

Dated 16 DECEMBER 2010

HS1 LIMITED

and

THE SECRETARY OF STATE FOR TRANSPORT

and

NETWORK RAIL INFRASTRUCTURE LIMITED

and

OTHERS

**DEED OF AMENDMENT AND
RESTATEMENT**

in respect of the

Disputes Resolution Agreement

Herbert Smith LLP

THIS DEED is made this 16TH day of DECEMBER 2010

BETWEEN

- (1) **HS1 LIMITED**, a company incorporated in England and Wales under number 03539665 whose registered office is at 73 Collier Street, London, N1 9BE ("**HS1 Ltd**");
- (2) **THE SECRETARY OF STATE FOR TRANSPORT** of Great Minster House, 76 Marsham Street, London, SW1P 4DR (the "**Secretary of State**");
- (3) **NETWORK RAIL INFRASTRUCTURE LIMITED**, a company incorporated in England and Wales under number 02904587 whose registered office is at Kings Place, 90 York Way, London, N1 9AG ("**NRIL**"); and
- (4) **OTHERS** listed in Schedule 1 to this Deed,

collectively referred to as the "**Parties**" and each referred to as a "**Party**".

BACKGROUND

- (A) The Disputes Resolution Agreement dated 18 February 1999 was entered into, inter alia, by the Secretary of State, Railtrack Group plc and LCR and provides for the resolution of disputes arising from or concerning the design, construction, financing, operation and maintenance of HS1 ("**DRA**").
- (B) By a series of agreements, certain amendments have been made to the DRA and certain parties have acceded and become a party to the DRA.
- (C) The Parties wish to amend the DRA to, amongst other things, make certain changes to the procedure for determining disputes arising out of or in connection with the Access Agreements.
- (D) The Parties have discussed the proposed amendments and wish to enter this Deed to record the terms of their agreement. For the purposes of clause 12.1 of the DRA, this Deed shall be supplemental to the DRA,

NOW IT IS AGREED AS FOLLOWS:

1. DEFINITIONS & INTERPRETATION

1.1 Definitions

In this Deed, unless the context otherwise requires:

"**Access Agreement**" has the meaning given to that term in clause 8.11 of the Amended and Restated DRA;

"**Access Disputes Committee**" means the Committee (as defined in the HS1 ADRR) or, where the Committee and HS1 Ltd have agreed, ADC Co (as defined in the HS1 ADRR);

"Amended and Restated DRA" means the DRA as amended and restated by this Deed in the form set out in Schedule 2;

"Deed" means this Deed of Amendment and Restatement including Schedule 1 but not Schedule 2;

"DRA" has the meaning ascribed to it in Recital (A) above;

"Effective Date" has the meaning given to it in clause 2.1.2;

"HS1" has the meaning given to it in the HS1 Network Code;

"HS1 ADRR" means the set of rules known as the "HS1 Access Dispute Resolution Rules" as set out in the HS1 Network Code;

"HS1 Network Code" means the document entitled "HS1 Network Code", August 2009 edition;

"HS1 Passenger Access Terms" means the document entitled "HS1 Passenger Access Terms", August 2009 edition;

"HS1 Railway Systems Code" means the document entitled "HS1 Railway Systems Code", August 2009 edition; and

"HS1 Station Access Conditions" means the document entitled "HS1 Station Access Conditions", November 2007 edition.

1.2 Interpretation

In this Deed, except where the context otherwise requires:

- 1.2.1 words and expressions shall bear the same meaning as those found in the Amended and Restated DRA;
- 1.2.2 words in the singular shall include the plural and vice versa;
- 1.2.3 references to one gender include other genders;
- 1.2.4 a reference to a person shall include a reference to a firm, a body corporate, an unincorporated association, a partnership or to an individual's executors or administrators;
- 1.2.5 a reference to a clause or Schedule shall be a reference to a clause and Schedule (as the case may be) of or to this Deed;
- 1.2.6 references in this Deed to any agreement or other instrument (other than an enactment or statutory provision) shall be deemed to be references to that agreement or instrument as from time to time amended, varied, supplemented, substituted, novated or assigned;
- 1.2.7 if a period of time is specified as from a given day, or from the day of an act or event, it shall be calculated exclusive of that day;
- 1.2.8 references to writing shall include any modes of reproducing words in any legible form and shall exclude email except where expressly stated otherwise;

- 1.2.9 a reference to "includes" or "including" shall mean "includes without limitation" or "including without limitation" and cognate expressions shall be construed accordingly; and
- 1.2.10 the headings in this Deed are for convenience only and shall not affect its interpretation.

2. CONDITIONS PRECEDENT AND COMMENCEMENT

2.1 Commencement

- 2.1.1 Subject to Clause 2.1.2, the rights and obligations of the Parties under this Deed shall be effective on and from the date of this Deed.
- 2.1.2 Clause 3 shall be effective on and from the date that the conditions described in clause 2.2 either have been satisfied in full or waived by HS1 Ltd in writing (the "**Effective Date**").

2.2 Conditions Precedent

Save to the extent expressly waived by HS1 Ltd in writing, the following conditions precedent must be satisfied in order for this Deed to be effective:

- 2.2.1 the HS1 Network Code has been amended to incorporate the HS1 ADRR and such amendment has become effective in accordance with the terms of the HS1 Network Code;
- 2.2.2 the HS1 Station Access Conditions have been amended so that disputes arising in respect of any Access Agreement incorporating the HS1 Station Access Conditions are determined in accordance with the HS1 ADRR and such amendments have become effective in accordance with the terms of the HS1 Station Access Conditions;
- 2.2.3 the HS1 Passenger Access Terms have been amended to reflect the changes made to the HS1 Network Code as described in clause 2.2.1 above, and such amendments have become effective in accordance with the terms of the HS1 Passenger Access Terms;
- 2.2.4 the HS1 Railway Systems Code has been amended to reflect the changes made to the HS1 Network Code as described in clause 2.2.1 above, and such amendments have become effective in accordance with the terms of the HS1 Railway Systems Code; and
- 2.2.5 the agreement between HS1 Ltd and the Access Disputes Committee for the provision of certain services in connection with the HS1 ADRR has been executed by both parties and such agreement has become effective in accordance with its terms.

2.3 Notice of Commencement

Following the satisfaction or waiver of the conditions described in clause 2.2, HS1 Ltd shall notify the other Parties in writing of the Effective Date.

3. AMENDMENT OF THE DRA

On and from the Effective Date the DRA will be amended and restated in the form set out in Schedule 2 to this Deed.

4. PRE-EXISTING RIGHTS AND LIABILITIES

Nothing in this Deed shall extinguish any rights, claims, obligations or liabilities of any Party existing or arising under, out of, or in connection with the DRA prior to the Effective Date. The provisions of the Amended and Restated DRA shall apply to any Dispute in respect of which the notice of dispute for such Dispute was given on or after the Effective Date and the provisions of the DRA shall continue to apply to any Dispute in respect of which the notice of dispute for such Dispute was given prior to the Effective Date.

5. SEVERANCE

If any provision or part of this Deed is void or unenforceable due to any applicable law, it will be deemed to be deleted and the remaining provisions of this Deed will continue in full force and effect.

6. ENTIRE AGREEMENT

Each of the parties to this Deed confirms that this Deed and its Schedules represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

7. WAIVER

The rights and remedies of each Party will not be affected by any failure to exercise or delay in exercising any right or remedy or by the giving of any indulgence by any other Party or by anything whatsoever except a specific waiver or release in writing and any such waiver or release will not prejudice or affect any other rights or remedies of the other Parties. No single or partial exercise of any right or remedy will prevent any further or other exercise thereof or the exercise of any other right or remedy.

8. VARIATION

No variation of this Deed shall be effective unless it is in writing (which for this purpose, does not include email) and executed by or on behalf of each of the parties to this Deed as a deed. The expression "variation" includes any variation, supplement, deletion or replacement, however effected.

9. DISPUTES RESOLUTION

Any dispute arising out of or in connection with this Deed will be resolved in accordance with the terms of the Amended and Restated DRA.

10. COUNTERPARTS

This Deed may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which when so executed and delivered will be an original, but all the counterparts will together constitute one and the same instrument.

11. THIRD PARTY RIGHTS

No person who is not a party to this Deed will have any right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of this Deed.

12. GOVERNING LAW

This Deed and any non-contractual obligations connected to it will be governed by and construed in accordance with English law.

IN WITNESS whereof this Deed has been duly executed by the Parties hereto and is intended to be and is hereby delivered on the date first above written.

**EXECUTED as a DEED by
HS1 LIMITED**
acting by:

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)
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) Director
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)
) Director / Secretary
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The Corporate Seal of the
**SECRETARY OF STATE FOR
TRANSPORT** hereunto affixed is
authenticated by


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Authorised by the Secretary of State
for Transport

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SEAL REF No.
DFT/3350



**EXECUTED as a DEED by
NETWORK RAIL
INFRASTRUCTURE LIMITED**
acting by:

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) Director
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)
) Director / Secretary
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**EXECUTED as a DEED by
HS1 LIMITED**
acting by:

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) Director
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) Director / Secretary
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The **COMMON SEAL** of the
SECRETARY OF STATE was
affixed in the presence of:

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**EXECUTED as a DEED by
NETWORK RAIL
INFRASTRUCTURE LIMITED**
acting by:

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) **ASSISTANT COMPANY SECRETARY**
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)
)
) Director / Secretary

28809

Authorised Signatory as approved
by resolution of the board of
Network Rail Infrastructure
Limited on 16 May 2007

**EXECUTED as a DEED by
CHANNEL TUNNEL RAIL LINK
LIMITED**
acting by:

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) Director
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) Director / Secretary
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**EXECUTED as a DEED by
CTRL (UK) LIMITED**
acting by:

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) Director
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) Director / Secretary
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**EXECUTED as a DEED by
EAST MIDLANDS TRAINS
LIMITED**
acting by:

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) Director
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) Director / Secretary
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**EXECUTED as a DEED by
EUROSTAR INTERNATIONAL
LIMITED**
acting by:

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) Director / Secretary
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**EXECUTED as a DEED by
CHANNEL TUNNEL RAIL LINK
LIMITED**
acting by:

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Director

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Director / Secretary

**EXECUTED as a DEED by
CTRL (UK) LIMITED**
acting by:

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Director

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Director / Secretary

**EXECUTED as a DEED by
EAST MIDLANDS TRAINS
LIMITED**
acting by:

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Director

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Director / Secretary

**EXECUTED as a DEED by
EUROSTAR INTERNATIONAL
LIMITED**
acting by:

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Director

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Director / Secretary

EXECUTED as a DEED by
FIRST CAPITAL CONNECT
LIMITED

acting by:

.....
Director

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Director / Secretary

EXECUTED as a DEED by
LCR FINANCE PLC

acting by:

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Director

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Director / Secretary

EXECUTED as a DEED by
LONDON & CONTINENTAL
RAILWAYS LIMITED

acting by:

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Director

.....
Director / Secretary

EXECUTED as a DEED by
LONDON & CONTINENTAL
STATIONS & PROPERTY
LIMITED

acting by:

.....
Director

in the presence of:

.....
A. Jones
(signature of witness)

Justin A. Jones
(name of witness)

3rd Floor, 183, Great Street

St. James, London

MW1 1AY
(address of witness)

EXECUTED as a DEED by
LONDON & SOUTH EASTERN
RAILWAY LIMITED
acting by:



Director



Director / ~~Secretary~~

EXECUTED as a DEED by
NETWORK RAIL (CTRL)
LIMITED
acting by:

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Director

.....
Director / Secretary

EXECUTED as a DEED by
NETWORK RAIL LIMITED
acting by:

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Director

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Director / Secretary

EXECUTED as a DEED by
UNION RAILWAYS (SOUTH)
LIMITED
acting by:

.....
Director


.....
Director / Secretary

**EXECUTED as a DEED by
LONDON & SOUTH EASTERN
RAILWAY LIMITED**
acting by:

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Director


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Director / Secretary

**EXECUTED as a DEED by
NETWORK RAIL (CTRL)
LIMITED**
acting by:


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Director


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Director / Secretary

**EXECUTED as a DEED by
NETWORK RAIL LIMITED**
acting by:


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Director


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Director / Secretary

**EXECUTED as a DEED by
UNION RAILWAYS (SOUTH)
LIMITED**
acting by:

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Director

.....
Director / Secretary

**EXECUTED as a DEED by
LONDON & SOUTH EASTERN
RAILWAY LIMITED**
acting by:

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) Director
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) Director / Secretary
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**EXECUTED as a DEED by
NETWORK RAIL (CTRL)
LIMITED**
acting by:

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) Director / Secretary
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**EXECUTED as a DEED by
NETWORK RAIL LIMITED**
acting by:

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) Director / Secretary
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**EXECUTED as a DEED by
UNION RAILWAYS (SOUTH)
LIMITED**
acting by:

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) Director / Secretary
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SCHEDULE 1

Other Parties

Channel Tunnel Rail Link Limited

CTRL (UK) Limited

East Midlands Trains Limited

Eurostar International Limited

First Capital Connect Limited

LCR Finance PLC

London & Continental Railways Limited

London & Continental Stations & Property Limited

London & South Eastern Railway Limited

Network Rail (CTRL) Limited

Network Rail Limited

Union Railways (South) Limited

DB Schenker Rail (UK) Limited

SCHEDULE 2

Amended and Restated Disputes Resolution Agreement

Disputes Resolution Agreement

between

The Secretary of State for Transport

as The Secretary of State

HS1 Limited

as HS1 Ltd

Network Rail Infrastructure Limited

as Network Rail Infrastructure

and

Others

named herein as Additional Parties

relating to

The Resolution of disputes, arising from or concerning the design, construction, financing, operation and maintenance of High Speed 1

as made on 18 February 1999, amended on 27 June 2002, 19 November 2003 and 25 May 2010 and amended and restated on 2010.

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THIS AGREEMENT was made on 18 February 1999, amended on 27 June 2002, 19 November 2003 and 25 May 2010 and amended and restated on 2010.

BETWEEN:

- (1) The Secretary of State for Transport of Great Minster House, 76 Marsham Street, London SW1P 4DR ("**The Secretary of State**");
- (2) HS1 Limited, a company incorporated in England and Wales under number 03539665, whose registered office is at 73 Collier Street, London, N1 9BE ("**HS1 Ltd**");
- (3) Network Rail Infrastructure Limited, a company incorporated in England and Wales under number 02904587, whose registered office is Kings Place, 90 York Way, London N1 9AG ("**Network Rail Infrastructure**"); and
- (4) Others (other than The Secretary of State, HS1 Ltd and Network Rail Infrastructure), listed in Schedule 7 as additional parties ("**Additional Parties**").

BACKGROUND:

- (A) This Disputes Resolution Agreement dated 18 February 1999 was entered into between, inter alia, the Secretary of State, Railtrack Group PLC, LCR and the other parties and provides for the resolution of disputes arising out of or in connection with the design, construction, financing, operation and maintenance of HS1 in accordance with the Disputes Resolution Procedure set out in Schedule 8 thereto;
- (B) By means of the DRA Interim Agreement dated 27 June 2002 entered into between the Secretary of State, LCR, Railtrack Group PLC, Network Rail Limited and EIL, it was agreed that Railtrack Group PLC would be released from, and Network Rail Limited would accede to, the Disputes Resolution Agreement and that pending the said release and accession, Network Rail Limited would be entitled to perform all of the functions of Railtrack Group PLC under the Disputes Resolution Agreement as agent for Railtrack Group PLC;
- (C) By a Deed of Variation dated 27 June 2002 made between the Secretary of State, LCR and Railtrack Group PLC (the "**2002 Deed of Variation**") those parties

agreed to amend the Disputes Resolution Agreement and to apply it to a number of additional agreements listed in Schedule 1 to the 2002 Deed of Variation;

- (D) By an Accession Agreement to the Disputes Resolution Agreement dated 6 November 2002 made between LCR, Network Rail Limited, the Secretary of State and NR(CTRL), NR(CTRL) acceded to the Disputes Resolution Agreement.
- (E) By an Accession Agreement to the Disputes Resolution Agreement dated 31 January 2003 made between LCR, Network Rail Limited, the Secretary of State and London Underground Limited, London Underground Limited acceded to the Disputes Resolution Agreement.
- (F) By a Deed of Accession and Release dated 6 June 2003 made between LCR, Railtrack Group PLC, the Secretary of State and Network Rail Limited (the "**Deed of Accession and Release**"), Railtrack Group PLC was released from, and Network Rail Limited acceded to, the Disputes Resolution Agreement and the parties agreed to enter into a Supplemental Agreement appended in draft;
- (G) By a First Supplemental Agreement dated 19 November 2003 and materially in the terms agreed in and appended to the Deed of Accession and Release, made between LCR, Network Rail Limited and the Secretary of State, certain amendments were made to the Disputes Resolution Agreement to reflect the accession to the Disputes Resolution Agreement of Network Rail Limited and the release from the Disputes Resolution Agreement of Railtrack Group PLC as agreed in the Deed of Accession and Release;
- (H) By a Deed of Variation dated 25 May 2010 made between LCR, the Secretary of State, Network Rail Limited and Network Rail Infrastructure, certain amendments were made to the Disputes Resolution Agreement in order that certain rights and obligations of Network Rail Limited became rights and obligations of Network Rail Infrastructure.
- (I) The Parties wish to implement revised procedures for the resolution of disputes arising out of or in connection with Access Contracts which are currently subject to determination by an Operational Panel and make other changes to the Disputes Resolution Agreement to reflect the current arrangements for HS1. The Parties have agreed to bring into effect such changes by entering into a Deed of Amendment and Restatement in relation to the Disputes Resolution Agreement.

NOW IT IS HEREBY AGREED as follows:

1. INTERPRETATION AND CONSTRUCTION

1.1 In this Disputes Resolution Agreement, unless the context otherwise requires:

1.1.1 words and expressions defined in the Disputes Resolution Procedure shall have the same meanings in this Disputes Resolution Agreement; and

1.1.2 words and expressions in Schedules 2 and 3 of this Disputes Resolution Agreement shall have the meanings set out opposite them.

1.2 In the event of a conflict between the definitions contained in:

1.2.1 the Disputes Resolution Procedure and Schedule 2 of this Disputes Resolution Agreement;

1.2.2 the Disputes Resolution Procedure and Schedule 3 of this Disputes Resolution Agreement; or

1.2.3 Schedule 2 of this Disputes Resolution Agreement and Schedule 3 of this Disputes Resolution Agreement,

the definitions contained in the Disputes Resolution Procedure shall prevail over those contained in Schedule 2 of this Disputes Resolution Agreement and those contained in Schedule 3 of this Disputes Resolution Agreement, and the definitions contained in Schedule 2 of this Disputes Resolution Agreement shall prevail over those contained in Schedule 3 of this Disputes Resolution Agreement.

1.3 Unless the context otherwise requires, the rules of interpretation and construction set out in Schedule 2 to the Framework Agreement (a copy of which is annexed hereto as Schedule 4) shall apply to this Disputes Resolution Agreement.

1.4 The schedules to this Disputes Resolution Agreement are incorporated in and shall form part of this Disputes Resolution Agreement.

2. EFFECTIVE DATE

2.1 The provisions of this Disputes Resolution Agreement shall have effect from Framework Completion as defined in the Framework Agreement.

3. CLAIMS AND DISPUTES ARISING OUT OF OR IN CONNECTION WITH THE HS1 AGREEMENTS

3.1 Subject to Clause 3.1A below, the parties agree that save to the extent that any of the HS1 Agreements expressly provides otherwise, any claims or disputes of whatsoever nature and howsoever and whensoever arising under out of or in connection with the HS1 Agreements shall be resolved pursuant to the Disputes Resolution Procedure, including claims for contribution and/or indemnity (which may include claims under the Civil Liability (Contribution) Act 1978), and acknowledge and consent to the operation of the provisions relating to consolidation and other multi-party procedures in each and every HS1 Agreement as though they were a party to each such agreement.

3.1A Notwithstanding Clause 3.1 above, any dispute which falls to be determined in accordance with the HS1 ADRR shall be determined in accordance with the HS1 ADRR, provided that where the HS1 ADRR requires a dispute to be determined in accordance with the Disputes Resolution Procedure that dispute shall be determined in accordance with the Disputes Resolution Procedure.

