not apply following service of any notice pursuant to Clause 25AA.1.2(a)(ii);

(c) in relation to any event within the terms of Clause 25AA.1.1(g), unless and until

(i) after 7 April 1995 LUL enters into a commitment in the same terms with any other party, but that, in addition thereto, on terms that such commitment is to be of immediate effect or substantially the same effect with any other party; and

(ii) thereafter, the circumstances in Clause 25AA.1.1(g) occur.

25AA.2 The Company undertakes, in relation to an event within the terms of Clauses 25AA.1.1(a), (b), (c) or (d), so far as the Company is aware thereof, to give sufficient notice to the Contractor and the Finance Parties prior to the occurrence of any Supervening Event thereunder and, in relation to any event within the terms of Clauses 25AA.1.1(e), (f) or (g) (but, in relation to Clause 25AA.1.1(g), only if the terms of Clause 25AA.1.2(c) are satisfied), to give notice to the Contractor and the Finance Parties as soon as it becomes aware of the occurrence of such Supervening Event so as, in each case, to enable the procedures set out below to be followed.

25AA.3 In the event that the Company gives or is required to give notice to the Contractor and the Finance Parties pursuant to Clause 25AA.2 or the Finance Parties or the Contractor, having become aware of the occurrence of a Supervening Event (but, in relation to Clause 25AA.1.1(g), only if the terms of Clause 25AA.1.2(c) are satisfied), give notice to the Company and LUL to that effect, then and in either case the Contractor and the Finance Parties (which expression shall, for the purposes of this Clause 25AA, include any financial institution leasing Trains or Equipment to the Contractor in accordance with Clauses 14.1.4 or 14.1.5) shall have the right to review the likely effect of the relevant Supervening Event and the Finance Parties may require the provision of additional security by LUL (or its successor), such security to take effect as follows:

(a) in relation to an event within the terms of Clauses 25AA.1.1(a), (b) or (c) reasonably prior to but in any event not later than the date falling five Working Days before such event actually occurs or, if later, the date being four Working Days following the Finance Parties' written request to provide the additional security;

(b) subject always to Clause 25AA.3(c), in relation to an event within the terms of Clauses 25AA.1.1(d), (e), (f) or (g) not later than ten Working Days after the occurrence of such Supervening Event or, if later, the date being four Working

Days following the Finance Parties' written request to provide the additional security; or

(c) in relation to an event within the terms of Clauses 25AA.1.1(d), (e) or (f) and where Clause 25AA.1.2(b) applies, not later than ten Working Days after the later of the last date referred to in Clauses 25AA.1.2(b) or (c) or, if later, the date being four Working Days following the Finance Parties' written request to provide the additional security.

In the event that the likely effects of the relevant Supervening Event are satisfactory to the Finance Parties and the Contractor, this Contract shall continue on its then existing terms.

25AA.4 For the purposes of Clause 25AA.3, should the Finance Parties require the provision of additional security, if LUL provides on or before the relative date determined in accordance with the provisions of Clauses 25AA.3(a), (b) or (c) as the case may be:

(a) an unconditional guarantee to the Contractor of the obligations of LUL under the Original Contract as amended since the date thereof that are not transferred to the Company pursuant to the Northern Line Transfer Scheme from a first class OECD Zone A Bank having a Standard and Poor's Ratings Services long-term credit rating of not less than AA (or, if Standard and Poor's Rating Services no longer offer such rating an equivalent rating, with such other agency as is, in the reasonable opinion of the Finance Parties, of equal standing); or

(b) cash collateral for such obligations to the Contractor and preserving the rights of LUL under Clause 26.3;

such security shall be deemed to be satisfactory to the Contractor and the Finance Parties (but only for so long as such guarantee or cash collateral remains in full force and effect and such credit rating, if applicable in relation to the guarantee, remains not less than AA or such other equivalent rating) provided that the Finance Parties acting reasonably and using their normal credit criteria and taking into account the nature of the period of the risks involved, also determine that the effect of the relevant Supervening Event will not, provided such guarantee is issued, or cash collateral placed, and remains in effect, materially adversely prejudice the interests of the Finance Parties.

25AA.5 In the event that alternative arrangements satisfactory to the Finance Parties are not made, the Contractor shall independently consider the proposed new circumstances of LUL and shall in its absolute discretion decide if it is satisfied with the arrangements that the Company or LUL has proposed to the Finance Parties. In the event that the Contractor is so satisfied, it shall make alternative funding arrangements such that either the concerns of the Finance Parties are satisfied or their investment is fully repaid and, in either case, with the Contract continuing on its then existing terms.

25AA.6 In the event that satisfactory arrangements are not, or cannot be, made and that LUL does not provide a guarantee pursuant to Clause 25AA.4(a) or place cash collateral pursuant to Clause 25AA.4(b), the Company shall on the Contractor's first written demand if the same occurs during the Primary Usage Period, the Secondary Usage Period or the Tertiary Usage Period pay to the Contractor the Acceleration Amount (subject to any adjustments thereto), determined for this Clause 25AA.6 in accordance with Section 4 of Part B of Schedule 10.

25AA.7 For the avoidance of doubt, and recognising in particular LUL's statutory obligations to operate a train service on the Northern Line, this Contract shall continue following the payment of the Acceleration Amount in the circumstances set out in Clause 25AA.6 and the Company shall retain its rights to quiet enjoyment under Clause 17 and the Contractor shall continue to perform its obligations under this Contract, subject only to the Company continuing to comply with its obligations under this Contract. Notwithstanding the occurrence of the relevant Supervening Event, the Company shall, subject to the Company continuing to comply with its obligations under this Contract, continue to have the rights set out in Clauses 6.2, 6.3 and 6.4 and this Contract shall, at the expiry of the relevant period, either terminate or continue on the same terms as if no Supervening Event had occurred and on the payment terms for which provision is made in Sections 1, 2 and 3 of Part B of Schedule 10.

25. SUPERVENING EVENT

25.1.1 The provisions of this Clause 25 shall have effect from the satisfaction or waiver of the Additional Conditions Precedent until the LRT Transfer Date (whereupon the provisions of this Clause 25 shall cease to apply and shall be replaced by the provisions of Clause 25A), if any of the following events (a ***Supervening Event***) occurs:

(a) I **LUL Ownership**: LUL shall cease to be owned by the Crown. For the purpose of this Clause 25.1.1(a)I:

(i) LUL shall be regarded as ***owned by the Crown*** at any time when it is owned and controlled by or on behalf of:

(aa) a Minister of the Crown (acting in his ministerial capacity); or

(bb) LRT or any public or statutory corporation or limited company which is wholly owned and controlled by a Minister of the Crown (acting in his ministerial capacity); or

(cc) a wholly owned subsidiary of any of the foregoing; and

(ii) the expression ***owned and controlled*** in relation to LUL shall mean owning and possessing:

(aa) ninety per cent (90%) or more of the issued equity share capital of LUL or of the voting power exercisable at general meetings of LUL; and

(bb) the power to appoint or remove directors (by whatever name called) of LUL holding between them ninety per cent. (90%) or more of the voting power at meetings of the board of directors (by whatever name called) of LUL; and

(iii) the expression ***wholly owned*** shall have the same meaning as is given to ***owned and controlled*** in Clause 25.1.1(a)I(ii) for so long as all of LUL's equity share capital is possessed by a person within the terms of Clause 25.1.1.(a)I(i); or

II **LRT Ownership**: LRT shall cease to be owned by the Crown. For the purpose of this Clause 25.1.1(a)II:

(i) LRT shall be regarded as ***owned by the Crown*** at any time when it is owned and controlled by or on behalf of:

(aa) a Minister of the Crown (acting in his ministerial capacity); or

(bb) any public or statutory corporation or limited company which is wholly owned and controlled by a Minister of the Crown (acting in his ministerial capacity); and

(ii) the expression ***owned and controlled*** in relation to LRT shall mean possessing the power to appoint or remove all or substantially all members (by whatever name called) of LRT; or

(b) **LUL Support Agreement Illegality**:

(i) the performance by LUL of any of its payment obligations or material non-payment obligations under the ALSTOM Support Agreements is or becomes or will become, for any reason, illegal, invalid or unenforceable in circumstances where the obligations of LRT under the ALSTOM Guarantee are prejudiced as a consequence thereof; or

(ii) the validity or enforceability as a matter of law of any of LUL's payment obligations or material non-payment obligations under the ALSTOM Support Agreements shall be disputed or contested by LUL; or

(c) **LRT Support Agreement Illegality**:

(i) the performance by LRT of any of its payment obligations or material non-payment obligations under the ALSTOM Guarantee is or becomes or will become, for any reason, illegal, invalid or unenforceable; or

(ii) the validity or enforceability as a matter of law of any of LRT's payment obligations or material non-payment obligations under the ALSTOM Guarantee shall be disputed or contested by LRT; or

(d) **LUL's Net Tangible Assets**: the failure by LUL to produce a certificate from its auditors (addressed to the Finance Parties) confirming that LUL's Net Tangible Assets equal or exceed the Agreed Amount within (A) 30 days of a written request from the Finance Parties or (B) 60 days of a written request from the Finance Parties where LUL's auditors notify the Finance Parties (and LUL shall procure that its auditors notify the Finance Parties promptly) that they are unable to issue such a certificate without first verifying the physical existence of LUL's Tangible Fixed Assets; provided that the Finance Parties may only make such a request if it is not readily apparent to the Finance Parties (acting reasonably) from a review of the latest statutory accounts of LUL that LUL's Net Tangible Assets equal or exceed the Agreed Amount. In this Clause 25.1.1(d):

(i) ***Net Tangible Assets*** means (a) the unencumbered Tangible Fixed Assets of LUL net of depreciation valued by application of the accounting policies used in the preparation of the statutory accounts of LUL for the year ending 31 March 1994 and (b) the unencumbered Tangible Assets of LUL net of depreciation valued (as if they were fixed assets) by application of the accounting policies used in respect of fixed assets in the preparation of the statutory accounts of LUL for the year ending 31 March 1994;

(ii) ***Agreed Amount*** means £4,978,960,000;

(iii) ***unencumbered*** means not encumbered by any mortgage, charge, pledge, hypothecation or other security interest;

(iv) ***Tangible Fixed Assets*** means any tangible fixed assets described as such in LUL's balance sheet but disregarding any accounting treatment of any such tangible fixed assets which are the subject of a PPP lease to the extent that any of the same are the subject of a lease back to LUL which would result in any such tangible fixed assets being recognised as such in the balance sheet of LUL at a lower value than their current value;

(v) ***Tangible Assets*** means any tangible assets (but excluding the Tangible Fixed Assets) of LUL which are the subject of a PPP lease and which (as a result of the accounting treatment given by LUL to such PPP lease) are recognised in LUL's balance sheet as assets and which but for the existence of the PPP lease would otherwise have been treated in LUL's balance sheet as tangible fixed assets of LUL; and

(vi) ***PPP lease*** means each and any of the leases granted or to be granted by LUL pursuant to the PPP agreements (as that expression is defined in the GLA Act) entitled PPP Contracts dated 1 April 2000 and made between LUL and each of the Company, Infraco BCV Limited and Infraco SSL Limited,

provided that references above to PPP lease shall be disregarded to the extent that any PPP leases are not being, or have not already been, transferred to such other party; or

(e) **Legislation**: subject always to Clause 25.1.2 below, proposed primary legislation (other than the GLA Act) or proposed secondary legislation (whether pursuant to the GLA Act or otherwise) is placed before Parliament for the enactment of new or additional statutory or regulatory provisions relating to either LUL's or LRT's public duties or the funding of either of them and in either such case the occurrence of such event will or is likely to affect the ability of either LUL or LRT to perform or comply with any of their respective payment obligations or material non-payment obligations under the ALSTOM Support Agreements; or

(f) **Consents**: subject always to Clause 25.1.2, any consent, permit, authorisation, licence or approval required by LRT or LUL for the performance of their respective statutory functions is modified or is not granted or is revoked or terminated or expires and is not renewed or otherwise ceases to be in full force and effect and in any such case the occurrence of such event will or is likely to affect the ability of either LUL or LRT to perform or comply with any of their respective payment obligations or material non-payment obligations under the ALSTOM Support Agreements; or

(g) **Ministerial Direction**: subject always to Clause 25.1.2, a Minister of the Crown (acting in his ministerial capacity) issues any order or direction or approves any transfer scheme or modification or revocation thereof, which order, direction, transfer scheme, modification or revocation is of mandatory effect to either LUL or LRT (as applicable) under applicable law, or either LUL or LRT is in breach of any such order or direction, and in any such case the occurrence of such event either (i) will or is likely to affect its ability to perform or comply with any of its payment obligations or material non-payment obligations under the ALSTOM Support Agreements or (ii) will transfer in whole or in part any such obligations to another party (other than (aa) pursuant to the Final Transfer Scheme or (bb) to a party which is owned by the Crown (as defined in Clause 25.1.1(a)I(i) above) and which party has, or will have following such transfer Net Tangible Assets of not less than the Agreed Amount).

In this Clause 25.1.1(g):

Net Tangible Assets means (a) the unencumbered Tangible Fixed Assets of the relevant party net of depreciation valued by application of the accounting policies used in the preparation of the statutory accounts of LUL for the year ending 31 March 1994 and (b) the unencumbered Tangible Assets of the relevant party net of depreciation valued (as if they were fixed assets) by application of the accounting policies used in respect of fixed assets in the preparation of the statutory accounts of LUL for the year ending 31 March 1994;

Agreed Amount means £4,978,960,000;

unencumbered means not encumbered by any mortgage, charge, pledge, hypothecation or other security interest;

Tangible Fixed Assets means any tangible fixed assets described as such in the relevant party's balance sheet but disregarding any accounting treatment of any such tangible fixed assets which are the subject of a PPP lease to the extent that any of the same are the subject of a lease back to the relevant party which would result in any such tangible fixed assets being recognised as such in the balance sheet of the relevant party at a lower value than their current value;

Tangible Assets means any tangible assets (but excluding the Tangible Fixed Assets) of the relevant party which are the subject of a PPP lease and which (as a result of the accounting treatment given by the relevant party to such PPP lease) are recognised in the relevant party's balance sheet as assets and which but for the existence of the PPP lease would otherwise have been treated in the relevant party's balance sheet as tangible fixed assets of the relevant party; and

PPP lease means each and any of the leases granted or to be granted pursuant to the PPP agreements (as that expression is defined in the GLA Act) entitled PPP Contracts dated 1 April 2000 and made between LUL and each of the Company, Infraco BCV Limited and Infraco SSL Limited,

provided that references above to PPP lease shall be disregarded to the extent that any PPP leases are not being, or have not already been, transferred to such other party; or

(h) **LUL Cross Default**: subject always to Clause 25.1.2(c), any Financial Indebtedness of LUL in excess of ten million pounds in respect of a single transaction or the equivalent in any other currency is not paid or discharged on the relevant date or within any period of grace applicable thereto and the person entitled to payment calls a default except where LUL is disputing in good faith its liability to pay or discharge such Financial Indebtedness; or

(i) **Transfer Certificates**: LUL or LRT fails to deliver any Transfer Certificate (as defined in the NLTSC Restructuring Agreement) when and in the form so required (and together with all applicable attachments in the form required) pursuant to the NLTSC Restructuring Agreement.

25.1.2 Notwithstanding the terms of Clause 25.1.1 the other provisions of this Clause 25 shall not have effect:

(a) in relation to any event within the terms of Clauses 25.1.1(e) (*Legislation*), (f) (*Consents*) or (g) (*Ministerial Direction*) unless and until:

(i) the Finance Parties serve written notice on the Company and LUL to the effect that they consider such event will or is likely to affect either LUL's or LRT's ability to perform their respective payment obligations or material non-payment obligations under the applicable ALSTOM Support Agreements (provided that the Finance Parties shall have served such notice not later than thirty (30) Working Days following the service of any notice on the Finance Parties by the

Company pursuant to Clause 25.2 informing the Finance Parties of the occurrence of such event); and

(ii) 7 days elapse following receipt of a notice pursuant to Clause 25.1.2(a)(i) without LUL serving a notice on the Contractor and the Finance Parties to the effect that it considers LUL or LRT (as the case may be) will be able to perform the relevant obligations under the applicable ALSTOM Support Agreement notwithstanding the occurrence of such event;

(b) following service of any notice pursuant to Clause 25.1.2(a)(ii), unless and until in proceedings to which either LUL or LRT, the Finance Parties and the Contractor are party, a judgment is given which is not being or is not capable of being appealed against to the effect that the circumstances of Clauses 25.1.1(e) (*Legislation*), (f) (*Consents*) or (g) (*Ministerial Direction*) as the case may be exist and so that the provisions of Clause 47 shall not apply following service of any notice pursuant to Clause 25.1.2(a)(ii);

(c) in relation to any event within the terms of Clause 25.1.1(h) (*LUL Cross Default*), unless and until

(i) after 7 April 1995, LUL enters into a commitment in the same terms with any other party, but that, in addition thereto, on terms that such commitment is to be of immediate effect or substantially the same effect with any other party; and

(ii) thereafter, the circumstances in Clause 25.1.1(h) (*LUL Cross Default*) occur.

25.2 The Company undertakes, in relation to an event within the terms of Clauses 25.1.1(a) (*LUL/LRT Ownership*), (b) (*LUL Support Agreement Illegality*), (c) (*LRT Support Agreement Illegality*), (d) (*LUL's Net Tangible Assets*) or (e) (*Legislation*), so far as the Company is aware thereof, to give sufficient notice to the Contractor and the Finance Parties prior to the occurrence of any Supervening Event thereunder and, in relation to any event within the terms of Clauses 25.1.1(f) (*Consents*), (g) (*Ministerial Direction*), (h) (*LUL Cross Default*) or (i) (*Transfer Certificates*) (but, in relation to Clause 25.1.1(h) (*LUL Cross Default*), only if the terms of Clause 25.1.2(c) are satisfied), to give notice to the Contractor and the Finance Parties as soon as it becomes aware of the occurrence of such Supervening Event so as, in each case, to enable the procedures set out below to be followed.

25.3 In the event that the Company gives or is required to give notice to the Contractor and the Finance Parties pursuant to Clause 25.2 or the Finance Parties or the Contractor, having become aware of the occurrence of a Supervening Event (but, in relation to Clause 25.1.1(h) (*LUL Cross Default*), only if the terms of Clause 25.1.2(c) are satisfied), give notice to the Company and LUL to that effect, then and in either case the Contractor and the Finance Parties (which expression shall, for the purposes of this Clause 25, include any financial institution leasing Trains or Equipment to the Contractor in accordance with Clauses 14.1.4 or 14.1.5) shall have the right to review the likely effect of the relevant Supervening Event and the Finance

Parties may require the provision of additional security by LUL (or its successor), such security to take effect as follows:

(a) in relation to an event within the terms of Clauses 25.1.1(a) (*LUL/LRT Ownership*), (b) (*LUL Support Agreement Illegality*), (c) (*LRT Support Agreement Illegality*) or (d) (*LUL's Net Tangible Assets*) reasonably prior to but in any event not later than the date falling five (5) Working Days before such event actually occurs or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security; or

(b) subject always to Clause 25.3(c), in relation to an event within the terms of Clauses 25.1.1(e) (*Legislation*), (f) (*Consents*), (g) (*Ministerial Direction*) or (h) (*LUL Cross Default*) not later than ten (10) Working Days after the occurrence of such Supervening Event or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security; or

(c) in relation to an event within the terms of Clauses 25.1.1(e) (*Legislation*), (f) (*Consents*), or (g) (*Ministerial Direction*) and where Clause 25.1.2(b) applies, not later than ten (10) Working Days after the date of the judgement referred to in Clause 25.1.2(b) or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security; or

(d) in relation to an event within the terms of Clause 25.1.1 (i) (*Transfer Certificates*) not later than two (2) Working Days prior to the Relevant Transfer Date (as defined in the NLTSC Restructuring Agreement) unless such Transfer Certificate together with the required attachments has been served in the required form by 1800 hours GMT on the date which is three (3) Working Days prior to the Relevant Transfer Date or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security.

In the event that the likely effects of the relevant Supervening Event are satisfactory to the Finance Parties and the Contractor, this Contract shall continue on its then existing terms.

If a Supervening Event has occurred pursuant to Clause 25.1.1(i) (*Transfer Certificates*) and additional security is provided by LUL to the Finance Parties pursuant to Clause 25.3(d) as a consequence solely of the occurrence of such Supervening Event, the Finance Parties shall release the additional security provided that:

(i) LUL and LRT have first delivered to the Contractor and the Finance Parties the required Transfer Certificate (as defined in the NLTSC Restructuring Agreement) in the form so required (together with all applicable attachments in the form required); and

(ii) no other Supervening Event has occurred (whether before or after the provision of the additional security) or will occur prior to the release of the additional security.

25.4 For the purposes of Clause 25.3, should the Finance Parties require the provision of additional security, if LUL provides on or before the relative date determined in accordance with the provisions of Clauses 25.3(a), (b), (c) or (d) as the case may be:

(a) an unconditional guarantee to the Contractor of LUL's and LRT's obligations under the ALSTOM Support Agreements from a first class OECD Zone A Bank having a Standard and Poor's Ratings Services long-term credit rating of not less than AA (or, if Standard and Poor's Ratings Services no longer offer such rating an equivalent rating, with such other agency as is, in the reasonable opinion of the Finance Parties, of equal standing); or

(b) cash collateral for such obligations to the Contractor;

such security shall be deemed to be satisfactory to the Contractor and the Finance Parties (but only for so long as such guarantee or cash collateral remains in full force and effect and such credit rating, if applicable in relation to the guarantee, remains not less than AA or such other equivalent rating) provided that the Finance Parties acting reasonably and using their normal credit criteria and taking into account the nature of the period of the risks involved, also determine that the effect of the relevant Supervening Event will not, provided such guarantee is issued, or cash collateral placed, and remains in effect, materially adversely prejudice the interests of the Finance Parties.

25.5 In the event that alternative arrangements satisfactory to the Finance Parties are not made, the Contractor shall independently consider the proposed new circumstances of LRT and/or LUL (as applicable) and shall in its absolute discretion decide if it is satisfied with the arrangements that the Company or LUL has proposed to the Finance Parties. In the event that the Contractor is so satisfied, it shall make alternative funding arrangements such that either the concerns of the Finance Parties are satisfied or their investment is fully repaid and, in either case, with the Contract and the Project Documents continuing on their then existing terms.

25.6 In the event that satisfactory arrangements are not, or cannot be, made and that LUL does not provide either the guarantee or place cash collateral as referred to in Clause 25.4 the Company shall, on the Contractor's first written demand, if the same occurs during the Primary Usage Period, the Secondary Usage Period or the Tertiary Usage Period pay to the Contractor the Acceleration Amount (subject to any adjustments thereto) determined for this Clause 25.6 in accordance with Section 4 of Part B of Schedule 10. The Contractor acknowledges to the Company that the receipt of payment of the Acceleration Amount direct from LUL shall constitute a good discharge of the Company's obligation to pay that amount to the Contractor.

25.7 For the avoidance of doubt, and recognising in particular LUL's statutory obligations to operate a train service on the Northern Line, this Contract shall continue following the payment of the Acceleration Amount in the circumstances set

out in Clause 25.6 and the Company shall retain its rights to quiet enjoyment under Clause 17 and the Contractor shall continue to perform its obligations under this Contract, subject only to the Company continuing to comply with its obligations under this Contract. Notwithstanding the occurrence of the relevant Supervening Event, the Company shall, subject to the Company continuing to comply with its obligations under this Contract, continue to have the rights set out in Clauses 6.2, 6.3 and 6.4 and this Contract shall, at the expiry of the relevant period, either terminate or continue on the same terms as if no Supervening Event had occurred and on the payment terms for which provision is made in Sections 1, 2 and 3 of Part B of Schedule 10.

25A. SUPERVENING EVENTS

25A. The provisions of this Clause 25A shall have effect only on and from the LRT Transfer Date. Upon the occurrence of the LRT Transfer Date the provisions of Clause 25 shall cease to have effect (but without prejudice to any additional security which may have been provided by LUL prior to such date pursuant to Clause 25AA or Clause 25, the parties hereto acknowledging that any such additional security shall remain in full force and effect and discharge pro tanto any obligation arising under Clause 25A to have provided such additional security but shall be amended to the extent necessary to reflect the fact that the Additional Conditions Precedent have been satisfied or waived and/or the LRT Transfer Date shall have occurred, as the case may be) and shall be replaced by the provisions of this Clause 25A (if then effective in accordance with its terms).

25A.1.1 The provisions of this Clause 25A shall have effect if any of the following events (a ***Supervening Event***) occurs:

(a) **T*f*L Credit Rating**:

(i) T*f*L fails to obtain or ceases to maintain a Standard and Poor's Ratings Services long-term credit rating of at least AA– or if such agency no longer offers such rating, an equivalent rating with such other agency as is, in the reasonable opinion of the Finance Parties, of equivalent standing; or

(ii) T*f*L has a Standard and Poor's Ratings Services long term credit rating of AA– or equivalent and T*f*L is placed on creditwatch (otherwise than with a view to upgrading) or other qualification with a view to, or in anticipation of, a possible downgrading of T*f*L's long term credit rating and such creditwatch or other qualification does not come to an end within ninety (90) Working Days of its commencement; or

(b) **LUL Support Agreement Illegality**:

(i) the performance by LUL of any of its payment obligations or material non-payment obligations under the ALSTOM Step-In Agreement is or becomes or will become, for any reason, illegal, invalid or unenforceable in circumstances where the obligations of T*f*L under the ALSTOM Guarantee are prejudiced as a consequence thereof; or

(ii) the validity or enforceability as a matter of law of any of LUL's payment obligations or material non-payment obligations under the ALSTOM Step-In Agreement shall be disputed or contested by LUL; or

(c) **T*f*L Guarantee Illegality**:

(i) the performance by T*f*L of any of its payment obligations or material non-payment obligations under the ALSTOM Guarantee is or becomes or will become, for any reason, illegal, invalid or unenforceable; or

(ii) the validity or enforceability as a matter of law of any of T*f*L's payment obligations or material non-payment obligations under the ALSTOM Guarantee shall be contested or disputed by T*f*L; or

(d) **LUL Ownership**: LUL ceases to be a wholly owned subsidiary of T*f*L for the purposes of the GLA Act (where for the avoidance of doubt ***subsidiary*** shall have the meaning set out in Section 736 of the Companies Act); or

(e) **Consents**: subject always to Clause 25A.1.2, any consent, permit, authorisation, licence or approval required by T*f*L and/or LUL for the performance of its statutory functions is modified or is not granted or is revoked or terminated or expires and is not renewed or otherwise ceases to be in full force and effect and in any such case the occurrence of such event will or is likely to affect its ability to perform or comply with any of its payment obligations or material non-payment obligations under the ALSTOM Support Agreements; or

(f) **Ministerial Direction**: subject always to Clause 25A.1.2, a Minister of the Crown or the Mayor of London (in each case, acting in his official capacity) issues any order or direction or approves any transfer scheme or modification or revocation thereof, which order, direction, transfer scheme or modification or revocation is of mandatory effect to either T*f*L or LUL (as applicable) under applicable law, or either T*f*L or LUL is in breach of any such order or direction, and in any such case the occurrence of such event either (i) will or is likely to affect its ability to perform or comply with any of its payment obligations or material non-payment obligations under the ALSTOM Support Agreements or (ii) will transfer in whole or in part any such obligations to another party (other than to a party which is owned by the Crown (as defined in Clause 25.1.1(a)I(i) above) or T*f*L and which party has, or will have following such transfer:

(i) in the case of a transfer of the obligations of T*f*L, a Standard and Poor's Ratings Services long term credit rating of at least AA– or if such agency no longer offers such a rating, an equivalent rating with such other agency as is, in the reasonable opinion of the Finance Parties, of equivalent standing; and

(ii) in the case of a transfer of the obligations of LUL, Net Tangible Assets of not less than the Agreed Amount).