3.2 The parties agree for the purposes of Clause 3.1 above that the Disputes Resolution Procedure shall be deemed to have been incorporated into and fully set out separately in each of the HS1 Agreements.

3.3 The parties to each of the HS1 Agreements further agree that they shall not without the written consent of all other parties to this Disputes Resolution Agreement (such consent not to be unreasonably withheld), amend the provisions for the resolution of disputes arising out of or in connection with any of the HS1 Agreements except to the extent provided in Clauses 8, 9 and 13 herein.

3.4 The Secretary of State, HS1 Ltd and Network Rail Infrastructure may by agreement amend the list of HS1 Agreements to which the Dispute Resolution Procedure applies to include any other agreement the parties to which are also parties to this Agreement.

3.5 Unless required to do so by the ORR, HS1 Ltd shall not amend, delete or replace the HS1 ADRR or the provisions of any Access Contract relating to the resolution of disputes without the prior written consent of the Secretary of State, such consent not to be unreasonably withheld or delayed.

3.6 Without prejudice to Clause 8.1, where HS1 Ltd enters into an agreement relating to the operation, maintenance, replacement or upgrading of the whole or part of HS1, it shall use all reasonable endeavours to procure that all other parties to such agreement have acceded, or are required to accede, to the Disputes Resolution Agreement as a condition of such agreement coming into full force and effect.

4. DISPUTES ARISING OUT OF OR IN CONNECTION WITH THE URL TRANSFER AGREEMENT AND THE EPSL TRANSFER AGREEMENT

4.1 The Secretary of State, LCR and EIL agree that any dispute or difference of whatsoever nature and howsoever and whensoever arising under, out of or in connection with the URL Transfer Agreement and the EPSL Transfer Agreement shall be resolved in accordance with the Disputes Resolution Procedure, as supplemented by this Disputes Resolution Agreement.

5. DISPUTES ARISING OUT OF OR IN CONNECTION WITH THE SHORT TERM LEASE OF ST PANCRAS

5.1 The Secretary of State and LCR Stations & Property Limited agree that any dispute or difference of whatsoever nature and howsoever and whensoever arising under, out of or in connection with the Short Term Lease of St Pancras shall be resolved in accordance with the Disputes Resolution Procedure, as supplemented by this Disputes Resolution Agreement.

6. JOINDER AND CONSOLIDATION OF DISPUTES BEFORE A TECHNICAL PANEL AND CONCURRENT HEARINGS

6.1 If a dispute arises under, out of or in connection with a Connected Agreement to which the Secretary of State is not a party or a DRP Construction Contract (the "**Initial Dispute**") which, in either case, a Dispute Party intends to refer to a Technical Panel the following shall apply:-

- 6.1.1 the party serving the original notice pursuant to Adjudication Rule 1.1 shall immediately inform the Secretary of State and serve copies of all notices served including any counter notice served pursuant to Adjudication Rule 2.1; and
 - 6.1.2 within seven days of the service of copies of the notices and any counter-notice under Clause 6.1.1, if the Secretary of State in his sole discretion considers that the issues in the reference are substantially the same as or connected with issues between the parties to any Agreement to which the Secretary of State is party (the "**Second Agreement**"), he may by notice served on all other parties to the Second Agreement, all of the parties to the Connected Agreement or the DRP Construction Contract, and upon the Relevant Technical Panel established in relation to the Initial Dispute (once such Technical Panel has been appointed), require such rights, obligations and issues to be determined by the Relevant Technical Panel in a similar manner as if he were party to a High Court action under the provisions relating to third party and similar proceedings or the ordering of concurrent hearings or consolidation of proceedings.
- 6.2 A notice served under Clause 6.1.2 shall include:-
- 6.2.1 a concise summary of the issues between the Secretary of State and the parties to the Second Agreement, identifying the issues as between the parties to the Connected Agreement or the DRP Construction Contract which are substantially the same as or connected with the issues between the parties to the Second Agreement;
 - 6.2.2 a statement of the decision requested by the Secretary of State; and
 - 6.2.3 the like details and documents required by Adjudication Rule 2.1.3.
- 6.3 In the event of service of a notice under Clause 6.2:-
- 6.3.1 the parties to the Connected Agreement or the DRP Construction Contract may agree to extend the time limit for issue of a decision under the dispute to expire 28 days after service of the notice;

- 6.3.2 the parties to the Connected Agreement or the DRP Construction Contract shall be permitted to make a written submission to the Relevant Technical Panel on any point of construction of the Second Agreement to the extent that it relates to the issues in dispute in relation to the Connected Agreement or the DRP Construction Contract;
- 6.3.3 the Relevant Technical Panel shall give a decision or decisions which shall bind the parties upon the issues between the parties to the agreements concerned; and
- 6.3.4 subject to any provision to the contrary in the Connected Agreement and to Adjudication Rule 6.1, the charges and expenses attributable to the reference shall be borne equally between the parties to the agreements concerned.

7. JOINDER AND CONSOLIDATION OF DISPUTES BEFORE THE FINANCIAL AND OPERATIONAL PANELS AND CONCURRENT HEARINGS

- 7.1 If a dispute arises under, out of or in connection with a Connected Agreement to which the Secretary of State is not a party or a DRP Construction Contract (the "**Initial Dispute**") which, in either case, a Dispute Party intends to refer to a Financial Panel or an Operational Panel the following shall apply:-
 - 7.1.1 the party serving the original notice pursuant to Panel Rule 2.1 shall immediately inform the Secretary of State and serve copies of all notices served including any counter notice served pursuant to Panel Rule 2.2; and
 - 7.1.2 within seven days of service of copies of the notices and any counter-notice under Clause 7.1.1, if the Secretary of State in his sole discretion considers that the issues in the reference are or are substantially the same as or connected with issues between the parties to any Agreement to which the Secretary of State is a party (the "**Second Agreement**"), he may by notice served on all other parties to the Second Agreement, all of the parties to the Connected Agreement or the DRP Construction Contract, and upon all members of the Relevant Panel established in relation to the Initial Dispute (once such Financial Panel or Operational Panel has been appointed), require such rights, obligations and issues to be determined by the Relevant Panel in a similar manner as if he were party to a High Court

action under the provisions relating to third party and similar proceedings or the ordering of concurrent hearings or consolidation of proceedings.

7.2 A notice served under Clause 7.1.2 shall include:-

7.2.1 a concise summary of the issues between the Secretary of State and the parties to the Second Agreement, identifying the issues as between the parties to the Connected Agreement or the DRP Construction Contract which are substantially the same as or connected with the issues between the parties to the Second Agreement;

7.2.2 a statement of the decision requested by the Secretary of State; and

7.2.3 the like details and documents required by Panel Rule 2.2.3.

7.3 In the event of service of a notice under Clause 7.2:

7.3.1 all parties to the reference shall be deemed to have agreed that the time limit for issue of a decision in the reference shall be extended to expire 21 days from the date of service of the notice;

7.3.2 the parties to the Connected Agreement or the DRP Construction Contract shall be permitted to make a written submission to the Relevant Panel on any point of construction of the Second Agreement to the extent that it relates to the issues in the dispute in relation to the Connected Agreement or the DRP Construction Contract;

7.3.3 the Relevant Panel shall give a decision or decisions which shall bind the parties upon the issues between the parties to the agreements concerned; and

7.3.4 subject to any provision to the contrary in the Connected Agreement and to Panel Rule 8.1 the charges and expenses attributable to the reference shall be borne equally between the parties to the agreements concerned.

8. DISPUTES ARISING OUT OF OR IN CONNECTION WITH STATION AND TRACK ACCESS CONTRACTS

8.1 HS1 Ltd and its permitted assignees or successors under any Access Contract shall ensure that all Train Operators and their permitted assignees are required to accede to the Disputes Resolution Agreement as a condition of a Train Operator having access to HS1 pursuant to the terms of an Access Contract.

8.2 Where a Train Operator and its permitted assignees are required to accede to the Disputes Resolution Agreement, the parties hereby each authorise HS1 Ltd to execute on their behalf an accession agreement in the form set out in Schedule 5 (the "**Train Operator Accession Agreement**") and undertake not to withdraw, qualify or revoke such authority at any time.

8.3 Upon execution of the Train Operator Accession Agreement by HS1 Ltd and the relevant Train Operator, such Train Operator shall become a party for the purposes of this Disputes Resolution Agreement, and HS1 Ltd shall promptly notify the Secretary of State in writing that such Train Operator has become a party to this Disputes Resolution Agreement.

8.4 In the event of a dispute arising under, out of or in connection with an Access Contract, the party serving the notice of dispute under the HS1 ADRR shall immediately inform the Secretary of State and send a copy of the notice of dispute to him. The parties to the dispute shall provide the Secretary of State with such further information as to the progress and settlement of the dispute as the Secretary of State reasonably requests.

9. INCORPORATION OF THE DISPUTES RESOLUTION PROCEDURE INTO CONSTRUCTION CONTRACTS

9.1 HS1 Ltd shall use reasonable endeavours to procure that each DRP Construction Contract shall entitle HS1 Ltd to require that:

9.1.1 a dispute arising out of or in connection with that DRP Construction Contract which raises issues which are substantially the same as or connected with issues between the parties to any HS1 Agreement shall be referred to a Panel under the appropriate part or parts of the Disputes Resolution Procedure as though the dispute were arising out of a Connected Agreement but so that the Contract shall not thereby become a

Connected Agreement for the purposes of the Disputes Resolution Procedure; and

9.1.2 a dispute referable or already referred to arbitration under the DRP Construction Contract pursuant to the Disputes Resolution Procedure which raises issues which are substantially the same as or connected with issues raised in a dispute which has been referred to arbitration under an HS1 Agreement be referred to the arbitrator to whom the dispute has been referred as though it were a dispute within paragraph 16 of the Disputes Resolution Procedure incorporated into the HS1 Agreement and paragraph 16.3 of the Disputes Resolution Procedure shall apply accordingly.

10. NOT USED

11. NOT USED

12. AMENDMENT

12.1 Except as expressed to the contrary herein no alteration or amendment to this Disputes Resolution Agreement may be made except where expressly recorded in writing in the English language by a document expressed to be supplemental to this Agreement and signed by or on behalf of the Secretary of State, Network Rail Infrastructure and HS1 Ltd.

13. ACCESSION

13.1 Subject to Clause 8.2 where it is agreed by the Secretary of State, Network Rail Infrastructure and HS1 Ltd that an Additional Party is to become a party to this Disputes Resolution Agreement, he shall do so pursuant to a deed in the form of the document annexed (the "**Accession Agreement**") as Schedule 6 to this Disputes Resolution Agreement, and the parties to this Disputes Resolution Agreement agree that Network Rail Infrastructure, the Secretary of State and HS1 Ltd shall enter into such Accession Agreement with the full authority and on behalf of all parties to the Disputes Resolution Agreement and bind such parties accordingly.

14. ASSIGNMENT

14.1 This Disputes Resolution Agreement shall be binding upon and enure for the benefit of the successors of the parties hereto but no party to this Disputes Resolution Agreement shall assign all or any of its rights or benefits under this Disputes Resolution Agreement without the prior written consent of the other parties to this Disputes Resolution Agreement, save where such assignment is part of or pursuant to a valid assignment of its interest in and obligations under the HSI Agreements to which it is a party.

15. ENTIRE AGREEMENT

15.1 This Agreement (together with any documents referred to in it) supersedes any previous agreement, arrangement or understanding between the parties in relation to the matters dealt with in this Agreement and represents the entire understanding between the parties in relation to such matters.

16. CONFIDENTIALITY

16.1 The parties agree that Article 30 of the 1998 Rules of the London Court of International Arbitration, as relating to confidentiality shall apply to any Adjudication, or proceedings of a Panel, Amicable Settlement or Arbitration conducted under this Agreement and the Disputes Resolution Procedure.

17. NOTICES AND ADDRESS FOR SERVICE

17.1 Unless otherwise ordered by a Panel or an Arbitrator, and save as provided in Adjudication Rule 10.1 and Panel Rule 12.1, all notices required to be served pursuant to this Dispute Resolution Agreement shall be in writing and shall be served on each of the relevant parties by sending such notices by first class post, facsimile or delivering the same at the address or facsimile number set out in Schedule 7 of this Disputes Resolution Agreement or such other address or facsimile number as may be notified in writing to the parties.

17.2 Not used.

17.3 Unless a party who is the intended recipient proves otherwise:

17.3.1 Documents sent by first class post shall be deemed to have been received two Business Days after posting;

17.3.2 Facsimiles shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and where within the period set out below there has been no telephone communication by the recipient to the sender (to be confirmed in writing) that the facsimile has not been received in legible form and the periods are:

(1) two hours after sending when sent on a Business Day and between the hours of 9.00am and 4.00pm;

(2) 11 am on the next following Business Day if sent after 4.00pm on a Business Day but before 9 am on that next following Business Day;

17.3.3 hand delivered documents shall be deemed to have been received at the time of delivery to the address stated on their face;

17.4 Notices shall be effective from the time of receipt. Periods of time measured with reference to the giving, sending, or serving of a document shall be measured with reference to the time that document is received.

17.5 Unless otherwise ordered by a Panel or an Arbitrator, all notices and other documents received on a day which is not a Business Day or after 6.00pm on any Business Day shall be deemed to have been received on the following Business Day.

18. CHANGE OF ADDRESS FOR SERVICE

18.1 Each party to this Disputes Resolution Agreement may change its nominated address or facsimile number for service by giving seven (7) days' prior written notice to all the other parties. As against any individual party, such notice shall first be effective seven (7) calendar days after notice to that party has been given.

19. APPLICABLE LAW

19.1 This Disputes Resolution Agreement and any non-contractual obligations connected with it shall be governed by and construed in accordance with the laws of England and Wales.

20. DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT

20.1 Except where expressly provided to the contrary any dispute or difference of whatsoever nature and howsoever and whensoever arising under, out of or in connection with this Disputes Resolution Agreement (including non-contractual disputes or claims) shall be resolved in accordance with the Disputes Resolution Procedure, as implemented by the provisions of this Disputes Resolution Agreement.

21. COUNTERPARTS

21.1 This Disputes Resolution Agreement may be executed in any number of counterparts, which shall together constitute one Agreement. Any party may enter into this Disputes Resolution Agreement by signing any such counterpart.

SCHEDULE 1:

LIST OF HS1 AGREEMENTS

1. Framework Agreement between the Secretary of State, LCR, Railtrack Group PLC and others relating to the coming into effect of arrangements pertaining to the design, construction, financing and operation and maintenance of HS1.
2. Development Agreement dated 28 February 1996 between The Secretary of State and LCR for LCR to become the Network Provider for HS1, as amended from time to time.
3. Section 1 RTK Direct Agreement between The Secretary of State, LCR, URS, CTRL (UK), Network Rail Infrastructure and Railtrack Group PLC relating to the creation of direct obligations.
4. Section 2 RTK Direct Agreement between The Secretary of State, LCR, HS1 Ltd, CTRL (UK) and Railtrack Group PLC relating to the creation of direct obligations.
5. IC1 Hive-Down Agreement between LCR, CTRL Ltd, EIL, URS and HS1 Ltd relating to the sale and purchases of the business and certain related assets of LCR relating to the design, construction, financing, operation, repair and maintenance of Section 1.
6. IC2 Hive-Down Agreement between LCR, CTRL Ltd, EIL, URS and HS1 Ltd relating to the sale and purchase of the business and certain related assets of LCR relating to the design, construction, financing, operation, repair and maintenance of Section 2.
7. CTRL Section 1 Purchase Agreement between CTRL (UK), URS and LCR relating to the sale and purchase of Section 1.
8. CTRL Section 2 Option Agreement between CTRL (UK), HS1 Ltd and LCR relating to the sale and purchase of Section 2.

9. International Railway Track Access Contract for Passenger Services dated 6 October 1998 between URS, EIL and CTRL (UK) relating to the terms on which EIL will have access to Section 1 and incorporating the CTRL Track Access Conditions.
10. International Railway Track Access Contract for Passenger Services dated 6 October 1998 between HS1 Ltd and EIL relating to the terms on which EIL will have access to Section 2, and incorporating the CTRL Track Access Conditions.
11. International Railway Track Access Contract for Passenger Services dated 6 October 1998 between Railtrack and EIL relating to the terms on which EIL will have access to Railtrack's Network between Waterloo International Station and Fawkham Junction.
12. Operations Interface Agreement between, URS, HS1 Ltd, CTRL (UK) and The Secretary of State identifying guiding principles and aspects of the operation of Section 1 and Section 2.
13. Construction Interface Agreement between URS, HS1 Ltd and LCR relating to HS1.
14. Step in Right Agreement for Construction Interface Agreement between URS, HS1 Ltd, LCR and CTRL (UK).
15. URL Services Agreement between URS and CTRL Ltd relating to the provision of services by CTRL Ltd in connection with Section 1.
16. URL Services Agreement between HS1 Ltd and CTRL Ltd relating to the provision of services by CTRL Ltd in connection with Section 2.
17. Step in Right Agreement for URS and HS1 Ltd Services Agreements between CTRL (UK), URS, HS1 Ltd and CTRL Ltd.
18. Access Charges Guarantee between The Secretary of State and CTRL (UK).
19. Deed of Guarantee and Indemnity between Railtrack Group PLC, LCR, URS, HS1 Ltd and EIL.

20. Retail Income Agreement relating to retail income at London St Pancras, Stratford and Ebbsfleet Stations between CTRL (UK) and LCR.
21. Station Access Agreements for Ebbsfleet Station dated 6 October 1998 between HS1 Ltd and EIL incorporating the International Major Station Access Conditions and the Annexes to the International Major Station Access Conditions for Ebbsfleet Station.
22. Station Access Agreement for Stratford Station dated 6 October 1998 between HS1 Ltd and EIL incorporating the International Major Station Access Conditions and the Annexes to the International Major Station Access Conditions for Stratford Station.
23. Station Access Agreement for London St Pancras dated 6 October 1998 between HS1 Ltd and EIL incorporating International Major Station Access Conditions and the Annexes to the International Major Station Access Conditions for London St Pancras Station.
24. Eurostar Management Agreement between LCR, EIL and Inter-Capital and Regional Rail Limited.
25. Eurostar Management Direct Agreement between the Secretary of State, LCR, EIL, National Express Group PLC, British Airways PLC, French Railways Limited, SNCB, SNCF, Inter-Capital and Regional Rail Limited.
26. EUKL Governance Agreement between the Secretary of State, LCR and EIL.
27. Short Term Lease of St Pancras dated 31 May 1996 between the Secretary of State and London & Continental Stations & Property Limited.
28. URL Transfer Agreement dated 28 February 1996 between the Secretary of State and LCR.
29. EPSL Transfer Agreement dated 28 February 1996 between the Secretary of State, EIL and LCR.

30. CTRL Possessions Overlay Letter Agreement dated 6 October 1998 between Network Rail Infrastructure and EIL.
31. Claims Handling Agreement between the Secretary of State, LCR, URS, HS1 Ltd and others for the purposes of conducting, managing and allocating the proceeds of claims under Schedule 2 of the Development Agreement.
32. Financial Direct Agreement between the Secretary of State, LCR, URS, CTRL (UK) and Railtrack Group PLC.
33. Deed of Indemnity and Guarantee between the Secretary of State, LCR, URS, HS1 Ltd and CTRL (UK) relating to the obligations and liabilities of EIL as Nominated Undertaker of HS1.
34. Accounts Agreement between LCR, EIL, CTRL Ltd, HS1 Ltd, LCSP, LCR Finance PLC, European Passenger Services B.V. and the Secretary of State.
35. Indemnity between LCR, LCR Finance PLC, URS, HS1 Ltd, EIL, LCSP, CTRL Ltd and the Secretary of State.
36. Conduct Agreement relating to Boarley Lane Transport and Works Act Order between EIL, LCR, CTRL Ltd and URS.
37. Conduct Agreement relating to Stratford/WCML Transport and Works Act Order between EIL, LCR, CTRL Ltd and HS1 Ltd.
38. Supplemental Deed to the Agreement for Sale and Purchase of the Entire Issued Share Capital of London & Continental Stations and Property Limited dated 11 June 1998 between the Secretary of State and LCR
39. Economic Benefit Agreement between the Secretary of State, Railtrack and CTRL (UK)
40. Railways Services Agreement between HS1 Ltd and CTRL (UK)

41. Project Review Group Agreement between the Secretary of State, HS1 Ltd, LCR and CTRL (UK)
42. Compliance Review Group Agreement between CTRL (UK), URS and HS1 Ltd
43. RLE (Section 2) Agreement between HS1 Ltd and RLE
44. URN Framework Access Agreement between the Secretary of State, HS1 Ltd and Railtrack
45. URN Maintenance Agreement between the Secretary of State, HS1 Ltd and Railtrack
46. URN Protective Provisions Agreement between the Secretary of State, HS1 Ltd and Railtrack
47. URN Works Agreement between the Secretary of State, HS1 Ltd and Railtrack
48. URN Operations Agreement between the Secretary of State, HS1 Ltd and Railtrack
49. URS Framework Access Agreement between Network Rail Infrastructure, URS and the Secretary of State
50. URS Maintenance Agreement between the Secretary of State, URS and Railtrack
51. URS Protective Provisions Agreement between the Secretary of State, URS and Railtrack.
52. URS Works Agreement between the Secretary of State, URS and Railtrack
53. URS Operations Agreement between the Secretary of State, URS and Railtrack
54. CTRL Act Works Interface Agreement

55. CTRL Works Protective Provisions Agreement between the Secretary of State and London Underground Limited dated 24 October 2000
56. LUL Works Protective Provisions Agreement between the Secretary of State and LUL dated 24 October 2000
57. Deed of Novation of the CTRL Protective Provisions Agreement between the Secretary of State, LUL and HS1 Ltd dated 24 October 2000
58. Deed of Novation of the CTRL Works Protective Provisions Agreement between the Secretary of State, LUL and HS1 Ltd dated 24 October 2000
59. Step-In Right Agreement for Construction Interface Agreement made between CTRL (UK), URS, HS1 Ltd and LCR
60. Deed of Warranty from RLE to LCR regarding the RLE (Section 2) Agreement made between LCR, Ove Arup & Partners, Bechtel Limited, Sir William Halcrow & Partners Limited and Systra
61. Deed of Warranty from RLE to EIL, regarding the RLE (Section 2) Agreement made between EIL, One Avrup & Partners, Bechtel Limited, Sir William Halcrow & Partners and Systra
62. Railtrack/URN Secondment Agreement (CTRL (UK) employees to HS1 Ltd) made between Network Rail Infrastructure and HS1 Ltd
63. S1 Agreement between the Secretary of State and CTRL (UK)
64. S2 Agreement between the Secretary of State and CTRL (UK)
65. CTRL Lease (Section 1) between the Secretary of State and CTRL (UK)
66. CTRL Lease (Section 2) between the Secretary of State and HS1 Ltd
67. Operator Agreement between HS1 Ltd and CTRL (UK)

68. Operations Interface Agreement between URS, HS1 Ltd, CTRL (UK) and the Secretary of State for the purposes of regulating aspects of the operation of HS1 as an integrated network
69. S1 and S2 Performance Agreement between HS1 Ltd and EIL
70. Section 2 Underlease between HS1 Ltd and CTRL (UK)
71. St. Pancras Concession Agreement relating to St Pancras Station between HS1 Ltd and CTRL (UK)
72. Letter of Agreement regarding the Kings Cross Landtake between the Secretary of State and LCR
73. Railtrack Network/Section 1 Performance Agreement between Network Rail Infrastructure and EIL
74. RTUK Direct Agreement between LCR, URS, HS1 Ltd, CTRL (UK), Railtrack Group, Network Rail Infrastructure and the Secretary of State
75. Railtrack Network/Section 1 Possessions Agreement between EIL, URS, CTRL (UK) and Network Rail Infrastructure.
76. Section 1 and Section 2 Possessions Agreement between EIL, HS1 Ltd and CTRL (UK).
77. Guarantee in respect of the Section 1 Conditional Track Access Agreement between the Secretary of State and CTRL (UK)
78. Guarantee in respect of the Section 2 Condition Track Access Agreement between the Secretary of State and HS1 Ltd
79. Step-in Right Agreement for Restated URS Services Agreement between CTRL (UK), URS, HS1 Ltd and CTRL Ltd

80. URN Direct Agreement between the Secretary of State, LCR and HS1 Ltd.
81. LUL Framework Access Agreement
82. LUL Protective Provisions Agreement
83. LUL Maintenance Agreement
84. LUL Works Agreement
85. CTRL Act Works Interface Agreement.
86. Ebbsfleet and Stratford Concession Agreement relating to the combined international and domestic HS1 stations at Ebbsfleet, Kent and Stratford, London between HS1 Ltd and NR(CTRL) dated 13 February 2009.
87. Operations and Maintenance Agreement in connection with Section 1 between HS1 Ltd and Network Rail Infrastructure dated 30 October 2008 (the "**Section 1 O&M Agreement**").
88. Succession Agreement in connection with, in particular, the circumstances in which the Secretary of State will be obliged to perform some or all of HS1 Ltd's obligations in, under and arising from the Section 1 O&M Agreement, between Network Rail Infrastructure, the Secretary of State and HS1 Ltd dated 18 December 2009.
89. Operations and Maintenance Agreement in connection with HS1 between HS1 Ltd, Network Rail Infrastructure and the Secretary of State dated 25 May 2010.
90. Agreement for Lease for HS1 from Cheriton in Kent to St Pancras International Station and for lands at Ashford in Kent between HS1 Ltd and the Secretary of State dated 14 August 2009.
91. Deed of Amendment in relation to the St Pancras Concession Agreement between HS1 Ltd, LCR and NR(CTRL) dated 13 February 2009.

92. Supplemental Agreement to the Operator Agreement dated 14 May 2010 between HS1 Ltd, NR(CTRL) and URS to bring into effect the revised and restated Operator Agreement
93. Supplemental Agreement to the Operations Interface Agreement dated 14 May 2010 between HS1 Ltd, NR(CTRL), the Secretary of State and Network Rail Infrastructure to, inter alia, revise and restate the Operations Interface Agreement in relation to the Operator Agreement as the Operator Direct Agreement and in relation to the St Pancras Station Concession Agreement as the St Pancras Station Direct Agreement
94. Intermediate Station Direct Agreement dated 14 May 2010 between HS1 Ltd, NR(CTRL) and the Secretary of State
95. Guarantee in relation to the Operator Agreement dated 14 May 2010 between HS1 Ltd and Network Rail Infrastructure

SCHEDULE 2:

DEFINITIONS

"Access Contract"	has the meaning ascribed to it in the HSI ADRR
"Additional Party"	shall have the meaning ascribed to it in Schedule 6 to this Disputes Resolution Agreement.
"Adjudication"	means an adjudication conducted under the Disputes Resolution Procedure.
"Adjudication Rule"	means the relevant numbered Rule in the Adjudication Rules forming part of the Disputes Resolution Procedure.
"Amicable Settlement"	shall have the meaning ascribed to it in the Disputes Resolution Procedure.
"Arbitration"	means an arbitration conducted under the Disputes Resolution Procedure.
"Arbitrator"	means an individual appointed as arbitrator pursuant to the Disputes Resolution Procedure.
"CTRL Ltd"	means Channel Tunnel Rail Link Limited a company incorporated in England and Wales under number 2315379 and having its registered office at 183, Eversholt Street, London NW1 1AY; and
"CTRL Project"	means the proposed rail link between St Pancras Station in the London Borough of Camden and Cheriton in Kent.
"CTRL Track Access Conditions"	means the conditions incorporated into the Section 1 Conditional Track Access Agreement and the Section 2 Conditional Track Access Agreement as set out in Schedule 19 to the Development Agreement.
"CTRL Station Access Conditions"	means the conditions incorporated into the Conditional Station Access Agreements as set out in Schedule 19 to the Development Agreement.
"CTRL (UK)"	means CTRL (UK) Limited (formerly called

	Railtrack (UK) Limited), a company incorporated in England and Wales under number 3578740, whose registered office is at 73 Collier Street, London, N1 9BE.
"EIL"	means Eurostar International Limited (formerly called Eurostar (U.K.) Limited), a company incorporated in England and Wales under number 2462001, whose registered office is at Times House, Bravingtons Walk, London N1 9AW
"EPSL Transfer Agreement"	means the HS1 Agreement listed as agreement number 29 in Schedule 1 of this Agreement.
"Dispute Parties"	has the meaning ascribed to it in the Disputes Resolution Procedure.
"Disputes Resolution Procedure"	means the Disputes Resolution Procedure as set out and contained in Schedule 8 to this Agreement.
"High Court"	means the High Court of Justice in England & Wales.
"HS1"	means the Channel Tunnel rail link between St Pancras International Station in London and Cheriton in Kent, including the HS1 Stations, as contemplated by the CTRL Act and the orders under the TWA for Stratford Station, the works related to the use of Stratford Station as a Combined Station on the basis of a Stratford Box, the works carried out in relation to connections to the North London Line and the approach to St Pancras International Station and in respect of Boarley Lane, Boxley, Kent.
"HS1 ADRR"	means the set of rules known as the "HS1 Access Dispute Resolution Rules" which apply to the resolution of disputes arising under or in connection with Access Contracts (as defined in such rules).
"HS1 Agreement"	means an agreement which incorporates or refers to the Disputes Resolution Procedure, including those agreements listed in Schedule 1 of this Agreement.

"HS1 Stations"	means St Pancras International Station, Stratford International Station, Ebbsfleet International Station or Ashford International Station as the context requires.
"LCIA"	means the London Court of International Arbitration.
"LCIA Court"	shall have the meaning ascribed to it in the arbitration rules of the London Court of International Arbitration as may be issued from time to time.
"LCR"	means London & Continental Limited, a company incorporated in England and Wales under number 2966054, whose registered office is at 3 rd Floor, 183 Eversholt Street, London NW1 1AY
"Network Rail"	means Network Rail Limited, a company incorporated in England and Wales under number 4402220, whose registered office is at Kings Place, 90 York Way, London, N1 9AG
"Network Rail Infrastructure"	means Network Rail Infrastructure Limited, a company incorporated in England and Wales under number 02904587, whose registered office is at Kings Place, 90 York Way, London N1 9AG.
"NR(CTRL)"	means Network Rail (CTRL) Limited, a company incorporated in England and Wales under number 04434562, whose registered office is at Kings Place, 90 York Way, London, N1 9AG
"Panel"	means a Technical Panel, a Financial Panel or an Operational Panel as the case may be
"Panel Rule"	means the relevant numbered Rule in the Panel Rules forming part of the Disputes Resolution Procedure.
"Short Term Lease of St Pancras"	means the HS1 Agreement listed as agreement number 27 in Schedule 1 to this Agreement.
"Train Operator"	means a person who has or is to be granted permission to use all or part of HS1 pursuant to an Access Contract.

"URL Transfer Agreement"	means the HS1 Agreement listed as agreement number 28 in Schedule 1 to this Agreement.
"URN"	means HS1 Limited (formerly called Union Railways (North) Limited), a company incorporated in England and Wales under number 03539665, whose registered office is at 73 Collier Street, London, N1 9BE.
"URS"	means Union Railways (South) Limited, a company incorporated in England and Wales under number 03540185, whose registered office is at 3 rd Floor, 183 Eversholt Street, London, NW1 1AY.

SCHEDULE 3:

DEFINITIONS FROM FRAMEWORK AGREEMENT

PART 1: General Definitions

"Agreed Form"	means, in relation to any document, agreement, deed or memorandum, a document, agreement, deed or memorandum, in agreed terms signed or initialled by or on behalf of the parties for identification and, for the purposes only of the Framework Agreement, which is to be entered into in such agreed terms prior to or at F3 Completion pursuant to the terms of the Framework Agreement;
"Affiliate"	means a company or firm which, in relation to the specified entity in question, is: <ul style="list-style-type: none">(i) a company or firm in which 50 (fifty) percent or more of the share capital or voting interests are owned or held directly or indirectly by that entity;(ii) a company or firm which directly or indirectly owns or holds 50 (fifty) percent or more of the share capital or voting interests in the entity; or(iii) a company or firm in which 50 (fifty) percent or more of the share capital or voting interests are owned or held directly or indirectly by a company or firm falling within sub-paragraph (ii) above;
"Claims Handling Agreement"	means the Claims Handling Agreement dated 18 February 1999 as amended made between the Secretary of State, LCR, EIL, URS, HS1 Ltd and such other parties as may be agreed;
"Conditions Precedent"	means the conditions precedent set out in Schedule 4 to the Framework Agreement;

"CTRL Lease (Section 1)"	shall have the meaning in Part 2 of Schedule 1 and shall, where the context admits, include any lease granted pursuant to Clause 6 of the Section 1 RTK Direct Agreement or, where F3 Completion occurs pursuant to Clause 6 of the CTRL (UK) Direct Agreement;
"CTRL Lease (Section 2)"	shall have the meaning in Part 2 of Schedule 1 and shall, where the context admits, include any lease granted pursuant to Clause 6 of the Section 2 RTK Direct Agreement or, where F3 Completion occurs pursuant to Clause 4 of the URN Direct Agreement;
"CTRL Project"	means the design, construction, financing, maintenance and operation of HS1;
"CTRL Suite of Agreements"	means the legal documents specified in Schedule 7;
"CTRL Underlease"	shall where the context admits include any lease granted pursuant to Clause 6 of the Section 2 RTK Direct Agreement;
"Development Agreement"	means the agreement dated 28 February 1996 between The Secretary of State and LCR, as amended from time to time;
"Development Lands"	has the meaning given to that term in the CTRL Development Lands Agreement;
"Disputes Resolution Agreement"	means the agreement dated 18 February 1999 made between the parties hereto and other parties providing for the procedures for resolution of certain claims and disputes arising out of or in connection with HS1;
"EIB Loan Agreement"	means a loan agreement made between the European Investment Bank and LCR in respect of facilities in an amount of up to £200 million for URS for Section 1;
"Encumbrance"	means any mortgage, pledge, lien, charge, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement, any rental, hire purchase, credit sale or agreement for payment on deferred terms or any other arrangement conferring security;

"Escrow Agreement"	means the letters exchanged or to be exchanged on or about the date hereof between the parties to this Framework Agreement and CMS Cameron McKenna;
"EUKL Governance Agreement"	means the agreement entered into between the Secretary of State, LCR and EIL setting out certain principles concerning the governance of EIL and the EIL Business (as defined therein);
"EUKL Station Access Agreements"	<p>means</p> <p>(a) Station Access Agreement for London St Pancras between HS1 Ltd and EIL incorporating the International Major Stations Access Conditions and the Annexes to International Major Station Access Conditions for London St Pancras Station; and</p> <p>(b) Station Access Agreement for Stratford Station between HS1 Ltd and EIL incorporating the International Major Stations Access Conditions and the Annexes to International Major Station Access Conditions for Stratford Station; and</p> <p>(c) Station Access Agreement for Ebbsfleet Station between HS1 Ltd and EIL incorporating the International Major Stations Access Conditions and the Annexes to International Major Station Access Conditions for Ebbsfleet Station;</p>
"EUKL Track Access Agreements"	<p>means</p> <p>(a) International Railway Track Access Contract for Passenger Services between URS, EIL and CTRL (UK) relating to the terms on which EIL will have access to Section 1 and incorporating the CTRL Track Access Conditions; and</p> <p>(b) International Railway Track Access Contract for Passenger Services between HS1 Ltd and EIL relating to the terms on which EIL will have access to Section 2 and incorporating the CTRL Track Access Conditions; and</p> <p>(c) International Railway Track Access Contract for Passenger Services between Railtrack and</p>

	EIL relating to the terms on which EIL will have access to the Network between Waterloo International Station and Fawkham Junction.
"Eurostar Agreements"	means the Eurostar Management Agreement, the EIL Governance Agreement and the Eurostar Management Direct Agreement;
"Eurostar Management Agreement"	means the agreement dated 18 February 1999 made between LCR, EIL and Train Operator Manager relating to the management of part of the business of EIL by Train Operator Manager;
"Eurostar Management Direct Agreement"	means the agreement dated 18 February 1999 made between The Secretary of State, LCR, EIL, Train Operator Manager and British Airways plc, National Express Group plc, SNCF, SNCB and French Railways Limited (as defined therein);
"Financial Direct Agreement"	means the agreement dated 18 February 1999 made between The Secretary of State, Railtrack Group PLC, LCR and others;
"Finance Documents"	means all or any agreements, instruments or other documents entered into or to be entered into from time to time by LCR, in connection with the CTRL Project with any person providing finance (whether by debt, equity or otherwise) or any security, guarantee or indemnity in connection with the CTRL Project including any amendments, supplements, variations or novations to those documents from time to time and also all other analogous agreements, instruments or other documents entered into from time to time and for the purposes of Schedule 4 to the Framework Agreement shall include all consents or other authorisation required by a party to the Finance Documents or by any other party allowing the Finance Documents to become effective and also includes each documentary Condition Precedent;
"F3 Completion"	means satisfaction of all Conditions Precedent (other than a condition precedent that F3 Completion has occurred) and satisfaction of all other requirements of Clauses 2 and 3 of the Framework Agreement;

"Fifth Supplemental Agreement"	means the Fifth Supplemental Agreement to the Development Agreement to be made between The Secretary of State, and LCR in Agreed Form;
"Framework Completion"	means completion of the legal documents entered into by the parties on the Framework Completion Date;
"Framework Completion Date"	means 18 February 1999;
"Further Statement of Principles"	means the further statement of principles in respect of revised proposals for the construction of Section 2 by the London & Continental Group with certain services to be provided by CTRL (UK) and the operation of Section 1 and Section 2 by CTRL (UK) entered into by the Secretary of State with LCR and Railtrack Group PLC on 2 April 2001;
"Heads of Terms"	means the heads of terms entered into between LCR and Railtrack Group PLC on 3 June 1998 in relation to revised proposals for the continuing design, construction, financing operation and maintenance of HS1 by the London & Continental Group in sections and the future operation of the Eurostar Business;
"Hive-Down Agreements"	means the IC1 Hive-Down Agreement and the IC2 Hive-Down Agreement;
"Hive-Down Completion"	has the meaning given to that term in the IC1 Hive Down Agreement in respect of Section 1 and to that term in the IC2 Hive-Down Agreement in respect of Section 2;
"HMG Guarantee"	means the guarantee to be given by Her Majesty's Government in relation to the LCR Bonds;
"IC1 Business"	has the meaning given to the term Business in the IC1 Hive-Down Agreement in relation to IC1;
"IC1 Business Assets"	has the meaning given to the term Business Assets in the IC1 Hive-Down Agreement;
"IC1 Contracts"	has the meaning given to the term Contracts in the IC1 Hive-Down Agreement;

"IC1 Fixed Assets"	has the meaning given to the term Fixed Assets in the IC1 Hive-Down Agreements;
"IC1 Hive-Down Agreement"	means the IC1 Hive-Down Agreement entered into between LCR, CTRL Ltd, EIL, URS and HS1 Ltd;
"IC1 Security Account"	means an account in the name of URS in connection with Section 1 of HS1 and to be the subject of the IC1 Security Account Agreement;
"IC1 Security Account Agreement"	means an agreement regulating the payment of monies in connection with the IC1 Security Account;
"IC1 Services Agreement"	means the Services Agreement entered into between URS and CTRL Ltd relating to the use by URS of the Employees of CTRL Ltd for the purposes of completing Section 1;
"IC2 Business"	has the meaning given to the term Business in the IC2 Hive-Down Agreement;
"IC2 Business Assets"	has the meaning given to the term Business Assets in the IC2 Hive-Down Agreement;
"IC2 Claim"	has the meaning given to that term in the Section 2 Option Agreement;
"IC2 Contracts"	has the meaning given to the term Contracts in the IC2 Hive-Down Agreement;
"IC2 Fixed Assets"	has the meaning given to the term Fixed Assets in the IC2 Hive-Down Agreement;
"IC2 Hive-Down Agreement"	means the IC2 Hive-Down Agreement entered into between LCR, CTRL Ltd, EIL, URS and HS1 Ltd;
"Interim Period"	has the meaning given to that term in the IC1 Hive-Down Agreement and/or the IC2 Hive-Down Agreement, as the case may be;
"International Rail Regulator"	has the meaning given to that term in the Railways Regulations;
"LCR Bonds"	has the meaning ascribed to the definition of Government Guaranteed Debt in the Development Agreement;