In this Clause 25A.1.1(f):

Net Tangible Assets means (a) the unencumbered Tangible Fixed Assets of the relevant party net of depreciation valued by application of the accounting policies used in the preparation of the statutory accounts of LUL for the year ending 31 March 1994 and (b) the unencumbered Tangible Assets of the relevant party net of depreciation valued (as if they were fixed assets) by application of the accounting policies used in respect of fixed assets in the preparation of the statutory accounts of LUL for the year ending 31 March 1994;

Agreed Amount means £4,978,960,000;

unencumbered means not encumbered by any mortgage, charge, pledge, hypothecation or other security interest;

Tangible Fixed Assets means any tangible fixed assets described as such in the relevant party's balance sheet but disregarding any accounting treatment of any such tangible fixed assets which are the subject of a PPP lease to the extent that any of the same are the subject of a lease back to the relevant party which would result in any such tangible fixed assets being recognised as such in the balance sheet of the relevant party at a lower value than their current value;

Tangible Assets means any tangible assets (but excluding the Tangible Fixed Assets) of the relevant party which are the subject of a PPP lease and which (as a result of the accounting treatment given by the relevant party to such PPP lease) are recognised in the relevant party's balance sheet as assets and which but for the existence of the PPP lease would otherwise have been treated in the relevant party's balance sheet as tangible fixed assets of the relevant party; and

PPP lease means each and any of the leases granted or to be granted pursuant to the PPP agreements (as that expression is defined in the GLA Act) entitled PPP Contracts dated 1 April 2000 and made between LUL and each of the Company, Infraco BCV Limited and Infraco SSL Limited,

provided that references above to PPP lease shall be disregarded to the extent that any PPP leases are not being, or have not already been, transferred to such other party; or

(g) **T*f*L Ownership**: T*f*L shall cease to be owned by the Crown. For the purpose of this Clause 25A.1.1(g):

(i) T*f*L shall be regarded as ***owned by the Crown*** at any time when it is owned and controlled by or on behalf of:

(aa) a Minister of the Crown (acting in his ministerial capacity); or

(bb) the Mayor of London (acting in his mayoral capacity) as the same may from time to time be elected or returned in accordance with the GLA Act; or

(cc) any public or statutory corporation or limited company which is wholly owned and controlled by a Minister of the Crown or the Mayor of London (in each case, acting in an official capacity); and

(ii) the expression ***owned and controlled*** in relation to T*f*L shall mean possessing the power to appoint or remove all or substantially all members (by whatever name called) of T*f*L; or

(h) **Legislation**: subject always to Clause 25A.1.2 below, proposed primary legislation (other than the GLA Act) or proposed secondary legislation (whether pursuant to the GLA Act or otherwise) is placed before Parliament for the enactment of new or additional statutory or regulatory provisions relating to either LUL's or T*f*L's public duties or the funding of either of them and in either such case the occurrence of such event will or is likely to affect the ability of either LUL to perform or comply with any of its payment obligations or material non-payment obligations under the ALSTOM Step-In Agreement or of T*f*L to perform or comply with any of its payment obligations or material non-payment obligations under the ALSTOM Guarantee; or

(i) **Cross-Default**: subject always to Clause 25A.1.2 any Financial Indebtedness of T*f*L or LUL in excess of ten (10) million pounds in respect of a single transaction or the equivalent in any other currency is not paid or discharged on the relevant date or within any period of grace applicable thereto and the person entitled to payment calls a default except where T*f*L or LUL is disputing in good faith its liability to pay or discharge such Financial Indebtedness; or

(j) **Transfer Certificates**: LUL or T*f*L fails to deliver any Transfer Certificate (as defined in the NLTSC Restructuring Agreement) when and in the form so required (and together with all applicable attachments in the form required) pursuant to the NLTSC Restructuring Agreement; or

(k) **LUL's Net Tangible Assets**: the failure by LUL to produce a certificate from its auditors (addressed to the Finance Parties) confirming that LUL's Net Tangible Assets equal or exceed the Agreed Amount within (A) 30 days of a written request from the Finance Parties or (B) 60 days of a written request from the Finance Parties where LUL's auditors notify the Finance Parties (and LUL shall procure that its auditors notify the Finance Parties promptly) that they are unable to issue such a certificate without first verifying the physical existence of LUL's Tangible Fixed Assets; provided that the Finance Parties may only make such a request if it is not readily apparent to the Finance Parties (acting reasonably) from a review of the latest statutory accounts of LUL that LUL's Net Tangible Asset equal or exceed the Agreed Amount. In this Clause 25A.1.1(k):

(i) ***Net Tangible Assets*** means (a) the unencumbered Tangible Fixed Assets of LUL net of depreciation valued by application of the accounting policies used in the preparation of the statutory accounts of LUL for the year ending 31 March 1994 and (b) the unencumbered Tangible Assets of LUL net of depreciation valued (as if they were

fixed assets) by application of the accounting policies used in respect of fixed assets in the preparation of the statutory accounts of LUL for the year ending 31 March 1994;

(ii) ***Agreed Amount*** means £4,978,960,000;

(iii) ***unencumbered*** means not encumbered by any mortgage, charge, pledge, hypothecation or other security interest;

(iv) ***Tangible Fixed Assets*** means any tangible fixed assets described as such in LUL's balance sheet but disregarding any accounting treatment of any such tangible fixed assets which are the subject of a PPP lease to the extent that any of the same are the subject of a lease back to LUL which would result in any such tangible fixed assets being recognised as such in the balance sheet of LUL at a lower value than their current value;

(v) ***Tangible Assets*** means any tangible assets (but excluding the Tangible Fixed Assets) of LUL which are the subject of a PPP lease and which (as a result of the accounting treatment given by LUL to such PPP lease) are recognised in LUL's balance sheet as assets and which but for the existence of the PPP lease would otherwise have been treated in LUL's balance sheet as tangible fixed assets of LUL; and

(vi) ***PPP lease*** means each and any of the leases granted or to be granted by LUL pursuant to the PPP agreements (as that expression is defined in the GLA Act) entitled PPP Contracts dated 1 April 2000 and made between LUL and each of JNP, Infraco BCV Limited and Infraco SSL Limited

provided that references above to PPP lease shall be disregarded to the extent that any PPP leases are not being, or have not already been, transferred to such other party.

25A.1.2 Notwithstanding the terms of Clause 25A.1.1 the other provisions of this Clause 25A shall not have effect:

(a) in relation to any event within the terms of Clauses 25A.1.1, (e) (*Consents*), (f) (*Ministerial Direction*) or (h) (*Legislation*) unless and until:

(i) the Finance Parties serve written notice on the Company and LUL to the effect that they consider such event will or is likely to affect either T*f*L's ability to perform its payment obligations or material non-payment obligations under the ALSTOM Guarantee or LUL's ability to perform its payment obligations or material non-payment obligations under the ALSTOM Step-In Agreement (provided that the Finance Parties shall have served such notice not later than thirty (30) Working Days following the service of any notice on the Finance Parties by the Company pursuant to Clause 25A.2 informing the Finance Parties of the occurrence of such event); and

(ii) seven (7) days elapse following receipt of a notice pursuant to Clause 25A.1.2(a)(i) without LUL serving a notice on the Contractor to the effect that it considers T*f*L or LUL (as the case may be) will be able to perform the relevant obligations under the applicable ALSTOM Support Agreement notwithstanding the occurrence of such event;

(b) following service of any notice pursuant to Clause 25A.1.2(a)(ii), unless and until in proceedings to which either LUL, T*f*L the Finance Parties and the Contractor are party, a judgment is given which is not being or is not capable of being appealed against to the effect that the circumstances of Clauses 25A.1.1(e) (*Consents*), (f) (*Ministerial Direction*) or (h) (*Legislation*) as the case may be exist and so that the provisions of Clause 47 shall not apply following service of any notice pursuant to Clause 25A.1.2(a)(ii).

(c) in relation to any event within the terms of Clause 25A.1.1(i) (*Cross Default*) in respect of T*f*L unless and until:

(A) (i) after 7 April 1995, T*f*L enters into or is bound by a commitment in the same terms with any other party, but that, in addition thereto, on terms that such commitment is to be of immediate effect or substantially the same effect with any other party; and (ii) thereafter the circumstances in Clause 25A.1.1(i) (*Cross Default*) occur; or

(B) T*f*L is placed on creditwatch (otherwise than with a view to upgrading) or other qualification with a view to, or in anticipation of, a possible downgrading of T*f*L's long term credit rating.

25A.2 The Company undertakes, in relation to an event within the terms of Clause 25A.1.1 (a) (*TfL Credit Rating*) (b) (*LUL Support Agreement Illegality*), (c) *TfL Guarantee Illegality*), (d) (*LUL Ownership*), (g) (*TfL Ownership*), (k) (*LUL's Net Tangible Assets*) or (h) (*Legislation*), so far as the Company is aware thereof, to give sufficient notice to the Contractor and the Finance Parties prior to the occurrence of any such Supervening Event thereunder and, in relation to any event within the terms of Clauses 25A.1.1(e) (*Consents*), (f) (*Ministerial Direction*), (i) (*Cross-Default*) or (j) (*Transfer Certificates*) (but, in relation to Clause 25A.1.1(i), only if the terms of Clause 25A.1.2(c) are satisfied) to give notice to the Contractor and the Finance Parties as soon as it becomes aware of the occurrence of such Supervening Event so as, in each case, to enable the procedures set out below to be followed.

25A.3 In the event that the Company gives or is required to give notice to the Contractor and the Finance Parties pursuant to Clause 25A.2 or the Finance Parties or the Contractor, having become aware of the occurrence of a Supervening Event give notice to the Company to that effect, then and in either case the Contractor and the Finance Parties (which expression shall, for the purposes of this Clause 25A, include any financial institution leasing Trains or Equipment to the Contractor in accordance with Clauses 14.1.4 or 14.1.5) shall have the right to review the likely effect of the relevant Supervening Event and the Finance Parties may require the provision of additional security by LUL such security to take effect as follows:

(a) in relation to an event within the terms of Clauses 25A.1.1(a) (*TfL Credit Rating*), (b) (*LUL Support Agreement Illegality*), (c) (*TfL Guarantee Illegality*), (d) (*LUL Ownership*), (g) (*TfL Ownership*) or (k) (*LUL's Net Tangible Assets*) reasonably prior to, but in any event not later than, the date falling five (5) Working Days before such event actually occurs or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security;

(b) subject always to Clause 25A.3(c) in relation to an event within the terms of Clauses 25A.1.1(e) (*Consents*), (f) (*Ministerial Direction*), (h) (*Legislation*) or (i) (*Cross-Default*) not later than ten (10) Working Days after the occurrence of such Supervening Event or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security;

(c) in relation to an event within the terms of Clauses 25A.1.1(e) (*Consents*), (f) (*Ministerial Direction*), or (h) (*Legislation*) and where Clause 25A.1.2(b) applies, not later than ten (10) Working Days after the later of the date of the judgement referred to in Clause 25A.1.2(b) or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security; or

(d) in relation to an event within the terms of Clause 25A.1.1(j) (*Transfer Certificates*), not later than two (2) Working Days prior to the Relevant Transfer Date (as defined in the NLTSC Restructuring Agreement) unless such Transfer Certificate together with the required attachments has been served in the required form by 1800 hours GMT on the date which is three (3) Working Days prior to the Relevant Transfer Date or if later, the date being four (4) Working Days following the Finance Parties written request to provide the additional security.

In the event that the likely effects of the relevant Supervening Event are satisfactory to the Finance Parties and the Contractor, this Contract shall continue on its then existing terms.

If a Supervening Event has occurred pursuant to Clause 25A.1.1(j) (*Transfer Certificates*) and additional security is provided by LUL to the Finance Parties pursuant to Clause 25A.3(d) as a consequence solely of the occurrence of such Supervening Event, the Finance Parties shall release the additional security provided that:

(i) LUL and T*f*L have first delivered to the Contractor and the Finance Parties the required Transfer Certificate (as defined in the NLTSC Restructuring Agreement) in the form so required (together with all applicable attachments in the form required); and

(ii) no other Supervening Event has occurred (whether before or after the provision of the additional security) or will occur prior to the release of the additional security.

25A.4 For the purposes of Clause 25A.3, should the Finance Parties require the provision of additional security, if LUL provides on or before the relative date determined in accordance with the provisions of Clauses 25A.3(a), (b), (c) or (d), as the case may be:

(a) an unconditional guarantee to the Contractor of LUL's and T*f*L's obligations under the ALSTOM Support Agreements from a first class OECD Zone A Bank having a Standard and Poor's Ratings Services long-term credit rating of not less than AA (or, if Standard and Poor's Ratings Services no longer offer such rating an equivalent rating, with such other agency as is, in the reasonable opinion of the Finance Parties, of equal standing); or

(b) cash collateral for such obligations to the Contractor;

such security shall be deemed to be satisfactory to the Contractor and the Finance Parties (but only for so long as such guarantee or cash collateral remains in full force and effect and such credit rating, if applicable in relation to the guarantee, remains not less than the AA or such other equivalent rating) provided that the Finance Parties acting reasonably and using their normal credit criteria and taking into account the nature of the period of the risks involved, also determine that the effect of the relevant Supervening Event will not, provided such guarantee is issued, or cash collateral placed, and remains in effect, materially adversely prejudice the interests of the Finance Parties.

25A.5 In the event that alternative arrangements satisfactory to the Finance Parties are not made, the Contractor shall independently consider the proposed new circumstances of T*f*L and shall in its absolute discretion decide if it is satisfied with any arrangements that LUL has proposed to the Finance Parties. In the event that the Contractor is so satisfied, it shall make alternative funding arrangements such that either the concerns of the Finance Parties are satisfied or their investment is fully repaid and, in either case, with the Contract and the Project Documents continuing on their then existing terms.

25A.6 In the event that satisfactory arrangements are not, or cannot be, made and that LUL does not provide either the guarantee or place cash collateral pursuant to Clause 25A.4, the Company shall, on the Contractor's first written demand made to the Company and copied to LUL, if the same occurs during the Primary Usage Period, the Secondary Usage Period or the Tertiary Usage Period pay to the Contractor or at its direction the Acceleration Amount (subject to any adjustments thereto) determined for this Clause 25A.6 in accordance with Section 4 of Part B of Schedule 10. The Contractor acknowledges to the Company that the receipt of payment of the Acceleration Amount direct from LUL shall constitute a good discharge of the Company's obligation to pay that amount to the Contractor.

25A.7 For the avoidance of doubt, and recognising in particular LUL's statutory obligations to operate a train service on the Northern Line, this Contract shall continue following the payment of the Acceleration Amount in the circumstances set out in Clause 25A.6 and the Company shall retain its rights to quiet enjoyment under Clause 17 and the Contractor shall continue to perform its obligations under this Contract, subject only to the Company continuing to comply with its obligations

under this Contract. Notwithstanding the occurrence of the relevant Supervening Event, the Company shall continue to have the rights set out in Clauses 6.2, 6.3 and 6.4 and this Contract shall, at the expiry of the relevant period, either terminate or continue on the same terms as if no Supervening Event had occurred and on the payment terms for which provision is made in Sections 1, 2 and 3 of Part B of Schedule 10.

26. COMPANY TERMINATION RIGHTS

Voluntary Termination

26.1.1 The Company may at any time and from time to time after the earlier to occur of the expiry of the Delivery Period and Final Leasing Date upon giving to the Contractor not more than three (3) months' notice (substantially in the form set out in Part II of Schedule 7) in writing with the prior consent of LUL which shall be evidenced by the countersignature of the relevant notice by a director of LUL, to expire on any Quarter Date, terminate this Contract:

(a) in whole; or

(b) in relation to the provision of any particular Train or Trains or number of Trains under this Contract, in which event, there shall be deemed to be a contemporaneous termination in relation to the provision of such Train's or Trains' Trainborne Equipment; or

(c) in relation to the provision of all or any part of the Trackside Equipment that is to be provided under this Contract provided that the relevant Trackside Equipment is situated on a part of the Northern Line on which LUL intends to cease operating the Trains.

Any such notice, once given, shall be irrevocable and shall specify the date on which this Contract shall terminate (subject to any extension pursuant to Clause 26.1.3) or, in any case not of entire termination, the subject matter (which, in the case of Trains, must be of a number of whole Trains), and the date or dates (which, in the case of Trains or Trackside Equipment, must fall on the next following Quarter Date), of the termination. In such event, the Company shall pay on the date on which the Contractor is due to make a corresponding payment to the Finance Parties or otherwise on demand to the Contractor on the date of termination an amount equal to the Termination Amount (subject to any adjustments thereto) determined for this Clause 26.1.1 in accordance with Section 4 of Part B of Schedule 10, as reduced by the amount of any Benefit that the Contractor certifies falls to be taken into account under Clause 30.2 as a deduction in computing the amount payable under this Clause 26.1.1, together with any other non-financing costs reasonably and properly incurred by the Contractor as a consequence of such termination.

26.1.2 For the avoidance of doubt, the Company shall not be entitled pursuant to Clause 26.1.1 to terminate any discrete element of the Services or the Existing Train Services to be provided under this Contract or the Enabling Works to be carried out pursuant to the Agreement to Lease/Licence. In the event that the Company exercises its rights under Clause 26.1.1 to terminate this Contract, other than in its entirety, the

parties shall be obliged to negotiate in good faith the basis on which the Services Element of the Usage Payments shall be reduced, such basis to take into account, inter alia, the Contractor's yearly forward programme of work prepared pursuant to Part G of Schedule 6 to take into account the exercise of such rights and the number of Trains, or amount of Equipment, that the Contractor has been required to remove from the Site.

26.1.3 In the event that the Company gives a notice to the Contractor pursuant to Clause 26.1.1, the Company shall at its option (which option is hereby irrevocably granted by the Contractor) have the right to specify in any such notice that it elects to extend this Contract beyond the termination date specified therein for the Hand Back Extension Period in accordance with Clauses 6.5, 6.6 and 6.7. In such event, the Company shall pay to the Contractor an amount equal to the Termination Amount for each Handback Date, subject to any adjustments thereto, determined in respect of this Clause 26.1.3 in accordance with Section 4 of Part B of Schedule 10 as reduced by the amount of any Benefit that falls to be taken into account under Clause 30.2 as a deduction in computing the amount payable under this Clause 26.1.3, together with any other costs (if any) reasonably and properly incurred by the Contractor as a consequence of such termination.

12 Year Walk Option

26.2.1 The Company may, upon giving written notice countersigned by LUL to the Contractor (substantially in the form set out in Part JJ of Schedule 7) not later than the date which is 12 years and three (3) months from the date of the Original Contract, terminate this Contract, such notice to take effect on a date which is not later than 12 years and nine months from the date of the Original Contract if :

(a) for more than any four (4) consecutive four (4) week periods between the dates which are 10 years and 11 years from the date of the Original Contract, service performance is worse than one Service Performance Failure (attributable to the Contractor in accordance with Part C-3 of Schedule 10) in 10,000 kilometres (as determined in accordance with Schedule 6); and

(b) for more than any four (4) consecutive four (4) week periods between the dates which are 11 and 12 years from the date of the Original Contract, service performance is worse than one Service Performance Failure (attributable to the Contractor in accordance with Part C-3 of Schedule 10) in 10,000 kilometres (as determined in accordance with Schedule 6) provided that a period of not less than 12 months has expired since the commencement of the first of the four (4) consecutive four (4) week periods falling within Clause 26.2.1(a).

Any such notice shall specify the date on which this Contract shall terminate (subject to any extension pursuant to Clause 26.2.2) and on such date the Trains and the Equipment will be returned to the Contractor in accordance with Clause 29 and payments shall be made by or to the Company in accordance with Section 4 of Part B of Schedule 10.

26.2.2 Without prejudice, and in addition, to the rights of the Company under the Guarantees, and without prejudice to any other rights and remedies of the Company hereunder or generally in law:

(a) in the event that the Company gives a notice to the Contractor pursuant to Clause 26.2.1, the Company shall at its option (which option is hereby irrevocably granted by the Contractor) have the right irrevocably to specify in any such notice that it elects to extend this Contract beyond the termination date specified therein for the Hand Back Extension Period in accordance with Clauses 6.5, 6.6 and 6.7; and

(b) if the Company elects to extend this Contract for the Hand Back Extension Period pursuant to Clause 26.2.2(a), the terms of this Contract shall continue to apply and in addition the Company (or LUL where indicated) shall, during such period, be entitled to exercise any one or more of the following rights:

(i) the unencumbered right to continue to use and operate the Trains, the Trainborne Equipment and the Trackside Equipment and, provided that the Company or LUL (as appropriate) has exercised its rights to terminate the Real Property Documents, the Enabling Works (without any interference or obstruction whatsoever) subject to the Company continuing to pay the Usage Payments on the basis specified in Clause 6.7 provided that:

(aa) the Enabling Works Element of the Usage Payments shall cease to accrue if the Company or LUL (as appropriate) exercises its rights to terminate the Real Property Documents or the Finance Parties exercise their put option, or the Company exercises its call option, pursuant to the Put and Call Option Agreement or the Company discharges its payment obligation under Clause 14.4 of the Depot Direct Agreement; and

(bb) the Services Element of the Usage Payments shall cease to accrue if the Company or LUL (as appropriate) has exercised its rights to terminate the Real Property Documents;

(ii) the right to specify a period within which the Contractor shall remove the Trains (and any Trainborne Equipment) from the Depots, the Outstations and the Sidings. Not less than six months prior to the commencement of such period, the Company shall specify a schedule of dates on which the Contractor shall remove the Trains (and any Trainborne Equipment) and other related terms relating to such removal (including the last date on which each Train shall be offered for service pursuant to Clause 5.2.2(a)), with which schedule and terms the Contractor shall comply and which schedule the Company may revise at any time during the Hand Back Extension Period provided that:

(aa) if any revision to such schedule requires the Contractor to remove any Train prior to the date specified in the earlier schedule the

Contractor shall only be obliged to comply with such revision if it has been given written notice of the revision at least 30 days prior to the revised date;

(bb) such schedule or revised schedule shall specify that the first Trains to be removed shall be the NL Trains, unless otherwise agreed by the Contractor; and

(cc) the duration of the Hand Back Extension Period and such schedule (or revised schedule) of dates shall be such that the Contractor shall not be obliged to remove the Trains from the Depots and Outstations at a rate greater than 5 Trains per month; and

(dd) if the Company revises such schedule, Clause 6.6.1.2 shall apply;

(iii) the right to specify a period within which the Contractor shall remove the Trackside Equipment (other than the Equipment in relation to which the Company is to act as sales sub-agent of the Finance Parties in accordance with Clause 30.1.1 or 30.1.2) from the Northern Line and subsequently from the Depots, the Outstations and the Sidings and the Equipment (other than the Trackside Equipment, the Trainborne Equipment and the Existing Equipment) from the Depots, the Outstations and the parts of the Site. Not less than 6 months prior to the commencement of such period, the Company shall specify a schedule of dates on which the Contractor shall remove Trains, Trainborne Equipment and other related terms relating to such removal, with which schedule and terms the Contractor shall comply, and which schedule the Company may revise at any time during the Hand Back Extension Period provided that, if any revision to such schedule requires the Contractor to remove any such Equipment prior to the date specified in the earlier schedule the Contractor shall only be obliged to comply with such revision if it has been given written notice of the revision at least 30 days prior to the revised date and, if the Company revises such schedule, Clause 6.6.1.2 shall apply;

(iv) the right of access to and use of, for the Company and the Company's contractors, all Documentation;

(v) the right to exercise any of its rights under Clause 16;

(vi) the right to terminate the Real Property Documents. If the Company or LUL (as appropriate) exercises such right, the Contractor's obligation to provide the Services and the Existing Train Services shall cease accordingly.

Non-renewal at Expiry of Primary Usage Period

26.3 In the event that this Contract is not renewed on expiry of the Primary Usage Period in accordance with Clause 6.2:

(a) the Trains (and any Trainborne Equipment) and the Equipment shall be returned to the Contractor in accordance with Clause 29 or, in accordance with Clause 6.6, over the Hand Back Extension Period if the same is applicable;

(b) the Company shall pay to the Contractor the Termination Amount (subject to any adjustments thereto) determined for this Clause 26.3(b) in accordance with Section 4 of Part B of Schedule 10 on the expiry date of the Primary Usage Period; and

(c) in the event that the Company has not renewed the Contract on expiry of the Primary Usage Period as a consequence of the permanent closure of the Northern Line, the Company shall, on the expiry date of the Primary Usage Period, pay to the Contractor an amount equal to the Termination Amount (subject to any adjustments thereto) determined for the purposes of this Clause 26.3(c) in accordance with Section 4 of Part B of Schedule 10, as reduced by the amount of any Benefit to be taken into account under Clause 30.2 as a deduction in computing the amount payable under this Clause 23.1(c), together with any other non-financing costs reasonably and properly incurred by the Contractor as a consequence of such termination.

Non-renewal at Expiry of Secondary Usage Period

26.4 In the event that this Contract is not renewed on expiry of the Secondary Usage Period (if any) in accordance with Clause 6.3, the Trains (and any Trainborne Equipment) and the Equipment shall be returned to the Contractor in accordance with Clause 29 or, in accordance with Clause 6.5, over the Hand Back Extension Period if the same is applicable.

Non-renewal at Expiry of Unextended Tertiary Usage Period or Expiry of Extended Tertiary Usage Period

26.5 In the event that this Contract is not renewed on expiry of the Unextended Tertiary Usage Period (if any) in accordance with Clause 6.4 or expires on the expiry of the Extended Tertiary Usage Period (if any), the Trains (and any Trainborne Equipment) and the Equipment shall be returned to the Contractor in accordance with Clause 29 or, in accordance with Clause 6.6, over the Hand Back Extension Period if the same is applicable.

27. COMPANY DEFAULT

27.1 The Contractor may by notice in writing to the Company (substantially in the form set out in Part KK of Schedule 7) terminate (with effect from the date specified in such notice) this Contract in the event that any one or more of the following events has occurred and is, at the time such notice is given, continuing beyond the expiry of any applicable cure period:

(a) (i) the Company fails to comply with any of its payment obligations hereunder or under any other Restructuring Document relating to any sum due and payable and fails to remedy such breach within three (3) days after the Contractor has given written notice to the Company requiring such breach to

be remedied or (ii) during the period from when this Contract becomes effective in accordance with Clause 2.1 until the Company's payment obligations hereunder become effective in accordance with Clause 2.2, LUL fails to comply with any of its payment obligations under the NLTSC relating to any sum due and payable and fails to remedy such breach within seven (7) days after the Contractor has given written notice to the Company and LUL requiring such breach to be remedied; or

(b) any of LRT, T*f*L, LUL or the Company commences negotiations with, or convenes any meeting of, one or more of its creditors with a view to the general re-adjustment or re-scheduling of all or any material part of its Financial Indebtedness or proposes or makes or enters into any scheme, compromise, assignment, composition or other arrangement for the benefit of its creditors generally or any class of creditors; or

(c) any of LRT, T*f*L, LUL or the Company takes any external action or starts any legal proceedings under any law or regulation or takes any other steps for:

(i) it to be adjudicated bankrupt or insolvent; or

(ii) its winding-up, administration or dissolution (on grounds of insolvency); or

(iii) the appointment of a liquidator, trustee (in the context of an insolvency), receiver, administrator or similar officer of it or of the whole or any material part of its undertaking, assets, rights or revenues; or

(d) (i) any of LRT, T*f*L, LUL or the Company (as the case may be) is adjudicated bankrupt or insolvent; or

(ii) any of LRT, T*f*L, LUL or the Company (as the case may be) is wound up, placed in administration or dissolved (on grounds of insolvency); or

(iii) a liquidator, trustee (in the context of an insolvency), receiver, administrator or similar officer is appointed in respect of any of LRT, T*f*L, LUL or the Company (as the case may be) or of the whole or any material part of its undertaking, assets, rights or revenues; or

(iv) any of LRT's, T*f*L's, LUL's or the Company's (as the case may be) debts generally are reconstructed or readjusted; or

(e) there occurs, in relation to any of LRT, T*f*L, LUL or the Company (as the case may be), in any country or territory in which it carries on material business, or in any country or territory to the jurisdiction of whose courts any material part of its assets is subject, any event which corresponds with, or has an effect equivalent to, any of the events mentioned in Clauses 27.1(b), (c) or (d); or

(f) the Company fails to perform or comply with any of its material non-payment obligations under this Contract or any other Restructuring Document and if such failure is capable of remedy fails to remedy or to take substantial steps towards remedying such failure within 60 days from the date of receipt by the Company of written notice from the Contractor requiring such failure to be remedied or, if at such date the failure has not been remedied but the Company is taking substantial steps towards remedying such failure, such longer period as is sufficient for such circumstances to be remedied assuming that the Company continues to take such substantial steps; or

(g) (i) the Company repudiates any of its obligations owed to any of the Contractor or the Finance Parties under the Contract or any Restructuring Document to which it is a party and if the relevant breach is capable of remedy fails to remedy the relevant circumstances or take substantial steps towards remedying such circumstances within 30 days from the date of receipt by the Company of written notice from the Contractor requiring the same to be remedied or, if at such date the failure has not been remedied but the Company is taking substantial steps towards remedying such failure, such longer period as is sufficient for such circumstances to be remedied assuming that the Company continues to take such substantial steps or (ii) during the period from when this Contract becomes effective in accordance with Clause 2.1 until the Company's payment obligations hereunder become effective in accordance with Clause 2.2, LUL repudiates any of its payment obligations owed to any of the Contractor or the Finance Parties under the NLTSC or any Restructuring Document to which it is a party; or

(h) (i) the Company (save as a direct result of industrial action on the part of all or any of the employees of the Company) ceases, or threatens to cease, to carry on all or a substantial part of its business which cessation would affect the ability of the Company to comply with its payment obligations or material non-payment obligations under the Contract or any Restructuring Document to which it is a party or (ii) during the period from when this Contract becomes effective in accordance with Clause 2.1 until the Company's payment obligations hereunder become effective in accordance with Clause 2.2, LUL (save as a direct result of industrial action on the part of all or any of the employees of LUL) ceases, or threatens to cease, to carry on all or a substantial part of its business which cessation would affect its ability to comply with its payment obligations under the NLTSC or any Restructuring Document to which it is a party; or

(i) a PPP administration order is made in respect of the Company pursuant to Part IV of the Greater London Authority Act 1999; or

(j) any representation, warranty or statement which is made by any of the Company or, other than in respect of any Excluded Representation, LUL, LRT, or T*f*L in favour of the Contractor and/or the Finance Parties in this Contract or the other Restructuring Documents or which is contained in any statement or notice provided under or in connection with this Contract or the other Restructuring Documents proves to be incorrect, or if repeated at any

time with reference to the facts and circumstances subsisting at such time would not be accurate; or

(k) the performance by the Company of its payment obligations under this Contract or the other Restructuring Documents is or becomes, for any reason, illegal, invalid or unenforceable and the parties are not able to reach agreement to avoid the effect thereof pursuant to Clause 44.2; or

(l) the validity or enforceability as a matter of law of the Company's payment obligations under this Contract or the Restructuring Documents shall be contested by the Company; or

(m) LRT or T*f*L fails to perform any of its payment obligations or material non-payment obligations owed to the Contractor under the ALSTOM Guarantee or any other Restructuring Document, in each case in accordance with the terms of the ALSTOM Guarantee or such other Restructuring Document; or

(n) (i) LUL fails to perform any of its payment obligations or material non-payment obligations owed to the Contractor under the ALSTOM Step-In Agreement during any Step-in Period (as defined therein) or under any other Restructuring Document in each case in accordance with the terms of the ALSTOM Step-In Agreement or such other Restructuring Document or (ii) (only in the period prior to satisfaction or waiver of the Additional Conditions Precedent) the performance by LUL of its payment obligations under the NLTSC or the Restructuring Documents is or becomes, for any reason, illegal, invalid or unenforceable and the parties are not able to reach agreement to avoid the effect thereof pursuant to Clause 44.2 or (iii) (only in the period prior to satisfaction or waiver of the Additional Conditions Precedent) the validity or enforceability as a matter of law of LUL's payment obligations under the NLTSC or the Restructuring Documents shall be contested by LUL,

provided that references in paragraphs (b), (c), (d), (e) and (m) above to LRT shall only apply until (and including) the LRT Transfer Date and after the LRT Transfer Date shall be disregarded.

27.2 On the date specified in any termination notice given pursuant to Clause 27.1:

(a) if the relevant Company Event of Default occurred prior to the commencement of the Primary Usage Period, the Company shall pay to the Contractor an amount equal to the Termination Amount (subject to any adjustments thereto) determined for this Clause 27.2(a) in accordance with Section 4 of Part B of Schedule 10 as reduced by the amount of any Benefit that falls to be taken into account under Clause 30.2 as a deduction in computing the amount payable;

(b) if the relevant Company Event of Default occurred during the Primary Usage Period, the Company shall pay to the Contractor an amount equal to the

Termination Amount (subject to any adjustments thereto) determined for this Clause 27.2(b) in accordance with Section 4 of Part B of Schedule 10 as reduced by the amount of any Benefit that falls to be taken into account under Clause 30.2 as a deduction in computing the amount payable;

(c) if the relevant Company Event of Default occurred during the Secondary Usage Period, the Company shall pay to the Contractor the Termination Amount (subject to any adjustments thereto) determined for this Clause 27.2(c) in accordance with Section 4 of Part B of Schedule 10 as reduced by the amount of any Benefit that falls to be taken into account under Clause 30.2 as a deduction in computing the amount payable;

(d) if the relevant Company Event of Default occurred during the Tertiary Usage Period, the Company shall pay to the Contractor an amount equal to the Termination Amount (subject to any adjustments thereto) determined for this Clause 27.2(d) in accordance with Section 4 of Part B of Schedule 10 as reduced by the amount of any Benefit that falls to be taken into account under Clause 30.2 as a deduction in computing the amount payable; and

(e) the provisions of Clause 29 shall apply.

27.3 The Contractor and the Company agree that it is a fundamental term and condition of this Contract that the occurrence of any Company Event of Default for so long only as such event is continuing after the expiry of any applicable cure period shall entitle the Contractor to:

(a) treat any such occurrence as a repudiation by the Company of this Contract;

(b) serve notice on the Company pursuant to Clause 27.1; and

(c) recover the amounts specified in, and in accordance with, Clause 27.2 and the Company hereby acknowledges that such amounts represent a genuine pre-estimate of the Contractor's loss in the relevant circumstances and not a penalty.

27.4.1 The Contractor acknowledges and agrees that it shall have no right to terminate this Contract from the PPP Transfer Date onwards other than pursuant to Clause 27.1 or as otherwise provided for in the other Project Documents.

27.4.2 It is acknowledged that the Contractor may pursuant to the provisions of the ALSTOM Step-In Agreement (without prejudice to any other rights or remedies they may have) by notice in writing terminate this Contract, as at the date specified in such notice (the ***Forced Termination Date***) without prejudice to the other provisions of this Contract, which shall continue in full force and effect. On the Forced Termination Date (without prejudice to the Company's continuing obligations) the Company's right to the use and enjoyment of the Trains, the Equipment and the Services shall cease and the provisions of Section 4 of Part B of Schedule 10 shall apply in accordance with the provisions of the ALSTOM Step-In Agreement.

28. CONTRACTOR DEFAULT

28.1.1 The Company may by notice in writing to the Contractor (substantially in the form set out in Part LL of Schedule 7) terminate this Contract in relation to (A) the provision of the Trains, the Equipment, the Services and the Existing Train Services that are to be provided under this Contract and the Enabling Works that are to be carried out pursuant to the Agreement to Lease/Licence or (B) the Services only, in the event that any one or more of the following events has occurred and is, at the time such notice is given, continuing beyond the expiry of any applicable cure period:

(a) the Contractor commits a substantial breach or persistent breaches of any provision of this Contract or any of the Real Property Documents and (in the cases of breaches capable of being remedied) fails to remedy or to take substantial steps towards remedying such breach(es) within 60 days after the Company has given written notice to the Contractor requiring such breach(es) to be remedied or, if at such date the failure has not been remedied but the Contractor is taking substantial steps towards remedying such failure, such longer period as is sufficient for such circumstances to be remedied assuming that the Contractor continues to take such substantial steps;

(b) breach by the Contractor of the provisions of Clause 38;

(c) the Contractor fails:

(i) to obtain or renew any licence or exemption required by law (other than under the Railways Act 1993) necessary for the Contractor to fulfil its obligations under this Contract or any such licence or exemption is revoked or withdrawn or expires unless such failure, revocation, withdrawal or expiry is attributable to any act or omission of the Company; or

(ii) to obtain or renew any licence required by the Railways Act 1993 or any exemption from obtaining such licence or any such licence or exemption is revoked or withdrawn or expires;

(d) any judgment or order made against any one of the Contractor and the Guarantors (or any permitted transferee of the Contractor's rights and obligations under this Contract (other than the Finance Parties)) in respect of an amount owing by that party in excess of (in the case of the Contractor) one million pounds (£1,000,000), (in the case of ALSTOM UK Holdings Ltd) ten million pounds (£10,000,000) and (in the case of ALSTOM Holdings) twenty million pounds (£20,000,000) is not stayed or complied with within 21 Working Days, or a creditor attaches or takes possession of, or a distress, execution, sequestration or other process is levied or enforced upon, or sued out against, any of the undertaking, assets, rights or revenues of any one such parties in respect of an amount owing by that party in excess of (in the case of the Contractor) one million pounds (£1,000,000), (in the case of ALSTOM UK Holdings Ltd) ten million pounds (£10,000,000) and (in the case of ALSTOM Holdings) twenty million pounds (£20,000,000) and is not discharged within sixty (60) days; or

(e) any one of the Contractor and the Guarantors (or any permitted transferee of the Contractor's rights and obligations under this Contract (other than the Finance Parties)) stops or suspends payment of, or admits inability to pay, its debts as they fall due or becomes insolvent or unable to pay its debts as they fall due or commences negotiations with one or more of its creditors with a view to the general re-adjustment or re-scheduling of all or any material part of its Financial Indebtedness or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or any class of creditors or proceedings are commenced in relation to any one of such parties under any law, regulation or procedure relating to reconstruction or readjustment of debts generally; or

(f) any one of the Contractor and the Guarantors (or any permitted transferee of the Contractor's rights and obligations under this Contract (other than the Finance Parties)) takes any action or legal proceedings are started or other steps taken for:

(i) any of such parties to be adjudicated or found bankrupt or insolvent;

(ii) the winding-up or dissolution (other than for the purposes of a reconstruction or amalgamation the terms of which have received the previous consent in writing of the Company and the Finance Parties) of any of such parties; or

(iii) the appointment of a liquidator, trustee, receiver, administrator or similar officer of any of such parties over the whole or any material part of the undertaking, assets, rights or revenues of any of such party; or

(g) there occurs, in relation to any one of the Contractor and the Guarantors (or any permitted transferee of the Contractor's rights and obligations under this Contract (other than the Finance Parties)) in any country or territory in which it carries on business, or in any country or territory to the jurisdiction of whose courts any part of its assets is subject, any event which, in the reasonable opinion of the Company, corresponds with, or has an effect equivalent to, any of the events mentioned in Clauses 28.1.1(e) or (f), or any of such parties otherwise becomes subject in any such country or territory to the operation of any law relating to insolvency, bankruptcy or liquidation, and in any such case such event would, in the reasonable opinion of the Company, have a material adverse effect on the ability of such party to comply with its obligations owed to the Company under this Contract or either of the Guarantees or its obligations owed to the Company or LUL (as appropriate) under any of the Real Property Documents;

(h) save as specified in Clause 11.1.2, the Company's entitlement to service performance payment adjustments (calculated in accordance with the provisions contained in Part C-3 of Schedule 10) generated in any four (4) week period during the Contract Duration is five (5) or more times more than the value of allowable excess passenger hours per four (4) week period for more than four (4) consecutive four (4) week periods at any time during the

Contract Duration, it being acknowledged that if the Company becomes entitled to service performance payment adjustments of any lesser magnitude than five (5) or more times than the value of allowable excess passenger hours for any four (4) week period for four (4) or less consecutive four (4) week periods, such entitlement shall not constitute a substantial breach or persistent breach of this Contract by the Contractor for the purpose of Clause 28.1.1(a);

(i) either of the Guarantors fails to comply with any of its obligations under the Guarantee to which it is a party and:

(i) to the extent that such failure is in respect of any failure by the Contractor to comply with any of its payment obligations under this Contract, the Real Property Documents or the Escrow Agreement, such failure is not remedied by a Guarantor within 7 days after the Company has made a demand in accordance with either of such Guarantor's Guarantee; and

(ii) if and to the extent that such failure is in respect of any failure by the Contractor to comply with any of its non-payment obligations under this Contract, the Real Property Documents or the Escrow Agreement, a Guarantor has not taken reasonable steps to remedy such failure by the date which is 30 days after the date the Company has made a demand under and in accordance with such Guarantor's Guarantee;

unless, prior to the Company exercising its right of termination under this Clause 28.1.1(i), the Company is provided with any alternative or additional security (in form and substance satisfactory to the Company) for the Contractor's obligations under this Contract or the obligations of each of the Guarantors under the Guarantee to which it is a party;

(j) an Event of Default under, and as defined in, Clause 17.1 of each of the Trains Head Lease and the Equipment Head Lease and as defined in the Sub-Sub-Lease occurs and, as a result thereof, the Finance Parties are entitled and remain entitled to terminate the leasing under the relevant leasing document pursuant to Clause 18.1(A) or 6 (respectively) thereof; or

(k) the performance by the Contractor of any of its obligations under this Contract or any of the Real Property Documents which might be likely materially and adversely to affect its ability to comply with its fundamental obligations hereunder or thereunder becomes, for any reason, illegal, invalid or unenforceable and the parties are not able to reach agreement on any method to avoid the effect thereof pursuant to Clause 44.2; or

(l) AH shall cease to be controlled by, and/or shall cease to be a directly or indirectly wholly-owned Subsidiary of, ALSTOM S.A.

Any such notice shall specify the date on which this Contract shall terminate (subject to any extension pursuant to Clause 28.2) or, in any case of termination of the Services only, the date of such termination and Clauses 29 and 30.1.2 shall apply and

payments shall be made by or to the Company in accordance with Section 4 of Part B of Schedule 10.

28.1.2 The Company and the Contractor agree that it is a fundamental term and condition of this Contract that the occurrence of any Contractor Event of Default for so long only as such event is continuing after the expiry of any applicable cure period shall entitle the Company to:

(a) treat any such occurrence as a repudiation by the Contractor of this Contract; and

(b) serve notice on the Contractor pursuant to Clause 28.1.1.

28.1.3 The Company acknowledges and agrees that it shall have no right to terminate this Contract other than pursuant to Clauses 26.1.1, 26.2.1 and 28.1.1.

28.1.4 If, prior to the issue of the Certificate of Substantial Completion, the Company exercises its rights to terminate this Contract, the Contractor shall be entitled to make a claim, pursuant to Clause 33, to recover the costs incurred by it in carrying out the Enabling Works to the date of termination provided that the amount recoverable by the Contractor under this Clause 28.1.4 shall not exceed the amount (if any) by which the value of the Company's interest in the Depot Properties is increased by the works carried out prior to such date.

28.2 Without prejudice, and in addition, to the rights of the Company under the Guarantees and to any other rights and remedies of the Company in respect of the relevant Contractor Event of Default hereunder or generally in law:

(a) in the event that the Company gives notice to the Contractor pursuant to Clause 28.1.1, the Company shall at its option (which option is hereby irrevocably granted by the Contractor) have the right to specify in any such notice that it elects to extend this Contract beyond the termination date specified therein for the Hand Back Extension Period in accordance with Clauses 6.5, 6.6 and 6.7;

(b) if the Company elects to extend this Contract for the Hand Back Extension Period in the circumstances described in Clause 28.2(a), the terms of this Contract shall continue to apply and in addition the Company (or LUL where indicated) shall, during such period, be entitled to exercise any one or more of the following rights:

(i) the unencumbered right to continue to use and operate the Trains, the Trainborne Equipment and the Trackside Equipment and, provided that the Company or LUL (as appropriate) has exercised its rights to terminate the Real Property Documents, the Enabling Works (without any interference or obstruction whatsoever) subject to the Company continuing to pay the Usage Payments on the basis specified in Clause 6.7;

(ii) the right to specify a period within which the Contractor shall remove the Trains (and any Trainborne Equipment) from the Depots, the Outstations and the Sidings. Not less than six months prior to the commencement of such period, the Company shall specify a schedule of dates on which the Contractor shall remove the Trains (and any Trainborne Equipment) and other related terms relating to such removal (including the last date on which each Train shall be offered for service pursuant to Clause 5.2.2(a)), with which schedule and terms the Contractor shall comply and which schedule the Company may revise at any time during the Hand Back Extension Period provided that;

(aa) if any revision requires the Contractor to remove any Train prior to the date specified in the earlier schedule, the Contractor shall only be obliged to comply with such revision if it has been given written notice of the revision at least 30 days prior to the revised date;

(bb) such schedule or revised schedule shall specify that the first Trains to be removed shall be the NL Trains unless otherwise agreed by the Contractor; and

(cc) if the Company revises such schedule, Clause 6.6.1.2 shall apply; and

(dd) if the Company exercises its right to specify a schedule pursuant to this Clause 28.2(b)(ii), Clause 29 shall apply;

(iii) the right to specify a period within which the Contractor shall remove the Trackside Equipment (other than the Equipment in relation to which the Company is to act as sales sub-agent of the Finance Parties in accordance with Clause 30.1.1 or 30.1.2) from the Northern Line and subsequently from the Depots, the Outstations and the Sidings and the Equipment (other than the Trackside Equipment, the Trainborne Equipment and the Existing Equipment) from the Depots, the Outstations and other parts of the Site. Not less than six months prior to the commencement of such period, the Company shall specify a schedule of dates on which the Contractor shall remove such Trackside Equipment and other related terms relating to such removal, with which schedule and terms the Contractor shall comply and which schedule the Company may revise at any time during the Hand Back Extension Period provided that, if any revision to such schedule requires the Contractor to remove any such Equipment prior to the date specified in the earlier schedule, the Contractor shall only be obliged to comply with such revision if it has been given written notice of the revision at least 30 days prior to the revised date and if the Company revises such schedule, Clause 6.6.1.2 shall apply mutatis mutandis. If the Company exercises its right to specify a schedule pursuant to this Clause 28.2(b)(iii), Clause 29 shall apply;

(iv) the right of access to and use of, for the Company and the Company's contractors, all Documentation;

(v) the right to exercise any of its rights under Clause 16;

(vi) the right of the Company or LUL (as appropriate) to terminate the Real Property Documents under Clause 6.6.2. If the Company exercises such right, the Contractor's obligation to provide the Services and the Existing Train Services shall cease accordingly.

28.3 The right of the Company under Clause 28.2 to elect to extend this Contract by a Hand Back Extension Period is without prejudice, and in addition, to the Company's rights under the Guarantees and, on the occurrence of any Contractor Event of Default so long as the same is continuing, the Company shall be entitled to exercise its rights under the Guarantees in accordance with their terms at the same time or at different times (as the case may be) as exercising its rights under Clause 28.2. In the event that the Company chooses not to serve a termination notice pursuant to Clause 28.1.1, the Company shall not be taken to have waived any of its rights under this Contract and/or in law generally in connection with any default or breach of this Contract, breach of statutory duty on the part of the Contractor, negligent act or omission or any other conduct of the Contractor giving rise to a legal claim.

28.4 If any Contractor Event of Default occurs and the Company does not wish to terminate this Contract, the Company shall be entitled to exercise the rights set out in Clause 16 without having to serve a notice of termination pursuant to Clause 28.1.1 to activate such rights.

28.5 In all cases where a party seeks to establish or alleges a breach of this Contract or a right to be indemnified or to be awarded costs in accordance with this Contract that party shall be under a duty to take all reasonable measures to mitigate the loss which has occurred provided that the party in question can do so without unreasonable inconvenience or cost.

28.6 If a Contractor Event of Default occurs and is continuing, and the Company exercises any of its rights pursuant to Clause 28.2 or Clause 28.4, the Company shall not (but subject to Clause 28.2(b)(i)) be liable to pay to the Contractor any amount hereunder until the additional costs of providing or acquiring an alternative source of supply in respect of the Services (pursuant to Clause 16) and/or the Existing Train Services (pursuant to Clause 16) and/or substitute equipment and/or substitute trains and/or substitute enabling works, Usage Payment adjustments, damages for breach and all other charges, costs and expenses incurred by the Company by reason of the occurrence of the Contractor Event of Default have been ascertained and certified by the Project Manager.

28.7 Where any of the events referred to in Clauses 28.1.1(e) to (g) occurs and a receiver, administrator, liquidator or other similar officer is appointed in respect of the business or assets of any of the Contractor Parties and such person does not disclaim this Contract, the Company's obligation to make payments under this Contract in respect of its continued use of the Trains and the Equipment and of the Enabling

Works (subject to the provisions of Clause 28.2(a)) shall be suspended for such period during which the Company's rights of use and/or possession of the Trains and/or the Equipment and/or the Enabling Works are, in breach of Clause 17, obstructed, hindered or disturbed by such person, any creditors of a Contractor Party or any other person unless the obstruction, hindrance or disturbance is caused by the Finance Parties acting in accordance with the terms of the Direct Agreements.

28.8 Subject always to Clause 28.1.3, the exercise by the Company of any of its rights hereunder, under the Guarantees and/or in law generally on the occurrence of a Contractor Event of Default shall be without prejudice and in addition to any other rights of the Company (including, without limitation, any claims for damages or compensation but subject to the limits on liability set out in Clause 31.2.1).

29. RETURN OF TRAINS AND EQUIPMENT

29.1.1 On the later of:

(a) any expiry or termination of this Contract in accordance with its terms in whole or in relation to any particular Train or Trains or numbers of Trains or in relation to any elements of the Trackside Equipment (including during any Hand Back Extension Period when the applicable dates for removal shall be those specified pursuant to Clause 6.6.1.1); and

(b) any expiry or termination of the Trains Direct Lease or Equipment Direct Lease, as the case may be;

the Company shall notify the Contractor of the date or date(s) that the Trains (and any Trainborne Equipment) and the Trackside Equipment (other than the Trackside Equipment in relation to which the Company is to act as sales sub-agent of the Finance Parties in accordance with Clause 30.1.1 or 30.1.2) shall be available to the Contractor and the Contractor shall when required by the Company at the Contractor's expense (or, if following a termination pursuant to Clauses 26.1.1, 26.3(c) or 27.1, at the Company's expense) remove the relevant Trains (and any Trainborne Equipment) and the Equipment (other than the Trackside Equipment and the Existing Equipment) from the Depots and the Outstations and such Trackside Equipment from the Northern Line. The Contractor shall be responsible for all costs and charges incurred by the Company (or otherwise) in connection with the said repossession and storage pending the said repossession of such Trains and such Equipment (other than following a termination pursuant to Clauses 26.1.1, 26.3(c) or 27.1). The Contractor shall be entitled to request that the NL Trains are removed prior to any other Trains and the Company shall comply with such request.

29.1.2 The Company shall ensure that any Train returned to the Contractor in any Hand Back Extension Period in circumstances where, and after, the Company has exercised its rights under Clauses 6.6.2, shall comply with the Return Condition. If any such train does not comply with the Return Condition, the Company shall remedy any Defect(s) in such Train so that it complies with the Return Condition in all material respects. If the Company fails to remedy any such Defect(s), the Contractor shall be entitled to remedy the Defect(s) so that such Train complies with the Return Condition and, provided that it complies with the claims procedure set out in

Clause 33, to make a claim to recover from the Company all costs properly incurred in so doing.

29.1.3 If, on the expiry or termination of this Contract or any part thereof as aforesaid, the Contractor fails to repossess and remove the relevant Trains and Equipment and any plant, equipment or other items owned by the Contractor (or other item used in connection with the Services and which the Company requires to be removed) from the Site in accordance with Clause 29.1, the Company may return such Trains (and any Trainborne Equipment) and Equipment and any other items as aforesaid to the owner thereof (if known to the Company) or alternatively to the Contractor and, without prejudice to or limiting the generality of Clause 31.1, the Company shall (other than following a termination pursuant to Clauses 26.1.1, 26.3(c) or 27.1) be entitled to recover the charges and expenses of and in connection with the said return, and any costs of storage by the Company from the Contractor.

29.1.4 The Contractor shall be under a duty to co-operate fully and assist the Company (and any third party nominated by the Company) in effecting a smooth transition from use of the Trains and/or the Equipment and/or the Enabling Works to use of any alternative trains and/or equipment and/or enabling works in the period prior to expiry of this Contract or following its termination as aforesaid and to minimise effects of the said transition on the operation of the Northern Line for the purposes of LUL's passenger carrying railway operations on the Northern Line. Any costs and charges incurred by the Contractor in complying with its obligations under this Clause 29.1.4 shall be borne by the Contractor (other than following a termination pursuant to Clauses 26.1.1, 26.3(c) or 27.1).

29.2.1 The Contractor shall determine when Existing Trains and Existing Units are to be made available to the Company for disposal by the Company provided that the Contractor shall not be entitled to make Existing Trains or Existing Units available to the Company for disposal if, following any such disposal, the total number of Existing Trains available to the Contractor (excluding those Existing Trains or Existing Units which have, with the permission of the Project Manager, been cannibalised) would be less than the maximum number of Trains and Existing Trains required for peak service on any day in the Timetable plus thirteen per cent of such maximum number.

29.2.2 Subject to Clause 29.2.9, the Contractor shall give written notice to the Company (substantially in the form of Part MM of Schedule 7), at least 14 days' prior to the commencement of such period, of the period within which it wishes the Company to dispose of an Existing Train or Existing Trains or an Existing Unit or Existing Units (a ***disposal period***). A disposal period shall be a period of not less than 5 days and shall include Traffic Hours on a Saturday and the following Sunday. Such notice shall also specify the following information (if known to the Contractor at the date of such notice):

(a) the Unit number(s) of the Existing Train(s) or Existing Unit(s) to be made available for disposal in the relevant disposal period;

(b) the location at the Site at which such Existing Train(s) or Existing Unit(s) will be made available to the Company in the relevant disposal period; and

(c) the condition of such Existing Train(s) or Existing Unit(s) including, in the Contractor's opinion, whether, in the relevant disposal period:

(i) it or they will or may be in a condition fit for self-propelled movement on LUL's railway network; or

(ii) it or they will or may be in a condition fit for movement on LUL's railway network other than by self-propulsion; or

(iii) it or they will or may be unsafe for movement on LUL's railway network.

29.2.3 If any notice given by the Contractor to the Company pursuant to Clause 29.2.2 does not contain the information specified in Clauses 29.2.2(a) to (c), the Contractor shall, not later than 7 days prior to the commencement of the relevant disposal period, give a further written notice to the Company (substantially in the form set out in Part NN of Schedule 7) specifying such information.

29.2.4 Within 7 days of the date of the notice given by the Contractor pursuant to Clause 29.2.2, if such notice contains all the information specified in Clause 29.2.2 or within 3 days of the notice given by the Contractor pursuant to Clause 29.2.3, the Company and the Contractor shall agree (having consulted in good faith with each other) whether the Existing Train(s) or Existing Unit(s) to be made available for disposal in the relevant disposal period will, in such period, be in the condition specified in Clauses 29.2.2(c)(i), (ii) or (iii).

29.2.5 The Company shall give notice to the Contractor of the time, within the disposal period, at which it intends to collect an Existing Train or Existing Unit for disposal at least 24 hours prior thereto.

29.2.6.1 If it is agreed pursuant to Clause 29.2.4 that the relevant Existing Train(s) or Existing Unit(s) shall be in the condition specified in Clauses 29.2.2(c)(i) or (ii), the Contractor shall ensure that, at the time notified to the Contractor pursuant to Clause 29.2.5, the relevant Existing Train(s) or Existing Unit(s) is (or are) in a condition fit for movement on LUL's railway network and the wheels of such Existing Train(s) or Existing Unit(s) shall be in gauge for movement on Railtrack infrastructure. The Contractor shall perform any work that is required to be carried out on the relevant Existing Train(s) or Existing Unit(s) to ensure that it or they are in such condition on such date. The Company shall bear the cost of such work to the extent that it requires the Contractor to carry out work that it would not otherwise be required to perform under this Contract.

29.2.6.2 The Contractor shall, prior to the time notified to the Contractor pursuant to Clause 29.2.5 (or any later time notified to the Contractor by the Company), carry out the pre-service check (specified in Part G of Schedule 6) for the relevant Existing Train(s).

29.2.7 If it is agreed pursuant to Clause 29.2.4 that the relevant Existing Train(s) or Existing Unit(s) shall be in the condition specified in Clause 29.2.2(c)(iii), the Company or (at the request of the Company) the Contractor shall, in either case at the

cost of the Company, carry out such work on the relevant Existing Train(s) or Existing Unit(s) as the Company determines is necessary to enable it to dispose thereof other than by movement on LUL's railway network.

29.2.8 Subject to Clause 29.2.9, the Company shall collect each Existing Train or Existing Unit made available for disposal in the disposal period therefor and shall be responsible for all costs relating to such disposal from the time at which the Company is required to take physical possession of the relevant Existing Train or Existing Unit. If the Company fails to collect an Existing Train or Existing Unit for disposal within such period and this has a material adverse effect on the Contractor's ability to comply with its obligations under this Contract, the Contractor shall not be liable to the Company in respect of any breach of such obligations attributable to such failure.

29.2.9 The Company shall only be obliged, pursuant to this Clause 29.2, to dispose of one Existing Train or Existing Unit that is in the condition specified in Clauses 29.2.2(c)(i) or (ii) and one Existing Train or Existing Unit that is in the condition specified in Clause 29.2.2(c)(iii) each week.

30. SALE OF TRAINS AND EQUIPMENT

30.1.1 If this Contract is terminated in whole or in part pursuant to Clause 26.1.1 or this Contract expires without renewal pursuant to Clause 26.3(c) the Company shall be appointed by the Finance Parties as exclusive sub-agent of the Finance Parties with respect to the sale of the New Trains and the Equipment (to the extent the same are leased by the Contractor from the Finance Parties) pursuant to Clause 19.3 of each of the Trains Head Lease and the Equipment Head Lease provided that the Company may not, whilst acting as sub-agent of the Finance Parties under this Clause 30.1.1, conduct a sale of any of the New Trains or the Equipment to the Company itself or LUL or any person acting as a trustee, agent or nominee for the Company or LUL. The terms on which the Trackside Equipment specified in Clause 30.1.3 is to be sold are those applicable pursuant to Clause 30.1.2.

30.1.2 The Company shall also, if it notifies the Contractor in writing (substantially in the form set out in Part NN1 of Schedule 7) that it so wishes, be appointed by the Contractor as exclusive sub-agent of the Finance Parties with respect to the sale of the Trackside Equipment specified in Clause 30.1.3 conferred by and in accordance with Clause 19.3 of the Equipment Head Lease if this Contract is terminated in accordance with Clauses 26.2.1, 27.2 or 28.1.1, or expires as contemplated in Clauses 26.3, 26.4 or 26.5, it being understood that in such circumstances a sale of such Equipment arranged by the Company shall be required to be effected for its open market value on an "as is, where is" basis and accordingly on terms that a purchaser is required to accept responsibility for, and for the costs of, removing the same and provided that the Company may not, whilst acting as sub-agent of the Finance Parties under this clause 30.1.2, conduct a sale of any of the Trackside Equipment to the Company itself or LUL or any person acting as a trustee, agent or nominee for the Company or LUL.

30.1.3 The specified Trackside Equipment for the purposes of Clauses 30.1.1 and 30.1.2 is:

(a) the cable, routing and trunking provided by the Contractor in complying with its obligations under Part F of Schedule 6;

(b) the fibre optic cable provided by the Contractor in complying with its obligations under Part E of Schedule 6;

(c) the camera brackets provided by the Contractor in complying with its obligations under Part B of Schedule 6; and

(d) the leaky feeder provided by the Contractor in complying with its obligations under Part C of Schedule 6.

30.1.4 Clauses 6.6 and 29.1 shall have effect subject to this Clause 30.1.

30.2.1 Where this Contract is terminated in whole or in part pursuant to Clause 26.1.1 or this Contract expires without renewal pursuant to Clause 26.3(c) or the leasing under the Trains Direct Lease terminates pursuant to Clause 8 thereof or the leasing under the Equipment Direct Lease terminates pursuant to Clause 8 thereof the following provisions shall apply in connection with any sale of the New Trains and/or the Equipment (to the extent the same are leased to the Contractor or, as the case may be, the Company by the Finance Parties):

(a) if the Net Sale Proceeds, as defined for the purposes of the Trains Head Lease, the Equipment Head Lease, the Trains Direct Lease and/or as the case may be the Equipment Direct Lease, are taken into account:

(i) to reduce or off-set any amount payable by the Contractor or, as the case may be, the Company to the Finance Parties on termination thereof; and/or

(ii) for the purposes of making a payment to the Contractor by way of rebate of rentals or otherwise (each of (i) and (ii) being referred to below as a ***Benefit***) then:

(A) to the extent a Benefit related to the termination is obtained on or before the date when payment by the Company falls to be made, the amount thereof shall be taken into account as a deduction in computing the payment due from the Company under Clauses 26.1 or 26.3(c); and

(B) otherwise, and in the case of any excess of a Benefit over the amount so taken into account pursuant to Clause 30.2.1(a)(ii)(A), an amount equal to the Benefit (having deducted from the same an amount equal to any sum then due and payable by the Company to the Contractor, in discharge thereof) shall be paid to the Company as a rebate of Usage Payments or, as the case may be, rebate of rental under the Trains Direct Lease or Equipment Direct Lease;

(b) in the case of any New Trains and Equipment which are not immediately before the time of termination leased from the Finance Parties under the Trains

Head Lease or Equipment Head Lease (and are not owned by the Company, such that insurance proceeds accrue directly to the Company), effect shall be given as fully as may be to the principles in Clause 30.2.1(a) having regard to the circumstances in which the same are financed (as contemplated in Clause 14.1).