"LCR Governance Agreements"	means the Memoranda and Articles of Association of URS and HS1 Ltd and the Articles of Association of LCR adopted by LCR, URS and HS1 Ltd, respectively;
"Legal Documents"	means all those agreements listed in Schedule 5 of the Framework Agreement;
"London & Continental Bond Proceeds and Revenue Account Agreement"	means an account in the name of LCR in connection with Section 1 of the CTRL and the subject of the London & Continental Group Bank Account Agreement;
"London & Continental Group"	means LCR and its Subsidiaries;
"Long Stop Date"	means 31 March 2002 or such later date as may be agreed between LCR, The Secretary of State and Railtrack Group PLC;
"Memorandum of Agreement"	means the agreement relating to Section 2 entered into between CTRL (UK), RLE, HS1 Ltd and LCR;
"New LCR Shareholder Arrangements"	includes, but shall not be limited to, a new shareholders' agreement relating to LCR between LCR and its shareholders, a consortium relief agreement between LCR and its shareholders, a restructuring agreement relating to LCR between Ove Arup & Partners, Bechtel Limited, Sir William Halcrow & Partners Limited, National Express Group Plc, Virgin Group Limited, S.G. Warburg & Co. Ltd, Systra-Sofretu-Sofrerail, London Electricity Plc, La Société Nationale de Chemins de Fer Français and LCR and agreements for the sale of shares in LCR between Ove Arup & Partners Limited, Bechtel Limited, Sir William Halcrow & Partners Limited, National Express Group Plc, Virgin Group Limited, S.G. Warburg & Co. Ltd, Systra-Sofretu-Sofrerail, London Electricity Plc, La Société Nationale de Chemins de Fer Français and LCR and URS;
"Railtrack Group of Companies"	means Network Rail Infrastructure and each of its Affiliates;
"Railtrack Suite of Agreements"	has the meaning given to it in the IC1 Hive-Down Agreement;

"Railways Regulations"	means SI 1998 No 1340 as amended by SI 1998 No 1519;
"RLE"	means the unincorporated contractual association known as Rail Link Engineering or RLE as described in the RLE (Section 1) Agreement;
"RLE Agreement"	has the meaning ascribed to it under the RLE (Section 1) Agreement;
"RLE Performance Bond"	means the Bond as defined in the RLE (Section 1) Agreement;
"RLE (Section 1) Agreement"	means the agreement entered into between RLE and URS relating to the provision of design and project management services for Section 1;
"RLE (Section 2) Agreement"	means the agreement entered into between RLE and HS1 Ltd pursuant to the Memorandum of Agreement;
"RTG"	means the company having the number 2904614 and having the name Railtrack Group PLC as at the date of this Agreement;
"RTG Guarantee"	means a joint and several guarantee from Railtrack Group PLC and CTRL (UK) to the finance parties under the Credit Facility in respect of the borrowings of LCR thereunder;
"RTG Performance Guarantee"	means a guarantee made between Railtrack Group PLC, LCR and others in respect of certain obligations of CTRL (UK) under the Guaranteed Agreements (as such term is defined therein) in respect of the Guaranteed Obligations (as such term is defined therein);
"Second Supplemental Agreement"	means the Second Supplemental Agreement to the Development Agreement to be made between The Secretary of State and LCR in Agreed Form;
"Section 1 Assets"	has the meaning given to it in the IC1 Hive-Down Agreement;
"Section 1 Bonds"	means the Government Guaranteed Debt to be raised by LCR prior to FC3 in accordance with Schedule 4 of the Development Agreement;

"Section 1 DCC"	means the Domestic Capacity Charge allocated to Section 1;
"Section 1 Services Agreement"	means the agreement entered into between URS and CTRL Ltd relating to the provision of services by CTRL Ltd to URS in connection with Section 1;
"Section 2 Assets"	has the meaning given to it in the IC2 Hive-Down Agreement;
"Section 2 DCC"	means the Domestic Capacity Charge allocated to Section 2;
"Section 2 Option"	has the meaning given to it in the Section 2 Option Agreement;
"Shared Asset"	has the meaning given to that term in the Hive-Down Agreements;
"Stage 1 Lenders"	has the meaning ascribed to the term "Lenders" in the Common Terms Agreement dated 31 st May 1996 between, inter alia, EIL and the Lenders defined therein;
"Stage 1 Lessors"	means each of Dresdner Bank AG, London Branch, and Lloyds Associated Air Leasing Limited;
"Standard Conditions"	means those standard conditions contained in Schedule 3 of this Framework Agreement;
"Statement of Principles"	means the statement of principles in respect of revised proposals for the design, construction, financing, operation and maintenance of HS1 and the future operation of the Eurostar Business, entered into by The Secretary of State with LCR and Railtrack Group PLC on 3 June 1998;
"Thameslink 2000 Agreement"	means an agreement entered into between Railtrack, Franchising Director and The Secretary of State and dated 24 April 1996, relating to the design, obtaining of all necessary consents, construction, testing, commissioning and completion of the project known as Thameslink 2000;
"Thameslink 2000 Project"	means the project referred to as "the Project" in

"Train Operator Manager"

the Thameslink 2000 Agreement; and

means Inter-Capital and Regional Rail Limited, a company incorporated in England and Wales under company number 3565312, whose registered office is at 7 Triton Square, London, NW1 3HG, whose shareholders are British Airways plc, National Express Group plc, French Railways Limited, SNCB and The Secretary of State.

PART 2: Schedule 1 Development Agreement Definitions

Unless otherwise expressed to the contrary, all references to paragraphs, clauses, annexes and schedules in this Part 2 are references to paragraphs, annexes and schedules to the Development Agreement.

"Access Charges Guarantee"	means the deed of guarantee entered into or to be entered into by the Secretary of State in favour of CTRL (UK) relating to the guarantee of access charges payable by EIL under the Conditional CTRL Track Access Agreements and the Station Access Agreements;
"Access Charge Loan Agreement"	means the access charge loan agreement entered into or to be entered into prior to Financial Close between EIL, LCR and the Secretary of State;
"Access to CTRL Lands"	means the right to execute on the CTRL Lands, or carry out activities ancillary to but necessary for, the CTRL Works;
"Actual Net Real Operating Revenues"	<p>means the sum of all revenues actually received (together with any payment from the Secretary of State by way of compensation for a Change in Circumstances under paragraph 2 of Schedule 2 to the extent the same is for deemed revenue loss but excluding any other payment under this Agreement from the Secretary of State) by LCR or any Subsidiary less all the operating and maintenance costs (but excluding any capital expenditures) incurred by LCR or any Subsidiary where:-</p> <ul style="list-style-type: none">(i) the calculation is made pre-tax;(ii) all payments occurring in any calendar quarter are deflated back to 1st January 1997 using the RPI index prevailing at the end of the calendar quarter;(iii) revenues, operating and maintenance costs shall be determined each quarter by reference to the prevailing accounting standards;(iv) by reference to the current accounting practices, charges relating to operating

leases (including existing leasing arrangements) shall be accounted for as operating costs (and the electricity distribution arrangements with London Electricity shall be treated as operating leases for this purpose) and charges relating to finance leases shall be ignored for the purpose of the determination of the operating and maintenance costs and, in respect of the Financing Leases, there shall be deemed to have been made in respect of the Whole Business, a capital expenditure of £196.3 million on the Effective Date; and

- (v) any charge whether by way of management charge or otherwise paid by any party to any one or more shareholders of LCR shall be excluded other than where those payments are reasonable and proper and are made on an arms length basis;

"Adjacent Areas"

means those parts of the CTRL Lands that are used temporarily for the purposes of the CTRL Works;

"Agreed Expenditure Budget"

means the expenditure profile for the activities referred to in Clause 9.10 [Contracts and Agreed Expenditure Budget prior to FC3];

"Agreement"

means this Development Agreement made between the Secretary of State and LCR;

"Applicable Threshold Amount"

means:-

- (a) in respect of the Development Period £5 million expressed in month2 1995 prices;
- (b) in respect of the Construction Period £40 million expressed in month2 1995 prices;
- (c) in respect of the Operational Period £20 million expressed in month2 1995 prices;

"Associate"

means any of the Sponsors or in respect of a relevant company, a company which is a Subsidiary, Holding Company or Subsidiary of the Holding Company of that relevant company;

"Audit Request"	means a request by the Project Representative for a full audit of the quality assurance procedures in relation to a specific item of Plant or part of the CTRL Works in accordance with paragraph 3.7 [Audit Request] of Part 1 of Appendix 8 to Schedule 11;
"Average Journey Time"	means the time elapsing between commencement and cessation of train movement at the relevant stations or passing the control points included in the table of Reference Average Journey Times and calculated using the Journey Time Model in Part 8 [Journey Time Model and calculation of Average Journey Time] of Appendix 2 to Schedule 2;
"Back to Back Agreements"	means together:- <ul style="list-style-type: none"> (a) the Back to Back Agreement relating to the Rail Usage Contract dated 10th May 1994 (as amended on 28th February 1996); (b) the Back to Back Agreement under the Special Agreement on Security under the Rail Usage Contract (as amended on 28th February 1996), (both of which are listed in more detail in Section 2 [EPSL Industry Agreements] of Schedule 9); and (c) the Heads of Agreement dated 10th May 1994 between BRB, EPS and the Secretary of State relating to the Revenue Sharing Protocols (as amended on 28th February 1996);
"Base Case"	means the output from the Schedule 2 Model;
"Base Case Net Real Operating Revenues"	means the sum of all revenues (which, for the avoidance of doubt, excludes any payment under this Agreement from the Secretary of State) projected in the Base Case to be received by LCR or any Subsidiary less all the operating and maintenance costs (but excluding any capital expenditure) incurred by LCR or any Subsidiary where:-

- (i) the calculation is made pre-tax;
- (ii) by reference to the current accounting practices, charges relating to operating leases (including existing leasing arrangements) shall be accounted for as operating costs (and the electricity distribution arrangements with London Electricity shall be treated as operating leases for this purpose) and charges relating to finance leases shall be ignored for the purpose of the determination of the operating and maintenance costs and, in respect of the Financing Leases, there shall be deemed to have been made in respect of the Whole Business, a capital expenditure of £196.3 million on the Effective Date; and
- (iii) any charge whether by way of management charge or otherwise paid by any party to any one or more shareholders of LCR shall be excluded other than where those payments are reasonable and proper and are made on an arms length basis. Payments to the train operator under the Eurostar Management Agreement will be deemed to be reasonable, proper and made on an arms length basis;

"BCP" means Blue Circle Properties Limited whose registered office is at 84 Eccleston Square London SW1V 1PX;

"BRB" means British Railways Board;

"BRB Leases" means:-

- (a) a lease granted to Southern Track Renewals Company Limited at Temple Mills dated 1st April 1996;
- (b) leases to be granted to Mainline Freight Limited at Temple Mills, the Stratford Traction Maintenance Depot and King's Cross Goods Yard (the latest drafts of which have been initialled by the parties

	for the purpose of identification); and
	(c) leases granted to Network Rail Infrastructure of the North London Incline and the King's Cross car park dated 10 th September 1996 and 3 rd April 1996 respectively;
"BRT Deed of Easement"	means the deed of easement dated 23 rd October 1996 between the Secretary of State for Transport and Racal- BR Telecommunications Limited in relation to telecommunication equipment at London St Pancras station;
"Business Day"	means a day other than a Saturday or Sunday on which banks are open generally for business in the City of London;
"Capital Grant"	means those instalments of the Public Sector Support which are to be made by the Secretary of State as provided for in paragraph 1.1 of Schedule 3 [Public Sector Contribution];
"Chambers Lease"	means the lease of the Chambers at London St Pancras station to be granted by the Secretary of State to LCR or a Subsidiary of LCR (other than EIL or a Subsidiary of EIL) as LCR may direct following issue of the Final Permit to Use (or earlier) pursuant to paragraph 2.6 of Schedule 17 [Land Provisions];
"Change"	means a change to either or both the Construction Minimum Requirements and Construction Proposals;
"Change Certificate"	means a certificate in the form appearing in Annex 4 to Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Change in Circumstances"	has the meaning given to it in paragraphs 2 and 3 [Change in Circumstances with Risk Sharing and Change in Circumstances with Termination respectively] of Section 1 of Schedule 2;
"Change in Law"	means any of the following occurring after 30 th November 1995:- (a) the enactment of any new law or Directive of a Competent Authority;

- (b) the modification of any existing law or Directive of a Competent Authority except to the extent that such modification permits existing conditions or arrangements to be extended upon the same terms but for a longer period; and
- (c) a change in interpretation of the law or Directive of a Competent Authority binding on LCR, CTRL Ltd, EIL, URS or HSI Ltd;

"Change in Operating Practice"	means a change in the policies or practices adopted by LCR or any of its subsidiaries or EIL in connection with the maintenance or operation of HSI or of the international passenger services operations of EIL;
"Channel Tunnel"	means the existing fixed link under the English Channel between the southern portal at the Department of Pas-de-Calais in France and the northern portal in the County of Kent in England together with the terminal areas associated therewith;
"Channel Tunnel Concession Agreement"	means the agreement dated 14 th March 1986 and made between the Secretary of State and Le Ministre de L'Urbanisme du Logement et des Transports of France of the one part and Eurotunnel of the other part;
"Check Certificate"	means a certificate in the form appearing in Annex 2 to Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Checker"	means the person responsible for checking those elements of the Design Data designated in Appendix 8 [Project Monitoring Conditions] to Schedule 11 and the identity of whom is agreed with the Project Representative pursuant to paragraph 8.2 of Part 2 of that Appendix;
"Class Change"	means a series of events within the same categories of Change in Circumstances or within a number of categories of Change in Circumstances which, when taken together, require the same or similar physical alterations to be adopted or the same or similar steps to be

	adopted in relation to operational practices in order to address the consequences of the occurrence of the events provided that compensation alone shall not constitute the same or similar steps;
"Code of Construction Practice"	means the series of objectives and measures to be applied generally throughout the Construction Period to maintain satisfactory levels of environmental protection and limit disturbance from construction activities, the current draft of which code is set out in Appendix 9 [Code of Construction Practice] of Schedule 11 and the Parts B of which are being developed by LCR with each relevant planning authority in accordance with the principles set out in the Code;
"Combined Station"	means a station to be used for both international and domestic passengers;
"Companies Act"	means the Companies Act 1985;
"Compensation Event Cut-off Date"	means in relation to a Section the relevant date for a particular event of Change in Circumstances specified in paragraph 4.6.2 [Expiry of Support] of Schedule 2;
"Competent Authority"	means any national or supra-national agency, authority, inspectorate, Minister, Ministry, Court, or tribunal (whether autonomous or not) of the United Kingdom or any part of it or of the European Union (but not any other Member State of the European Union) including, but not limited to, the United Kingdom Parliament and any regional or local authority of the United Kingdom which has jurisdiction over LCR and/or EIL and/or CTRL Ltd and/or any Elemental Associate and the subject matter of, this Agreement or the Project Agreements but (for the avoidance of doubt) not including Railtrack, BRB and any successors to either of them in relation to the operation of the existing railway network in Great Britain;
"Complaints Commissioner"	means the individual appointed pursuant to Clause 5.4 [Complaints Commissioner];
"Conditional Track Access"	means the Section 1 Conditional Track Access

Agreements"	Agreement and the Section 2 Conditional Track Access Agreement;
"Construction Certificate"	means a certificate in the form appearing in Annex 3 to Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Construction Contract"	means an agreement between LCR and its Contractor or Contractors or between URS or HS1 Ltd and its or their Contractor or Contractors for all or part of the CTRL Works;
"Construction Cost"	means the cost of the CTRL Works;
"Construction CVM"	means the cost variation mechanism for the Construction Cost set out in Appendix 1 to Schedule 2 [Change in Circumstances];
"Construction Interface Agreement"	means the agreement between URS, HS1 Ltd and LCR whereby certain procedures are adopted by the parties to the agreement for the resolution of issues, questions or matters which may or will affect both the work to be undertaken by URS for Section 1 and the work to be undertaken by HS1 Ltd for Section 2 and in addition, or in the alternative, the overall integrity, consistency and uniformity of the safety, design, construction, and completion, of HS1 as a whole;
"Construction Minimum Requirements"	means the requirements set out in Section 2 [Construction Minimum Requirements] of Schedule 11 as those requirements may be varied or amended in accordance with Clause 9.21.2 [Construction Proposals and Construction Minimum Requirements];
"Construction Period"	means in the case of Section 1 the period from the first grant of Access to CTRL Lands after Financial Close as the same may be adjusted pursuant to Clause 9.12 [Delay in Date for Completion] to the date of the issue of the Permit to Use under Clause 9.16 for Section 1 [Permit to Use] and, in the case of Section 2, means the period from the first grant of Access to CTRL Lands after FC3 to the date of the issue of the Final Permit to Use under Clause 9.16 [Permit to Use];

"Construction Plant"	means the plant, materials and equipment to be used by the Contractor in the construction, completion and commissioning of CTRL Works and which shall not form part of the permanent works;
"Construction Proposals"	means LCR's proposals for the design, construction, commissioning and completion of HS1 as appear in Section 1 [Construction Proposals and Period for Completion] of Schedule 13 as those proposals may be varied or amended in accordance with Clause 9.21.2 [Construction Proposals and Construction Minimum Requirements];
"Contractor"	means the party or parties with whom any of LCR, URS or HS1 Ltd enters into a contract or contracts for any one or more of the design and construction, completion commissioning and maintenance of HS1;
"Courts"	means any court which is a Competent Authority;
"Credit Facility"	means aggregate loan facilities of £700 million extended to LCR by one or more Lenders (other than the Government Guaranteed Debt);
"CTRL Act"	means the Channel Tunnel Rail Link Act 1996;
"CTRL Assets"	means the CTRL Works, Plant, the CTRL Lands (or the land demised by the CTRL Lease (Section 1) and the CTRL Lease (Section 2) following their grant), the rolling stock and all other assets (other than shares in EIL) which are or come into the ownership of LCR, EIL or a Subsidiary of either LCR or EIL to the extent that the same are required for the performance by LCR or EIL of its or their obligations under this Agreement or any of the Project Agreements;
"CTRL Concession"	means the concession, which shall expire on 29 th July 2086 or upon the earlier termination of this Agreement, for the design, construction, financing, operation, repair and maintenance of HS1;
"CTRL Development Lands"	means the agreement so described dated 28 th

Agreement"	February 1996 entered into between the Secretary of State and LCR;
"CTRL Lands"	means land (including wayleaves, rights of way or access or interest in and rights in relation to land) necessary for the purposes of any or all of the construction, maintenance, operation of HS1 in respect of which the provisions set out in Schedule 17 [Land Provisions] shall apply;
"CTRL Lease (Section 1)"	means the lease of HS1 to be granted by the Secretary of State to LCR (or a Subsidiary of LCR as LCR may direct) for Section 1 following the issue of the Permit to Use for Section 1 pursuant to paragraph 2.3 of Schedule 17 [Land Provisions];
"CTRL Lease (Section 2)"	means the lease of HS1 to be granted by the Secretary of State to LCR (or a Subsidiary of LCR as LCR may direct) for Section 2 following the issue of the Final Permit to Use pursuant to paragraph 2.3 of Schedule 17 [Land Provisions];
"CTRL Underlease"	means the underlease of Ebbsfleet to be granted by the Secretary of State to LCR (or a Subsidiary of LCR as LCR may direct) following the issue of the Final Permit to Use pursuant to paragraph 2.4 of Schedule 17 [Land Provisions];
"CTRL Works"	means works in relation to the design, construction, commissioning and completion of HS1 defined in the Construction Minimum Requirements and the Construction Proposals and any amended or varied version thereof made in accordance with the provisions of this Agreement and shall include:- <ul style="list-style-type: none"> (a) Stratford Station unless the necessary approval is not received pursuant to Clause 4.5 [Stratford Station Application]; (b) the M2 Junction 2 Extra Works; and (c) the Thameslink Enabling Works;
"Current Hybrid Bill"	Means the print of the Hybrid Bill on introduction together with the amendments as

introduced on 18th July 1995, the amendment of provisions of November 1995, the amendments as introduced on 7th November 1995 and the amendment of provisions of December 1995;

"Date for Completion"

means, in respect of Section 1, the date by which LCR is to procure the issue of the Permit to Use for Section 1 which is the date falling five years after Financial Close and, in respect of Section 2, the date by which LCR is to procure the issue of the Final Permit to Use which is the date falling five and one half years after FC3 or, in either case, such other date as is notified by the Project Representative in accordance with Clause 9.13;

"Date of Completion"

means the date on which the Permit to Use for Section 1 or as the case may be the Final Permit to Use is issued;

"DCC Event of Default"

has the meaning given to it in paragraph 2.5.1 of Appendix 3 [Domestic Capacity Failure] of Schedule 3;

"Delay Event"

means an event so described in paragraph 4.1 [General Delays] of Schedule 11 and which meets the requirements as to materiality set out in paragraph 4.2 of that Schedule

"Deferred Grant"

means those instalments of the Public Sector Support which are to be made by the Secretary of State as provided for in paragraph 1.2 of Section 1 [Public Sector Support] of Schedule 3;

"De Minimis Amount"

means:-

- (a) in respect of default, other than wilful default, by the Secretary of State, the amount of £50,000 expressed in month² 1995 prices;
- (b) in relation to Changes in Circumstances arising under paragraph 2.13 [Partial Sequestration], paragraph 2.15 [claims against EPSL], paragraph 2.20 [Eurotunnel Operating costs], paragraph 2.24 [Repair of London St Pancras Station], paragraph 2.25 [Repair of St Pancras Chambers], paragraph 2.31

[Other Parts of the Network] or, where it arises as a result of wilful default by the Secretary of State, paragraph 2.13 [Breach by the Secretary of State] of Schedule 2, a nil amount; and

- (c) in respect of all cases other than those referred to in paragraphs (a) and (b) above, the amount of £100,000 expressed in month2 1995 prices;

"Department"	means The Department of Transport;
"Department's Highway Standards"	means the standards of the Department in relation to the design, construction and maintenance of highways which are generally applied to the types of highways affected by the CTRL Works;
"Department Specification for Highway Works"	means the specification of the Department in Commercial in relation to the design and construction of highways which are generally issued in relation to the types of highways affected by the CTRL Works;
"Design Certificate"	means a certificate in the form appearing in Annex 1 to Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Design Data"	means all specifications, plans, drawings, graphs, sketches, models and other documents prepared or to be prepared by or on behalf of LCR, including that prepared by or on behalf of CTRL Ltd in relation to the design or construction, commissioning or completion of HS1 or the maintenance or improvement of the CTRL Assets;
"Designer"	means the person responsible for design in relation to the Highway Works the identity of whom is agreed with the Project Representative pursuant to Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Detailed Design"	means the detailed development of the design shown in the Construction Proposals for HS1 to allow construction to proceed and any amended or varied version thereof made in accordance with this Agreement;

"Development Period"	means the period from the Effective Date to Financial Close;
"Direct Agreements"	means the F2 Direct Agreements and the F3 Direct Agreements;
"Direct Covenants"	means the agreements between each of the Sponsors (and any Subsequent Shareholder) and the Secretary of State and the agreement between LCR and the Secretary of State comprising the direct covenants given in favour of the Secretary of State in similar terms to the contents of articles 8, 9 and 10 of the articles of association of LCR adopted or to be adopted on or before Financial Close;
"Directive"	means any present or future directive, regulation, requirement, instruction, direction or rule of any Competent Authority binding on one or more of the parties or EIL, URS or HSI Ltd and includes any modification, extension or replacement thereof for the time being in force;
"Disclosed Tenancies"	means the leases, tenancies or other rights of occupation set out in Appendix 7 [Disclosed Tenancies] to Schedule 17;
"Dispute"	means a difference or dispute of whatsoever nature arising out of or in connection with this Agreement;
"Domestic Capacity Charge"	means those instalments of the Public Sector Support which are to be made by the Secretary of State as provided for in paragraph 1.3 of Section 1 [Public sector Support] of Schedule 3;
"Ebbsfleet Development Agreement"	means the agreement between the Secretary of State, BCP and Blue Circle Industries plc dated 8th December 1994 entitled "Ebbsfleet Development Agreement" and novated to LCR on 31st May 1996;
"Ebbsfleet Master Agreement"	means the agreement between the Secretary of State and BCP dated 8th December 1994 entitled "Master Agreement";
"Ebbsfleet Property Management Agreement"	means the agreement comprised in Appendix 2 to the Ebbsfleet Master Agreement and to be entered into between LCR and BCP in

	accordance with the Ebbsfleet Master Agreement;
"Effective Date"	means 31st May 1996;
"EIB Loan"	means the EIB loan facility for LCR in the sum of up to £200 million;
"Elemental Associate"	means an Associate of LCR which carries on a major role in relation to the Project;
"EPS Business"	means the management and operation of international passenger train services to and from the United Kingdom through the Channel Tunnel and other activities (including, without limitation, the provision of terminals and depots for such international services, the provision of all station services at such terminals and the provision of maintenance services at such depots) as more particularly described in the defined expression "Designated Undertaking" contained in a transfer scheme dated 9th May 1994 and made by BRB in favour of EIL pursuant to section 85(1) of the Railways Act 1993, together with activities ancillary thereto, the sale of branded goods on the international passenger trains, the management and operation of the Esprit Europe parcel service and the management and operation of the express freight train services;
"EPSL"	means European Passenger Services Limited, (the former name of EIL);
"EPSL Claims"	means: <ul style="list-style-type: none"> (a) any claim made by the joint administrative receivers of Augustus Limited (formerly Norstead Engineering Limited) of Higham House, Higham Place, Newcastle upon Tyne NE1 8EE in respect of, or arising under or as a result of, the contract between EIL and Norstead Engineering Limited dated on or around 10th September 1992 relating to construction works to be carried out by Norstead Engineering Limited at Waterloo International Terminal; and

	(b) any claim made by John Laing Construction of 133-139 Page Street, Millhill, London NW7 2ER or by J L Ashford Limited of the same address under the Building Agreement dated 5th May 1994 between BRB, Railtrack, J L Ashford Limited and J V Estates Limited in respect of extra expense incurred as a result of either or both receiving inaccurate information from BRB and the ground conditions of the site at which Ashford station is built;
"EPSL Development Lands Agreement"	means the agreement so described dated 28th February 1996 entered into between the Secretary of State and EIL;
"EPSL Industry Agreements"	means the agreements or arrangements between EIL and other Industry Parties relevant to the business carried on by EIL and which are listed in Section 2 [EPSL Industry Agreements] of Schedule 9;
"EPSL/Railtrack Access Agreement"	means the agreement made between EIL and Network Rail Infrastructure dated 1st April 1994;
"EPSL Transfer Agreement"	means the agreement dated 31st May 1996 entered into between the parties to this Agreement and EIL whereby the whole of the issued share capital of EIL is transferred to LCR upon the terms set out in that agreement;
"Equity"	means the issued ordinary share capital of LCR;
"Escrow Account"	means the interest-bearing bank account opened and maintained in the name of or on behalf of the Secretary of State at the Bank of England, Threadneedle Street, London EC2R 8AH or such other bank and branch as the Government's Agent may specify after consultation with LCR and which is to be operated on the signature of the Government's Agent;
"Estimated Cost Effect"	means either or both the expected capital and revenue amounts arising out of a Change in Circumstance as referred to in paragraph 4.3 [Estimated Cost Effect] of Schedule 2;

"EUKL Governance Agreement"	means the agreement entered into or to be entered into pursuant to Clause 2.3.2 (Project and Direct Agreements) between LCR, EIL and the Secretary of State;
"Eurotunnel"	means the Concessionaires for the Channel Tunnel, being the Channel Tunnel Group Limited and France Manche Societe Anonyme;
"Event of Default"	means in relation to LCR the occurrence of any of the events specified in Clause 19.1 [Events of Default];
"Extinguishment of the Public Sector Obligations"	means the moment at which the Secretary of State, BRB and any other public sector entity which is a party to the agreements referred to in Section 2 [Public Sector Obligations] of Schedule 3 have been released from all of their Public Sector Obligations under those agreements or any substitute agreements;
"Extinguishment of the Public Sector Support"	means the moment at which the Secretary of State or any other public sector entity ceases to be liable to pay or allow for those elements of Public Sector Support particularly identified in Section 1 [Public Sector Support] of Schedule 3;
"F1"	means the time that the relevant Funding Agreements for the necessary and desired funding required for the Development Period become unconditional;
"F2"	means the necessary and desired funding for completion of the design, construction, operation and maintenance of Section 1 of HS1 and, where appropriate, the refinancing of any funding for EIL;
"F3"	means the necessary and desired funding for completion of the design, construction, operation and maintenance of Section 2 of HS1;
"FC3"	means the later of the date upon which additional Funding Agreements for the completion of the design, construction, operation and maintenance of Section 2 are executed or the date such person as shall be agreed at the time of agreeing the F3 proposal shall certify to the Government's Agent that all conditions

	precedent to draw down for F3 (other than either or both the issuing of compulsory purchase orders or the acquisition of the relevant parts of the CTRL Lands by the Secretary of State) have been complied with or waived in writing;
"F2 Direct Agreements"	means the agreements to be entered into with Lenders at F2 in connection with the refinancing of the lease purchase facility with Dresdner Kleinwort Benson;
"F3 Direct Agreements"	means the agreements which may be entered at FC3 by the Secretary of State with Lenders pursuant to Clause 6.2 [Direct Agreements];
"Fawkham Junction Waterloo Track Access Agreement"	means the International Railway Track Access Contract for Passenger Services to be entered into prior to Financial Close between Network Rail Infrastructure and EIL and relating to access by EIL to Railtrack's Infrastructure between Fawkham Junction and Waterloo;
"Final Permit to Use"	means the document to be issued by the Project Representative, on completion of the last Stage in time in accordance with Clause 9.16 [Permit to Use];
"Financial Adviser"	means the financial institution appointed by LCR to assist LCR in achieving Financial Close;
"Financial Close"	means the later of the date upon which the Government's Agent shall certify to LCR and the Secretary of State that all conditions precedent to the coming into force of the Credit Facility have been complied with or waived and the first tranche of the Government Guaranteed Debt has been raised provided that such date cannot precede the date of Framework Completion as defined in the Framework Agreement;
"Financial Panel"	means the panel referred to as the Financial Panel in the Disputes Resolution Procedure;
"Financial Proposals"	means the proposals set out in Schedule 4;
"Financing Documents"	means all or any agreements, instruments or other documents entered into or to be entered into from time to time by, inter alia, LCR, URS, HS1 Ltd, or EIL in connection with the design,

construction, commissioning and completion of HS1 with any person providing finance or security including guarantees in connection with the design, construction, commissioning and completion of HS1 including any amendments, supplements, variations or novations to those documents from time to time and also all other analogous agreements, instruments or other documents entered into from time to time;

"Financing Lease"

means a lease between the user of rolling stock for international passenger services and the financial institutions named in, and who are parties to, that lease and which is currently guaranteed by the Secretary of State;

"Financial Monitoring Procedures"

means the methodology and procedures set out in Appendix 1 to Schedule 4 [Financial Proposals] by which the Government's Agent shall be satisfied as to progress of the CTRL Works for the purposes of releasing borrowings by LCR for the purposes of construction of either or both Section 1 and Section 2;

"First MML St Pancras Station Access Agreement"

means the agreement dated 19th April 1996 between MML and BRB in respect of London St Pancras station and novated to London & Continental Stations & Property Limited pursuant to a deed of novation dated 31st May 1996 made between BRB, MML, and London & Continental Stations & Property Limited;

"First Supplemental Agreement"

shall mean the Agreement dated 31st May 1996 made between the parties hereto amending other terms of the Development Agreement;

"First Thameslink St Pancras Station Access Agreement"

means the agreement dated 29th September 1998 between Thameslink and London & Continental Stations & Property Limited in respect of London St Pancras station;

"Fixed Link Agreements"

means the Rail Usage Contract, the Revenue Sharing Protocols, the Specialist Agreements, the Back to Back Agreements, the leases of rolling stock for international passenger services existing at the date of this Agreement and the agreements relating to Ashford International Station, London St Pancras, Ebbsfleet and

	Stratford Station;
"Framework Agreement"	means the agreement of that name entered into between inter alia the Secretary of State, EIL, LCR, CTRL Ltd and Network Rail Infrastructure;
"Franchisee"	has the meaning given to the word "franchisee" in section 23(3) of the Railways Act 1993;
"Franchising Director"	means the officer known as "the Director of Passenger Rail Franchising" appointed from time to time by the Secretary of State pursuant to Section 1 of the Railways Act 1993;
"Funders"	means all or any of the persons who provide financing or funding in respect of either or both the Project and EIL working capital under the Funding Agreements including, where the context so permits, prospective financiers or funders;
"Funding Agreements"	means all or any of the agreements or instruments to be entered into by LCR or any of its Associates relating to the financing of either or both the Project and EIL working capital including any amendments or supplements to those agreements or instruments or any agreements or instruments to be entered into by LCR or any of its Associates raising additional or substitute finance or financial facilities of any form or relating to the re scheduling of its or their indebtedness or the re-financing of the Project;
"Good Industry Practice"	means in respect of an infrastructure provider the exercise of that degree of skill, diligence, prudence, foresight and practice which would reasonably and ordinarily be expected from a skilled and experienced infrastructure provider engaged in the same type of undertaking and means in respect of a train operator the exercise of that degree of skill, diligence, prudence, foresight and practice which would reasonably and ordinarily be expected from a skilled and experienced train operator;

"Government"	means the government of the United Kingdom and includes the Secretary of State;
"Government's Agent"	means such person(s), firm(s) or company(ies) that the Secretary of State may appoint to be his agent(s) or any substitute as may be appointed from time to time pursuant to Clause 5.1 [Government's Agent];
"Government's Change"	means a Change of a nature set out in paragraph 6 of Schedule 2 [Change in Circumstances] requested by the Project Representative on behalf of the Secretary of State;
"Government Guaranteed Debt"	means debt or bond obligations not exceeding £3.75 billion in aggregate which are to be incurred or issued by LCR Finance plc and the repayment of which is to be guaranteed by the Secretary of State;
"Gross Negligence"	means the wilful failure by one party to perform its obligations, or any voluntary act or omission of that party in reckless disregard of the consequences to the other party or any third party;
"Ground and Geotechnical Investigations"	means the investigation of all conditions of the surface and sub-soil of the CTRL Lands and all associated man made features and structures in order to enable HS1 to be designed and constructed with due regard for those conditions and seismic activity in the region;
"Heritage Demolition"	means any works of demolition of any of the buildings and structures identified in Schedule 7 of the CTRL Act;
"Highways Agency"	means the division of the Department responsible for the management and maintenance of the trunk road network and the delivery of the Secretary of State's programme relating to trunk road improvement schemes;
"Highway Authority"	means the authority responsible under any applicable legislation for the up-keep and maintenance of a public highway;

"Highway Construction Details"	means those details relating to the construction of a highway required as part of the CTRL Works;
"Highway Standards"	means the standards issued by the Department;
"Highway Works"	means that part of the CTRL Works which forms or will form a public highway;
"HM Railway Inspectorate"	means HM Railway Inspectorate, Health and Safety Executive, Rose Court, 2 Southwark Bridge, London SE2 9HS;
"Holding Company"	shall be defined as in Part XXVI of the Companies Act;
"HSE"	means the Health and Safety Executive;
"Hybrid Bill"	means the Parliamentary Bill in respect of the Channel Tunnel rail link to which Royal assent was granted on the 18th December 1996;
"Industry Parties"	means those persons listed in Section 1 of Schedule 9 including (in the case of officials) any successor to that office or person exercising functions of that office for the time being and (in any case) any assignee or successor to the relevant activities or contractual rights of any Industry Party;
"Inquiry"	means an inquiry in relation to an application made pursuant to Clause 4.5 [Stratford Station Application] and held by virtue of any enactment including, but not limited to, an inquiry under Section 11 of the TWA or under the Planning Act;
"Inspector"	means the person appointed as such from time to time by the Secretary of State under the TWA or the person appointed as such from time to time by the Secretary of State for the Environment under the Planning Act;
"Intellectual Property"	means all registered or unregistered trade marks, service marks, patents, registered designs, utility models, applications for any of the foregoing, copyrights, unregistered designs, confidential information, know-how or other intellectual property rights subsisting in or relating to the

	Design Data;
"Inter-Creditor Agreement(s)"	means in respect of the credit obtained by EIL, LCR & other subsidiaries the agreement or agreements between the parties hereto and the providers or guarantors of such credit and, to the extent required, the recipients whether directly or indirectly of that credit governing inter alia the order of the priority in relation to that credit;
"International Services"	means international rail services;
"International Station"	means a station to be used for international passengers only;
"King's Cross Lands"	means the land lying to the north and west of London King's Cross station shown for identification only edged red on the plan marked "King's Cross" annexed hereto as Appendix 6 [Plan of the King's' Cross Lands] to Schedule 17 but excluding:- <ul style="list-style-type: none"> (a) the land comprising London King's Cross station and railway lines and tunnels forming the Great Northern Line (but not the surface land above such tunnels) and any other land included and more particularly defined as Railtrack's land in the demarcation agreements dated 16th February 1996 and 31st May 1996 entered into between BRB and Network Rail Infrastructure and dated 13th May 1997 entered into between the Secretary of State for Transport and Network Rail Infrastructure; (b) all railway tunnels beneath the land together with a sleeve of (3) metres of sub-soil around such tunnels (except to the extent that such sleeve is within one metre of the surface of the land); and (c) any land to be included in the CTRL Lease (Section 2);
"Land Liaison Procedures"	means the procedures set out in Schedule 7 [Land Liaison Procedures] or to be developed pursuant to this Agreement as the case may be;

"LCR Finance plc"	means LCR Finance plc, a company incorporated in England and Wales under number 3608329 and having its registered office at 183 Eversholt Street London NW1 1AY;
"LCR Group"	means LCR and every Subsidiary of it;
"LCR Western Ticket Hall Works"	means the works described in drawing No. 100-DHZ-0A001-00003-AA and drawing No. 100-DHZ-0A001-00004-AA and referred to in paragraph 2.6.3 of Schedule 11 and in paragraph 2 of Appendix 2 to Schedule 11;
"Legislative Change"	means a change of the nature set out in paragraph 5 of Schedule 2 [Change in Circumstances];
"Lenders"	means such of the Funders as provide debt finance under the Funding Agreements;
"LIBID"	means in relation to any period in respect of which a payment is made under this Agreement, the arithmetic mean rounded upwards if necessary:- <ul style="list-style-type: none"> <li style="margin-left: 20px;">(i) to the nearest five decimal places of one per cent of the rates at which Sterling deposits are bid for by selected prime banks for such period as published or reported by BBAIRS (through Telerate Monitor Service, by reference to the relevant screen page or either or both its successor page and service) as at 11.00 a.m. on the day on which quotations are ordinarily given by banks for delivery on the first day of such period or if quotations would ordinarily be given for such period on more than one day then the last day on which quotations are given; or <li style="margin-left: 20px;">(ii) if no published reports referred to in paragraph (i) are available, to the nearest whole multiple of one sixteenth per cent of the rate at which the issuers of the bank letters appearing in the Financial Proposals bid for deposits by prime banks in the London interbank market on

or about 11 a.m. (London time) on the day on which quotations are ordinarily given by banks for delivery on the first day of such period in the relevant currency for a period equal to such period and in amount comparable with the amount of the payment to be made provided that if that arithmetic mean cannot be determined for any reason whatsoever, then the rate shall be determined by reference to the cost to each of those banks of obtaining deposits in an amount and currency equal to the amount of the payment from such sources as each such bank shall determine;

"LIBOR"

means in relation to any period in respect of which a payment is made under this Agreement, the arithmetic mean rounded upwards if necessary:

- (i) to the nearest five decimal places of one per cent of the rates at which Sterling deposits are offered by selected prime banks for such period as published or reported by BBAIRS (through Telerate Monitor Service, by reference to the screen page 3750 or either or both its successor page and service) as at 11.00 a.m. on the day on which quotations are ordinarily given by banks for delivery on the first day of such period; or
- (ii) if no published rates referred to in paragraph are available, to the nearest whole multiple of one sixteenth per cent of the rates at which three major UK clearing banks bid for deposits by prime banks in the London interbank market on or about 11.00a.m. (London time) on the day on which quotations are ordinarily given by banks for delivery on the first day of such period in the relevant currency for a period equal to such period and in amount comparable with the amount of the payment to be made provided that if that arithmetic mean

cannot be determined for any reason whatsoever, then the rate shall be determined by reference to the cost to each of those banks of obtaining deposits in an amount and currency equal to the amount of the payment from such sources as each such bank shall determine;