30.2.2 Where this Contract is terminated pursuant to Clause 27.1 or Clause 27.4.2 or the Trains Direct Lease is terminated pursuant to Clause 18.1 or Clause 18.1.1 thereof or the Equipment Direct Lease is terminated pursuant to Clause 18.1 or Clause 18.1.1 thereof the provisions of Clause 30.2.1 shall apply mutatis mutandis, save that:

(a) the Contractor may apply a Benefit, to the extent otherwise it would be paid to the Company in accordance with Clause 30.2.1(a)(ii)(B) by set-off against any other amounts due from the Company; and

(b) subject to Clause 30.2.3, no part of any Benefit shall be taken into account hereunder for the benefit of, or paid to, the Company until the aggregate amount of Benefits related to the termination exceeds:

(i) an amount equal to the difference between (A) the Termination Amount payable by the Company as computed under Section 4 of Schedule 10-B (where the same falls due in the Primary Usage Period) referable to New Trains and/or Equipment or, as the case may be, the termination payments payable under the Trains Direct Lease and the Equipment Direct Lease and (B) the aggregate amounts (if any) actually payable by the Contractor to the Finance Parties (or any other financiers as contemplated in Clause 30.2.1(b)) in connection with the termination (provided however that this amount shall be taken to be nil if (B) is lower than (A)); plus

(ii) notional interest initially on such amount, and subsequently on the reduced balance thereof remaining after deduction for the amount of Benefits already obtained, mutatis mutandis, in accordance with paragraph 5.3(b) of Section 1, Part I of Schedule 10-B;

and only the excess Benefits shall be so taken into account for the benefit of the Company (but so that, for the avoidance of doubt, there shall be deducted from the same any sums due and payable by the Company under this Contract, including interest under Clause 18.7, in discharge thereof, before any amount is paid to the Company).

30.2.3 Where a termination occurs under Clause 26.1.1, Clause 27.1 or Clause 27.4.2 (other than where the Direct Arrangements take effect) or the leasing terminates pursuant to Clause 8 of the Trains Direct Lease or Clause 8 of the Equipment Direct Lease after an Acceleration Amount has previously fallen to be determined under Clause 25.6, the provisions of Clause 30.2.2 shall apply mutatis mutandis, save that account shall also be taken of any further amount payable (or otherwise payable) by the Company pursuant to Section 4 of Schedule 10-B in connection with the termination.

30.2.4 For the avoidance of doubt, the Contractor shall not be obliged to give credit to the Company for, or to pay to the Company, any amount as a Benefit unless and until it shall have been given credit for, or have received, an amount constituting such Benefit from the Finance Parties as contemplated in Clause 30.2.1(a) (or from any other financiers as contemplated in Clause 30.2.1(b)).

30.2.5 The Company shall indemnify the Contractor on demand against any shortfall in the amount of any Net Sales Proceeds which are taken into account for the benefit of the Contractor as contemplated in Clause 30.2.1(a), to the extent the Contractor is not otherwise effectively compensated therefor by a reduction in the Benefit for which credit is given to the Company (or which is paid to the Company) under this Clause 30.2, by virtue of any breach or non-payment by the Company of any obligation owed by the Company to the Finance Parties under any agreement, document or instrument.

31. INDEMNITY/LOSS

31.1 Without prejudice to the Company's rights under the other provisions of this Contract or generally in law, the Contractor shall be responsible for and shall indemnify the Company and the Company Employees and LUL and the LUL Employees from and against all expense, cost, liability, loss and claims whatsoever in respect of death or injury to any person, loss of or damage to property (including property belonging to the Company or LUL or for which either of them is responsible) and any other loss, liability, damage, cost or expense (including but not limited to loss of use of the Trains and/or the Equipment and/or the Enabling Works, loss of profits and any payments made under LUL's Customer Charter) which may arise out of or in consequence of the Contractor's performance or non-performance of this Contract, the occurrence of any Contractor Event of Default (including the consequences of any termination of this Contract following any such occurrence and the costs, charges and expenses which the Company properly incurs in obtaining an alternative supply of services and/or equipment and/or trains and/or enabling works) or the presence of the Contractor, its employees or agents on the Company's or LUL's premises or on the Site whether such death, injury, loss, damage, cost or expense be caused by negligence or otherwise, provided that the Contractor's responsibility and its obligations to indemnify the Company and LUL as aforesaid shall be reduced proportionately to the extent that the negligence of the Company or LUL or the Company Employees or the LUL Employees or any breach by the Company of its obligations under this Contract or any of the Real Property Documents or a breach by LUL of its obligations under any of the Real Property Documents or the Restructuring Documents or the occurrence of any Company Event of Default have contributed to the said death, injury, loss, liability, cost, expense or damage and provided also that the Contractor shall have no liability to the Company or LUL under this Clause 31 to the extent that:

(a) the relevant loss, liability, damage, cost or expense is caused by any act or omission of, or event attributable to, the Contractor that occurs wholly after and not before the later of the date on which the Trains, the Equipment (other than the Existing Equipment) and the Enabling Works are returned to the

Contractor under this Contract and the date on which the Direct Arrangements (as defined in each of the Direct Agreements) come into effect;

(b) the relevant loss, liability, damage, cost or expense is an ordinary and usual operating or overhead expense of the Company or LUL;

(c) the relevant loss, liability, damage, cost or expense relates to any Existing Train unless such loss, liability, damage, cost or expense is attributable to a breach by the Contractor of its obligations under this Contract in relation to the Existing Trains.

31.2.1 The Contractor's maximum liability in respect of any claim, arising from a single incident or a series of incidents giving rise to such claim, made by the Company or LUL under any provision of this Contract or the Real Property Documents shall be £150 million (save that where any such claim by the Company or LUL relates in whole or in part to a claim for consequential loss (including loss of profit) the Contractor's maximum liability in respect of such loss shall be £25 million) provided that neither such limit shall apply to claims in respect of liability for death or injury to any person.

31.2.2 The limits on liability specified in Clause 31.2.1 shall apply until (and including) 31 March 1996 and thereafter shall be adjusted annually on 31 March in each year (the ***adjustment date***) by multiplying each such amount by the Indexation Factor for the year in which the relevant adjustment date falls. In calculating such adjusted limits in accordance with this Clause 31.2.2, paragraph 6.4 of Part A of Schedule 10 shall apply. For the avoidance of doubt, if any claim giving rise to liability under Clause 31.1 arises from any incident(s) occurring in a particular year, the Contractor's maximum liability in relation thereto shall be the limit that applies at the date when the liability is determined or quantified and not the limit that applied when the incident(s) occurred.

31.3 Neither the Company nor LUL shall be liable for or in respect of any damages or compensation payable at law in respect or in consequence of any accident, illness or injury to any workman or other person in the employment of the Contractor arising out of and in the course of his employment and the Contractor shall for the Contract Duration indemnify and keep indemnified the Company and LUL against all damages and compensation and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto (the aforegoing exclusion of liability of the Company and LUL shall not operate to exclude the Company's or LUL’s liability for death or personal injury arising out of the Company's or LUL’s negligence, any breach by the Company of the provisions of the NLTSC Documents to which it is a party or a breach by LUL of the provisions of the NLTSC Documents to which it is a party or the occurrence of any Company Event of Default).

31.4 The Company shall not be entitled to recover from the Contractor in respect of any loss suffered to the extent that it has previously recovered for the same loss under the terms of this Contract or the Real Property Documents or (to the extent that such loss is recovered under provisions relating to obligations between the Company

and the Contractor) the Depot Direct Agreement or to the extent such loss has been recovered by LUL under the Real Property Documents.

31.5.1 If any amount payable by the Contractor under this Contract by way of indemnity or reimbursement (including any payment under this Clause 31 but excluding, for the avoidance of doubt, any payment or abatement pursuant to Clause 20 and/or Schedule 11) is subject to any Taxes in the hands of the Company or LUL and thus proves to be insufficient either to discharge the corresponding liability to a third party or to reimburse the Company or LUL for the cost incurred by it in discharging such corresponding liability, the amount payable shall be increased to such an amount as (after taking into account the benefit of any deduction or relief from taxation obtained by the Company or LUL in respect of any corresponding amount paid or payable by the Company or LUL to a third party, or the obligation giving rise to the same, and the time at which such benefit is obtained) is required to put the Company or LUL in the same after-tax position as (taking into account the time value of money) the Company or LUL would have been in had the circumstances giving rise to the indemnity or reimbursement not occurred. If payment of the amount by the Contractor is initially made on the basis that it is not subject to Tax in the hands of the Company or LUL and it is subsequently determined that it is, or vice versa, such adjustment shall be made between the Contractor and the Company or LUL as shall be required in order to restore the after-tax position of the Company or LUL to what it would have been had the adjustment not been necessary.

31.5.2 Without prejudice to the generality of Clause 31.5.1 if and to the extent that any sum (the ***Indemnity Sum***) constituting (directly or indirectly) an indemnity or reimbursement to the Company or LUL but paid by the Contractor to any person other than the Company or LUL, shall be treated as taxable in the hands of the Company or LUL, the Contractor shall promptly pay to the Company or LUL such sum (the ***Compensating Sum***) as (after taking into account any Taxes suffered by the Company or LUL on the Compensating Sum and taking into account the time value of money) shall reimburse the Company or LUL for any Taxes suffered by it in respect of the Indemnity Sum after taking into account any deduction for tax purposes obtained by the Company or LUL in respect of the payment of, or the matter giving rise to, the Indemnity Sum and the time at which the benefit of such deduction is obtained.

31.5.3 The Contractor shall not be liable under this Clause 31.5 to make any payment in connection with any Tax, or increase in Tax, suffered by the Company or LUL to the extent that such Tax, or increase in Tax, would not have arisen but for the Company or LUL drawing up its accounts or submitting its tax returns or computations (save as required by law or Inland Revenue practice of general application or by applicable rules of accounting practice) on a basis inconsistent with such treatment for tax purposes as would result in no claim arising under this Clause 31.5 save where the relevant matter, or a matter to which corresponding considerations apply in an earlier accounting period, has already been the subject of a dispute with any taxation authority under Clause 31A.14 (as applied for the purposes of this Clause by Clause 31.6.8), the basis of drawing up and submission is consistent with the resolution of such dispute and the resolution of such dispute has not been affected by any subsequent Change in Law.

31.6.1 All payments due to the Company or LUL under this Contract (including any payments under this Clause 31) shall be calculated and made free and clear of and without deduction for, or on account of, any Taxes, unless such deduction or withholding is required by law. The Contractor shall account on a timely basis to the appropriate authority in respect of any such deduction or withholding which is so required.

31.6.2 If such deduction or withholding is required by law, the Contractor shall (subject to Clause 31.6.3 and Clause 31.6.7) increase the payments to the Company or LUL so that the net amount received and retained by the Company or LUL after such deduction or withholding (and after taking account of any further deduction or withholding which is required to be made which arises as a consequence of the increase) shall be equal to the full amount which the Company or LUL would have received and retained if no such deduction or withholding had applied.

31.6.3 If the Contractor is or would but for this Clause 31.6.3 be required to pay an additional amount to the Company or LUL pursuant to this Clause 31.6 and the Company or LUL will be entitled to any Tax credit, Tax deduction or similar benefit (being, in any such case, of a kind the utilisation of which is not dependent upon the circumstances of the Company or LUL, assuming it to be resident in the United Kingdom) by reason of the withholding or deduction which the Contractor is required to make, the payment to be made by the Contractor under this Clause 31.6 shall be reduced to such amount (if any) as is necessary in order to leave the Company or LUL, after allowing for such credit, deduction or benefit (taking account of the time value of money) in no worse position than it would have been in if no Tax had been withheld from the payment by the Contractor as aforesaid.

31.6.4 To the extent that there has been taken into account a Tax credit, Tax deduction or similar benefit pursuant to Clause 31.6.3 and it subsequently transpires that the Company or LUL was not entitled thereto, or was entitled only to a lesser amount (in either case otherwise than as a result of negligence or wilful default or failure to file any relevant claim or notice or to take any similar action on a timely basis on the part of the Company or LUL, which would not have given rise to any additional liability to Taxation or loss of any relief, allowance or credit to the Company or LUL or any member of the Company's group, or to any other material cost to the Company or LUL or such member, in circumstances where the Company or LUL ought reasonably to have been aware that such failure would result in the loss or diminution of such credit, deduction or benefit and that the same was available) the Contractor shall pay to the Company or LUL by way of indemnity such sums as shall be necessary (after taking account of any Tax thereon) to restore its after-tax position to what it would have been if no such Tax benefit had been obtained and no withholding had arisen.

31.6.5 If the Contractor pays any additional amount to the Company or LUL pursuant to this Clause 31.6 and the Company or LUL is entitled (or subsequently becomes entitled) to, and utilises, a Tax benefit by reason of the withholding or deduction which the Contractor is required to make as referred to in Clause 31.6.1 and which has not been taken into account by the operation of Clause 31.6.3 the Company shall upon demand by the Contractor, which shall not be made earlier than the time at

which the Company or LUL would have paid an amount or an additional amount of Tax but for, or obtains a repayment of Tax by reason of, the utilisation of such benefit, pay or cause LUL to pay to the Contractor such amount as the Company or, as the case may be, LUL determines is appropriate to leave the Company or LUL, as applicable (after taking account of the time value of money) in no worse position than it would have been in if there had been no Tax withheld and no benefit obtained.

31.6.6 The Contractor shall not be required to make any payment or increased payment pursuant to this Clause 31.6 if and to the extent that the deduction or withholding in question:

(a) would not have arisen but for the Company or LUL carrying out any business or other activity or having any place of management outside the United Kingdom; or

(b) would not have arisen but for a failure on the part of the Company or LUL on a timely basis to give any certificate or notice or file any claim or take any similar action (being, in any such case, an action which would not result in any increased liability to Taxation or loss of any relief, allowance, deduction or credit, or to any other material cost to the Company or LUL or any member of the Company's group and which the Company or LUL ought reasonably to have been aware would, if not taken, result in the deduction or withholding being required to be made).

31.6.7 Clause 31.6.2 shall not apply to any deduction or withholding which arises (i) as a result of a Change in Law or (ii) on any payment which is payable in consequence of:

(a) the occurrence of any Supervening Event;

(b) a termination of this Contract pursuant to Clause 26.1 or Clause 27.4.2 or the occurrence of an event referred to in Clause 27.1; or

(c) the non-renewal of this Contract in circumstances to which Clause 26.3(c) applies.

31.6.8. The provisions of Clause 31A.14 and 31A.15 shall apply mutatis mutandis for the purposes of Clauses 31.5 and 31.6.

31.7.1 In the event of any incident likely to give rise to a claim against the Company or LUL or any claim being made or action brought against the Company or LUL arising out of the matters in respect of which the Company or LUL is entitled to an indemnity from the Contractor under this Clause 31, the Contractor shall be promptly notified thereof.

31.7.2 The Company or LUL shall be entitled to respond to any incident and, in the case of any claim being made or action brought against the Company or LUL, to conduct the negotiation for the settlement of any such claim or action and to conduct any litigation or proceedings that may arise from any such claim or action having due regard to the Contractor's interests and the Contractor shall not make any admission or

take any action which might be prejudicial to such negotiation, litigation or proceedings without the prior written consent of the Company or LUL.

31.8 In the event of any claim being made or action brought against the Contractor only arising out of the matters in respect of which the Company or LUL is entitled to an indemnity from the Contractor under this Clause 31, the Company or LUL shall be promptly notified thereof.

31.9.1 To the extent that any incident likely to give rise to a claim or any claim or action implicates the insurances to be effected by the Contractor pursuant to Clause 22:

(a) the Company and the Contractor shall permit and the Company shall cause LUL to permit the insurers providing insurance pursuant to Clause 22 to maintain or take over (as the case may be) control over the conduct of all negotiations, litigation and proceedings in respect of such claim or action including the settlement of any claim (to the extent of both liability and quantum) providing always to the extent that such claim or action implicates the Company or LUL the negotiations, litigation and proceedings in respect of the same shall be conducted in accordance with claims handling procedures, acceptable to the Company or LUL and their respective insurers and provided further that to the extent that any such claim or action implicates the Company or LUL and does not fall to be covered by the insurances effected pursuant to Clause 22 then the Company and the Contractor shall procure and the Company shall ensure that LUL will procure that their respective insurers agree a mutually acceptable claims handling procedure to deal with such claims or actions;

(b) neither the Contractor nor the Company shall do anything and the Company shall ensure that LUL will not do anything which prejudices:

(i) the rights or interests of the insurers or prejudices a claim upon such insurances by any assured party; or

(ii) the conduct of the negotiations, litigation or proceedings by the insurers in respect of the relevant claim or action; and

(c) the Contractor and the Company shall and the Company shall procure that LUL shall, at their own cost, at the request of the insurers afford all reasonable assistance for the purposes of conduct of the said negotiations, litigation or proceedings.

31.9.2 The Company and the Contractor shall in good faith agree and establish mutually acceptable claims handling procedures. Such procedures shall not be acceptable to the Company or the Contractor unless they are acceptable to their respective insurers. Without prejudice or limitation to the foregoing, the Company and the Contractor shall in good faith agree and establish mutually acceptable claims handling procedures to deal with claims and actions which do not implicate the insurances to be effected by the Contractor pursuant to Clause 22.

31.10 To the extent that any incident likely to give rise to a claim or any claim or action implicates the Company's or LUL's insurances the Contractor shall not do anything which prejudices the rights of the Company's or LUL's insurers or prejudices a claim upon such insurances by any assured party.

31.11 In relation to any incident, claim or action referred to in Clauses 31.7.1, 31.7.2 or 31.9, the Contractor agrees that LUL shall have the right to control and supervise all dealings with the information media in respect of the relevant incident or event to which the claim or action relates.

31.12 The Contractor shall, at the cost of the Company (provided that the Contractor has complied with the procedure set out in Clause 33), give the Company or LUL such assistance as the Company or LUL requests in bringing or defending any action against any person and/or body arising out of this Contract in respect of any matter.

31.13 Except where in this Contract or in the other Restructuring Documents the contrary is expressly stated, neither the Company nor LUL shall be liable to the Contractor by way of indemnity or by reason of any breach of this Contract or of statutory duty or by reason of tort (including but not limited to negligence) for any loss of production, loss of profit, loss of contracts or for any financial or economic loss or for any indirect or consequential damage or loss whatsoever that may be suffered by the Contractor, provided that this Clause 31.13 shall not restrict claims by the Contractor permitted by this Contract in relation to costs imposed upon it by the Finance Parties.

31.14 For the avoidance of doubt, the provisions of this Clause 31 and the Contractor's liability under this Contract are subject to Sections 5.8 and 5.9 of Schedule 4 to the NLTSC Restructuring Agreement.

31A. TAXATION

31A.1 Subject to Clauses 31A.2 and 31A.13, the Company shall indemnify the Contractor (for itself and as trustee for the Maintenance Company) on demand and keep it indemnified at all times on a full indemnity basis from and against:

(a) all Taxes suffered by the Contractor or the Maintenance Company in respect of the Trains, the Equipment, the Enabling Works, the Depots and the Services; and

(b) all Taxes suffered by the Contractor or the Maintenance Company in respect of this Contract or any document, payment, matter, circumstance or transaction contemplated by this Contract.

31A.2.1 The Company shall not be obliged to indemnify the Contractor pursuant to Clause 31A.1:

(a) against corporation tax, capital gains tax, income tax or national insurance contributions;

(b) against Value Added Tax;

(c) to the extent that the matter in respect of which the obligation to indemnify would otherwise arise results from:

(i) any breach by the Contractor of any of the terms of, or any act of the Contractor not contemplated by, this Contract; or

(ii) any breach by the Maintenance Company of any of the terms of the Sub-Sub-Lease or any act not contemplated by the terms of the Transaction Documents (as defined in the Trains Head Lease); or

(iii) any action or omission which constitutes negligence or wilful default of the Contractor or of the Maintenance Company;

(d) in respect of Taxes indemnified by the remaining provisions of this Clause 31A or which would be so indemnified but for any exclusion or limitation on the terms of such clauses;

(e) in respect of any Taxes attributable to the period following the date with effect from which this Contract is terminated, save (i) to the extent that the same arise out of or in consequence of any act or omission of the Company or LUL, or of the presence of the Company or LUL or the employees or agents of either of them on the Site or the Depots or (ii) Taxes in respect of the Enabling Works and the Depots and any Equipment which is not removed by the Contractor on or following the date with effect from which this Contract is terminated;

(f) against any Tax chargeable other than in the United Kingdom;

(g) against business rates or any other local authority taxation in respect of the Depots; or

(h) against stamp duty (other than stamp duty on the Agreement for Sub-Sub-Lease, the Sub-Sub-Lease and any lease granted for the Further Term (as defined in the Sub-Sub-Lease), which shall be paid by the Company).

31A.2.2 In relation to the indemnities contained in the foregoing provisions of this Clause 31A, the Contractor agrees to refund to the Company any amount which it recovers from a third party in respect of a claim which has been the subject of a payment by the Company to the Contractor to the extent that the Contractor would be in no worse an after-tax position following such refund than it would have been in had it not made such a recovery.

31A.2.3 In calculating the amount of any payment to be made by the Company to the Contractor under Clause 31A.1 account shall be taken of the value to the Contractor, taking account of the time value of money, of any credit, deduction, allowance, relief or similar benefit for Tax purposes to which the Contractor is or will be entitled by reason of the payment or the event giving rise to the payment.

31A.2.4 If the Contractor becomes entitled to and utilises a Tax benefit by reason of any liability to Tax in respect of which the Company has indemnified the Contractor under Clause 31A.1 the Contractor shall pay to the Company (to the extent that it can do so without prejudicing the amount or retention of that benefit) such amount, if any, as will leave it in no worse a position than it would have been in if the indemnity payment had not been required. For these purposes, it shall be assumed that the Contractor becomes entitled to such a Tax benefit in circumstances where it would have become so entitled on the making of a claim (the making of which would not give rise to any additional liability to Taxation or loss of any relief, allowance, deduction or credit to the Contractor or any member of the Contractor's group or to any other material cost to the Contractor or any member of the Contractor's group), on a timely basis, in circumstances where the Contractor ought reasonably to be aware that such claim is available.

31A.3 If any amount (a ***Contractor Payment***) required to be paid by the Contractor either:

(a) to the Maintenance Company in respect of a corresponding payment which the Maintenance Company is required to pay under or pursuant to the Sub-Sub-Lease in consequence of (or of an acceleration or termination of the Sub-Sub-Lease in connection with or in consequence of) the occurrence of any Supervening Event; or

(b) under or pursuant to the Trains Head Lease or the Equipment Head Lease which is so payable in consequence of (or of an acceleration or termination of the Trains Head Lease or the Equipment Head Lease in consequence of or in connection with):

(i) the occurrence of any Supervening Event;

(ii) a termination of this Contract pursuant to Clause 26.1 or Clause 27.4.2 or the occurrence of an event referred to in Clause 27.1; or

(c) the non-renewal of this Contract in circumstances where Clause 26.3(c) applies,

(including, without limitation, any amount payable by way of adjustment to such an amount) is not or will not be wholly deductible in computing the profits of the Contractor for the purposes of corporation tax (assuming there to be sufficient such profits in any relevant accounting period), or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods of the Contractor later than that in which such payment falls to be made, then the Contractor shall be entitled to demand from the Company payment of such amount as will, after taking into account any liability to Tax to be suffered or incurred by the Contractor in respect of such amount, leave the Contractor in the same after-tax position taking into account the time value of money as it would have been in had such Contractor Payment been deductible in full in the accounting period in which it is made, provided that:

(aa) where and to the extent that the Contractor receives from the Company a payment corresponding to a Contractor Payment to which this Clause 31A.3 applies and such corresponding payment is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received there shall be taken into account any benefit received (taking into account the time value of money) as a result of such sum not being fully taxable which the Contractor would not have received if such sum had been fully taxable in respect of the accounting period in which it is received;

(bb) if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.3 was calculated on an incorrect basis, (including without prejudice to the generality of the foregoing the case where it has been assumed that an amount carried forward in respect of a Contractor Payment paid in circumstances where there has occurred a Supervening Event in accordance with Clause 25.6 will be deductible for corporation tax purposes from Usage Payments received in the Secondary Usage Period, such Usage Payments are subsequently received and no such deduction is in fact allowed) such adjustment shall be made between the Contractor and the Company as is necessary to restore the after-tax position of the Contractor, taking into account the time value of money, to what it would have been in if no adjustment had been necessary; and

(cc) where the Contractor is entitled to receive from either of the Finance Parties an amount (a ***Rebate Amount***) either (A) by way of adjustment to a Contractor Payment to which this Clause 31A.3 applies or (B) by way of a rebate calculated by reference to the net proceeds of a sale of a Train or of an item of Equipment in connection with the event which gave rise to the obligation to pay the relevant Contractor Payment then to the extent that such Rebate Amount is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received, and is matched by a corresponding payment (the ***Pass Down Payment***) which the Contractor is obliged to make to the Company in consequence of its right to receive the Rebate Amount and is deductible in computing the profits of the Contractor for the purposes of corporation tax (assuming there to be such profits in any relevant accounting period) to a greater extent or in an earlier accounting period or periods of the Contractor than the Rebate Amount is taxable there shall be taken into account any benefit received (taking into account the time value of money) as a result of any such mismatch between the tax treatment of the Rebate Amount and of the Pass Down Payment which the Contractor would not have received if no such mismatch had arisen, taking into account any payments made by either party to the other under Clause 31A.6B, and subject to subsequent adjustment under Clause 31A.3(bb).

31A.4 If any amount (a ***Contractor Payment***) required to be paid by the Contractor under or pursuant to the Trains Head Lease or the Equipment Head Lease which is so payable otherwise than (a) in consequence of any default by the Contractor under the terms of the Trains Head Lease or the Equipment Head Lease, (b) in consequence of a delay in Acceptance of Trains to the extent such delay is attributable to the Contractor

or (c) in consequence of an Acceleration under the Trains Head Lease (as defined in the financial schedules to the Trains Head Lease) or the Equipment Head Lease in circumstances (if any) where Clause 25.6 of this Contract does not apply is not or will not be wholly deductible in computing the profits of the Contractor for the purposes of corporation tax (assuming there to be sufficient such profits in any relevant accounting period), or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods of the Contractor later than that in which such payment falls to be made, then (in either case to the extent only that such tax treatment arises as a result of a Change in Law) the Contractor shall be entitled to demand from the Company payment of such amount as will, after taking into account any liability to Tax to be suffered or incurred by the Contractor in respect of such amount, leave the Contractor in the same after-tax position taking into account the time value of money as it would have been in had the Change in Law not occurred, provided that:

(a) where and to the extent that the Contractor receives from the Company a payment corresponding to any Contractor Payment to which this Clause 31A.4 applies and such corresponding payment is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received there shall be taken into account any benefit received (taking into account the time value of money) as a result of such sum not being fully taxable which the Contractor would not have received if such sum had been fully taxable in respect of the accounting period in which it is received; and

(b) if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.4 was calculated on an incorrect basis, such adjustment shall be made between the Contractor and the Company as is necessary to restore the after-tax position of the Contractor, taking into account the time value of money, to what it would have been in if no adjustment had been necessary.

31A.5.1 If any amount (a ***Maintenance Company Payment***) required to be paid by the Maintenance Company under or pursuant to the Sub-Sub-Lease which is so payable otherwise than in consequence of :

(a) any default by the Maintenance Company under the terms of the Sub-Sub-Lease;

(b) any delay in Acceptance of Trains to the extent such delay is attributable to the Contractor;

(c) any default by the Contractor under the terms of the Trains Head Lease or the Equipment Head Lease; or

(d) any Acceleration under the Sub-Sub-Lease (as defined in the financial schedule thereto) in circumstances (if any) where Clause 25.6 of this Contract does not apply;

is not or will not be wholly deductible in computing the profits of the Maintenance Company for the purposes of corporation tax (assuming there to be sufficient such profits in any relevant accounting period), or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods of the Maintenance Company later than that in which such payment falls to be made, then (in either case to the extent only that such non-deductibility or postponement of deductibility arises as a result of the application of section 779 Income and Corporation Taxes Act 1988 (***section 779***)) the Contractor (as trustee for the Maintenance Company) shall be entitled to demand from the Company payment of such amount as will, after taking into account any liability to Tax to be suffered or incurred by the Maintenance Company in respect of such amount, leave the Maintenance Company in the same after-tax position taking into account the time value of money and the deferred relief provided for in section 779 as it would have been in had section 779 not applied to the Maintenance Company Payment provided that if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.5 was calculated on an incorrect basis, such adjustment shall be made between the Contractor and the Company as is necessary to restore the after-tax position of the Maintenance Company, taking into account the time value of money, to what it would have been in if no adjustment had been necessary.

31A.5.2 For the purposes of Clause 31A.5 and Clause 31A.6 it shall be assumed that the Maintenance Company is carrying on a trade for tax purposes and is carrying on its maintenance activities in the course of that trade and pursuant to a contract with the Contractor on arms length terms, and neither of those Clauses shall impose any liability on the Company in respect of any liability to Tax or failure to obtain a deduction for tax purposes which arises as a result of such assumptions proving incorrect.

31A.6. If the Contractor demonstrates to the reasonable satisfaction of the Company that any amount (a ***Maintenance Company Payment***) required to be paid by the Maintenance Company under or pursuant to the Sub-Sub-Lease which is so payable otherwise than in consequence of:

(a) any default by the Maintenance Company under the terms of the Sub-Sub-Lease;

(b) any delay in Acceptance of Trains to the extent such delay is attributable to the Contractor;

(c) any default by the Contractor under the terms of the Trains Head Lease or the Equipment Head Lease; or

(d) any Acceleration under the Sub-Sub-Lease (as defined in the financial schedules thereto) in circumstances (if any) where Clause 25.6 of this Contract does not apply;

is not or will not be wholly deductible in computing the profits of the Maintenance Company for the purposes of corporation tax (assuming there to be sufficient such profits in any relevant accounting period), or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods

of the Maintenance Company later than that in which such payment falls to be made, then (in either case to the extent only that such tax treatment arises as a result of a Change in Law) the Contractor (as trustee for the Maintenance Company) shall be entitled to demand from the Company payment of such amount as after taking into account any liability to Tax to be suffered or incurred by the Maintenance Company in respect of such amount, leave the Maintenance Company in the same after-tax position taking into account the time value of money as it would have been in had the Change in Law not occurred provided that

(i) where and to the extent that the Contractor receives from the Company a payment corresponding to any Maintenance Company Payment to which this Clause 31A.6 applies and such corresponding payment is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received then any benefit received by the Contractor (taking into account the time value of money) as a result of such sum not being fully taxable which the Contractor would not have received if such sum had been fully taxable in respect of the accounting period in which it is received shall be taken into account for the purposes of this Clause 31A.6 as if it were a benefit arising to the Maintenance Company; and

(ii) if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.6 was calculated on an incorrect basis, such adjustment shall be made between the Contractor and the Company as is necessary to restore the after-tax position of the Maintenance Company, taking into account the time value of money, to what it would have been in if no adjustment had been necessary.

31A.6A For the purposes of Clause 31A.3, Clause 31A.4 and Clause 31A.6B, in determining what amount is necessary to leave the Contractor in the same after-tax position as it would have been in if an amount not deductible in full in the accounting period in which it is made had been so deductible, and in determining the amount of any benefit received as a result of a sum not being fully taxable which the Contractor would not have received if such sum had been fully taxable in respect of the accounting period in which it is received, and in determining the amount of any adjustment necessary to restore the after-tax position of the Contractor to what it would have been if no adjustment had been necessary, there shall be taken into account the extent of the Contractor's profits or losses for tax purposes in each accounting period on the assumption that the Contractor has not entered into any transactions save as contemplated by the Transaction Documents (as defined in the Trains Head Lease) and it shall be assumed that no benefit could be realised by the Contractor from any losses or increase in losses save by carrying such losses forward for set-off against profits arising from transactions which are so contemplated, and for the purposes of Clause 31A.5, Clause 31A.6, Clause 31A.6C and Clause 31A.6D, the provisions of this Clause 31A.6A shall (so far as relevant) apply with the substitution of references to Maintenance Company for references to the Contractor and references to the Sub-Sub-Lease and Agreement to Sub-Sub-Lease for references to the Trains Head Lease and the Equipment Lease and, in the case of Clause 31A.5,

with the substitution of "had section 779 not applied" for "if an amount is not deductible in full in the accounting period in which it is made had been so deductible".

31A.6B If any amount (a ***Contractor Payment***) required to be paid by the Contractor to the Company under or pursuant to this Contract and in respect of which the Contractor receives a corresponding payment under or pursuant to the terms of the Trains Head Lease or the Equipment Head Lease is not or will not be wholly deductible in computing the profits of the Contractor for corporation tax (assuming there to be sufficient such profits in any relevant accounting period) or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods of the Contractor later than that in which such payment falls to be made and:

(a) the corresponding payment under the Trains Head Lease or Equipment Head Lease is payable in consequence of (or of an acceleration or termination of the Trains Head Lease or the Equipment Head Lease in consequence of or in connection with), or represents an adjustment or rebate of an amount payable in consequence of (or of an acceleration or termination of the Trains Head Lease or the Equipment Head Lease in consequence of or in connection with), the occurrence of any Supervening Event pursuant to Clause 25.6, a termination of this Contract pursuant to Clause 26.1 or Clause 27.4.2 or the occurrence of an event referred to in Clause 27.1, or the non-renewal of this Contract in circumstances where Clause 26.3(c) applies; or

(b) in the case of any other payment, such tax treatment arises as a result of a Change in Law;

then the Contractor shall be entitled to demand from the Company payment of (provided the Contractor has paid the Contractor Payment to the Company), or (otherwise) to set off against its liability for the Contractor Payment, such amount as will, after taking into account any liability to Tax to be suffered or incurred by the Contractor in respect of such amount, leave the Contractor in the same after-tax position taking into account the time value of money as it would have been in had such Contractor Payment been deductible in full in the accounting period in which it is made provided that

(i) where and to the extent that the corresponding payment under the Trains Head Lease or Equipment Head Lease is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received there shall be taken into account any benefit received (taking into account the time value of money) as a result of such sum not being fully taxable which the Contractor would not have received if such sum had been fully taxable in respect of the accounting period in which it is received; and

(ii) if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.6B was calculated on an incorrect basis, such adjustment shall be made between the Contractor and the Company as is necessary to restore the after-tax position of the Contractor, taking into

account the time value of money, to what it would have been in if no adjustment had been necessary.

31A.6C If any amount (a ***Maintenance Company Payment***) required to be paid by the Maintenance Company to the Contractor in relation to a corresponding payment (the ***Corresponding Payment***) required to be made by the Contractor to the Company under or pursuant to this Contract and in respect of which the Maintenance Company receives a corresponding payment under or pursuant to the terms of the Sub-Sub-Lease is not or will not be wholly deductible in computing the profits of the Maintenance Company for corporation tax (assuming there to be sufficient such profits in any relevant accounting period) or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods of the Maintenance Company later than that in which such payment falls to be made and:

(a) the corresponding payment under the Sub-Sub-Lease is payable in consequence of (or of an acceleration or termination of the Sub-Sub-Lease in consequence of or in connection with), or represents an adjustment or rebate of an amount payable in consequence of (or of an acceleration or termination of the Sub-Sub-Lease in consequence of or in connection with), the occurrence of any Supervening Event; or

(b) in the case of any other payment, such tax treatment arises as a result of a Change in Law;

then the Contractor (as trustee for the Maintenance Company) shall be entitled (A) if the Contractor has paid the Corresponding Payment to the Company to demand from the Company payment of such amount as will, after taking into account any liability to Tax to be suffered or incurred by the Maintenance Company in respect of such amount, leave the Maintenance Company in the same after-tax position taking into account the time value of money as it would have been in had such Maintenance Company Payment been deductible in full in the accounting period in which it is made or (B) if the Contractor has not paid the Corresponding Payment to the Company, to deduct such amount as is referred to in (A) from the Corresponding Payment provided that

(i) where and to the extent that the corresponding payment under the Sub-Sub-Lease is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received there shall be taken into account any benefit received (taking into account the time value of money) as a result of such sum not being fully taxable which the Maintenance Company would not have received if such sum had been fully taxable in respect of the accounting period in which it is received; and

(ii) if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.6C was calculated on an incorrect basis, such adjustment shall be made between the Contractor (as agent of the Maintenance Company) and the Company as is necessary to restore the after-tax position of the Maintenance Company, taking into account the time value of money, to what it would have been in if no adjustment had been necessary.

31A.6D If any amount required to be paid by the Maintenance Company under or pursuant to the Sub-Sub-Lease (a ***Maintenance Company Payment***) which is so payable in consequence of (or of an acceleration or termination of the Sub-Sub-Lease in consequence of or in connection with) the occurrence of any Supervening Event (including, without limitation, any amount payable by way of adjustment to such an amount) is not or will not be wholly deductible in computing the profits of the Maintenance Company for the purposes of Corporation Tax (assuming there to be such profits in any relevant accounting period), or is wholly deductible in computing such profits but (whether wholly or in part) in an accounting period or accounting periods of the Maintenance Company later than that in which such payment falls to be made, then the Contractor (as trustee for the Maintenance Company) shall be entitled to demand from the Company payment of such amount as will, after taking into account any liability to Tax to be suffered or incurred by the Maintenance Company in respect of such amount, leave the Maintenance Company in the same after-tax position taking into account the time value of money as it would have been in had such Maintenance Company Payment been deductible in full in the accounting period in which it is made, provided that:

(a) where and to the extent that the Maintenance Company receives from the Contractor a payment corresponding to a Maintenance Company Payment to which this Clause 31A.6D applies and such corresponding payment is not taxable in full, or is taxable (wholly or in part) in respect of a later accounting period or accounting periods than that in which it is received there shall be taken into account any benefit received (taking into account the time value of money) as a result of such sum not being fully taxable which the Maintenance Company would not have received if such sum had been fully taxable in respect of the accounting period in which it is received; and

(b) if it subsequently proves that any payment by the Company to the Contractor under this Clause 31A.6D was calculated on an incorrect basis, such adjustment shall be made between the Contractor and the Company as is necessary to restore the after-tax position of the Maintenance Company, taking into account the time value of money, to what it would have been in if no adjustment had been necessary.

31A.7.1 If any amount payable to the Contractor under this Contract by way of indemnity or reimbursement (including any payment under this Clause 31A) is subject to any Taxes in the hands of the Contractor and thus proves to be insufficient either to discharge the corresponding liability to a third party or to reimburse the Contractor for the cost incurred by it in discharging such corresponding liability, the amount payable shall be increased to such an amount as (after taking into account the benefit of any deduction or relief from taxation obtained by the Contractor in respect of any corresponding amount paid or payable by the Contractor to a third party, or the obligation giving rise to the same, and the time at which such benefit is obtained) is required to put the Contractor in the same after-tax position as (taking into account the time value of money) the Contractor would have been in had the circumstances giving rise to the indemnity or reimbursement not occurred. If payment of the amount by the Company is initially made on the basis that it is not subject to Tax in the hands of the Contractor and it is subsequently determined that it is, or vice versa, such adjustment

shall be made between the Contractor and the Company as is required in order to restore the after-tax position of the Contractor to that in which it would have been had the adjustment not been necessary.

31A.7.2 Without prejudice to the generality of Clause 31A.1 if and to the extent that any sum (the ***Contractor Indemnity Sum***) constituting (directly or indirectly) an indemnity or reimbursement to the Contractor but paid by the Company to any person other than the Contractor, shall be treated as taxable in the hands of the Contractor, the Company shall promptly pay to the Contractor such sum (the ***Contractor Compensating Sum***) as (after taking into account any Taxes suffered by the Contractor on the Contractor Compensating Sum and taking into account the time value of money) shall reimburse the Contractor for any Taxes suffered by it in respect of the Contractor Indemnity Sum after taking into account any deduction for tax purposes obtained by the Contractor in respect of the payment of, or the matter giving rise to, the Contractor Indemnity Sum and the time at which the benefit of such deduction is obtained.

31A.8.1 All payments due to the Contractor under this Contract (including any payments under this Clause 31A) shall be calculated and made free and clear of and without deduction for, or on account of, any Taxes, unless such deduction or withholding is required by law. The Company shall account on a timely basis to the appropriate authority in respect of any such deduction or withholding which is so required.

31A.8.2 If such deduction or withholding is required by law, the Company shall (subject to Clause 31A.8.3) increase the payments to the Contractor so that the net amount received and retained by the Contractor after such deduction or withholding (and after taking account of any further deduction or withholding which is required to be made which arises as a consequence of the increase) shall be equal to the full amount which the Contractor would have received and retained if no such deduction or withholding had applied.

31A.8.3 If the Company is or would but for this sub Clause be required to pay an additional amount to the Contractor pursuant to this Clause 31A.8 and the Contractor will be entitled to any Tax credit, Tax deduction or similar benefit (being, in any such case, of a kind the utilisation of which is not dependent upon the circumstances of the Contractor assuming it to be resident in the UK) by reason of the withholding or deduction which the Company is required to make, the payment to be made by the Company under this Clause 31A.8 shall be reduced to such amount (if any) as is necessary in order to leave the Contractor, after allowing for such credit, deduction or benefit (taking account of the time value of money) in no worse position than it would have been in had no Tax been withheld from the payment by the Company as aforesaid.

31A.8.4 To the extent that a Tax credit, Tax deduction or similar benefit has been taken into account pursuant to Clause 31A.8.3 and it subsequently transpires that the Contractor was not entitled thereto or was entitled only to a lesser amount (in either case otherwise than as a result of negligence or wilful default or failure to file any relevant claim or notice or to take any similar action on a timely basis on the part of

the Contractor, which would not have given rise to any additional liability to Taxation or loss of any relief, allowance deduction or credit to the Contractor or any member of the Contractor's group, or to any other material cost to the Contractor or any such members in circumstances where the Contractor ought reasonably to have been aware that such failure would result in the loss or diminution of such credit, deduction or benefit and that the same was available) the Company shall pay to the Contractor by way of indemnity such sums as shall be necessary (after taking account of any Tax thereon) to restore the after-tax position of the Contractor to that which it would have been if no such Tax benefit had been obtained and no withholding had arisen.

31A.8.5 If the Company pays any additional amount to the Contractor pursuant to this Clause 31A.8 and the Contractor is entitled (or subsequently becomes entitled to) and utilises a Tax benefit by reason of the withholding or deduction which the Company is required to make as referred to in Clause 31A.8.1 and which has not been taken into account by the operation of Clause 31A.8.3 the Contractor shall upon demand by the Company, which shall not be made earlier than the time at which the Contractor would have paid an amount or an additional amount of Tax but for, or obtains a repayment of Tax by reason of, the utilisation of such benefit, pay to the Company such amount as is required to leave the Contractor (after taking account of the time value of money) in no worse position than it would have been in if there had been no Tax withheld and no Tax benefit obtained.

31A.8.6 The Company shall not be required to make any payment or increased payment pursuant to this Clause 31A.8 if and to the extent that the deduction or withholding in question:

(a) would not have arisen but for the Contractor carrying out any business or other activity or having any place of management outside the United Kingdom; or

(b) would not have arisen but for a failure on the part of the Contractor on a timely basis to give any certificate or notice or file any claim or take any similar action (being, in any such case, an action which would not result in any increased liability to Taxation or loss of any relief, allowance, deduction or credit, or to any other material cost to the Contractor or any member of the Contractor's group and which the Contractor ought reasonably to have been aware would, if not taken, result in the deduction or withholding being required to be made).

31A.9 The Company hereby undertakes to the Contractor that it will and will procure that LUL will:

(a) duly pay and discharge or cause to be paid and discharged all Taxes (other than Taxes in relation to which the application of Clause 31A.1 is excluded by any other part of this Clause 31A) levied upon it or its property in respect of or on the Trains and/or the Equipment (but for the avoidance of doubt not in respect of the Properties) not later than the due date of payment;

(b) not claim any capital allowance or analogous tax allowances in respect of the Trains and/or the Equipment and/or (in respect of any period prior to termination of this Contract) the Enabling Works;

(c) furnish promptly to any tax authority or to the Contractor for the Contractor to furnish to the Finance Parties or to such an authority or to any other person entitled to the same such information as may properly be required by any tax authority to be furnished about the Trains and/or the Equipment and/or the Depots and/or the Site and/or the Enabling Works, the use to which the same are being or have been put or any other matter or circumstance contemplated by this Contract, the Trains Head Lease, the Equipment Head Lease, the Sub-Sub-Lease and the other Operative Documents (as defined in the Trains Head Lease, the Equipment Head Lease and the Sub-Sub-Lease respectively) (to the extent in each case that such information is known to or is reasonably obtainable by the Company or, as the case may be, LUL) and furnish to the Contractor promptly upon request such information, books, records or documents as are within the control of the Company or, as the case may be, LUL and as may be necessary in order to enable the Contractor to respond to such a request of the Contractor from the Finance Parties (in connection with a request made of either of the Finance Parties by a tax authority) or from any tax authority as aforesaid;

(d) during the requisite period (as that expression is defined in section 40 of the Capital Allowances Act 1990) use the Trains and Equipment (to the extent that this Agreement has not been terminated in relation to such Trains or Equipment) in such a manner as to ensure that Section 42 of the Capital Allowances Act 1990 does not have effect with respect to any expenditure thereon or any part thereof.

31A.10 The Company shall pay to and indemnify the Contractor on demand and keep it indemnified at all times from and against any payments which the Contractor is liable to make to the Finance Parties pursuant to Clauses 10.1, 10.3, 10.5 of the Trains Head Lease or of the Equipment Head Lease and (to the extent only that such liability of the Contractor arises (i) as a result of a Change of Law or (ii) as a result of any payment which is payable in consequence of (a) the occurrence of (or of an acceleration or termination of the Trains Head Lease or the Equipment Head Lease in consequence of or in connection with) any Supervening Event, (b) a termination of this Contract pursuant to Clause 26.1 or Clause 27.4.2 or the occurrence of an event referred to in Clause 27.1 or (c) the non-renewal of this Contract in circumstances to which Clause 26.3(c) applies) 10.6 of the Trains Head Lease or of the Equipment Head Lease provided that

(a) any payment received by the Contractor under Clause 10 of the Trains Head Lease or of the Equipment Head Lease shall (to the extent it relates to a prior payment by the Contractor which has been indemnified by the Company under this Clause) be paid on to the Company;

(b) the Company shall not be liable to make any payment under this Clause 31A in respect of any payment due from the Contractor or withholding made from any payment made to the Contractor under Clause 10.3 of the Trains Head Lease or of the Equipment Head Lease which relates to the non-deductibility for a Finance Party of any underlying payment to the extent such underlying payment either (A) is not matched by any corresponding payment which the

Contractor is liable to make to the Company or (B) is matched by a corresponding payment computed on a basis which takes into account (other than under this Clause 31A.10(b)) any such payment or withholding under Clause 10.3 of the Trains Head Lease or of the Equipment Head Lease;

(c) the Company shall not be liable to make any payment under this Clause 31A in respect of any payment due from the Contractor under any part of Clause 10 of the Trains Head Lease or of the Equipment Head Lease to the extent such liability of the Contractor arises in connection with the tax treatment of an underlying payment which the Contractor is liable to make by way of indemnity and for which the Company is not liable to indemnify the Contractor; and

(d) the Company shall not be liable to make any payment under this Clause 31A in respect of any payment due from the Contractor under any part of Clause 10 of the Trains Head Lease or of the Equipment Head Lease to the extent such liability of the Contractor would not have arisen but for

(i) breach by the Contractor of any provision of any of the Operative Documents (as defined in the Trains Headlease and the Equipment Head Lease);

(ii) negligence or wilful default on the part of the Contractor; or

(iii) failure on the part of the Contractor in filing on a timely basis any claim or notice with any person the filing of which would not have given rise to any additional liability to Taxation or loss of any relief, allowance, deduction or credit to the Contractor or to any member of the Contractor's group, or to any other material cost to the Contractor or any member of the Contractor's group, in circumstances where the Contractor ought reasonably to have been aware that such failure would give rise to the liability referred to in the opening words of this Clause 31A.10.

For the avoidance of doubt any amounts payable by the Company to the Contractor under this Clause 31A.10 shall be paid subject to the provisions of Clause 31A.7 and Clause 31A.8.

31A.11 The Company shall pay to the Contractor on demand as trustee for the Maintenance Company and keep the Maintenance Company indemnified at all times from and against any payments which the Maintenance Company is liable to make to the Finance Parties pursuant to paragraphs 8.1, 8.3, 8.5 of Schedule 6 to the Sub-Sub Lease and (to the extent only that such liability of the Maintenance Company arises (i) as a result of a Change in Law or (ii) as a result of any payment which is payable in consequence of (a) the occurrence of (or of an acceleration or termination of the Sub-Sub-Lease in consequence of or in connection with) any Supervening Event, (b) a termination of this Contract pursuant to Clause 26.1 or Clause 27.4.2 or the occurrence of an event referred to in Clause 27.1 or (c) the non-renewal of this Contract in circumstances to which Clause 26.3(c) applies) 8.6 of Schedule 6 to the Sub-Sub-Lease provided that:

(a) where the Maintenance Company receives any payment (an ***Indemnity Rebate***) under paragraph 8 of Schedule 6 to the Sub-Sub-Lease the Contractor shall (to the extent such Indemnity Rebate relates to a prior payment by the Maintenance Company which has been indemnified by the Company under this Clause) pay to the Company forthwith an amount equal to such Indemnity Rebate;

(b) the Company shall not be liable to make any payment under this Clause 31A in respect of any payment due from the Maintenance Company or withholding made from any payment made to the Maintenance Company under paragraph 8.3 of Schedule 6 to the Sub-Sub-Lease which relates to the non-deductibility for a Finance Party of any underlying payment which either (A) is not matched by any corresponding payment which the Contractor is liable to make to the Company or (B) is matched by a corresponding payment computed on a basis which takes into account (other than under this Clause 31A.11(b)) any such payment or withholding under paragraph 8.3 of Schedule 6 to the Sub-Sub-Lease;

(c) the Company shall not be liable to make any payment under this Clause 31A in respect of any payment due from the Maintenance Company under any part of paragraph 8 of Schedule 6 to the Sub-Sub-Lease to the extent such liability of the Maintenance Company arises in connection with the tax treatment of an underlying payment which the Maintenance Company is liable to make by way of indemnity and for which the Company is not liable to indemnify the Contractor;

(d) the Company shall not be liable to make any payment under this Clause 31A in respect of any matter which relates directly or indirectly to business rates or any other local authority taxation in respect of the Depots; and

(e) the Company shall not be liable to make any payment under this Clause 31A in respect of any payment due from the Maintenance Company under any part of paragraph 8 of Schedule 6 to the Sub-Sub-Lease to the extent such liability of the Maintenance Company would not have arisen but for

(i) breach by the Maintenance Company or by the Contractor of any provision of any of the Transaction Documents (as defined in the Trains Headlease);

(ii) negligence or wilful default on the part of the Maintenance Company or of the Contractor; or

(iii) failure on the part of the Maintenance Company or of the Contractor in filing on a timely basis any claim or notice with any person the filing of which would not have given rise to any additional liability to Taxation or loss of any relief, allowance, deduction or credit to the Contractor or the Maintenance Company or to any member of their respective groups, or to any other material cost to the Contractor or the Maintenance Company or any member of their respective groups, in circumstances where either of the Contractor or the Maintenance

Company ought reasonably to have been aware that such failure would give rise to such liability.

For the avoidance of doubt any amounts payable by the Company to the Contractor under this Clause 31A.11 shall be paid subject to the provisions of Clause 31A.7 and Clause 31A.8 (but so that references therein to the Contractor shall where appropriate be deemed for the purposes of the application of those subclauses to payments under this Clause 31A.10 to be references to the Maintenance Company).

31A.12.1 If the Contractor or the Maintenance Company suffers Value Added Tax on supplies which it receives under or pursuant to the terms of the Trains Head Lease or the Equipment Head Lease or the Sub-Sub-Lease or otherwise in order to enable it to fulfil (in the case of the Contractor) its obligations under this Contract or (in the case of the Maintenance Company) obligations corresponding to obligations under this Contract which the Contractor has sub-contracted or otherwise delegated to it or obligations owed to Finance Parties in connection with the Enabling Works other than, in each of the aforementioned cases, any Value Added Tax on any amount which is payable in consequence of:

(a) any default by the Maintenance Company under the terms of the Sub-Sub-Lease;

(b) any delay in Acceptance of Trains to the extent such delay is attributable to the Contractor;

(c) any default by the Contractor under the terms of the Trains Head Lease or the Equipment Head Lease; or

(d) any Acceleration under the Sub-Sub-Lease (as defined in the financial schedules thereto) in circumstances (if any) where Clause 25.6 of this Contract does not apply;

and as a result of a Change in Law neither the Contractor (or the Maintenance Company as the case may be) nor the representative member of any VAT group of which the Contractor (or the Maintenance Company as the case may be) is a member is able to obtain full credit for such Value Added Tax the Company shall indemnify the Contractor (for itself or as the case may be as trustee for the Maintenance Company) for such portion of such Value Added Tax as cannot be so recovered (***Irrecoverable VAT***) provided that in calculating the amount of Irrecoverable VAT it shall be assumed that:

(i) the Contractor and the Maintenance Company are registered for the purposes of Value Added Tax;

(ii) neither the Contractor, nor the Maintenance Company, nor any member of any VAT group registration including the Contractor or the Maintenance Company, has entered into any transactions other than as contemplated by this Contract or any of the other Transaction Documents (as defined in the Trains Head Lease); and

(iii) the Contractor and the Maintenance Company (and where applicable the representative member of a group registration including either of them) have carried out their obligations under the Value Added Tax legislation to make proper Value Added Tax returns, on a timely basis including, without limitation, the due and timely claiming of credit for input tax available to it, and otherwise to supply documents or information to any Value Added Tax authority;

31A.12.2 If the Contractor or the Maintenance Company suffers Value Added Tax on making payment to the Company (or, in the case of the Maintenance Company, on making payment to the Contractor for pass through to the Company) of any amount in connection with an amount received from a Finance Party and either:

(i) as a result of a Change in Law; or

(ii) regardless of whether or not a Change in Law has occurred, in the case of VAT arising in connection with any payment of a rebate to the Company or to the Maintenance Company made indirectly in consequence of (or of any sale following) (a) the occurrence of (or of an acceleration or termination of the Trains Head Lease, the Equipment Head Lease or the Sub-Sub-Lease in connection with or in consequence of) any Supervening Event, (b) a termination of this Contract pursuant to Clause 26.1 or Clause 27.4.2 or the occurrence of an event referred to in Clause 27.1 or (c) the non-renewal of this Contract in circumstances to which Clause 26.3(c) applies

neither the Contractor (or the Maintenance Company as the case may be) nor the representative member of any VAT group of which the Contractor (or the Maintenance Company as the case may be) is a member is able to obtain full credit for such Value Added Tax the Company shall indemnify the Contractor (for itself or as the case may be as trustee for the Maintenance Company) for such portion of such Value Added Tax as cannot be so recovered (Irrecoverable VAT) provided that in calculating the amount of Irrecoverable VAT the assumptions set out in Clause 31A.12.1 shall apply.

31A.13.1 The Company shall not be liable under any of the indemnities contained in this Clause 31A to make any payment in connection with any Tax, or increase in Tax, suffered by any person to the extent that such Tax, or increase in Tax, would not have arisen but for:

(a) the Contractor or the Maintenance Company carrying on any activity not contemplated by the Transaction Documents (as defined in the Trains Head Lease) which results in the activities, payments or receipts of the Contractor or the Maintenance Company which are so contemplated not being treated for tax purposes as being carried out, paid or received as the case may be in the course of a trade;

(b) the Contractor or the Maintenance Company not preparing its accounts or tax computations on a basis consistent with the treatment of all transactions of the Contractor or the Maintenance Company as the case may be as trading activity (save to the extent that either of them is precluded from so doing as a

consequence of a Change in Law, or in generally accepted accounting practice as applicable to the Contractor or the Maintenance Company as the case may be);

(c) any failure of the Contractor or the Maintenance Company to comply in a timely manner with its obligations under tax legislation or to file any form or make any claim or election (the filing or making of which would not give rise to any additional liabilities to Taxation or loss of any relief, allowance, deduction or credit to the Contractor or any member of the Contractor's group or to any other material cost to the Contractor or any member of the Contractor's group) in circumstances where the Contractor ought reasonably to have been aware that such failure would give rise to such Tax or increase in Tax as is referred to in the opening words of this Clause 31A.13.1;

(d) any breach by the Contractor or the Maintenance Company of any of its obligations under any of the Transaction Documents (as defined in the Trains Head Lease);

(e) in the case of Clauses 31A.3, 31A.4, 31A.5, 31A.6, 31A.6B, 31A.6C, 31A.6D and 31A.7, the Contractor or the Maintenance Company drawing up its accounts or submitting its tax returns or computations (save as required by law or Inland Revenue practice of general application or by applicable rules of accounting practice) on a basis inconsistent with such treatment for tax purposes as would result in no claim arising under such Clauses save where the relevant matter, or a matter to which corresponding considerations apply in an earlier accounting period, has already been the subject of a dispute with any taxation authority under Clause 31A.14, the basis of drawing up and submission is consistent with the resolution of such dispute and the resolution of such dispute has not been affected by any subsequent Change in Law;

(f) any assignment or partial assignment by either of the Finance Parties of its rights under the Trains Head Lease, the Equipment Head Lease or the Sub-Sub-Lease to which the consent of the Contractor is required under any such document and to which the Company has not consented in writing hereunder; or

(g) the Contractor or the Maintenance Company having its effective place of management outside the United Kingdom or carrying on any business or other activity outside the United Kingdom.

31A.13.2 The Company shall not be liable under Clause 31A.4, Clause 31A.5, Clause 31A.6 or (in relation only to payments mentioned in sub-paragraph (b) thereof) Clause 31A.6C or Clause 31A.10 or Clause 31A.11 to make any payment in connection with the tax treatment of any payment or receipt of any person accruing in respect of any period falling after the termination of this Contract (save to the extent that the same is attributable to matters arising on or before such termination, or represents an adjustment to or a rebate of a payment or receipt attributable to any period on or before such termination).

31A.13.3 The Company shall not be liable under any provision contained in this Clause 31A to make any payment in connection with the tax treatment of any payment or receipt of any person arising as a result of, or (save to the extent that the same is attributable to matters arising on or before such termination, or represents an adjustment to or a rebate of a payment or receipt attributable to any period on or before such termination) following, a termination of this Contract under Clause 26.2 or Clause 28.

31A.14.1 If the Contractor becomes aware of any claim (a ***Claim***) against the Contractor or against the Maintenance Company for any Taxes in respect of which the Company is liable to indemnify the Contractor (for itself or as trustee for the Maintenance Company) under this Clause 31A (other than Clause 31A.8 or Clause 31A.10 or Clause 31A.11) the Contractor shall promptly notify the Company in writing.