"London & Continental Stations & Property Limited" or "LCSP"	means London & Continental Stations & Property Limited, a company incorporated in England and Wales under number 3145418 as having its registered office at 183 Eversholt Street, London NW1 1AY;
"London Stock Exchange"	means London Stock Exchange Limited;
"M2 Junction 2 Extra Works"	means the works described in paragraph 2.2 of Appendix 7 [Minimum Requirements for Works at M2 Junction 2] to Schedule 11;
"M2 Works"	means the road and bridge construction and widening works which may be undertaken concurrently for the M2 motorway during the investigation, design, construction and commissioning of HS1;
"MML"	means Midland Main Line Limited a company incorporated in England and Wales under number 3007934 and having its registered office at Euston House, 24 Eversholt Street, London NW1 1DZ;
"Modification"	means an addition or modification to, change in, or replacement or renewal of the CTRL Works, plant, equipment and facilities used by LCR or its Elemental Associates arising from any Change in Circumstances but excluding those arising under paragraphs 5 and 6 of Schedule 2 [Legislative Change and Government's Change respectively] and for the purpose of, or incidental to, the maintenance or operation of HS1 or the conduct of the EPS Business;
"Non-Construction Minimum Requirements"	means the continuing minimum requirements in relation to safety, environmental, access and operational issues as set out in Schedule 5 [Non-Construction Minimum Requirements];

"Non CPO Land"	means any interest in land in respect of which compulsory purchase powers will not be exercisable under the CTRL Act as a consequence of the identity of the owner of that interest;
"Operations Interface Agreement"	means the agreement entered into or to be entered into by (inter alia) URS and HS1 Ltd identifying guiding principles and aspects of the operation of Section 1 and Section 2;
"Operational Period"	means the period commencing on Financial Close and ending two years after the issue of the Final Permit to Use in accordance with Clause 9.16 [Permit to Use];
"Original Form"	means the Development Agreement as if the provisions of the First Supplemental Agreement and Second Supplemental Agreement had not been entered into;
"Parliamentary Process"	means those procedural stages which the Hybrid Bill underwent prior to receiving Royal Assent;
"Peak Hours"	are those hours namely 07.00 to 10.30 and 16.00 to 18.30 expressed in local time (Mondays to Fridays other than those days on which there is no passenger service timetabled) during which international passenger trains either depart from or pass through the stations or control points set out below:- Stations: London - Waterloo and St Pancras; Brussels - Gare du Midi; Paris - Gare du Nord; Lille (originating trains only); Stratford; and Ebbsfleet. Control Points: London - Kensington Olympia and also the Boundary of West Hampstead and CTRL Signal

Control Areas;

Paris - Marne la Vallee Chessy Station and LGV Est Junction with the Paris Interconnection; and

Brussels - Gare du Midi;

"Permanent Works"

means the permanent works to be designed, constructed, completed and commissioned by LCR in accordance with this Agreement;

"Permit to Use"

means the authorisation for the commercial use of a Section or Stage of HS1 to be issued by the Project Representative pursuant to Clause 9.16 [Permit to Use];

"Permitted Group Reorganisation"

means a reorganisation previously approved in writing by the Secretary of State pursuant to which the whole or any part of the shares, assets or liabilities of LCR are transferred to an Associate of LCR or, as the case may be, the whole or part of the shares, assets or liabilities of such transferee Associate are transferred to an Associate of such transferee Associate so that:-

- (a) any such transferee shall, where the Secretary of State deems it appropriate, enter into a deed in a form reasonably satisfactory to the Secretary of State by which it undertakes to be bound by the obligations on the part of LCR to be performed under this Agreement and the Project Agreements;
- (b) references above to shares, assets or liabilities being "transferred" shall be deemed to include a reference to any sale, assignment, novation or other disposal of such shares, assets or liabilities and any arrangement whereby such shares, assets and liabilities are held by one party in trust for another,
- (c) provided that such approval will not be unreasonably withheld or delayed in the case of a reorganisation for bona fide fiscal reasons where the ultimate voting control of LCR and the Associate to whom the shares, assets and liabilities are

	transferred are vested in the same person;
"Planning Act"	means the Town and Country Planning Act 1990;
"Plant"	means machinery, apparatus, equipment, materials and the like intended to form or forming part of HS1 including all maintenance equipment which may or may not be mounted on rail track but excluding all rolling stock;
"Pre-Financing Period"	means the period from 28th February 1996 to Financial Close;
"Pre-Tax Free Cashflow"	means, for a period, the amount determined in accordance with Appendix 2 to Schedule 4 [Financial Proposals];
"Procurement Procedure"	means the procedure for procurement in accordance with the requirements of paragraph 4 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Programme"	means the timetable for the Project referred to in paragraph 6 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Project"	means the design, construction and financing of HS1, the maintenance of the CTRL Assets and their operation;
"Project Agreements"	means those agreements referred to in Clause 2.3 [Project Agreements];
"Project Manager"	means the person appointed by LCR under paragraph 3 of section A of Part 2 of Schedule 7 [Liaison Procedures];
"Project Monitoring Conditions"	means the procedures to be applied as set out in Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Project Quality Manager"	means the person so appointed in accordance with paragraph 4 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Project Representative"	means the person so appointed in accordance with Clause 5.3 [Project Representative];
"Project Review Procedure"	means the procedure whereby submissions are

	made to the Project Representative as set out in paragraph 3 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Proposals"	means the proposals submitted on behalf of LCR to the Secretary of State referred to in Recital 3 in this Agreement updated to and submitted as at 15th December 1995;
"Proposed Substitute"	has the meaning given to it in the Direct Agreements, of whom the Secretary of State approves in accordance with the provisions of the Direct Agreements;
"Public Highway Network"	means the network of highways maintainable at public expense as defined in the Highways Act 1980;
"Public Sector Obligations"	means the support and assistance given by either or both BRB and the Secretary of State in relation to the business and operations of EIL under those arrangements and agreements, as set out in Section 2 [Public Sector Obligations] of Schedule 3;
"Public Sector Support"	means the payments and other support in relation to the Project made by or on behalf of the Secretary of State and more particularly set out in Section 1 [Public Sector Support] of Schedule 3;
"Quality Assurance Procedures"	means the procedures to be developed pursuant to paragraph 4 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Quality Manuals"	means the manuals, handbooks and similar instructions outlining the general procedures to be adopted by LCR and its Subsidiaries including EIL in ensuring that HS1 is constructed and maintained to an appropriate quality and operated to an appropriate standard;
"Rail Regulator"	means the officer known as "the Rail Regulator" appointed from time to time by the Secretary of State under Section 1 of the Railways Act 1993;
"Railtrack"	means RT Group PLC a public limited company incorporated in England and Wales under number 02904614 and having its registered

office at Hill House, 1 Little New Street, London EC4A 3TR;

"Railtrack Agreements"

means the following agreements each dated the 3rd April 1996:-

- (a) the Framework Access Amendment Agreement entered into by the Secretary of State, CTRL Ltd and Network Rail Infrastructure;
- (b) the Protective Provisions Agreement entered into by the Secretary of State and Network Rail Infrastructure;
- (c) the Works Agreement entered into by the Secretary of State and Network Rail Infrastructure;
- (d) the Operations Agreement entered into by the Secretary of State and Network Rail Infrastructure;
- (e) the Maintenance Agreement entered into by the Secretary of State and Network Rail Infrastructure;
- (f) the Thameslink Agreement;
- (g) the Railtrack Property Agreement; and
- (h) the Master Agreement entered into by the Secretary of State and Network Rail Infrastructure;

"Railtrack Attachment Point"

means the sum of £2,245,300,000 nominal;

"Railtrack Property Agreement"

means the agreement entered into by the Secretary of State and Network Rail Infrastructure relating to the acquisition of land interests from Network Rail Infrastructure;

"Railtrack's Infrastructure"

means the infrastructure of railway lines, stations and terminals, signalling and other systems currently owned or to be owned by Network Rail Infrastructure;

"Rail Usage Contract"

means the contract between the Channel Tunnel Group Limited and France Manche S.A. of the one part and BRB and SNCF of the other part

dated 29th July 1987, whereby BRB and SNCF obtained the benefit of certain capacity of the Channel Tunnel upon the terms and conditions set out in that contract and includes the special agreements or arrangements made under or by reference to it;

"Reference Average Journey Time"

means the journey times for passenger trains set out in the following table:-

Journey times in minutes	without HSI		with HSI	
	Down	Up	Down	Up
Waterloo – Cheriton	71	71	51½	50
Fawkham Jn – Cheriton	-		23½	22
St Pancreas – Cheriton	-	-	32	32
St Pancreas – Stratford	-	-	6½	6½
St Pancreas – Ebbsfleet	-	-	14	14
Waterloo – Ashford	59	59	47	46½
St Pancreas – Ashford	-	-	27½	28½
Stratford – Cheriton	-	-	28	28
Ebbsfleet – Ashford	-	-	16½	16½
Ebbsfleet – Cheriton	-	-	21½	20
Stratford – Ebbsfleet	-	-	10	10
Ashford – Cheriton	13	13	8½	7½
where: "Cheriton" means "northern Channel Tunnel portal at Cheriton"; Cheriton and Fawkham Jn are "control points"; all the journey times indicated above include a 5% allowance; and these journey times are non-stop (no dwell times included).				

"Reference Date"

means 28th February 1995;

"Reference Interest Rate"

means the annual rate of interest which is calculated at LIBOR;

"Relevant Change in Law"

has the meaning given to it in paragraph 2.1 of Schedule 2 [Change in Circumstances];

"Relevant Change in Taxation"

has the meaning given to it in paragraph 2.2 of Schedule 2 [Change in Circumstances];

"Relevant Date"

means for Section 1 31st December 2020 and for Section 2 31st December 2025;

"Relevant Taxes"

means all present and future taxes, levies,

	imposts, duties, fees, deductions, withholdings or charges of whatever nature (including without limitation corporation tax, income tax, value added tax, uniform business rate and stamp duty) payable at the instance of or imposed by any Competent Authority;
"Request for Change"	means the formal request to be made by either party for a Change;
"Reserved Agreements"	means the agreements listed in Parts 1 and 2 of the Appendix to this Schedule 1;
"Reserved Capacity Station Access Charges"	has the meaning given to it in Section 4 [Access Charges] of Schedule 19;
"Reserved Capacity Track Access Charges"	has the meaning given to it in Section 4 [Access Charges] of Schedule 19;
"Reserved Domestic Capacity Services"	has the meaning given to it in Section 3 [Requirements for the Secretary of State's Reserved Domestic Capacity Services] of Schedule 19;
"Revenue Sharing Protocols"	means those protocols of agreement made respectively between BRB, SNCB and SNCF which came into force on the 6th March 1992 and between BRB and SNCF which came into force on 26th June 1993 and any future agreement between BRB or EIL and either or both SNCB and SNCF which supplements or replaces them;
"RPI"	means the General Index of Retail Prices (all items) (or any identical index under a different title) officially published from time to time by the Central Statistical Office of the Department of the Environment (or any other government department, ministry or other body upon which the duties in connection with such index may be devolved) and contained in the monthly Digest of Statistics. If the General Index of Retail Prices shall cease to be published or shall be materially changed in its method of compilation then there shall be substituted for that General Index a new index to be used for calculations in this paragraph (the "Revised Index") provided that if the Secretary of State and LCR are unable to agree the Revised Index then the Disputes

	Resolution Procedure shall be utilised to determine an appropriate index;
"Safety Audit"	means the audit to be carried out pursuant to paragraph 8.10 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"SCIP"	means the Intellectual Property (including but not limited to the software and source codes) relating to the signalling and control systems for HS1;
"Schedule 2 Model"	means the computer model which shall be used to calculate any additional financial support pursuant to Schedule 2;
"Section"	means either Section 1 or Section 2;
"Section 1"	means that part of HS1 between Cheriton and Fawkham Junction;
"Section 1 Conditional Track Access Agreement"	means the agreement to be entered into prior to Financial Close between URS, CTRL (UK) and EIL relating to access by EIL to Section 1 of HS1;
"Section 1 Construction Period"	means the period from the first grant of Access to CTRL Lands for the purposes of Section 1 after F2 as the same may be adjusted pursuant to Clause 9.12 [Delay beyond Date for Completion] to the date of the issue of the Permit to Use in respect of Section 1 under Clause 9.16 [Permit to Use];
"Section 1 Purchase Agreement"	means the agreement for the purchase of the assets of URS entered into or to be entered into between LCR, URS and CTRL (UK);
"Section 1 RTK Direct Agreement"	means the agreement entered into or to be entered by the Secretary of State, LCR, URS, CTRL (UK), Railtrack and Network Rail Infrastructure;
"Section 2 RTK Direct Agreement"	means the agreement entered into or to be entered by the Secretary of State, LCR, HS1 Ltd, CTRL (UK) and Railtrack;
"Section 1 Target Construction Costs"	means £1929.4 million nominal (based on a 1st October 1998 construction start date);

"Section 1 Works"	means the CTRL Works in respect of Section 1 including certain works more particularly described in [Part Two of Schedule 13] (the "Section 2 Enabling Works") which are necessary to enable the Section 1 Works to be connected to the Section 2 Works;
"Section 2"	means that part of HS1 between Southfleet and London St Pancras station (including, unless expressly stated otherwise, any Stage);
"Section 2 Conditional Track Access Agreement"	means the agreement to be entered into prior to Financial Close between HS1 Ltd and EIL relating to access by EIL to Section 2 of HS1;
"Section 2 Construction Period"	means the period from the first grant of Access to CTRL Lands for the purposes of Section 2 after FC3 as the same may be adjusted pursuant to Clause 9.13 [Delay beyond Date for Completion] to the date of the issue of the Final Permit to Use under Clause 9.16 [Permit to Use];
"Section 2 Option Agreement"	means the agreement for the grant of an option to purchase the assets of HS1 Ltd between LCR, HS1 Ltd and CTRL (UK);
"Section 2 Target Construction"	means £3302.8 million nominal and will operate on the same basis mutatis mutandis as for Section 1;
"Section 2 Works"	means the CTRL Works in respect of Section 2 including, subject to paragraph 2.2.1 of Appendix 2 to Schedule 11, the LCR Western Ticket Hall Works;
"Senior Representative"	means, in the case of LCR or any other company or corporation, its chairman of the board and, in the case of the Secretary of State, a senior official of Grade 5 or above nominated by him;
"Short Term Lease of St Pancras"	means the short term lease of London St Pancras station and Chambers dated 31st May 1996 granted by the Secretary of State to London & Continental Stations & Property Limited;
"SNCB"	means La Societe Nationale des Chemins de Fer Belges;

"SNCF"	means La Societe Nationale des Chemins de Fer Francais;
"Specialist Agreements"	means those agreements made or to be made between the respective parties to the two existing Revenue Sharing Protocols under and in accordance with their respective terms;
"Special Shareholder"	has the meaning appearing in the Articles of Association of LCR;
"Specification"	means the specification defined in the Construction Proposals and any modification thereof or addition thereto as may from time to time be furnished or approved in accordance with the provisions of this Agreement or the Project Agreements;
"Sponsors"	means: <ul style="list-style-type: none"> (a) Ove Arup & Partners of 13 Fitzroy Street, London W1P 6BQ; (b) Bechtel Limited of 245 Hammersmith Road, London W6 8DP; (c) Sir William Halcrow & Partners Limited of Vineyard House, 44 Brook Green, London W6 7BY; (d) National Express Group Plc of Worthy Park House, Abbotsworthy, Winchester SO21 1AN; (e) S.G. Warburg & Co Ltd of 1&2 Finsbury Avenue, London EC2M 2PA; (f) Systra S.A. of 5, Avenue du Coq 75009 Paris, France; (g) London Electricity Plc of Templar House, 81-87 High Holborn, London WC2V 6NU; and (h) French Railways Limited of 2 Crane Court, Fleet Street, London EC4A 2BL;
"St Pancras Deed of Easement"	means the deed of easement dated 25th April 1996 entered into between BRB and Network Rail Infrastructure in relation to the track and

	other infrastructure at London St Pancras station;
"St Pancras Terminus"	means that part of the CTRL Works included in those elements set out in paragraph 3 of Schedule 13;
"Stage"	means any stage of Section 2 proposed by LCR to be the subject of a separate Permit to Use, in respect of which a separate Permit to Use is issued in accordance with Clause 9.16;
"Station Access Agreements"	means the three station access agreements each to be entered into prior to Financial Close between HS1 Ltd and EIL and relating to access by EIL to St Pancras station, Ebbsfleet station and Stratford station respectively;
"Station Operations Agreement"	means the station operations agreement dated 19th April 1996 entered into between BRB and MML relating to the operation of certain facilities and amenities at London St Pancras station and novated by BRB to London & Continental Stations & Property Limited pursuant to a deed of novation dated 31st May 1996 made between BRB, MML and London & Continental Stations & Property Limited;
"Stratford Box"	means the structure to be constructed at Stratford Station within a retained cutting as described in Work No. 6 of Schedule 1 to the CTRL Act with provision for two dedicated platforms for International Services and two separately dedicated platforms for domestic and rail services the general location of which is indicated on drawing No. HOOEX/5623200/0001 as referred to in Appendix 11 of Schedule 11;
"Stratford Demarcation Agreement"	means the agreements to be entered into between the Secretary of State and Network Rail Infrastructure confirming the boundaries of the lands owned by them at Stratford to be negotiated by LCR on behalf of the Secretary of State in accordance with paragraph 13 of Schedule 17 [Land Provisions];
"Stratford Lands"	means all that land at Stratford shown for identification only edged red on the plan marked "Stratford" annexed hereto as Appendix 5 [Plan

to the Stratford Lands] to Schedule 17 and including the site of part of the proposed Leyton Relief Road (and subject to the proposals therefor) but excluding:-

- (a) the railway lines and any other land included or to be included and more particularly defined as Railtrack's land in the Stratford Demarcation Agreement (other than any land transferred by Network Rail Infrastructure in consequence of the exercise of provisions for diversion or relocation of Network Rail Infrastructure's operational interests to be contained in the Stratford Demarcation Agreement or any separate arrangements to like effect procured by the Secretary of State);
- (b) all railway tunnels beneath the land together with a sleeve of (3) metres of sub-soil around such tunnels (except to the extent that such sleeve is within one metre of the surface of the land);
- (c) any land to be included in the CTRL Lease (Section 2);
- (d) any railway land forming part of the London Underground system or the Docklands Light Railway; and
- (e) any land transferred to Railtrack in consequence of the exercise of provisions for diversion or relocation of Network Rail Infrastructure's operational interests to be contained in the Stratford Demarcation Agreement or any separate arrangements to like effect procured by the Secretary of State;

"Stratford Station"

means the railway station to be built at Stratford E15 and which is the subject matter of an application referred to in Clause 4.5 [Stratford Station Application];

"Subsequent Shareholder"

has the meaning given in the articles of association of LCR;

"Subsidiary"	shall be defined as in Part XXVI of the Companies Act;
"Substituted Transfer"	means any arrangement or series of arrangements whereby the benefit and burden of this Agreement is transferred from LCR to a Proposed Substitute in accordance with any of the Direct Agreements;
"Surplus Land"	means the land referred to in Clause 8.2.1;
"Target Construction Cost"	means the Section 1 Target Construction Costs or, as the case may be, the Section 2 Target Construction Costs;
"Taxable Amount"	means the amount determined in accordance with paragraph 11.5 of Schedule 2 [Change in Circumstances];
"Taxation"	includes all present and future taxes, levies, imposts, duties, fees, deductions, withholdings or charges of whatever nature (including, without limitation, corporation tax, income tax, value added tax, uniform business rates and stamp duty) payable at the instance of and imposed by a local common, municipal, governmental, state, federal or other body or authority in the United Kingdom or elsewhere and any interest or penalties thereon and Taxation chargeable includes Taxation which would have been so chargeable but for the utilisation or set off of some relief from Taxation (including, without limitation, trading losses, capital allowances, charges on income and group relief);
"Technical Panel"	means the panel referred to as the Technical Panel in the Disputes Resolution Procedure;
"Temporary Works"	means all works and things of every kind (other than construction plant and machinery and other than the Permanent Works) required in or about the execution and completion of the CTRL Works;
"Thameslink"	means Thameslink Rail Limited a company incorporated in England and Wales under number 3013232 and having its registered office at 3 rd Floor, 41-51 Grey Street, Newcastle Upon