31A.14.2 If reasonably requested by the Company in writing and such request is accompanied by an opinion of the Company's (or, during any Step-In Period (as defined in the ALSTOM Step-In Agreement) under the ALSTOM Step-In Agreement, LUL's) tax advisers confirming that there is a reasonable basis for contesting the validity, applicability or amount of such Claim, the Contractor shall appeal against such claim to the Special Commissioners or (in the case of VAT) to the VAT Tribunal, provided always that none of the events in Clause 27.1 has occurred and is at the relevant time continuing. The Contractor shall provided as aforesaid comply with all reasonable requests of the Company in relation to the conduct of any such appeal.

31A.14.3 If any appeal to the VAT Tribunal or to the Special Commissioners pursuant to Clause 31A.14.2 above is successful, the Contractor shall if so requested by the Company and provided as mentioned in Clause 31A.14.2 contest any further appeal in the relevant matter by the relevant tax authority. The Contractor shall provided as aforesaid comply with all reasonable requests of the Company in relation to the conduct of any such further appeal.

31A.14.4 In consideration of the agreement of the Contractor as set out in this Clause 31A.14 the Company agrees to indemnify the Contractor on demand against all costs and expenses reasonably incurred, and any additional liabilities to Tax incurred by the Contractor in connection with or as a consequence of any such appeals as are referred to in this Clause.

31A.15.1 Any claim under any provision of this Clause 31A (other than Clause 31A.8) shall set out in reasonably sufficient detail the facts on which it is based, together with (other than in the case of a claim under Clause 31A.10 or Clause 31A.11) supporting calculations in sufficient detail to enable the Company to substantiate the same. The Contractor shall also if reasonably requested by the Company submit in support of any claim under this Clause 31A documentary evidence (if available) of the facts on which it is based.

31A.15.2 If the Company wishes to dispute any claim made under this Clause 31A other than a claim under Clause 31A.10 or Clause 31A.11 (whether as to the validity or the amount thereof) it may give notice to the Contractor to that effect

within 30 Working Days of receipt of such claim. The Company shall specify in such notice the grounds on which, and the extent to which, it disputes the claim. Provided no default has occurred under Clause 27.1 and is continuing the Company shall not be liable pending resolution of any relevant dispute hereunder in accordance with the procedures in Clause 31A.15.3 to Clause 31A.15.7 inclusive to make any payment under this Clause 31A (other than under Clauses 31A.8, 31A.10 or 31A.11) in respect of a claim liability for which it is so disputing in good faith.

31A.15.3 If the Contractor does not accept the Company's grounds for disputing the claim the matter shall be dealt with in accordance with the following provisions.

31A.15.4 If the Company's grounds for disputing the relevant claim relate to the correctness or otherwise of any calculation or computation on which the claim is based (including, without prejudice to the generality of the foregoing, any calculation as to the time value of money, and any computation of the profits in any future accounting period or periods to be taken into account in accordance with the provisions of Clause 31A.6A in calculating the cost of any loss or postponement of tax relief) the matter shall be referred to an independent firm (the ***Firm***) of chartered accountants, to act as expert and not as arbitrator. If the parties cannot agree on a firm, the matter shall be referred to a firm to be chosen by the President for the time being of the Institute of Chartered Accountants of England and Wales. Each party shall notify the Firm within 15 Working Days of the notice under Clause 31A.15.2 of its view as to the amount properly payable under the claim and procure that the Firm shall as soon as practicable notify the parties of its decision on the matter, and such decision shall, in the absence of manifest error, be conclusive and binding on the parties. The Firm shall also certify which party's view as to the amount payable under the claim was closer to its decision on the matter (such certificate, in the absence of manifest error, to be conclusive and binding on the parties (but without prejudice to Clause 31A.15.7)) and the other party shall be responsible, as between the parties, for the Firm's charges in the matter.

31A.15.5 If the Company's grounds for disputing the relevant claim relate to any issue as to whether or not any payment is deductible, any receipt taxable, or any Value Added Tax recoverable in circumstances where the relevant matter, then or in an earlier accounting period, has not already been the subject of a claim by a relevant tax authority which has been resolved pursuant to Clause 31A.14 and has not been the subject of an earlier resolution (in relation to an earlier accounting period) under this Clause 31A.15 (excluding in either case a resolution which has been affected by a subsequent Change in Law), the Contractor shall produce a certificate of its auditors (or, where the claim relates to the circumstances of the Maintenance Company, the auditors of the Maintenance Company) confirming that they agree with the basis of the relevant claim. The Company shall not be liable to make any payment hereunder in relation to such claim unless and until the Contractor produces such a certificate.

31A.15.6 If the Company does not accept the certificate of the Contractor's auditors referred to above, provided no default has occurred under Clause 27.1 and is continuing, and subject to the Company indemnifying the Contractor for costs on an after tax basis, the Company may within 15 Working Days of receipt of such

certificate give notice requiring the Contractor to obtain an opinion from tax counsel selected by the Contractor and approved by the Company (such approval not to be unreasonably withheld or delayed) as to the issue in dispute between the parties. Counsel shall be asked to state his opinion as to the amount properly payable by the Company under the relevant claim, and his decision shall, pending the outcome of any contest with the tax authority and without prejudice to Clause 31A.15.7, be final and binding on the parties. The Company shall thereupon be liable to pay such amount to the Contractor. The costs of Counsel shall be borne by the party whose view as to the matter Counsel considers to have been the more accurate. The obligation of the Company to pay the Contractor in accordance with the opinion of counsel shall be without prejudice to the Company's rights under Clause 31A.14.2 to require the Contractor to pursue any relevant appeal in accordance with the terms of that Clause.

31A.15.6A If the Company wishes to dispute any claim made under Clause 31A.10 or Clause 31A.11 the provisions of paragraph 3.5(c) of Part I of Section 1 of Part B of Schedule 10 shall apply mutatis mutandis (so that, inter alia, references therein to cash flows, documents, calculations and other matters shall be taken for the purposes of this Clause as references to any relevant claim made or certificate supplied by a Finance Party pursuant to a relevant provision of the Trains Head Lease, Equipment Head Lease or Sub-Sub-Lease as the case may be and references to paragraph 13 (or, in the case of the Sub-Sub-Lease, paragraph 8) of each of the financial schedules mentioned therein shall be taken as references to the relevant paragraphs as applied mutatis mutandis by clause 10.9 of the Trains Head Lease or by the corresponding provision in the Equipment Head Lease or Sub-Sub-Lease as the case may be) and Clauses 31A.15.4, 31A.15.5 and 31A.15.6 shall not apply to any claim to which this Clause 31A.15.6A applies.

31A.15.7 Any resolution of a dispute under this Clause 31A.15 shall be without prejudice to the making of any subsequent adjustment to a claim, or the making of a further claim in respect of the circumstances giving rise to the first claim, under this Clause 31A in the case that subsequent events (including the outcome of any dispute with the relevant tax authority or other resolution in relation to the tax affairs of the Contractor or the Maintenance Company with the relevant tax authority) show the basis on which such dispute was resolved or any calculation relating thereto to have been incorrect.

31A.15.8 Following acceptance by the Contractor of the Company's disputing of any claim under any of the provisions of this Clause 31A, or the resolution of such a dispute as the case may be, all such repayments or payments shall be made between the parties as are necessary to give effect to such acceptance or resolution as the case may be.

31A.16 Reference in this Clause 31A to the Maintenance Company shall include references to any company in the Contractor's group for which the Maintenance Company is acting as agent.

31A.17 For the avoidance of doubt payments by LUL on behalf of or in discharge of the obligations of the Company are payments by the Company for the purposes of this Clause 31A and without limiting the foregoing Clause 31A.8 shall

apply in relation thereto; insofar as any such payments are increased, where this Clause 31A applies or Clause 18.9 applies receipt of such increased amount direct from LUL on behalf of or in discharge of the obligations of the Company shall (to the extent that the Contractor receives (and can irrevocably retain) the full amount due) constitute a good discharge of the Company's obligation to pay that amount.

32. INTELLECTUAL PROPERTY RIGHTS

32.1 All royalties, licence fees and other sums payable to any third party in respect of the use of any Intellectual Property Rights connected with the use of the Trains, the Equipment and/or provision of the Services and/or carrying out of the Enabling Works envisaged by this Contract or necessary for the performance hereof and in particular for the Company's or LUL's use and operation of the Trains and the Equipment on the Northern Line are included in the Usage Payments and shall be paid by the Contractor.

32.2.1 As between the Contractor and the Company, copyright in all specifications, drawings and technical descriptions supplied by the Company in connection with this Contract belongs to the Company. Drawings, specifications, technical descriptions and other documents prepared by or on behalf of the Company shall remain the sole property of the Company. On expiry or termination of this Contract, the Contractor shall return or dispose of the said drawings, specifications and documents and any copies thereof as the Project Manager shall direct.

32.2.2 The Contractor shall have, and the Company hereby grants to the Contractor, a licence to use all Intellectual Property Rights owned by the Company in or in respect of specifications, drawings and technical descriptions supplied by the Company in connection with this Contract in respect of which Intellectual Property Rights exist or come into being during the Contract Duration, the said licence to be granted solely for the purposes of this Contract, the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and the carrying on of LUL's passenger carrying railway operations on the Northern Line and to enable the Contractor to comply with its obligations under this Contract and the said licence shall include a right for the Contractor to use such specifications, drawings and technical descriptions (and to take and use copies thereof) in any way necessary for the aforesaid purposes and shall include the right to provide sub-contractors of the Contractor with copies of the same to the extent that they are reasonably required for such sub-contractors to carry out work on behalf of the Contractor pursuant to this Contract. Such licence shall be a non-royalty bearing licence and it shall continue for the purposes of this Contract, the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and any reason connected with LUL's passenger carrying railway operations on the Northern Line until the later of the date on which all the Trains have, and all the Equipment (other than the Existing Equipment) has, been returned to the Contractor in accordance with Clause 29 (including following the expiry or termination of this Contract) and the date on which the Company or LUL (as appropriate) has exercised its rights to terminate the Real Property Documents. For the avoidance of doubt, the Contractor shall be entitled to sub-license to its sub-contractors use of the rights licensed to it by the Company under this Clause 32.2.2

for the purposes of, but only of, this Contract, the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and LUL's passenger carrying railway operations on the Northern Line generally.

32.3 The Company shall have, and the Contractor hereby grants to the Company, a licence to use and to sub-license to LUL all Intellectual Property Rights owned by the Contractor, any of the other Contractor Parties or any of the Contractor's sub-contractors in or in respect of the Trains, the Equipment, the Services, the Existing Train Services, the Enabling Works, the Documentation and any other things to be provided or done by or on behalf of the Contractor in connection with this Contract in respect of which Intellectual Property Rights exist or come into being during the Contract Duration, the said licence to be granted solely for the purposes of this Contract, the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and the carrying on of LUL's passenger carrying railway operations on the Northern Line and the said licence shall include a right to use the Documentation and any records (and to take and use copies thereof) in any way necessary for the aforesaid purposes and shall include the right to provide other contractors or consultants of the Company or LUL with copies of the Documentation and records to the extent that they are reasonably required by such contractors or consultants to carry out work for the Company or LUL in connection with the Northern Line for the purposes of this Contract, the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and LUL's passenger carrying railway operations on the Northern Line generally. For the avoidance of doubt, the Company and/or LUL shall be entitled to sub-license to their respective sub-contractors use of the rights licensed to them by the Contractor under this Clause 32.3 for the purposes of, but only of, this Contract, the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and LUL's passenger carrying railway operations on the Northern Line generally.

To the extent that the Contractor is unable to grant a licence to the Company on the terms set out in this Clause due to the existence of third party rights, the Contractor (as applicable) shall authorise the Company and LUL, or shall procure that the Company and LUL are authorised, to use and sub-license on the terms of this Clause 32.3, all Intellectual Property Rights referred to in this Clause from the date which is 6 months after the date of issue of the first Take Over Certificate or Qualified Take Over Certificate by the Project Manager in respect of a Train to the extent that the use or sub-licensing thereof by the Company or LUL is necessary or desirable in relation to the maintenance and/or repair of the Trains, the Existing Trains, the Equipment and/or the Enabling Works.

For the avoidance of doubt, except in those circumstances in which:

(a) the Company or LUL is permitted to make alterations to the Trains or Equipment or Existing Trains pursuant to Clause 15.1 or Clause 16; or

(b) the Company exercises its rights pursuant to Clause 6.6.2 or the Company acquires title to the NL Trains pursuant to Clause 34,

the Company shall not be entitled (and shall not permit LUL) to use any Intellectual Property Rights of the Contractor, the other Contractor Parties or the Contractor's sub-contractors, pursuant to any licence granted under this Agreement, to manufacture, modify or refurbish the Trains, the Existing Trains or the Equipment (other than the Existing Equipment), in whole or in part, without the prior written consent of the Contractor.

32.4 The licence granted to the Company under Clause 32.3 shall be a non-royalty bearing licence and it shall continue for the purposes of this Contract, the use and operation of the Northern Line and any reason connected with the provision of infrastructure and related services to LUL on the Northern Line and LUL's passenger carrying railway operations on the Northern Line until the later of the date on which all the Trains have, and all the Equipment (other than the Existing Equipment) has, been returned to the Contractor in accordance with Clause 29 (including following the expiry or termination of this Contract) and the date on which the same have been returned to the Finance Parties under the Trains Direct Agreement or the Direct Leases (as defined in the NLTSC Restructuring Agreement). For the avoidance of doubt, should the Company acquire title to the NL Trains pursuant to Clause 34, the licence under Clause 32.3 shall continue for as long as the Company continues to or intends to use the NL Trains or makes or intends to make the NL Trains available to LUL for use on LUL's railway network and the access rights in Clause 32.6.1 shall be extended accordingly.

32.5 The Contractor shall enter into the Escrow Agreement in respect of the items referred to therein (and/or such other items produced or generated in connection with this Contract as the Project Manager may in his discretion require to be subject to the Escrow Agreement) as soon as reasonably practicable after the date of this Contract. If NCC Escrow International Limited for any reason will not agree to enter into the Escrow Agreement, the parties shall use their best endeavours to select, and enter into an agreement substantially equivalent to the Escrow Agreement with, an alternative escrow agent.

32.6.1 In addition to any other rights of the Company or LUL, the Company and LUL shall be entitled to access to, and use of, and the Contractor undertakes to grant such access to, and use of, the Documentation, source codes, data and other items which are to be held in escrow pursuant to the Escrow Agreement, for the purposes of this Contract (as if still in force if appropriate), the use and operation of the Northern Line, the provision of infrastructure and related services to LUL on the Northern Line and the carrying on of LUL's passenger carrying railway operations on the Northern Line. The Company's and LUL's rights of access and use (as aforesaid) shall only be exercisable on termination of this Contract by the Company pursuant to Clause 28, in the event that LUL or the Company (as appropriate) exercises its rights pursuant to Clause 6.6.2 to terminate the Real Property Documents or the Company exercises its rights, or LUL is permitted, pursuant to Clauses 15.1 or 16 to undertake itself, or require a third party to undertake, work on or in connection with the Trains, Existing Trains or the Equipment or in the event that the Company acquires title to the NL Trains pursuant to Clause 34 until such time as all the Trains have, and all the Equipment (other than the Existing Equipment) has, been returned to the Contractor

in accordance with Clause 29 or the Finance Parties under the Trains Direct Agreement or the Direct Leases (as defined in the NLTSC Restructuring Agreement).

32.6.2 If HMRI requests information from the Company or from LUL in relation to its investigation of any accident or incident or any other matter, the Contractor hereby undertakes, at the request of the Company, to provide such information (including, without limitation, any such information as is contained in that part of the Documentation, those source codes, and that data and those other items which are, in each case, to be held in escrow pursuant to the Escrow Agreement) directly to HMRI.

32.7.1 Without prejudice to, or limiting, the generality of Clause 31.1, the Contractor shall fully indemnify the Company and LUL, within 7 days of demand under this Clause 32.7.1, against any action, claim, demand, proceeding, damages, costs, charges and expenses (including reasonable legal fees on a solicitor/client basis) arising from, or incurred by the Company or LUL by reason of, any infringement or alleged infringement of any Intellectual Property Rights of any third party by the use of the Trains and/or the Equipment and/or the provision of the Services and/or the Existing Train Services and/or the carrying out of the Enabling Works provided that the Contractor's maximum liability in respect of any claim under this Clause 32.7.1 shall be as specified in Clause 31.2.1 (as adjusted in accordance with Clause 31.2.2).

32.7.2 The Company shall fully indemnify the Contractor, within 7 days of demand under this Clause 32.7.2, against any action, claim, demand, proceeding, damages, costs, charges and expenses (including reasonable legal fees on a solicitor/client basis) arising from, or incurred by it by reason of, any infringement or alleged infringement of any Intellectual Property Rights of any third party as a result of the Contractor's use of the Company's Intellectual Property Rights in accordance with the licence granted by the Company under Clause 32.2.2, provided that the Company's maximum liability in respect of any claim under this Clause 32.7.2 shall be £10 million and the Contractor shall not be entitled to bring a claim against the Company pursuant to Clause 33 in respect of the circumstances described in this Clause 32.7.2.

33. CLAIMS

33.1.1 Subject to Clauses 28.5, 31.13 and 33.8, the Company agrees that if:

(a) the Company shall breach any of its obligations under this Contract or any of the Real Property Documents or LUL shall breach any of its obligations under the Real Property Documents; or

(b) a Company Event of Default shall occur; or

(c) the Company or LUL (as appropriate) shall exercise (save to the extent consequent upon a material breach by the Contractor of its obligations under this Contract or any of the Real Property Documents) its or any of its rights under any of the Real Property Documents in such a manner as to materially adversely interfere with the Contractor's ability to comply with its obligations under this Contract or the Real Property Documents; or

(d) (subject to the Contractor complying with its obligations under Schedule 18) the Contractor's ability to comply with its obligations under this Contract or the Real Property Documents is materially adversely affected by the existence of any matter capable of giving rise to a claim against the Company under Schedule 18; or

(e) there is any Improper Use of the Trains or the Existing Trains (after the Transfer Date) or any items of Equipment (save for the Existing Equipment (prior to the Transfer Date)) or the Enabling Works by the Company, LUL, any Company Employee, LUL Employee or any person to whom the Company sub-lets its rights to use the Trains, Existing Trains or such Equipment;

the Contractor shall be entitled to claim all costs, losses and liabilities suffered by it as a result thereof (including, if applicable, consequent upon any termination by the Contractor as a result of the occurrence of any Company Event or Default) in accordance with the provisions of this Clause 33 save to the extent that:

(i) such costs, losses and liabilities are incurred by the Contractor in performing its obligations under Clause 5.4 or 14.6.12; or

(ii) the Contractor's rights of recovery are provided for under any other provision of this Contract (including, without limitation, under paragraph 4 of Part II of each of Sections 1, 2 and 3 of Part B of Schedule 10).

33.1.2 The Contractor shall not be entitled to make a claim under this Clause 33 in circumstances where the variation procedure set out in paragraph 8 of Schedule 4 applies. In such circumstances, any costs to which the Contractor shall be entitled shall be granted in accordance with such procedure.

33.2.1 Notwithstanding any other provision of this Contract, if the Contractor intends to claim any costs or other amounts pursuant to any provision of this Contract (excluding any claim under Clause 31A) or damages in respect of any alleged breach of this Contract or any of the Real Property Documents by the Company or any alleged breach of the Real Property Documents by LUL, it shall give notice of its intention to do so to the Project Manager (substantially in the form set out in Part OO of Schedule 7) within 28 days after the event giving rise to the claim became, or ought reasonably to have become, apparent to the Contractor save that the provisions of this Clause 33 shall not apply if the variation procedure set out in paragraph 8 of Schedule 4 applies.

33.2.2 On receipt of any notice pursuant to Clause 33.2.1, the Project Manager shall allocate a unique number to the claim (which he shall notify to the Contractor) and he shall also maintain a sequentially numbered register of all claims made, and costs awarded, pursuant to this Clause 33. All subsequent correspondence between the parties in relation to any claim made, or award of costs, under this Clause 33 shall bear the allocated number.

33.3 Within 60 days, or such other reasonable time as may be agreed in writing by the Project Manager, of giving notice under Clause 33.2.1, the Contractor shall send to the Project Manager an account giving detailed particulars of the amount being claimed and the grounds upon which the claim is based and the documents that will be relied upon by the Contractor to support such claim in accordance with Clause 33.2.1. Where the event giving rise to the claim has a continuing effect, such account shall be considered to be an interim account and the Contractor shall, at such intervals as the Project Manager may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The Contractor shall in any event send a final account within 60 days of the end of the effects resulting from the event.

33.4 In cases where interim accounts are sent and the Project Manager is of the opinion that he has received sufficient particulars to enable him to do so, and, upon receipt of a final account, the Project Manager shall determine whether (on an interim or final basis, respectively) the Contractor shall fairly be entitled in accordance with the provisions of this Contract to be paid costs or other amounts by the Company and also, if he shall so determine, the amount of such costs.

33.5.1 Upon any determination by the Project Manager, in accordance with the provisions of this Clause 33, that the Contractor is entitled, pursuant to this Clause 33, to be paid costs or other amounts by the Company in the circumstances specified in Clauses 33.1.1(a) to (f) or under Clause 31A or Schedule 18 (other than under paragraph 6.5.2) and strictly subject to the provisions of this Clause 33, the Contractor shall be entitled to payment thereof not later than 14 days after the date of determination together with interest on amounts to which the Contractor becomes entitled pursuant to this Clause 33.5.1 but such entitlement to interest shall not in any event exceed an amount equivalent to simple interest at the rate specified in Clause 18.7 on the monies expended for the period from the earlier of the date of disbursement by the Contractor and the date of the relevant determination to (but excluding) the date of payment.

33.5.2 Upon any determination by the Project Manager, in accordance with the provisions of this Clause 33, that the Contractor is entitled to be paid costs or other amounts by the Company pursuant to Clause 33 in circumstances other than those specified in Clauses 33.1.1(a) to (f) or other than under Clause 31A or Schedule 18 (other than under paragraph 6.5.2), such amounts shall accrue owing in the month in which the relevant determination is made by the Project Manager under this Clause 33 and shall be payable in accordance with paragraph 4.1(a) or 4.1(b) of Schedule 9 together with interest on amounts to which the Contractor becomes entitled pursuant to this Clause 33.5.2 but such entitlement to interest shall not in any event exceed an amount equivalent to simple interest at the rate specified in Clause 18.7 on the monies expended for the period from the earlier of the date of disbursement by the Contractor and the date of the relevant determination to (but excluding) the date of payment.

33.6 The Contractor shall not be entitled to make any claim in respect of costs incurred or to any other financial relief, in respect of any event or circumstance to which any of the foregoing provisions of this Clause 33 apply unless it shall have complied with the terms of this Clause 33, and, in default of compliance, the

Contractor shall be deemed to have waived all rights, claims and damages relating to such event or circumstance to which it might otherwise have become entitled either pursuant to or in connection with this Contract or as a result of any breach of this Contract or any of the Real Property Documents by the Company or any breach of the Real Property Documents by LUL.

33.7 If at any time the Contractor may make any financial claim or other claim, whether pursuant to any provision of this Contract or by way of a claim for any breach of this Contract by the Company, the Contractor shall be obliged to keep such contemporary records as may be necessary to support the said claim. Without admitting any liability on the part of the Company whatsoever, the Project Manager shall be entitled to inspect all records kept pursuant to this Clause 33.7 to the extent necessary to verify any of the said claims made by the Contractor and the Contractor shall supply to the Project Manager copies of any records so inspected. The Project Manager shall be entitled to instruct the Contractor to keep such further contemporary records as the Project Manager may reasonably consider desirable or material to a claim or in relation to the subject matter of any claim made by the Contractor.

33.8 The Contractor shall not be entitled to recover any amount from the Company under this Contract or otherwise in respect of any loss suffered to the extent that it has previously recovered for the same loss under the terms of this Contract or otherwise.

34. NL TRAINS

34.1.1 Upon the Company issuing a notice terminating this Contract in relation to the NL Trains under Clause 28.1.1, the Company shall be entitled:

(a) to pay to the Contractor the sum of £1; and

(b) immediately thereafter to require the Contractor to (and the Contractor shall thereupon be obliged to) transfer, at the cost of the Contractor, to the Company full beneficial and legal title to the NL Trains (or, if the NL Trains have not been delivered to the Contractor, all rights of the Contractor to take title to the NL Trains as contemplated by the Security Assignment) in each case free and clear of all security interests other than those created by the Company for the sole purpose of enabling the Company to operate and provide the railway service contemplated by Clause 5.1.1.

34.1.2 The rights of the Company under Clause 34.1.1 shall cease upon the earliest to occur of:

(a) this Contract being terminated other than pursuant to a notice to terminate served under Clause 28.1.1;

(b) the commencement of a Hand Back Extension Period;

(c) the date on which the first of the Trains are to be made available for collection in accordance with Clause 6.1 of the Trains Direct Agreement;

(d) the date on which the first of the Trains are to be redelivered to the Finance Parties pursuant to the Trains Direct Lease; and

(e) in relation to each NL Train, the date on which it becomes a Total Loss.

34.1.3 From the date on which title to the NL Trains is passed to the Company under Clause 34.1.1 or, as the case may be, the date on which the Mortgage is enforced until the date on which the Company retransfers title to the NL Trains in accordance with Clause 34.2.1, the Company shall not sell, transfer or otherwise dispose of, or part with possession or control of, or attempt to sell, transfer or otherwise dispose of, the NL Trains (provided that the Company may part with possession or control of the NL Trains in the same manner as it would be entitled to part with possession or control of the Trains that were at any time subject to the Trains Direct Lease) or create or permit any security interests to subsist over the NL Trains other than permitted security interests. For the purposes of this Clause 34, a ***permitted security interest*** means:

(a) any possessory lien arising by operation of law or in the ordinary course of the Company's business provided that the continued existence of such lien does not give rise to the reasonable likelihood of the sale, forfeiture or loss of the relevant NL Train; or

(b) any security interest created by, or attributable to, the Contractor; or

(c) any designation under the PPP Contract of the NL Trains as key system assets pursuant to Section 215 (3) of the GLA Act.

34.2.1 The Company hereby agrees that, if title to the NL Trains has been passed to the Company in accordance with Clause 34.1.1 or the Mortgage, it shall, provided that no Total Loss shall have occurred in respect of the relevant NL Train, promptly retransfer, at the cost of the Contractor, all those interests of the Company in the NL Trains passed to the Company pursuant to Clause 34.1.1 or, as the case may be, pursuant to the enforcement of the Mortgage free and clear of all security interests created by or attributable to the Company (other than where that security interest arises through the breach by the Contractor of this Contract) to the Contractor, upon the earliest to occur of the events provided for in Clause 34.1.2 (b), (c) and (d).

34.2.2 Upon retransfer of the NL Trains in accordance with Clause 34.2.1, the NL Trains shall comply with the Return Condition.

35. INSPECTION OF THE SITE

35.1 In regard to the carrying out of its obligations under this Contract, the Contractor shall be deemed prior to entering into this Contract to have:

(a) inspected and examined the Site, the Existing Equipment and the surroundings to the Site;

(b) satisfied itself as to the nature of the climatic and general conditions of the Site (including its Ground Conditions other than those in the Depots), the

arrangements for the provision of utilities, pipes and cables in, on or over the ground, the form and nature of the Site, the risk of injury or damage to property adjacent to the Site and to occupiers of such property, the nature of the work, and materials necessary for the provision of the Services, the Existing Train Services, the Trains and the Equipment and the carrying out of the Enabling Works as required by the provisions of this Contract;

(c) satisfied itself as to the means of communication with, and access to and through, the Site, the accommodation it may require, the possibility of interference by persons authorised by the Company who will also have access to or use of any parts of the Site, the precautions and the times and methods of working necessary to prevent any nuisance or interference, whether public or private, being caused to any third party; and

(d) obtained for itself all necessary information as to risks, contingencies and all other circumstances which may influence or affect the level of Usage Payments and Existing Train Service Payments and the Contractor's obligation to provide the Services, the Existing Train Services, the Trains and the Equipment and carry out the Enabling Works as required by the provisions of this Contract. The Contractor shall be responsible for the interpretation of all such information for the purposes of this Contract.

35.2 No claim by the Contractor for additional payment or any extension of time shall be allowed on the grounds of any misunderstanding or misapprehension in respect of the matters referred to in Clauses 14.6.12 or 35.1 or on the grounds that incorrect or insufficient information was given to the Contractor by any person whether or not in the employ of the Company (save if the information was given by the Company or a Company Employee and a competent contractor would not have reasonably determined that such information was incorrect or insufficient) or that the Contractor failed to obtain correct and sufficient information nor shall the Contractor be relieved from any risk or obligation imposed on or undertaken by it under the Contract on any such ground or on the ground that it did not or could not foresee any matter which may in fact affect or have affected the provision of the Services, the Existing Train Services, the Trains and the Equipment or the carrying out of the Enabling Works in full accordance with the requirements of this Contract.

36. SUFFICIENCY OF TENDER

36. Without prejudice to the Contractor's obligations and duties under this Contract, the Contractor shall be responsible for, and shall make no claim against the Company or LUL in respect of, any misunderstanding affecting the basis of the Contractor's tender (in respect of the Original Contract) or any incorrect or incomplete information howsoever obtained. Except as specifically provided in this Contract, no additional payment or adjustment to the Usage Payments or the Existing Train Service Payments, nor extension of time for performance and completion of the Contractor's obligations for the delivery or provision of the Equipment and the Trains and the provision of the Services and the Existing Train Services in accordance with this Contract, and/or the carrying out of the Enabling Works pursuant to the Agreement to Lease/Licence, shall be made on account of any unforeseen or unforeseeable

conditions whatsoever including, without limitation, Ground Conditions and climatic conditions save in relation to Ground Conditions insofar as they affect the ability of the Contractor to comply with its obligations to carry out the Enabling Works.