	Tyne NE1 6EE;
"Thameslink Agreement"	means the agreement dated 3rd April 1996 entered into by the Secretary of State and Network Rail Infrastructure establishing procedures relating to certain works as defined in that agreement;
"Thameslink Enabling Works"	means those works defined as such in the Thameslink Agreement;
"Ticketing and Settlement Agreements"	means: <ul style="list-style-type: none"> (a) the ticket retailing agreement to be entered into between EIL, BRB and BRB's Subsidiaries which are train operating companies; (b) the clearance agreement to be entered into between EIL and Rail Settlement Plan Limited; and (c) the clearance agreement to be entered into between EIL, British Rail International Limited and Railway Settlement Plan Limited;
"Traffic Certificate"	means a certificate issued by the Project Representative under paragraph 8.4 of Part 2 of Appendix 8 [Project Monitoring Conditions] to Schedule 11;
"Transec"	means the division of the Department responsible for the development and implementation of security programmes on air, marine and rail transport, including the Channel Tunnel;
"TWA"	means the Transport and Works Act 1992;
"UIC"	means Union Internationale des Chemins de Fer;
"URL Transfer Agreement"	means the agreement dated 31st May 1996 entered into between the parties to this Agreement whereby the whole of the issued share capital of CTRL Ltd is transferred to LCR upon the terms set out in that agreement;

PART 3: New Definitions

"Economic Benefit Agreement"	means the agreement between the Secretary of State, CTRL (UK) and Railtrack Group PLC relating to the sharing of exceptional gains on Section 1;
"LCR (CTRL) Agreement"	means the agreement between the Secretary of State and LCR which shall become effective once the S1 Concession Agreement and the S2 Concession Agreement have become effective by way of replacement at that time for the Development Agreement;
"LE Agreements"	means:- Umbrella Agreement made between the Secretary of State, London and Continental, CTRL (UK), London Electricity Services Limited, EIL, URS, HS1 Ltd and London Electricity PLC EDS Master Agreement made between London and Continental, EIL, London Electricity PLC, and London Electricity Services Limited Section 1 Master Agreement made between LCR, URS, London Electricity PLC and London Electricity Services Limited Section 2 Master Agreement made between LCR, HS1 Ltd, London Electricity PLC and London Electricity Services Limited Section 1 Construction Agreement made between URS and London Electricity Services Limited Section 2 Construction Agreement made between HS1 Ltd and London Electricity Services Limited Section 1 Distribution Agreement made between URS, London Electricity PLC and London Electricity Services Limited Section 2 Distribution Agreement made between HS1 Ltd, London Electricity PLC and London

Electricity Services Limited

EDS Distribution Agreement made between LCR, EIL, London Electricity PLC and London Electricity Services Limited

Side Letter concerning Financial Model made between URS and London Electricity Services Limited

Side Letter concerning Financial Model made between HS1 Ltd and London Electricity Services Limited

LE Suite of Agreements Deed between the Secretary of State, LCR, CTRL (UK), London Electricity Services Limited, EIL, URS, HS1 Ltd and London Electricity PLC

"LUL Completed Works"

means the infrastructure resulting from the completion of the LUL Works;

"LUL Framework Access Agreement" or "LUL FAA"

means an agreement to be entered into between LUL, Railtrack and the Secretary of State for the purpose of developing arrangements, inter alia, under which LUL will obtain possessions of Railtrack's Infrastructure required for the design or construction of the LUL Works, and under which Railtrack will be indemnified in respect of certain costs;

"LUL Maintenance Agreement"

means an agreement to be entered into between the Secretary of State, LUL and Railtrack which shall establish the maintenance responsibilities and the related processes and approvals in relation to those relevant structures and apparatus which form part of the LUL Works, the LUL Completed Works or Railtrack's Infrastructure and in respect of the maintenance of which both LUL and Railtrack have an interest;

"LUL Protective Provisions Agreement"

means an agreement to be entered into between the Secretary of State, LUL and Railtrack containing such provisions as may be agreed between the parties to protect Railtrack's interests in relation to the construction, maintenance and operation of the LUL Works;

"LUL Suite"	means the LUL Framework Access Agreement, the LUL Maintenance Agreement, the LUL Protective Provisions Agreement and the LUL Works Agreement;
"LUL Works"	means the works authorised by Part 1 of the CTRL Act for which LUL is appointed nominated undertaker pursuant to the Channel Tunnel Rail Link (Nomination) (London Underground Works) Order 1999;
"LUL Works Agreement"	means an agreement to be entered into between the Secretary of State, LUL and Railtrack which shall regulate the manner in which the works for construction of the LUL Works affecting Railtrack's Infrastructure and associated protective and enabling works shall be carried out.
"Operations Interface Agreement"	means where F3 Completion occurs the agreement between URS, HS1 Ltd, CTRL (UK) and the Secretary of State for the purposes of regulating aspects of the operation of HS1 as an integrated network;
"Operator Agreement"	means the agreement between HS1 Ltd and CTRL (UK) for the provision of operation, maintenance, renewal and management services in respect of Section 1 and Section 2;
"Railway Services Agreement"	means the agreement between HS1 Ltd and CTRL (UK) pursuant to which CTRL (UK) would provide to HS1 Ltd certain railway services for the purposes of facilitating the Section 2 works and the operation and maintenance of Section 2;
"RTUK Direct Agreement"	means the Section 1 RTK Direct Agreement as amended by the Supplemental Agreement listed at A3.1 of Schedule 5;
"S1 Concession"	means the rights and benefits conferred on CTRL (UK) pursuant to the S1 Concession Agreement;
"S2 Concession"	means the rights and benefits conferred on HS1 Ltd pursuant to the S2 Concession Agreement;

"S1 Concession Agreement"	means the CTRL Lease (Section 1) (as defined in the Section 1 Agreement) and, until such time as it is terminated in accordance with its provisions, the Section 1 Agreement;
"S2 Concession Agreement"	means the CTRL Lease (Section 2) (as defined in the Section 2 Agreement) and, until such time as it is terminated in accordance with its provisions, the Section 2 Agreement;
"Section 1 Agreement"	means the agreement entered into between CTRL (UK) and the Secretary of State pursuant to which the Secretary of State confers the S1 Concession upon CTRL (UK);
"Section 2 Agreement"	means the agreement entered into between HS1 Ltd and the Secretary of State pursuant to which the Secretary of State confers the S2 Concession upon HS1 Ltd;
"Securitisation Framework Agreement"	means the agreement between the Secretary of State, URS, CTRL (UK), Railtrack Group PLC, EIL and LCR relating to the securitisation or financing secured on the Section 1 track access charges;
"Shared Assets Agreement"	means the agreement between the Secretary of State, CTRL (UK), HS1 Ltd, URS and Network Rail Infrastructure relating to the sharing of certain assets relating to HS1;
"St Pancras Concession Agreement"	means the concession agreement relating to St Pancras Station to be entered into between HS1 Ltd, CTRL (UK) and London and Continental Stations and Property;
"Supplemental Performance Guarantee Deed"	means the deed entered into between RTG, LCR, URS, HS1 Ltd and EIL supplemental to the RTG Performance Guarantee;
"URN Direct Agreement"	means the document listed at A7.5 of Schedule 5.
"URN Suite"	means the agreements relating to the interface between Section 2 and Railtrack's Infrastructure and set out at paragraphs B5.1 to 5.5 of Schedule 5;
"URS Suite"	means the agreements relating to the interface

between Section 1 and Railtrack's Infrastructure and set out at paragraphs B6.1 to 6.5 of Schedule 5.

SCHEDULE 4:

INTERPRETATION AND CONSTRUCTION PROVISIONS OF FRAMEWORK AGREEMENT

1. The headings and marginal notes and references to them in this Agreement shall not be deemed to be part of this Agreement or be taken into consideration in the interpretation or construction of this Agreement.
2. References to clauses, sections, appendices, annexes, paragraphs and sub-paragraphs are references to clauses, sections, appendices, annexes, paragraphs and sub-paragraphs contained in the schedules of this Agreement.
3. References to drawings with a reference number refer to the drawings and reference numbers set out in the relevant part of this Agreement.
4. Words importing persons or parties shall include firms, partnerships, corporations and any organisations having legal capacity. Where the context so requires words importing the singular only also include the plural and vice versa and words importing the masculine shall be construed as including the feminine or the neuter or vice versa.
5. Wherever in this Agreement provision is made for the giving or issuing of any notice, endorsement, consent, approval, certificate or determination by any person, unless otherwise specified, such notice, endorsement, consent, approval, certificate or determination shall be in writing and the words "notify," "endorsed," "consent," "approved," "certified," or "determined" shall be construed accordingly.
6. This Agreement is an English text agreement and shall be construed and interpreted accordingly. All correspondence, drawings, Design Data, test reports, certificates, specifications and information shall be entirely in the English language. All operating and maintenance instructions, name and rating plates, identification labels, instructions and notices to the public and staff and all other written and printed matter required for operation and maintenance shall be executed in the English language, and in such other languages as the parties to this Agreement shall think appropriate.

7. References to any agreement or documents include (subject to all relevant approvals) a reference to that agreement or document as amended, supplemented, substituted, novated or assigned.
8. Any reference to a public organisation shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation.
9. The words in this Agreement shall bear their natural meaning. The relevant parties have had the opportunity to take legal advice on this Agreement and no term shall, therefore, be construed *contra proferentum*.
10. Unless the context otherwise requires, references to, or to any provision of, any treaty, statute, directive, regulation, decision, order, instrument, by-law, or other law of, or having effect in, any jurisdiction ("Laws") shall be construed also as references to all other Laws made under the Law referred to and to all such Laws as amended, re-enacted, consolidated or replaced or as their application is modified by other laws from time to time, and whether before or after the date of this Agreement.
11. The meanings attributed to Capital Grant, Deferred Grant and Domestic Capacity Charge shall each include interest as referred to in clause 6 of the Development Agreement.
12. In the definition of LIBOR the references to a payment made or to be made shall include a reference to a sum of money to which LIBOR is to be applied whether or not that sum is or is to be the subject of a payment.

SCHEDULE 5:

FORM OF TRAIN OPERATOR ACCESSION AGREEMENT FOR CLAUSE 8

THIS SUPPLEMENTAL AGREEMENT is made on []

BETWEEN:-

- (1) [], a company incorporated [with limited liability] under the laws of [] [(registered number)] and having its [registered office] at [] (the "**New Party**"); and
- (2) HS1 Limited, a company incorporated in England and Wales under No. 03539665, whose registered office is 73 Collier Street, London, N1 9BE (the "**Authorised Party**") on its own behalf and on behalf of all the other parties to the Disputes Resolution Agreement referred to below.

WHEREAS:-

- (A) By an agreement dated 18 February 1999 (as amended from time to time) made between the parties named therein and the Authorised Party, the parties thereto agreed to give effect to and be bound by certain rules and procedures for the resolution of disputes relating to High Speed 1 (the "**Disputes Resolution Agreement**");
- (B) The New Party wishes to enter into an access agreement with the Authorised Party for access to all or part of High Speed 1; and
- (C) It is a condition of the New Party having access to all or part of High Speed 1 that it shall become a party to the Disputes Resolution Agreement.

NOW IT IS HEREBY AGREED as follows:-

1. Unless the context otherwise requires, words and expressions defined in the Disputes Resolution Agreement shall bear the same meanings respectively when used herein.
2. The Authorised Party (acting for itself and on behalf of each of the parties) hereby admits the New Party as an additional party under the Disputes Resolution Agreement on the terms and conditions hereof and with effect from [insert effective date of admission].
3. The New Party hereby accepts its admission as a party and undertakes with the Authorised Party (acting for itself and on behalf of each of the parties) to perform and to be bound by the terms and conditions of the Disputes Resolution Agreement as a party as from the [insert effective date of admission].
4. For all purposes in connection with the Disputes Resolution Agreement the New Party shall as from the [insert effective date of admission] be treated as if it had been a signatory of the Disputes Resolution Agreement and as if this Supplemental Agreement was part of the Disputes Resolution Agreement and the rights and obligations of the parties shall be construed accordingly.
5. This Supplemental Agreement and the Disputes Resolution Agreement shall be read and construed as one document and references in the Disputes Resolution Agreement to the Disputes Resolution Agreement (howsoever expressed) shall be read and construed as references to the Disputes Resolution Agreement and this Supplemental Agreement.
6. This Supplemental Agreement and any non-contractual obligations connected with it shall be governed by and construed in all respects in accordance with English Law and the provisions of Clause 20 of the Disputes Resolution Agreement shall apply hereto.

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first above written.

[New Party]

By:

Notice details

Address:

Facsimile No: .

[] for itself and
on behalf of each of the parties to the
Disputes Resolution Agreement

By:

- (C) Pursuant to Clause 13 of the Disputes Resolution Agreement, HS1 Ltd, Network Rail Infrastructure and The Secretary of State consent to the Additional Party becoming, and the Additional Party wishes to become, a party to the Disputes Resolution Agreement and to enter into this Deed upon the terms set out below.

WITNESSETH AS FOLLOWS:

1. Expressions defined in the Disputes Resolution Agreement shall (unless the context otherwise requires) have the same meaning when used in this Deed.
2. HS1 Ltd, Network Rail Infrastructure and The Secretary of State hereby consent to the addition of the Additional Party as a party to the Disputes Resolution Agreement. The Additional Party shall become a party to the Disputes Resolution Agreement with effect from [].
3. The Additional Party hereby undertakes to and covenants with all the parties to the Disputes Resolution Agreement (including any persons who have become parties thereto by any other deed of adherence) to observe, perform and be bound by the provisions of the Disputes Resolution Agreement as if the Additional Party were a party to the Disputes Resolution Agreement.
4. For the purposes of this Deed, notice to the Additional Party shall be given at the address and facsimile number set out below:

[] Attention

[] Address

[] Facsimile Number
5. This Deed may be executed in any number of counterparts, all of which taken together shall constitute one and the same deed.
6. The provisions of Clauses 14, 15 and 20 of the Disputes Resolution Agreement shall *mutatis mutandis* apply to this Deed.

7. This Deed and any non-contractual obligations connected with it shall be governed by and construed in all respects in accordance with English Law.

IN WITNESS whereof the parties have duly executed this document as a deed the day and year first above written.

SCHEDULE 7:

ADDITIONAL PARTIES AND NOTICE DETAILS FOR ALL PARTIES

Notice details of parties' addresses for Clause 17

Name and details	Notice details
The Secretary of State , Major Projects, Great Minster House, 76 Marsham Street, London SW1P 4DR	For the attention of Gareth Williams Address: Major Projects Great Minster House, 76 Marsham Street, London SW1P 4DR Fax number 020 7944 2608
London & Continental Railways Limited , a company incorporated in England and Wales under number 2966054, whose registered office is at 3 rd Floor, 183 Eversholt Street, London NW1 1AY	For the attention of: Company Secretary Address: 3 rd Floor, 183 Eversholt Street, London NW1 1AY Fax number: 020 7391 4400
Union Railways (South) Limited , a company incorporated in England and Wales under number 3540185, whose registered office is at 3 rd Floor, 183 Eversholt Street, London, NW1 1AY	For the attention of: Company Secretary Address: 3 rd Floor, 183 Eversholt Street, London NW1 1AY Fax number: 020 7391 4400
HS1 Limited , a company incorporated in England and Wales under number 3539665, whose registered office is at 73 Collier Street, London, N1 9BE	For the attention of: Company Secretary Address: 73 Collier Street, London N1 9BE Fax number: 020 7014 2799
CTRL (UK) Limited , a company incorporated in England and Wales under number 3578740, whose registered office is at 73 Collier Street, London, N1 9BE	For the attention of: Company Secretary Address: 73 Collier Street, London N1 9BE Fax number: 020 7014 2799

Name and details	Notice details
<p>Eurostar International Limited, a company incorporated in England and Wales under number 2462001, whose registered office is at Times House, Bravingtons Walk, London N1 9AW</p>	<p>For the attention of: Company Secretary</p> <p>Address: Times House, Bravingtons Walk, London N1 9AW</p> <p>Fax number: 08705 186 186</p>
<p>London & Continental Stations & Property Limited, a company registered in England and Wales under number 3145418, whose registered office is at 3rd Floor, 183 Eversholt Street, London NW1 1AY</p>	<p>For the attention of: Company Secretary</p> <p>Address: 3rd Floor, 183 Eversholt Street, London NW1 1AY</p> <p>Fax number: 020 7391 4400</p>
<p>Channel Tunnel Rail Link Limited, a company incorporated in England and Wales under number 02315379, whose registered office is at 3rd Floor, 183 Eversholt Street, London NW1 1AY</p>	<p>For the attention of: Company Secretary</p> <p>Address: 3rd Floor, 183 Eversholt Street, London NW1 1AY</p> <p>Fax number: 020 7391 4400</p>
<p>LCR Finance PLC, a company incorporated in England and Wales under number 3608329 whose registered office is at 3rd Floor, 183 Eversholt Street, London NW1 1AY</p>	<p>For the attention of: Company Secretary</p> <p>Address: 3rd Floor, 183 Eversholt Street, London NW1 1AY</p> <p>Fax number: 020 7391 4400</p>
<p>Network Rail Limited, a company incorporated in England and Wales under number 4402220, whose registered office is at Kings Place, 90 York Way, London, N1 9AG</p>	<p>For the attention of: Company Secretary</p> <p>Address: Kings Place, 90 York Way, London N1 9AG</p> <p>Fax number: 020 3356 9245</p>
<p>Network Rail Infrastructure Limited, a company incorporated in England and Wales under number 2904587, whose registered office is at Kings Place, 90 York Way, London, N1 9AG</p>	<p>For the attention of: Company Secretary</p> <p>Address: Kings Place, 90 York Way, London N1 9AG</p> <p>Fax number: 020 3356 9245</p>

Name and details	Notice details
<p>Network Rail (CTRL) Limited, a company incorporated in England and Wales under company number 04434562, whose registered office is at Kings Place, 90 York Way, London N1 9AG</p>	<p>For the attention of: Company Secretary</p> <p>Address: Kings Place, 90 York Way, London N1 9AG</p> <p>Fax number: 020 3356 9245</p>
<p>East Midlands Trains Limited, a company incorporated in England and Wales under number 5340682 whose registered office is at Friars Bridge Court, 41-45 Blackfriars Road, SE1 8NZ</p>	<p>For the attention of: Company Secretary</p> <p>Address: Friars Bridge Court, 41-45 Blackfriars Road, SE1 8NZ</p> <p>Fax Number: 0207 983 6148</p>
<p>First Capital Connect Limited, a company incorporated in England and Wales under number 5281077, whose registered office is at 50 Eastbourne Terrace, Paddington, London W2 6LG</p>	<p>For the attention of: Company Secretary</p> <p>Address: 50 Eastbourne Terrace, Paddington, London W2 6LG</p> <p>Fax Number: 020 7427 2235</p>
<p>London & South Eastern Railway Limited, a company incorporated in England and Wales under company number 04860660, whose registered office is at 3rd Floor, 41-51 Grey Street, Newcastle Upon Tyne, Tyne & Wear NE1 6EE</p>	<p>For the attention of: Company Secretary</p> <p>Address: 3rd Floor, 41-51 Grey Street, Newcastle Upon Tyne, Tyne & Wear NE1 6EE</p> <p>Fax Number: 0207 620 5284</p>
<p>DB Schenker Rail (UK) Limited, a company incorporated in England and Wales under company number 02938988, whose registered office is at Lakeside Business Park, Carolina Way, Doncaster, South Yorkshire DN4 5PN</p>	<p>For the attention of: Company Secretary</p> <p>Address: Lakeside Business Park, Carolina Way, Doncaster, South Yorkshire DN4 5PN</p> <p>Fax Number: 0870 140 5005</p>

SCHEDULE 8:

DISPUTES RESOLUTION PROCEDURE

General

1. In this Schedule the following terms shall have the meanings set out opposite them except where the context otherwise requires:-

"Adjudication Rules"	means the set of rules set out in Appendix 1 to this Schedule 8
"Agreement"	means the agreement of which this Schedule forms a part
"Business Day"	means any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971
"Connected Agreement"	means any agreement other than this Agreement which provides for the resolution of disputes by reference to this disputes resolution procedure (but does not include a DRP Construction Contract)
"Construction Dispute"	means any dispute which relates directly to the design and construction of the CTRL Works or LUL Works or the maintenance of the CTRL Assets or otherwise relates to construction operations as that term is defined in the Housing Grants Construction and Regeneration Act 1996
"Contract Administrator"	means any person or individual appointed under this Agreement to administer any of its terms, including the issue of any endorsement, certificate, opinion, finding, instruction, notice, statement of objection, requirement, determination or decision pursuant to this Agreement

"Dispute"	means a difference or dispute of whatsoever nature arising out of or in connection with this Agreement
"Dispute Parties"	means in relation to a Dispute, all parties directly involved in such Dispute, including without limitation, the party serving, and the recipient or recipients of, an original notice of dispute served pursuant to either paragraph 1.1 of the Adjudication Rules or paragraph 2.1 of the Panel Rules and "Dispute Party" shall mean any one such party
"DRP Affiliate"	means a company or firm which, in relation to specified entity in question, is: <ul style="list-style-type: none"> (A) a company or firm in which 50 (fifty) percent or more of the share capital or voting interests are owned or held directly or indirectly by the entity; (B) a company or firm which directly or indirectly owns or holds 50 (fifty) percent or more of the share capital or voting interests in the entity; or (C) a company or firm in which 50 (fifty) percent or more of the share capital or voting interests are owned or held directly or indirectly by a company or firm falling within subparagraph (B) above.
"DRP Construction Contract"	means a contract or contracts entered into or to be entered into by URS, HS1 Ltd, LCR, CTRL Ltd or their DRP Affiliates: <ul style="list-style-type: none"> (A) for the design, construction, completion and commissioning for all or part of the CTRL Works; and (B) for the supply of all goods, materials, equipment and/or services for the CTRL Works or for HS1;

- (C) for special services (as referred to in Section 2.3 of Appendix A of the RLE Agreement and the RLE Section 1 Agreement), including but not being restricted to ground engineering investigations and special services (including but not being restricted to gas holder removal for Section 2 of HS1 Works, Railtrack modifications and diversions, infrastructure maintenance, ecological services and archaeological investigations) and utility diversions (including but not being restricted to gas, telecommunications, water, sewage and power);
- (D) for the provision of services for the design and construction of HS1 Works as set out in the agreements entitled the RLE (Section 1) Agreement (between (1) ICI and (2) Ove Arup & Partners, Bechtel Limited, Sir William Halcrow & Partners Limited and Systra ("RLE")), the Memorandum of Agreement relating to Section 2 (between CTRL (UK), RLE, HS1 Ltd and LCR) and the RLE Second Variation Agreement (between RLE and LCR); and
- (E) any agreement collateral to a DRP Construction Contract in favour of URS, HS1 Ltd, LCR, CTRL Ltd or their DRP Affiliates.