37. ADVERTISING AND CONFIDENTIALITY

37.1 The Contractor shall not without the prior consent in writing of the Company advertise or announce that it is carrying out this Contract for the Company or for the benefit of LUL.

37.2 Neither the Contractor nor any sub-contractor of the Contractor shall except with the written consent of the Company (obtained through the Project Manager) and subject to such conditions as may be imposed by the Company if consent is given:

(a) give, publish, display or allow to be given, published or displayed, or take any information, descriptive matter, article, drawings, model, pictorial representation, artist's impression, advertisement, photograph, photographic slide, or film, or the like, of, or of any item relating to, this Contract or the subject matter hereof (including, without limitation, the Trains and/or the Existing Trains and/or any Equipment and/or the Enabling Works); or

(b) use the Site and/or the Trains and/or the Existing Trains for the purpose of advertising; or

(c) give or allow to be given interviews to the press, radio or television or take part in programmes concerning this Contract or on any matter relating thereto.

37.3 Each of the Contractor and the Company undertakes to the other to keep confidential, and not to disclose (without the other party's prior consent in writing) to any third party, any information of a confidential nature supplied to it by the other party in connection with this Contract except as may be necessary for the proper performance of this Contract; provided that the Company shall be entitled to disclose such information to LUL or to an LUL Employee but only if LUL or such LUL Employee agrees to sign an equivalent confidentiality undertaking. Each of the Contractor and the Company hereby acknowledges and agrees that all information provided to it by the other party in the preparation of LUL's invitation to tender, the Contractor's tender, this Contract and in the execution of this Contract shall be treated as confidential by it.

37.4 Each of the Company and the Contractor undertakes to keep confidential, and not to disclose (without the other party's prior consent in writing) to any third party, any trade or business secret or similar information identified as confidential supplied to it by such other party except as may be necessary for the proper performance of this Contract and in particular the operation of the Trains and the Existing Trains and the Company's Business and LUL's passenger carrying railway operations on the Northern Line or the Contractor's business (as the case may be); provided that the Company shall be entitled to disclose such confidential information to LUL or to an LUL Employee but only if LUL or such LUL Employee agrees to sign an equivalent confidentiality undertaking.

37.5 Clauses 37.3 and 37.4 do not apply to any information that is:

(a) already in the public domain at the time of its disclosure or shall come into the public domain (for a reason other than a default by the relevant party hereunder);

(b) disclosed to the relevant party's professional advisers provided that they will be bound by the terms of Clauses 37.3 and 37.4;

(c) in relation to the Company, required to be disclosed, or is appropriate for the Company to disclose, to Parliament, Government or any of their respective officials;

(d) required to be disclosed to the extent required by any applicable law, the regulations of any recognised stock exchange or by an order of a court of competent jurisdiction; or

(e) disclosed by LUL to a replacement for the Company as the private partner under an equivalent contractual arrangement in substitution for the JNP Contract, provided such replacement person will be bound in like terms as Clauses 37.3 and 37.4.

37.6 Without prejudice to any other rights and remedies that the other party would have, each of the Contractor and the Company agrees that damages would not be an adequate remedy for any breach of this Clause 37 and that the other party shall be entitled to the remedies of injunction, specific performance and/or other equitable relief for any threatened or actual breach of this Clause 37.

38. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

38.1 The Contractor shall not:

(a) give, offer to give or agree to give to any person in the Company (including but not limited to any Company Employee or director, officer, agent, consultant, or contractor, of the Company) any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any act in relation to the obtaining or execution of this Contract or any other contract between the Company and any of the Contractor Parties or for showing or forbearing to show favour or disfavour to any person in relation to this Contract or any other such contract;

(b) enter into this Contract or any other contract with the Company in connection with which commission has been paid or agreed to be paid by it or on its behalf or to its knowledge to any Company Employee or director, officer, consultant, agent, or contractor, of the Company unless before this Contract or such contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Company and the Company has in writing approved the same.

38.2 Any breach of Clause 38.1 by the Contractor or by anyone employed by it or acting on its behalf (whether with or without the knowledge of the Contractor) or the committing of any offence by the Contractor or by anyone employed by it or acting on its behalf under the Prevention of Corruption Acts 1889 to 1916 in relation to this Contract or any other contract between the Company and any of the Contractor Parties shall entitle the Company to terminate this Contract in accordance with, and be at liberty to act as provided in, Clause 28 provided always that such determination shall not prejudice nor affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Company.

39. SURVIVAL

39. Notwithstanding the termination or expiry of this Contract in whole, the provisions of Clauses 1, 6, 13.2.2.1(d), 13.2.3, 13.3, 14.1.1 (the second sentence thereof only), 14.1.3, 14.1.4, 14.1.8, 14.4, 14.6.11 14.6.13, 16, 17, 18, 22, 23, 29, 30, 31, 31A, 32, 33, 34 and 37 to 49, Schedule 1, paragraph 1.7 of Schedule 4, and Schedules 9, 10, 14 and 18 shall expressly survive such termination or expiry and continue in full force and effect, along with any other Clauses or Schedules of this Contract necessary to give full and proper effect to the aforementioned Clauses and Schedules. In addition, any other provision contained in this Contract which by its nature or by implication (including in respect of any accrued rights and liabilities) is required to survive termination or expiry of this Contract so as to give effect to the said provision shall survive termination or expiry as aforesaid, and in particular (but without prejudice to generality of the aforegoing) in the event of termination other than as a result of the occurrence of a Company Event of Default, the Company shall retain the benefit of the warranties of quiet possession, use and enjoyment provided for under Clause 17.

40. CUMULATIVE RIGHTS

40. Each of the Company's and the Contractor's rights and remedies provided in this Contract are cumulative, may be exercised as often as it considers appropriate and are in addition to and shall not exclude any other right or remedy provided by law or in equity and no failure or neglect to exercise, or delay in exercising any, such rights or remedies and no single or partial exercise thereof shall preclude any further exercise of such rights and remedies.

41. WAIVER

41. Any failure or delay by either party at any time to enforce any of the provisions of this Contract shall not be construed as a waiver by such party of such provision or in any way affect the validity of this Contract or any part thereof. The respective rights of the parties (whether arising under this Contract or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing. No act or course of conduct or negotiation on their part or on their behalf shall in any way preclude them from exercising any such right or constitute a suspension or variation of any such right.

42. LANGUAGE

42. English shall be the language of this Contract and all Documentation or information required or produced in the course or in connection with the Contractor's performance of this Contract shall be in English.

43. ENTIRE AGREEMENT

43.1 Notwithstanding anything to the contrary expressed in or to be implied from such documents, the Original Documents, the Restructuring Documents and any documents between the parties thereto contemplated by the terms of any thereof together with any procedures, practices or alternative arrangements entered into between LUL and the Contractor after the date of the Original Contract but prior to the date hereof (or from time to time agreed between the parties) whether evidenced in writing or not and any other amendment, variation or supplement to the Original Documents entered into after the date of the Original Contract shall be deemed to contain the entire agreement and understanding between the parties hereto as at the date hereof which supersedes any and all previous agreements and understandings between the parties hereto in relation to the subject matter of this Contract.

43.2 The Contractor acknowledges that in submitting the Contractor's tender (in respect of the Original Contract) and in entering into this Contract or any of such other documents the Contractor has not relied or will not rely on any statements, representations, warranties or undertakings which are not expressly set out in the documents referred to above including, without limitation to the generality of the foregoing, any statements, representations, warranties or undertakings contained in the instructions to tenderers issued by the Company or the other documents made available by the Company prior to execution of the Original Contract. No party to this Contract shall have any remedy in respect of misrepresentation or untrue statement made by any other party unless and to the extent that a claim lies for breach of warranty under this Contract. This Clause shall not exclude any liability for fraudulent misrepresentation.

44. SEVERABILITY AND ILLEGALITY

44.1 If at any time any one or more of the provisions of this Contract becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

The parties shall meet to negotiate in good faith to agree a valid, binding and enforceable substitute provision or provisions, (if necessary with reconsideration of other terms of this Agreement not so affected) so as to re-establish an appropriate balance of the commercial interests of the parties.

44.2.1 If, at any time after the date of the Original Contract, the introduction, imposition or variation of any law, order, regulation or official directive, or any change in the interpretation or application thereof, makes it unlawful or impractical without breaching such law, order, regulation or directive for any of the Company, the Contractor Parties and the Finance Parties (an ***Affected Party***) to give effect to its

obligations under this Contract, the Direct Agreements, the Put and Call Option Agreement, the Finance Documents or any of the Real Property Documents (as the case may be), then the Company or the Contractor, as the case may be, shall, upon becoming aware of the same, notify the other party of the nature of the circumstances.

44.2.2 Without prejudice to any remedies that either the Company or the Contractor shall have under this Contract or the Real Property Documents and subject to Clause 12 of the NLTSC Restructuring Agreement (where applicable), the Company or the Contractor shall discuss with the other party and any of the Finance Parties or the other Contractor Parties, as appropriate, in good faith any methods of avoiding the effects of such introduction, imposition, variation or change and in particular shall consider, subject to obtaining any necessary consents, transferring its rights and obligations under the relevant document (if such document is one to which it is a party) to any other person, acceptable to the other party (at such other party's absolute discretion), not affected by such law, order, regulation or directive but so that nothing in this Clause 44.2 shall impose any legal liability on the Affected Party or such other party to implement or agree to the implementation of any such matters.

44.2.3 If the Affected Party is unable prior to the date upon which such introduction, imposition, variation or change takes effect, to avoid the effects thereof, or the other party fails to agree to any proposal put forward by the Affected Party to avoid the effects thereof, the provisions of Clauses 27.1(g) or 27.1(k) or 28.1.1(k) shall, to the extent applicable, apply.

44.2.4.1 If the Company is required, or reasonably anticipates that it will be required, to make any material payment (the ***Relevant Payment***) under Clause 31A (other than stamp duty for which the Company is or may be liable under Clause 31A.2.1(h)) which Relevant Payment would have been avoided had the New Trains and the Equipment or, as the case may be, the Depot been subject to the arrangements contemplated by the Direct Arrangements (either in relation to the New Trains, the Equipment and the Depot or the Depot alone) accompanied by arrangements entitling and obliging the Contractor to perform the Services and the Existing Train Services rather than the arrangements for leasing, usage and service provision contemplated by this Contract, the Trains Head Lease, the Equipment Head Lease and/or, as the case may be, the leasing arrangements in relation to the Depot, then it will so notify the Contractor.

44.2.4.2 Upon receiving such notice, the Company and the Contractor shall consult and agree arrangements which:

(a) subject to the agreement of the Finance Parties and LUL, involve the termination of this Contract in relation to the Trains, the Equipment and the Depot (or, if the Relevant Payment arises in respect only of the Depot, the Depot alone) without the payment by the Company or the Contractor (whether pursuant to the Finance Documents or otherwise) of any sum in relation to such termination;

(b) involve the implementation of an arrangement between the Company and the Contractor (or any other Subsidiary of either of the Guarantors) which is substantially the same in all commercial and economic respects with respect to

the New Trains, the Equipment and the Depot (or, as the case may be, the Depot) as the arrangements provided in and as contemplated by this Contract which arrangements provide:

(i) the Contractor (or the relevant Subsidiary) with all necessary abilities to maintain, control and supervise the Trains and the Equipment requisite with the obligation of a residual value guarantor (the Contractor acknowledging that it has all such abilities under the relevant terms of this Contract and the Real Property Documents as at the date of the Original Contract); and

(ii) the Train Manufacturer with all necessary rights to contract to sell and deliver the Trains, the Equipment and the Enabling Works on substantially the same commercial and economic terms as under the Purchase Agreement;

(c) require the Company to exercise its rights under Clause 3.1 of the Trains Direct Agreement and the Depot Direct Agreement or, as the case may be, the Depot Direct Agreement alone;

(d) strictly subject to Clause 44.2.4.2(b), involve the Guarantors entering into substantially the same commercial and economic arrangements with the Finance Parties with respect to the residual value of the New Trains and the Equipment as contemplated in the Trains Head Lease, the Equipment Head Lease and the guarantees given by the Guarantors in respect of the Trains Head Lease and the Equipment Head Lease;

(e) involve the Guarantors giving full and unconditional guarantees of the obligations of the Contractor (or, where relevant, any other subsidiary of the Guarantors used to effect the arrangements contemplated by this Clause 44.2.4) undertaken pursuant to the arrangements contained in this Clause 44.2.4;

(f) involve the extension of the ALSTOM Support Agreements so as to apply to the obligations of the Company under the arrangements contemplated under Clause 44.2.4(b);

(g) involve the Company indemnifying the Contractor Parties against all reasonable costs and expenses incurred by the Contractor Parties in implementing the arrangements contemplated by this Clause 44.2.4 and all incremental risks of the restructured transaction including risks of the nature indemnified against or assumed under this Contract and any of the other transaction documents;

(h) involve the establishment of arrangements in respect of insurances, sales and sales proceeds which are substantially the same in all commercial and economic respects with respect to the Trains, the Equipment, the Properties and the Enabling Works as those provided for under this Contract and the other transaction documents; and

(i) provide the Contractor Parties with rights and obligations substantially the same as those provided for in this Contract, the Purchase Agreement, the Real Property Documents and the other transaction documents.

44.2.4.3 The parties agree that the terms of Clause 44.2.4.2 are intended to be legally binding upon them and are not intended merely to record an agreement to agree which is non binding or unenforceable.

45. COMPETITION

45.1 During the term of this Agreement, the parties shall monitor in good faith the necessity or desirability of making any notification or submission to any relevant competition authority.

45.2 If the parties both consider that any such notification or submission as referred to in Clause 45.1 is necessary or desirable, they shall (subject to considerations of confidentiality) prepare and make it on a joint basis and consult with each other regularly regarding its progress and shall in good faith promptly provide all such assistance to the other as may be necessary (and lawful) to obtain any related clearance, exemption, determination or decision.

45.3 If the parties are unable to reach agreement regarding:

(a) whether such a notification or submission as referred to in Clause 45.1 is necessary or desirable; or

(b) the content of any such notification or submission,

then either party or both parties may make any such notification or submission at any time thereafter. In doing so, each notifying party shall provide the other party with details of all relevant meetings it has with the relevant competition authority and a copy of any notification or submission (save in each case for any information which each notifying party considers to be of a confidential nature) and to the extent reasonably practicable each notifying party shall give the other party the opportunity to attend such meetings and discuss the notification or submission before it is delivered to the relevant competition authority and shall consider all reasonable comments thereon provided on a timely basis by the other party.

45.4 Each party shall bear its own costs of making any such notification or submission as referred to in Clauses 45.2 and 45.3 save, only in the case of a notification or submission as referred to in Clause 45.2:

(a) for any associated registration fee, half of which shall be paid by each party; and

(b) for the Contractor's reasonable costs relating to the making of any such notification or submission to the extent that such notification or submission would not have been considered necessary or desirable but for the Northern Line Restructuring, which costs shall be borne by the Company.

46. NOTICES

46.1 Any notices or communications affecting this Contract shall be in writing and signed by or on behalf of the party giving it and may be served by leaving it at, or sending it by fax, prepaid recorded delivery or registered post to the address and for the attention of the relevant party set out in Clause 46.2. Proof of posting or despatch of any notice or communication shall be deemed to be proof of receipt:

(a) in the case of fax, the Working Day after the date of despatch;

(b) in the case of recorded delivery or registered post, forty eight (48) hours from the date of posting.

46.2 Notices or communications affecting this Contract shall in the case of the Company be addressed to:

Fleet Contract Manager

30 The South Colonnade
Canary Wharf
London E14 5EU

Fax No: 020 7308 4352

and in the case of the Contractor be addressed to:

Contract Manager

ALSTOM NL Service Provision Ltd
PO Box 6760
Leigh Road
Washwood Heath
Birmingham
B8 2YT

Fax No: 0121 695 3914

or such other person or address as the parties may from time to time notify in writing to one another.

47. DISPUTE RESOLUTION

47.1.1 Subject to Clauses 25.1.2 and 31A.15 (including, for the avoidance of doubt where Clause 31A.15 applies by virtue of Clause 31.6.8), paragraph 1.7.8 of Schedule 4, any relevant provision of Schedule 10 and paragraph 8 of Part D of Schedule 12, if any Dispute arises between the Company and the Contractor the provisions of this Clause 47 shall apply.

47.1.2 On the date of this Agreement or as soon as possible thereafter the Company and the Contractor shall establish and maintain, until the conclusion of the Contract, a joint working board (a ***Working Board***) consisting of a minimum of two and

maximum of four representatives of the Company and a minimum of two and maximum of four representatives of the Contractor.

47.1.3 The Working Board shall have the following functions:

(a) to consider and try to reach agreement to resolve Disputes referred to them pursuant to Clause 47.2.2;

(b) to carry out a review in November of each year of all unresolved Disputes referred to them pursuant to Clause 47.2.2 and to consider whether any of them may be resolved by agreement; and

(c) to consider and try to reach an agreed conflict management plan with the purpose of reducing the potential for Disputes.

47.1.4 The members of the Working Board may adopt such procedures and practices for the conduct of the Working Board's activities as they consider appropriate, from time to time.

47.1.5 Decisions, including any agreement, and any other recommendations of the Working Board must have the affirmative vote of all those members voting on the matter, which must include not less than one representative of each party to the Dispute.

47.1.6 A member of the Working Board shall have one vote on the Working Board.

47.1.7 The chairman of the Working Board shall be nominated by the Company. The chairman shall have a right to vote but shall not have a casting vote.

47.1.8 The chairman shall appoint a secretary for the Working Board (the ***Secretary***). The Secretary shall, unless otherwise agreed by the parties, be an employee of LUL. LUL shall be responsible for any costs associated with any Secretary who is a LUL employee.

47.1.9 The Working Board shall meet every four weeks. In addition, any member may convene a meeting of the Working Board at any time.

47.1.10 Meetings of the Working Board shall be convened on not less than 5 days' notice (identifying the agenda items to be discussed at the meeting) provided that in emergencies a meeting may be called at any time on such notice as may be reasonable in the circumstances.

47.1.11 Meetings of the Working Board should normally involve the attendance (in person or by alternate) of representatives at the meeting. Where the Working Board decides it is appropriate, meetings may also be held by telephone or another form of telecommunication by which each participant can hear and speak to all other participants at the same time. In any event at least one representative of each party involved in any Dispute to be considered at the meeting must be present or otherwise involved in the meeting as provided for in this Clause.

47.1.12 Where Clause 47.4 applies the Company, Contractor and LUL shall establish a joint board (a ***Joint Board***) which shall exercise the same powers and functions and be subject to the same procedures mutatis mutandis as the Working Board pursuant to this Clause 47 save that the chairman of the Joint Board shall be nominated by LUL.

Reference To Project Managers

47.2.1 Any Dispute shall in the first instance be referred by notice in writing from the referring party to the Project Manager and Contract Manager of the parties to the Dispute, unless one or more of the parties to the Dispute has not appointed a Project Manager or Contract Manager (as the case may be), in which case the Dispute shall be referred directly to the Working Board in accordance with Clause 47.2.2. The written notice from the referring party shall identify the matter(s) in dispute and the relief sought and shall also identify and set forth the basis for claiming the relief sought (including identification of the applicable provisions of the Contract that are relevant to the Dispute). As soon as reasonably practicable (and in any event within 7 days of the referring party providing written notice to the Project Manager and the Contract Manager), the referring party shall deliver to the Project Manager and to the Contract Manager written particulars of the claims that are the subject matter of the Dispute, including: (i) the facts relied upon by the referring party in support of its claim(s); and (ii) calculation of the specific monetary amount (if any) the referring party is seeking to recover in relation to each and every claim that is the subject matter of the Dispute. In the event that the referring party fails to provide the requisite particulars to the Project Manager and the Contract Manager within the specified time, the Project Manager and the Contract Manager shall (unless agreed otherwise) decline to consider the Dispute further.

47.2.2 When a Dispute is referred to the Project Manager and Contract Manager in accordance with Clause 47.2.1, the Project Manager and Contract Manager shall consider and try to reach agreement to resolve the Dispute. If the Project Manager and Contract Manager are unable to, or fail to, reach agreement to resolve the Dispute within either 21 days after the referral of the Dispute to them or such further time (not to exceed 30 days) as may be agreed to by the Project Manager and Contract Manager (the Contract Manager and Project Manager to have a maximum of 51 days to try to reach agreement to resolve the Dispute) then the Dispute shall be referred to the Working Board.

47.2.3 A party referring a Dispute to the Working Board shall do so by giving notice in writing to the Secretary. A party referring a Dispute pursuant to this Clause 47.2.3 shall, at the time it gives notice to the Secretary, deliver to the Secretary a copy of the written notice and particulars delivered to the Project Manager and the Contract Manager in accordance with Clause 47.2.1 and if the party referring a Dispute pursuant to this Clause 47.2.3 intends at the Working Board level to raise matters or seek relief that are additional to the matter(s) and relief identified in the notice and particulars provided pursuant to Clause 47.2.1, the referring party shall provide the Secretary with written particulars of those additional matters and relief. A party referring a Dispute pursuant to this Clause 47.2.3 shall also, at the time it gives written notice to the Secretary, deliver to the Secretary copies of those documents

that, in the party's opinion, are necessary in order for the Working Board to consider and try to reach agreement to resolve the Dispute.

47.2.4 The Working Board shall consider and try to reach agreement to resolve any Dispute referred to it pursuant to Clause 47.2.2.

47.2.5 Forthwith upon referring a Dispute to the Working Board the referring party shall notify the other party to the Dispute of the date of the reference (the ***Working Board Referral Date***) and provide that party with a copy of the notice given in accordance with Clause 47.2.3 and copies of all notice(s), particulars and documents provided to the Secretary in accordance with Clause 47.2.3. The party receiving copies of the notice, particulars and documents in accordance with this Clause shall have 5 days from the date of receipt of copies of the notice, particulars and documents to deliver to the Secretary copies of any additional documents that in the party's opinion are necessary in order for the Working Board to consider and try to reach agreement to resolve the Dispute and the party delivering such documents to the Secretary shall forthwith deliver copies of the additional documents to the referring party.

47.2.6 The Working Board shall refer as necessary, in seeking to resolve any Dispute pursuant to Clause 47.2.4, to any conflict management plan agreed pursuant to Clause 47.1.3(c)

47.2.7 If the Working Board is unable or fails to resolve the Dispute within 30 days after the Working Board Referral Date then the Dispute shall be referred to the Senior Representatives.

Reference To Senior Representatives

47.2.8 A party shall refer a Dispute to the Senior Representatives in accordance with Clause 47.2.6, by giving notice in writing to the other party to the Dispute.

47.2.9 Forthwith upon the giving of a notice pursuant to Clause 47.2.8, each of the parties to the Dispute shall appoint as its Senior Representative a representative at senior executive level and inform the other party to the Dispute as to the identity of its Senior Representative.

47.2.10 The Senior Representatives shall consider and try to reach agreement to resolve the Dispute referred to them pursuant to Clause 47.2.8.

47.2.11 Forthwith upon referring a Dispute to the Senior Representatives the referring party shall notify the other party to the Dispute of the date of the reference (the ***SR Referral Date***).

47.2.12 If the Senior Representatives are unable to, or fail to, reach agreement to resolve the Dispute within 14 days after the SR Referral Date, then either party to the Dispute may by written notice to the other party refer the Dispute to an Adjudicator in accordance with Clause 47.3.

General Provisions Relating To References To Project Managers, Working Board And Senior Representatives

47.2.13 Any agreement of the Project Manager and Contract Manager, or of the Working Board or of the Senior Representatives to resolve any Dispute shall be final and binding on the parties to the Dispute and shall be in writing.

47.2.14 The parties shall, and shall ensure that the Project Manager and Contract Manager, their respective Working Board members and their respective Senior Representatives, act in good faith in all discussions and negotiations in trying to reach agreement to resolve any Dispute pursuant to this Clause 47.2.

47.2.15 Each party to the Dispute shall bear its own costs and fees in relation to any reference of a Dispute to any or all of the Project Manager and Contract Manager, the Working Board and the Senior Representatives.

47.2.16 Discussions amongst the Project Manager and Contract Manager, the Working Board and the Senior Representatives in relation to a Dispute shall, unless agreed otherwise, be conducted on a without prejudice basis and the parties to any Dispute shall not make use of or rely upon any without prejudice statements or without prejudice admissions made in relation to any reference of the Dispute to any or all of the Project Manager and Contract Manager, the Working Board and the Senior Representatives, and shall keep confidential the contents of all such references except (i) insofar as disclosure is necessary to implement and enforce any agreement referred to in Clause 47.2.13, (ii) to their own legal advisers, or (iii) as otherwise required by law.

47.2.17 The parties shall continue to observe and perform all the obligations contained in this Contract, notwithstanding any reference to the Contract Manager and Project Manager, the Working Board or the Senior Representatives.

Reference To Adjudicator

47.3.1 If in relation to a Dispute (but not a Construction Act Dispute) the Senior Representatives are unable to, or fail to, reach agreement to resolve the Dispute within 14 days after the SR Referral Date, then either party to the Dispute may within the 14 days after expiration of the said period of 14 days give Notice of Adjudication to the other party to the Dispute. For the avoidance of doubt, Construction Act Disputes shall not be referred to adjudication under this Clause 47.3. Any disagreement between the parties as to whether a Dispute is in fact a Construction Act Dispute (or vice versa) shall be determined by the Adjudicator who has been appointed first under this Clause or Clauses 47.5.1 to 47.5.14 inclusive in respect of the Dispute or Construction Act Dispute in question.

47.3.2 Should either party give a Notice of Adjudication, immediately thereafter both parties to the Dispute shall endeavour to agree, from the lists of Adjudicators in Schedule 23, a shortlist of persons whom they would consider suitable to act as the Adjudicator and invite them (in turn) to accept the reference of the Dispute referred to in the Notice of Adjudication. In the event of the parties to the Dispute failing to jointly appoint a person willing and suitable to act as Adjudicator within 14 days of

the Notice of Adjudication, either party to the Dispute may apply to the Nominating Authority to appoint an Adjudicator. In acting pursuant to this Clause, the Nominating Authority and its employees and agents shall not be liable to any party howsoever for any act or omission in so acting, save where the act or omission is shown by the party to constitute conscious and deliberate wrongdoing committed by the Nominating Authority or its employees or agents alleged to be liable to that party and if (notwithstanding such exclusion of liability) the Nominating Authority or its employees or agents should be held liable to any third person, the parties shall hold harmless and indemnify the Nominating Authority in full (including reasonable legal costs) save where conscious and deliberate wrongdoing, committed by the Nominating Authority or its employees, is shown. No Adjudicator agreed to by the parties or appointed by the Nominating Authority shall previously have been employed by or acted as a consultant to a party to this Contract.

47.3.3 The terms of the remuneration of the Adjudicator shall be agreed by the parties to the Dispute and the Adjudicator as soon as is reasonably practicable after the Notice of Adjudication is given. If any party to the Dispute (but not both parties to the Dispute) rejects the terms of the remuneration of the Adjudicator the same shall be settled (and binding upon the parties to the Dispute) by agreement between the Nominating Authority and the Adjudicator (provided that the level of the Adjudicator's fees shall not exceed the level originally proposed to the parties to the Dispute by the Adjudicator). If both parties to the Dispute reject the terms of remuneration proposed by an Adjudicator another person shall be appointed as an Adjudicator in accordance with Clause 47.3.2.

47.3.4 If: (a) a Notice of Adjudication is given by either party within 14 days of a previous Notice of Adjudication; and (ii) the later Notice of Adjudication relates to any of the same or similar issues raised by the earlier Notice of Adjudication, then the latter Notice of Adjudication shall be referred to the Adjudicator appointed (or to be appointed) under the earlier Notice of Adjudication. In this event, the Adjudicator shall conduct the references in respect of the Notices of Adjudication at the same time and any decision given by the Adjudicator in respect of those Notices of Adjudication shall be made in accordance with Clause 47.3.7.

47.3.5 The parties to the Dispute may jointly terminate the Adjudicator's appointment at any time. In such a case or if the Adjudicator fails to give notice of his decision within the period referred to in Clause 47.3.7 and the parties to the Dispute do not jointly extend time for his decision to be made or if at any time the Adjudicator declines to act or is unable to act as a result of his death, disability, resignation or otherwise, a person shall be appointed to replace the Adjudicator in accordance with the provisions of Clause 47.3.2. In the event of the parties to the Dispute failing to jointly appoint a person willing and suitable to act as a replacement Adjudicator within 14 days, either party to the Dispute may apply to the Nominating Authority to appoint a replacement Adjudicator. Provided that where the Adjudicator has failed to give notice of his decision within the period referred to in Clause 47.3.7 or any extended time jointly agreed by the parties to the Dispute and either party to the Dispute has commenced court proceedings pursuant to Clause 47.6, no replacement Adjudicator shall be appointed in accordance with this Clause 47.3.5 and the Dispute shall be determined by the court in accordance with Clause 47.6. In acting pursuant

to this Clause, the Nominating Authority and its employees and agents shall not be liable to any party howsoever for any act or omission in so acting, save where the act or omission is shown by the party to constitute conscious or deliberate wrongdoing committed by the Nominating Authority or its employees or agents alleged to be liable to that party and if (notwithstanding such exclusion of liability) the Nominating Authority or its employees or agents should be held liable to any third person, the parties shall hold harmless and indemnify the Nominating Authority in full (including reasonable legal costs) save where conscious and deliberate wrongdoing, committed by the Nominating Authority or its employees or agents, is shown.

47.3.6 As soon as reasonably practicable following receipt of the Notice of Appointment (as defined in Schedule 14) of the Adjudicator any party who gave a Notice of Adjudication shall send to the Adjudicator:

(a) a copy of the Notice of Adjudication (or, if applicable, the Notices of Adjudication); and

(b) a copy of this Contract and the Contract or Contracts under, out of or in connection with which the Dispute arises.

47.3.7 (a) The Adjudicator shall conduct the reference in accordance with Schedule 14 and, unless agreed otherwise by the parties, no later than the 42nd day after the Date of Appointment (or where more than one Dispute is referred to the Adjudicator, no later than the 42nd day after receipt by him of the latest Notice of Adjudication, if later), the Adjudicator shall give written notice of his decision to the parties to the Dispute.

(b) The Adjudicator shall act as expert and not as arbitrator and the Adjudicator's decision shall be final and binding upon the parties to the Dispute and the Adjudicator unless and until as hereinafter provided the Dispute is finally determined by the Court pursuant to Clause 47.6 or by agreement.

(c) The Adjudicator shall have full power to open up, review and revise any Resolution.

47.3.8 Notice of the Adjudicator's decision (stating that it is given under Clause 47.3.7) shall include a summary of the Adjudicator's findings and, if agreed by the parties to the Dispute, a statement of the reasons for his decision.

47.3.9 The parties to this Contract shall continue to observe and perform all the obligations contained in this Contract, notwithstanding reference to the Adjudicator, and shall to the extent that the Adjudicator's decision is compatible with any safety review procedures to which they are bound give effect forthwith to the Adjudicator's decision in every respect unless and until as hereinafter provided the decision of the Adjudicator is revised by the Court pursuant to Clause 47.6 hereto. Either party to the Dispute may apply to any appropriate court for enforcement of the Adjudicator's decision. Neither any form of enforcement of the Adjudicator's decision nor any form of challenge to the enforcement of the Adjudicator's decision nor any dispute arising out of or in connection with such enforcement or challenge shall be regarded and treated as a Dispute for the purposes of Clauses 47.2.1, 47.2.6 and 47.3.1 hereto.

47.3.9A Although a decision of an Adjudicator shall be final and binding pursuant to Clause 47.3.7(b) or Clause 47.5.7(c) and the parties shall give effect to the Adjudicator's decision pursuant to Clause 47.3.9 or Clause 47.5.9, if any decision of the Adjudicator shall be revised by the Court pursuant to Clause 47.6:

(a) a party shall be deemed not to have committed a breach of this Contract by reason of having acted in accordance with the Adjudicator's decision;

(b) if a party has, as a direct and necessary result of having acted in accordance with any part of an Adjudicator's decision that has subsequently been revised by the Courts pursuant to Clause 47.6, incurred or suffered liabilities, damages, losses, costs or expenses, the Court revising the Adjudicator's decision shall be entitled to award to that party such compensation as the Court determines appropriate, but no party shall be entitled to claim or be awarded compensation for any indirect or consequential loss or damage (including but not limited to lost profit or opportunities) that may be incurred or suffered as a result of having acted in accordance with the Adjudicator's decision; and

(c) to avoid doubt, no party shall be entitled to claim any other remedy apart from the remedy referred to in Clause 47.3.9A(b) above as a consequence of any act necessarily or properly undertaken in accordance with any part of the Adjudicator's decision which has subsequently been revised by the Courts pursuant to Clause 47.6.

47.3.10 In any case where the Adjudicator is appointed as a replacement pursuant to Clause 47.3.5, the parties to the Dispute shall send to the Adjudicator, as soon as reasonably practicable, copies of all documents supplied by them to the Adjudicator he replaces and the reference shall continue as if there had been no change of Adjudicator.

47.3.11 Subject to any agreement of the parties, the Adjudicator shall allocate the costs and fees of the adjudication as between the parties. Unless the parties otherwise agree, the Adjudicator shall award such costs and fees on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of the costs or fees. The parties agree to be bound by the Adjudicator's allocation of costs and fees and shall pay such costs and fees in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by the Courts pursuant to Clause 47.6 hereof.

47.3.12 Subject to any agreement of the parties, the Adjudicator shall allocate payment of his remuneration and expenses as between the parties. Unless the parties otherwise agree, the Adjudicator shall award payment of his remuneration and expenses on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of his remuneration or expenses. The parties agree to be bound by the Adjudicator's allocation of payment of his remuneration and expenses and shall pay such remuneration and expenses in accordance with the Adjudicator's

direction unless and until the direction of the Adjudicator is set aside or revised by the Courts pursuant to Clause 47.6 hereof.

47.3.13 If the terms of the Adjudicator's appointment provide for the payment of his remuneration and expenses before giving notice of his decision to the parties to the Dispute pursuant to Clause 47.5.7, the parties to the Dispute shall pay such remuneration and expenses in equal amounts and shall make adjustment payments between themselves following any direction made by the Adjudicator pursuant to Clause 47.3.12.

Joinder Of Disputes

47.4.1 A Dispute, other than a Construction Act Dispute, may be determined:

(a) in the same reference as an Associated Contract Dispute provided notice has been given no later than 10 Working Days after the Dispute has been referred to the Project Manager and Contract Manager, the Working Board or the Senior Representatives (as the case may be) in accordance with the provisions of Clause 47.2 and the provisions of this Contract shall be modified accordingly; or

(b) in the same proceedings as the Associated Contract Dispute provided notice has been given no later than 10 Working Days after the Date of Appointment and the provisions of this Contract shall be modified accordingly and the Adjudicator appointed in accordance with the Associated Contract Dispute shall have the same powers in relation to the Dispute as he has in relation to the Associated Contract Dispute and as if the procedure of the High Court in relation to co-defendants and non parties was available to the parties and to the Adjudicator.

47.4.2 A Construction Act Dispute may be determined in the same proceedings as an Associated Contract Dispute which is also a Construction Act Dispute provided notice has been given within 3 days of the Notice of Construction Act Adjudication and the provisions of this Contract shall be modified accordingly and the Adjudicator appointed in accordance with the Associated Contract Dispute shall have the same powers in relation to the Dispute as he has in relation to the Associated Contract Dispute and as if the procedure of the High Court in relation to co-defendants and non parties was available to the parties and to the Adjudicator.

47.4.3 Subject to the provisions of Clause 47.4.3A and 47.4.3B below, a Dispute may only be determined in the same reference or proceeding as an Associated Contract Dispute in accordance with Clause 47.4.1 and a Construction Act Dispute may only be determined in the same proceedings as an Associated Contract Dispute which is also a Construction Act Dispute in accordance with Clause 47.4.2 if the terms of the Dispute Resolution Agreement relevant and applicable to the determination of the Dispute and Associated Contract Dispute or Construction Act Dispute and Associated Contract Dispute that is also a Construction Act Dispute are in all material respects the same as the relevant provisions of this Clause 47, Schedule 14 and Schedule 22.

47.4.3A The provisions of Clause 47.4.3 shall not apply in relation to Clause 4.15 (*Accelerated Adjudication*) of the Dispute Resolution Agreement.

47.4.3B Where either party seeks to exercise its rights to joinder under this clause 47.4, and the Associated Contract Dispute is already or subsequently becomes the subject of acceleration under Clause 4.15 of Dispute Resolution Agreement, then either party shall be entitled to object to joinder pursuant to this Clause 47.4, but only if that party notifies the other party of its objection in writing within 5 (five) Working Days of receipt of a notice pursuant to Clause 47.4.1 of this Agreement, or of notification in writing that the Associated Contract Dispute is the subject of acceleration under clause 4.15 of the Dispute Resolution Agreement, whichever is the later.

47.4.4 Where a Dispute and an Associated Contract Dispute have been determined in the same proceedings before the Adjudicator and court proceedings are commenced in the Associated Contract Dispute those court proceedings shall be of no effect in relation to the Dispute and neither the Company nor the Contractor shall be bound nor in any way affected by the outcome of the court proceedings unless the Dispute is also the subject of, and determined in, the same proceedings.

47.4.5 Where a Dispute is to be determined in accordance with Clause 47.4.1(b) a party to this Contract may within 3 days of receiving notice pursuant to Clause 47.4.1(b) or, if later, three days of becoming aware of the appointment and identity of the Adjudicator appointed in respect of the Associated Contract Dispute (or such other time as may be agreed by the parties to this Contract and LUL) give written notice to the Adjudicator appointed in the Associated Contract Dispute that it objects to the joinder of the Dispute and Associated Contract Dispute on the basis that the Associated Contract Dispute does not arise out of circumstances which are substantially the same as or are closely connected with the issues in the Dispute or does not raise issues which are substantially the same as or closely connected with issues raised in the Dispute. Any party giving such written notice shall at the same time provide copies of the written notice to all other parties to the Dispute and Associated Contract Dispute.

47.4.6 Where written notice is provided in accordance with Clause 47.4.5, the parties receiving a copy of the written notice shall have 2 days from the date of receiving a copy of the written notice to provide to the Adjudicator a written submission responding to the objection(s) set out in the written notice. A copy of any such written submission shall at the same time be copied to all other parties to the Dispute and Associated Contract Dispute.

47.4.7 Within 4 days of receiving written notice in accordance with Clause 47.4.5 (or such other time as may be agreed by the parties to the Dispute and the Associated Contract Dispute) the Adjudicator shall advise the parties of his decision concerning the objection(s) and whether the Dispute should proceed to be determined with the Associated Contract Dispute in accordance with Clause 47.4.1(b).

47.4.8 Where a Dispute is to be determined in accordance with Clause 47.4.1(a) or a Dispute is to be determined in accordance with Clause 47.4.1(b) and at the time notice is provided pursuant to Clause 47.4.1(b) the Adjudicator in the Associated Contract

Dispute has not been agreed to or appointed, the parties to this Contract may participate in the appointment of the Adjudicator and the Contractor, the Company, LUL and other parties to the Dispute and Associated Contract Dispute shall appoint an Adjudicator to accept the reference of the joined Dispute and Associated Contract Dispute in accordance with the procedure set forth in Clauses 47.3.2 and 47.3.3 hereof and the equivalent provisions in the Dispute Resolution Agreement and the provisions of Clauses 47.3.2 and 47.3.3 shall be modified accordingly. Where the Adjudicator has been agreed to or appointed in the Associated Contract Dispute at the time notice is provided pursuant to Clause 47.4.1(b), the Contractor shall be entitled to object to the appointment of the Adjudicator in the Associated Contract Dispute in accordance with the provisions of this Clause. Any objection made by the Contractor shall be in writing and shall be delivered to LUL and all other parties to the Dispute and Associated Contract Dispute within three days of notice being provided pursuant to Clause 47.4.1(b) (the ***Objection Notice***). The Objection Notice shall identify and set forth the basis upon which the Contractor objects to the Adjudicator appointed in the Associated Contract Dispute acting as the Adjudicator in the joinder of the Dispute with the Associated Contract Dispute. LUL and the Company shall have three days from the date on which they receive copies of the Objection Notice to respond in writing to the objection(s) made by the Contractor (the ***Response to the Objection***) and they shall at the same time deliver copies of the Response to the Objection to the other parties to the Dispute and the Associated Contract Dispute. Upon receipt by the Contractor of a Response to the Objection the Contractor, LUL and the Company shall discuss the Contractor's objection(s) and those parties shall attempt in good faith to reach agreement to resolve the objection(s) to the continued appointment of the Adjudicator in the Associated Contract Dispute. In the event the parties are not able to, or fail to, reach agreement to resolve the objection within three days of the date of delivery of the Response to the Objection, the Adjudicator in the Associated Contract Dispute shall be notified in writing by the parties to the Associated Contract Dispute that his appointment as Adjudicator in the Associated Contract Dispute has been terminated and the Contractor, the Company, LUL and the other parties to the Associated Contract Dispute and Dispute shall in accordance with the procedures set forth in Clauses 47.3.2 and 47.3.3 hereof and the equivalent provisions of the Dispute Resolution Agreement appoint an Adjudicator to accept the reference of the joined Dispute and Associated Contract Dispute and the provisions of Clauses 47.3.2 and 47.3.3 shall be modified accordingly.

Construction Act Disputes

47.5.1 Notwithstanding Clauses 47.2 and 47.3 either party to a Construction Act Contract may give notice at any time of its intention to refer a Construction Act Dispute to adjudication under the procedure set out in this Clause 47.5, by giving a Notice of Construction Act Adjudication to the other party to the Construction Act Dispute.

47.5.2 Should either party give a Notice of Construction Act Adjudication, immediately thereafter the parties to the Construction Act Dispute shall endeavour to agree, from the lists of Adjudicators in Schedule 23, a shortlist of persons whom they would consider suitable to act as the Adjudicator and invite them (in turn) to accept the reference of the Construction Act Dispute referred to in the Notice of Construction

Act Adjudication. In the event of the parties to the Construction Act Dispute failing to jointly appoint a person willing and suitable to act as Adjudicator within 3 days of the Notice of Construction Act Adjudication, either party to the Construction Act Dispute may apply to the Nominating Authority to appoint an Adjudicator. The Nominating Authority shall endeavour to appoint the Adjudicator within 4 days of receiving the application. In acting pursuant to this Clause, the Nominating Authority and its employees and agents shall not be liable to either party howsoever for any act or omission in so acting, save where the act or omission is shown by the party to constitute conscious and deliberate wrongdoing committed by the Nominating Authority or its employees or agents alleged to be liable to that party and if (notwithstanding such exclusion of liability) the Nominating Authority or its employees or agents should be held liable to any third person, the parties shall hold harmless and indemnify the Nominating Authority in full (including reasonable legal costs) save where conscious and deliberate wrongdoing, committed by the Nominating Authority or its employees or agents, is shown.

47.5.3 The terms of remuneration of the Adjudicator shall be agreed by the parties to the Construction Act Dispute and the Adjudicator with the object of securing appointment of the Adjudicator within 7 days of the Notice of Construction Act Adjudication. If one party to the Construction Act Dispute (but not both parties to the Construction Act Dispute) rejects the terms of the remuneration of the Adjudicator the same shall be settled (and shall be binding upon the parties to the Construction Act Dispute) by agreement between the Nominating Authority and the Adjudicator (provided that the level of the Adjudicator's fees shall not exceed the level originally proposed to the parties to the Construction Act Dispute by the Adjudicator). If both the parties to the Construction Act Dispute reject the terms of remuneration proposed by an Adjudicator another person shall be appointed as an Adjudicator in accordance with Clause 47.5.2.

47.5.4 The Construction Act Dispute shall be deemed to be referred to the Adjudicator on his acceptance of the appointment.

47.5.5 The parties to the Construction Act Dispute may jointly terminate the Adjudicator's appointment at any time. In such a case, or if the Adjudicator fails to give notice of his decision within the period referred to in Clause 47.5.7(a), or if that period is extended in accordance with Clause 47.5.7(b) within such extended period, and the parties to the Construction Act Dispute do not jointly extend time for his decision to be made in accordance with Clause 47.5.7(a), or if at any time the Adjudicator declines to act or is unable to act as a result of his death, disability, resignation or otherwise, a person shall be appointed to replace the Adjudicator in accordance with the provisions of Clause 47.5.2. In the event of the parties to the Construction Act Dispute failing to jointly appoint a person willing and suitable to act as replacement Adjudicator within 3 days, either party to the Construction Act Dispute may apply to the Nominating Authority to appoint a replacement Adjudicator. Provided that where the Adjudicator has failed to give notice of his decision within the period referred to in Clause 47.5.7(a), or if that period is extended in accordance with Clause 47.5.7(b) within such extended period, or within any extended time jointly agreed by the parties to the Construction Act Dispute in accordance with Clause 47.5.7(a), and either party to the Construction Act Dispute has commenced

court proceedings pursuant to Clause 47.6.1, no replacement Adjudicator shall be appointed in accordance with this Clause 47.5.5 and the Construction Act Dispute shall be determined by the court in accordance with Clause 47.6.1. In acting pursuant to this Clause, the Nominating Authority and its employees and agents shall not be liable to any party howsoever for any act or omission in so acting, save where the act or omission is shown by the party to constitute conscious or deliberate wrongdoing committed by the Nominating Authority or its employees or agents alleged to be liable to that party and if (notwithstanding such exclusion of liability) the Nominating Authority or its employees or agents should be held liable to any third person, the parties shall hold harmless and indemnify the Nominating Authority in full (including reasonable legal costs) save where conscious and deliberate wrongdoing, committed by the Nominating Authority or its employees or agents, is shown.

47.5.6 Immediately following receipt of the Notice of Construction Act Appointment (as defined in Schedule 22) the party who gave Notice of Construction Act Adjudication shall send to the Adjudicator:

(a) a copy of the Notice of Construction Act Adjudication; and

(b) a copy of this Contract, and other related documents, under which the Construction Act Dispute arises.

47.5.7 (a) The Adjudicator shall conduct the reference in accordance with Schedule 22 and within 28 days of the referral of the Construction Act Dispute to him, or such longer period as is agreed by the parties to the Construction Act Dispute after the Construction Act Dispute has been referred to him, the Adjudicator shall give written notice of his decision to the parties to the Construction Act Dispute.

(b) The Adjudicator may extend the period of 28 days referred to in Clause 47.5.7(a) by up to 14 days, with the consent of the party by whom the Construction Act Dispute was referred pursuant to Clause 47.5.1.

(c) The Adjudicator shall act as expert and not as arbitrator and the Adjudicator's decision shall be binding upon the parties to the Construction Act Dispute and the Adjudicator until the Construction Act Dispute is finally determined by legal proceedings (pursuant to Clause 7.7) or by agreement.

(d) The Adjudicator shall have full power to open up, review and revise any Resolution.

47.5.8 Notice of the Adjudicator's decision (stating that it is given under Clause 47.5.7) shall include a summary of the Adjudicator's findings and, if agreed by the parties to the Construction Act Dispute, a statement of the reasons for his decision.

47.5.9 The parties to this Contract shall continue to observe and perform all the obligations contained in this Contract, notwithstanding any reference to the Adjudicator, and shall insofar as the same consistent with any safety review procedures to which the parties to the Construction Act Dispute are bound, give effect forthwith to the Adjudicator's decision in every respect unless and until as hereinafter

provided the decision of the Adjudicator is revised by the Court pursuant to Clause 47.6 hereto. Either party to the Construction Act Dispute may apply to any appropriate court for enforcement of the Adjudicator's decision. Neither any form of enforcement of the Adjudicator's decision nor any form of challenge to the enforcement of the Adjudicator's decision nor any dispute arising out of or in connection with such enforcement or challenge shall be regarded and treated as a Dispute for the purposes of Clauses 47.2.1, 47.2.6 and 47.3.1 hereto.

47.5.10 In any case where the Adjudicator is appointed as a replacement pursuant to Clause 47.5.5, the parties to the Construction Act Dispute shall each send to the Adjudicator, as soon as reasonably practicable, copies of all documents supplied by them to the Adjudicator he replaces and the reference shall continue as if there had been no change of Adjudicator.

47.5.11 Subject to any agreement of the parties, the Adjudicator shall allocate the costs and fees of the adjudication as between the parties. Unless the parties otherwise agree, the Adjudicator shall award such costs and fees on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of the costs or fees. The parties agree to be bound by the Adjudicator's allocation of costs and fees and shall pay such costs and fees in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by the Courts pursuant to Clause 47.6 hereof.

47.5.12 Subject to any agreement of the parties, the Adjudicator shall allocate payment of his remuneration and expenses as between the parties. Unless the parties otherwise agree, the Adjudicator shall award payment of his remuneration and expenses on the general principle that costs should follow the event, except where it appears to the Adjudicator that in the circumstances this is not appropriate in relation to the whole or part of his remuneration or expenses. The parties agree to be bound by the Adjudicator's allocation of payment of his remuneration and expenses and shall pay such remuneration and expenses in accordance with the Adjudicator's direction unless and until the direction of the Adjudicator is set aside or revised by the Courts pursuant to Clause 47.6 hereof.

47.5.13 If the terms of the Adjudicator's appointment provide for the payment of his remuneration and expenses before giving notice of his decision to the parties to the Construction Act Dispute pursuant to Clause 47.5.7, the parties to the Construction Act Dispute shall pay such remuneration and expenses in equal amounts, and shall make adjustment payments between themselves following any direction made by the Adjudicator pursuant to Clause 47.5.12.

47.5.13A The parties to this Agreement specifically acknowledge that they intend that the decision of any Adjudicator to a Construction Act Dispute shall be binding on the parties where and to the extent that they are compatible with the requirements of any safety review procedure to which they are bound.

47.5.14 In the event that any term, condition or provision contained in this Clause shall be held to be contrary to, inconsistent or non-compliant with the requirements of sub-sections (1) to (4) of Section 108 of the Housing Grants, Construction and

Regeneration Act 1996, such term, condition or provision shall, to that extent be omitted from this Contract and the rest of the Contract shall stand, without affecting the remaining terms, conditions and provisions.

Court Proceedings

47.6.1 If either party to a Dispute is dissatisfied with the Adjudicator's decision thereon, then either party thereto, on or before the 42nd day after the day on which it received notice of such decision may commence court proceedings for the determination of the Dispute. If the Adjudicator fails to give notice of his decision on or before the 42nd day after the Date of Appointment, or in the case of a Construction Act Dispute referred to the Adjudicator in accordance with Clause 47.5, on or before the 28th day after the Date of Construction Act Appointment (or where more than one Dispute is referred to the Adjudicator no later than the 42nd day after receipt by him of the latest Notice of Adjudication or in the case of a Construction Act Dispute, no later than the 28th day after receipt by him of the latest Notice of Construction Act Adjudication, if later) (or any later day which the parties to the Dispute may have jointly agreed with the Adjudicator pursuant to Clause 47.3.5 or Clause 47.5.7 as appropriate) then either party to the Dispute on or before the 42nd day after the day on which the said period of 28 or 42 days as appropriate has expired (or the 42nd day after any such later day which the parties to the Dispute shall have jointly agreed pursuant to Clause 47.3.5 or Clause 47.5.7 as appropriate) may commence court proceedings for determination of the Dispute.

47.6.2 In relation to any proceedings commenced pursuant to Clause 47.6.1:

(a) no party shall be limited in the proceedings before the Court to the evidence or arguments put before the Adjudicator;

(b) no decision given by the Project Manager or Contract Manager shall disqualify him from being called as a witness and giving evidence before the Court on any matter whatsoever relevant to the Dispute;

(c) the Adjudicator shall not be called as a witness nor required to give evidence before the Court on any matter whatsoever; and

(d) any party can request the Court to set aside or revise a direction by the Adjudicator in respect of payment by the parties of the costs or fees of the adjudication (including payment of the remuneration and expenses of the Adjudicator).

Interim Relief

47.7.1 Nothing in this Agreement shall prevent any party seeking interim relief in any court.

Jurisdiction And Enforcement

47.8.1 Subject to the terms of this Contract, both parties hereto agree subject to Clause 47.8.2 below that the Courts of England and Wales are to have exclusive

jurisdiction to settle any Dispute and for such purposes irrevocably submit to the jurisdiction of the Courts of England and Wales.

47.8.2 The parties irrevocably agree that they intend to be bound by a judgement or order of the Courts of England and Wales in connection with a Dispute to the extent that such judgement or order is compatible with any safety procedures to which they are bound. In this regard, a judgment or order of the Courts of England and Wales in connection with a Dispute is conclusive and binding on them and may be enforced against them in the courts of any other jurisdiction.

Notice of Instruction

47.9.1 Where a Dispute is referred to the Project Manager and the Contract Manager in accordance with Clause 47.2.1 and the Project Manager is of the view that the Dispute arises in circumstances where either it or LUL could be in breach of its obligations to a third party in the event the Contractor does not take certain action or steps pending resolution of the Dispute, the Project Manager may within five (5) Business Days of receiving notice of the Dispute refer the notice of Dispute directly to a representative at the senior executive level of LUL (the ***LUL Senior Representative***) and the Project Manager shall forthwith advise the Contract Manager that the notice of Dispute has been referred to the LUL Senior Representative. In referring the notice of Dispute to the LUL Senior Representative the Project Manager shall identify in writing the specific action or steps that the Project Manager considers it is necessary for the Contractor to take pending resolution of the Dispute to avoid LUL being in breach of its obligations to a third party (the ***Project Manager Third Party Notice***) and the Project Manager shall provide a copy of the Project Manager Third Party Notice to the Contract Manager at the same time as that notice is provided to the LUL Senior Representative.

47.9.2 Upon receiving a Project Manager Third Party Notice the LUL Senior Representative shall consider and decide whether or not in his opinion the Contractor has defaulted or is likely to be in default of its obligations pursuant to the Contract and whether or not LUL or the Company is or is likely to be in default or breach of their obligations to a third party unless the Contractor either takes the action or steps identified in the Project Manager Third Party Notice or takes some other action or steps. The LUL Senior Representative shall advise the Project Manager and the Contract Manager of his decision within three (3) Business Days of receiving the Project Manager Third Party Notice.

47.9.3 In the event the LUL Senior Representative, acting reasonably, decides that the Contractor has or is likely to be in default of its obligations pursuant to the Contract and that it is necessary for the Contractor to take any specific action or steps to avoid LUL or the Company being in breach or default of their obligations to a third party, the LUL Senior Representative shall within one (1) Business Day of advising the Project Manager and the Contract Manager of his decision deliver to the Contract Manager a notice of instruction in the form attached as Schedule 24 to this Contract (the ***Notice of Instruction***) and the LUL Senior Representative shall forthwith provide a copy of the Notice of Instruction to the Project Manager.

47.9.4 The Contractor agrees that in the event the Contract Manager receives a Notice of Instruction issued by an LUL Senior Representative in accordance with Clause 47.9.3, the Contractor shall immediately and in any event as soon as practicable comply with each and every instruction contained in the Notice of Instruction and the Contractor shall continue to comply with the provisions of the Notice of Instruction until an Adjudicator has rendered his decision in accordance with the provisions of this Clause or until such time as the Contractor is instructed otherwise by the Company or by LUL. For the avoidance of doubt, any challenge by the Contractor as to whether or not the LUL Senior Representative acted reasonably in issuing a Notice of Instruction pursuant to Clause 47.9.3 shall not relieve the Contractor of its obligation pursuant to this Clause to comply with each and every instruction contained in the Notice of Instruction and the Contractor agrees that in such circumstances it shall comply with the instructions contained in the Notice of Instruction until an Adjudicator has rendered his decision in accordance with the provisions of this Clause or until such time as the Contractor is instructed otherwise by the Company or LUL. Unless LUL and the Contractor agree otherwise, upon receiving the Notice of Instruction the Contract Manager shall notify all persons affected by the instructions contained in the Notice of Instruction of the issue of the Notice of Instruction and of the contents of the Notice of Instruction relevant to that person.

47.9.5 The parties agree that a referral by the Project Manager of a notice of Dispute to an LUL Senior Representative in accordance with Clause 47.9.1 shall not in any way relieve the parties of their obligations pursuant to this Clause and the parties agree that they will proceed with the dispute resolution procedures set out in this Clause pending a decision by the LUL Senior Representative in respect of any Project Manager Third Party Notice.

47.9.6 The parties agree that issue by an LUL Senior Representative of a Notice of Instruction in accordance with Clause 47.9.3 shall not in any way relieve the parties of their obligations pursuant to this Clause and the parties agree that upon receipt of a Notice of Instruction they will continue to proceed with the dispute resolution procedures set out in this Clause provided that the decision of the LUL Senior Representative to issue the Notice of Instruction in accordance with Clause 47.9.3 shall be binding and the only recourse the Contractor shall have in respect of the LUL Senior Representative's decision shall be as set out in Clause 47.9.8.

47.9.7 The parties agree that issue by an LUL Senior Representative of a Notice of Instruction in accordance with Clause 47.9.3 shall not in any way relieve the parties of their obligations pursuant to the Contract and the parties agree that they shall continue to observe and perform all the obligations contained in the Contract.

47.9.8 In the event that subsequent to the issue of a Notice of Instruction by an LUL Senior Representative in accordance with Clause 47.9.3, an Adjudicator appointed in accordance with the provisions of this Clause decides:

(a) that the LUL Senior Representative did not act reasonably in making his decision;

(b) that the Contractor was not in breach or default of its obligations pursuant to the Contract; or

(c) that although the Contractor was in breach or default of its obligations pursuant to the Contract any of the instructions in the Notice of Instruction that the Contractor had to and did comply with was in the circumstances unreasonable,

neither LUL or the Company shall be liable for any claim by the Contractor arising out of or relating to the issue of the Notice of Instruction which does not exceed £10,000 and neither LUL or the Company shall be liable for any claim by the Contractor arising out of or relating to the issue of the Notice of Instruction in excess of £10,000 unless and until the aggregate amount of such claims which have not previously been met by LUL and the Company exceeds a threshold of £100,000.

48. ASSIGNMENT

48. Subject to Clauses 25.2 and 25.3 of the NLTSC Restructuring Agreement, the Company shall not assign or transfer any of its rights or obligations under this Contract, any of the Real Property Documents or either of the Direct Agreements without the prior written consent of the Contractor save that the Company shall not require such consent to assign or transfer any such rights or obligations to any Permitted Transferee (as defined in the ALSTOM Step-In Agreement) but shall give notice of the same to the Contractor.

49. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No persons other than:

(a) the persons who are parties to this Contract; and/or

(b) their respective successors in title and/or permitted assignees; and/or

(c) LUL or any LUL Employee identified in any particular condition of this Contract identifying third parties to whom such rights are expressly given; and/or

(d) the Finance Parties identified in any particular condition of this Contract listing third parties to whom such rights are expressly given,

shall have rights to enforce any term of this Agreement, whether or not any such term expressly or by implication purports to confer any benefit upon such person.

50. GOVERNING LAW

50. The construction, performance and validity of this Contract shall be governed by the laws of England and Wales.

CONTENTS

CLAUSE PAGE

SCHEDULES

CONFORMED COPY

Dated 30 December 2002

NORTHERN LINE TRAINS

INFRACO JNP LIMITED

and

ALSTOM NL SERVICE PROVISION LTD

AMENDED AND RESTATED USAGE CONTRACT

FRESHFIELDS BRUCKHAUS DERINGER