"DRP Contractor"

means each or any of URS, HS1 Ltd, LCR, CTRL Ltd or the DRP Affiliates in its capacity as a party to a DRP Construction Contract

"Financial Panel"

means a panel established from time to time pursuant to paragraph 11.1.2(B) as it may be

"LIBOR"

means in relation to any period in respect of which interest is awarded under this Agreement, the arithmetic mean rounded upwards if necessary:-

- (i) to the nearest five decimal places of one per cent of the rates at which Sterling deposits are offered by selected prime banks for such period as published or reported by BBAIRS (through Telerate Monitor Service, by reference to the screen page 3750 or either or both its successor page and service) as at 11.00 am on the day on which quotations are ordinarily given by banks for delivery on the first day of such period or if quotations would ordinarily be given for such period on more than one day then the last day on which quotations are given; or
- (ii) if no published reports referred to in paragraph (i) are available, to the nearest whole multiple of one sixteenth per cent of the rate at which the issuers of the bank letters appearing in the Financial Proposals bid for deposits by prime banks in the London interbank market on or about 11 am (London time) on the day on which quotations are ordinarily given by banks for delivery on the first day of such period in the relevant currency for a period equal to such period and in amount comparable with the amount of the payment to be made provided that if that arithmetic mean cannot be determined for any reason whatsoever, then the rate shall be

determined by reference to the cost of each of those banks of obtaining deposits in an amount and in currency equal to the amount of the payment from such sources as each bank shall determine

"Operational Dispute"	means any Dispute which is not a Construction Dispute but which is a Dispute of an operational nature other than a Dispute which arises under or in connection with an Access Contract (save to the extent that the HS1 ADRR provide for the resolution of such Dispute pursuant to this Schedule)
"Operational Panel"	means a panel established from time to time pursuant to paragraph 11.1.2(A) as it may be changed from time to time pursuant to paragraph 9
"Panel"	means a Technical Panel, a Financial Panel or an Operational Panel as the case may be
"Panel Rules"	means the set of rules set out in Appendix 2 to this Schedule 8
"Reference Interest Rate"	means the annual rate of interest which is calculated at LIBOR
"Relevant Financial Panel"	has the meaning given to that term in paragraph 7 of Annex I to the Panel Rules
"Relevant Operational Panel"	has the meaning given to that term in paragraph 7 of Annex II to the Panel Rules
"Relevant Panel"	means the Relevant Financial Panel or the Relevant Operational Panel (as the case may be)
"Relevant Technical Panel"	has the meaning given to that term in paragraph 5 of the Annex to the Adjudication Rules
"Rules"	means either the Adjudication Rules or the Panel Rules, as the case may be
"Senior Representative"	means, in the case of a company or

corporation, its chairman of the board or chief executive or his nominee, in the case of the Secretary of State, a senior official of Grade 5 or above nominated by him, and in the case of a consortium or unincorporated association the chairman of the board of one of its members or his nominee acting with the express authority of the consortium or unincorporated association pursuant to its controlling provisions

"Technical Panel"

means a panel established from time to time pursuant to paragraph 11.1.1 as it may be changed from time to time pursuant to paragraph 9

2. If a Dispute arises at any time then save as expressly provided otherwise in this Agreement:
 - 2.1 if the Dispute is a Construction Dispute it shall be referred by a Dispute Party to a Technical Panel in accordance with the Adjudication Rules;
 - 2.2 if the Dispute is an Operational Dispute, it shall be referred by a Dispute Party to an Operational Panel in accordance with the Panel Rules; and
 - 2.3 if the Dispute is other than a Construction Dispute or an Operational Dispute, it shall be referred by a Dispute Party to a Financial Panel in accordance with the Panel Rules.
3. Not used.
 - 4.1 If the outcome of a Dispute referable to a Financial Panel or an Operational Panel may be affected to any material degree by the outcome of an unresolved Dispute which has been referred to a Technical Panel for adjudication pursuant to paragraph 2.1 above, no steps shall be taken in relation to the former Dispute until the latter dispute has been finally determined unless the Dispute Parties shall otherwise agree or:
 - 4.1.1 in the case of a Dispute referable to a Financial Panel, the nominating authority referred to in paragraph 4 of Annex I to the Panel Rules otherwise orders (such order being final and binding on the relevant Dispute Parties); or

- 4.1.2 in the case of a Dispute referable to an Operational Panel, the nominating authority referred to in paragraph 4 of Annex II to the Panel Rules otherwise orders (such order being final and binding on the relevant Dispute Parties).
- 4.2 If the outcome of a Dispute referable to a Financial Panel may be affected to any material degree by the outcome of an unresolved Dispute which has been referred to an Operational Panel, no steps shall be taken in relation to the former Dispute until the latter Dispute has been finally determined unless the Dispute Parties shall otherwise agree or the nominating authority referred to in paragraph 4 of Annex I to the Panel Rules shall otherwise order (such order being final and binding on the relevant Dispute Parties).
- 4.3 In the event of a disagreement between any Dispute Parties as to the Panel under which a Dispute or any particular issue(s) in such Dispute should be heard, the relevant Dispute Parties shall:
- 4.3.1 in the case of a Dispute commenced under the Adjudication Rules, send copies of the notices served under Adjudication Rules 1.1 and 2.1 to the nominating authority referred to in paragraph 3 of the Annex to the Adjudication Rules; or
- 4.3.2 in the case of a Dispute commenced under the Panel Rules, send copies of the notices served under Panel Rules 2.1 and 2.2 to:
- (A) the nominating authority referred to in paragraph 4 of Annex I to the Panel Rules where the original notice of dispute served under Panel Rule 2.1 contains a statement that the party serving such notice wishes to refer the dispute to a Financial Panel; or
- (B) the nominating authority referred to in paragraph 4 of Annex II to the Panel Rules where the original notice of dispute served under Panel Rule 2.1 contains a statement that the party serving such notice wishes to refer the dispute to a Operational Panel,

and in each case, such nominating authority shall decide which is the appropriate Panel under which the Dispute or any particular issue in such Dispute should be heard, with such decision being final and binding on the relevant Dispute Parties.

- 4.4 In the event of a disagreement between any Dispute Parties as to the sequence in which Disputes or issues in a Dispute should be decided, the parties shall, following the appointment of the applicable Panel, make representations to the

chairman of that Panel who shall decide the appropriate sequence and whose decision shall be final and binding on the relevant Dispute Parties.

- 4.5 Any Financial Panel, Technical Panel or Operational Panel shall be bound by the prior decisions of any Panel so far as they are material to a Dispute before them between the same parties save to the extent that the decision of the relevant Panel shall have been revised by a settlement agreement or arbitral award or court decision.
5. A decision of any Technical Panel, Operational Panel or Financial Panel shall be binding upon the relevant Dispute Parties unless and until the Dispute has either been settled or referred to arbitration as provided for in this Schedule and an arbitral award has been made. Except as expressly provided otherwise in this Agreement and except in respect of emergency injunctive relief by issue of proceedings in any Court of competent jurisdiction pending a reference under this Schedule, it shall be a condition precedent to the commencement of any action by issue of proceedings in any Court of competent jurisdiction and then only to enforce any decision of a Technical Panel, Operational Panel or Financial Panel, any arbitral award or settlement agreement that there shall have been either:-
 - 5.1 a decision of a Technical Panel;
 - 5.2 a decision of an Operational Panel;
 - 5.3 a decision of a Financial Panel;
 - 5.4 an arbitral award; or
 - 5.5 a settlement agreement between the parties to the Dispute
6. Unless the Dispute Parties otherwise agree in writing:-
 - 6.1 any concessions or waivers made by any Dispute Party in or in connection with proceedings before a Technical Panel, an Operational Panel or a Financial Panel or any concessions, waivers or agreements (other than a settlement agreement) made by any Dispute Party in the course of discussions pursuant to paragraph 12 between the Senior Representative of each of the Dispute Parties shall be without prejudice and shall not be raised by any Dispute Party in any subsequent

arbitration or other legal proceedings save with the consent of the other Dispute Party or Dispute Parties; and

- 6.2 no member of a Panel shall be called to give evidence in any subsequent arbitration.
7. Unless this Agreement has already been repudiated or terminated, the parties shall continue to comply with all their obligations under this Agreement regardless of the nature of the Dispute and the parties shall give effect forthwith to every decision of a Technical Panel, an Operational Panel and of a Financial Panel, except to the extent that the same shall have been revised by settlement agreement or arbitral award.

The Panel

- 8.1 Each Technical Panel shall conduct the reference and make its decisions in accordance with the Adjudication Rules. Each Operational Panel and Financial Panel shall conduct the reference and make their decisions in accordance with the Panel Rules.
- 8.2 Each Technical Panel, Operational Panel and Financial Panel, as the case may be, shall have power to open up, review and revise any endorsement, certificate, opinion, finding, instruction, notice, statement of objection, requirement, determination or decision of a Contract Administrator that may be given or made pursuant to this Agreement.
9. If any member of a Panel (including the chairman, or a single member Technical Panel acting as adjudicator) shall become unable or unwilling to act either at all or for such periods as to render it necessary or expedient for a replacement to be appointed or shall act in such a way towards or against any Dispute Party that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the member of the Panel was biased (the "**Relevant Panel Member**"), the following procedures shall apply;
 - 9.1 any Dispute Party may give notice in writing to all of the members of the applicable Panel and the other Dispute Parties of the need to replace the Relevant Panel Member; and
 - 9.2 without prejudice to the right of any other Dispute Party to dispute such appointment pursuant to paragraph 9A below, the appointment of the Relevant

Panel Member shall be revoked and a new member of the Panel appointed in accordance with the Disputes Resolution Procedure.

- 9A If any other Dispute Party disputes that it is necessary or expedient to replace the Relevant Panel Member or as to whether the Relevant Panel Member has acted in such a way towards or against any Dispute Party that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Relevant Panel Member was biased, it shall give notice in writing of such dispute to all of the members of the applicable Panel and the other Dispute Parties within five Business Days of receipt of the notice given under paragraph 9.1 above. Such dispute shall be determined upon the application of any Dispute Party by the High Court, whose decision shall be final and binding on the parties. If the High Court determines that the Relevant Panel Member should not be replaced, the appointment of the Relevant Panel Member shall be reinstated and any appointment of a new Panel member under paragraph 9.2 above shall be revoked. If a Dispute Party does not give a notice under this paragraph within the time limit prescribed, it shall be deemed to have agreed that the Relevant Panel Member should be replaced.
- 9B Following the service of a notice by a Dispute Party pursuant to paragraph 9.1 above and until such date as either the Relevant Panel Member has been replaced or it has been agreed or determined that such replacement is not required, the applicable Panel shall not be entitled to make any decision in relation to the relevant Dispute and any such decision which is made by the Panel shall not be binding upon the Dispute Parties.
10. If an appointment to a Financial Panel or an Operational Panel is made pursuant to paragraph 9.2 above or the High Court determines pursuant to paragraph 9A above that the Relevant Panel Member should be replaced then the relevant Dispute Parties shall be deemed to have agreed that the time limit under Panel Rule 7.1 shall be extended by such number of days as may be necessary to give the replacement Panel member 21 days from the date of his appointment, or, if later, the date of the High Court's determination, to consider the Dispute referred to the Panel.

11.1

11.1.1 At the same time as the service of an original notice of dispute pursuant to Adjudication Rule 1.1, the Dispute Parties shall establish a Technical Panel in accordance with the Annex to the Adjudication Rules; or

11.1.2 Following the service of an original notice of dispute pursuant to Panel Rule 2.1, the Dispute Parties shall establish either:

- (A) an Operational Panel in accordance with Annex II to the Panel Rules where such original notice indicates that the party serving such notice wishes to refer the dispute to an Operational Panel; or
- (B) a Financial Panel in accordance with Annex I to the Panel Rules where such original notice indicates that the party serving such notice wishes to refer the dispute to a Financial Panel.

11.2 Each Panel shall be maintained until such time as it has given its decision pursuant to this Dispute Resolution Procedure subject always to Adjudication Rule 5.7 and Panel Rule 7.8.

Procedure for amicable settlement

12. If a Dispute Party wishes to contest a decision of a Technical Panel, a Financial Panel or an Operational Panel appointed to resolve the relevant Dispute, then that party shall, or if the applicable Technical Panel, Financial Panel or Operational Panel has failed to make any decision in accordance with Adjudication Rule 5.1 or Panel Rule 7.1 (as the case may be) then a Dispute Party may, within 21 days after the decision or where there has been no decision within 21 days after the end of the period within which the relevant Rules require the decision to be made, refer the Dispute by notice in writing to the Senior Representatives of the parties who shall meet and endeavour to resolve the issues between them. The joint and unanimous decision of those Senior Representatives shall be binding upon the Dispute Parties but if they are unable to agree within 28 days of the reference to them then any party to the Dispute may require the Dispute to be referred to arbitration.

Arbitration

13. Subject always to paragraph 12 above, and save as expressly provided for elsewhere in this Agreement, a Dispute Party may require the relevant Dispute to be referred to arbitration in the event that it wishes to contest the decision of the Technical Panel, Financial Panel or Operational Panel appointed to resolve such Dispute or in the event that such Panel fails to make any decision in accordance with Adjudication Rule 5.1 or Panel Rule 7.1 (as the case may be).
14. Disputes referable to arbitration under paragraph 13 shall be referred to one arbitrator to be appointed by the LCIA Court. References of those Disputes shall be conducted in accordance with the LCLA arbitration rules (1998) ("**LCIA Rules**") or any amendment or modification of those rules in force at the date of such reference, save as varied or supplemented in this Schedule. In making an appointment, the LCIA Court shall have due regard to any submissions made pursuant to paragraph 15(b) below.

15. The seat of arbitration for any Dispute pursuant to paragraph 14 shall be London or such other place in England as the parties to the Dispute agree in writing. In addition to the requirements of the LCIA Rules:
- (a) each Request for Arbitration shall state that it is made pursuant to the relevant Clause and Schedule of this Agreement;
 - (b) where it is foreseeable that paragraph 16 may apply, irrespective of whether a dispute under a Connected Agreement or a DRP Construction Contract has yet been referred to a Panel, the request for arbitration or the response shall contain a statement to this effect together with an outline of the issues which might arise out of or in relation to a Connected Agreement or a DRP Construction Contract which would be substantially the same as or connected with issues in the Dispute. The statement shall identify the Connected Agreement or DRP Construction Contract concerned and the parties to it and provide such other information as may be relevant to the appointment of a suitable arbitrator. In this case, the request or response shall be copied at the same time to any other party referred to in such statement (provided they are also a party to a Connected Agreement) and any such party may make representation to the LCIA Court within 14 days of the service of the response concerning the appointment of the arbitrator.
16. Where a dispute arising under, out of or in connection with a Connected Agreement or a DRP Construction Contract (a "Connected Dispute") has been referred to the relevant Panel, the Panel has given its decision (or the time within which such decision should have been given has elapsed without a decision having been given) and the Dispute Parties have complied with paragraph 12 and where the dispute raises issues which are substantially the same as or connected with issues raised in a Dispute which has been referred to arbitration under this Agreement (a "Referred Dispute"), then, notwithstanding anything to the contrary contained in the LCIA Rules:-
- 16.1 any party to the Connected Dispute who is also a party to a Connected Agreement may refer the Connected Dispute to the arbitrator to whom the Dispute has been referred on the basis that the arbitrator shall have the powers described in paragraph 16.2;
 - 16.2 the arbitrator shall have the power to make such directions and all necessary awards in the same way as if the procedure of the High Court as to joining third parties, the ordering of concurrent hearings and the consolidation of actions was available to the parties to the Dispute and the Connected Dispute and to him;

- 16.3 the arbitrator to whom the Dispute has been referred shall decide any dispute as to whether issues raised in the Connected Dispute are substantially the same as or connected with issues raised in the Dispute and his decision shall be final, conclusive and binding; and if any party having knowledge of the matters referred to in paragraph 16 elects not to refer a Connected Dispute under paragraph 16.1, that party shall thereafter be estopped from joining any other party to the Referred Dispute to any proceedings of any kind in relation to the issues concerned (but, for the avoidance of doubt, nothing in this paragraph 16.3 shall prevent that party referring a dispute with that other party in proceedings between it and that other party alone).
17. In the event that a Dispute referable to arbitration pursuant to this Agreement raises issues which are substantially the same as or connected with issues raised in a dispute which has been referred to arbitration pursuant to a Connected Agreement, then, notwithstanding anything to the contrary in the LCIA Rules; any part to this Agreement may refer the Dispute to the arbitrator to whom the dispute has been referred on the basis that the arbitrator shall have the powers described in paragraphs 16.2 and 16.3.
- 17A. If any proceedings have been commenced under the HS1 ADRR ("**ADRR Proceedings**") and any party to those ADRR Proceedings is required under any provision of this Agreement, or of any Connected Agreement, to become party to any arbitration under or pursuant to this Disputes Resolution Procedure in which issues which are substantially the same as or connected with those in the ADRR Proceedings are to be determined, then upon written notice given by that party to all parties to both sets of proceedings and any arbitrators appointed in either proceedings:
- (a) the ADRR Proceedings shall be discontinued by all parties; and
 - (b) notwithstanding anything in the LCIA Rules, the disputes in question in those ADRR Proceedings shall be referred to and finally determined by the arbitrator to whom the dispute has been referred under this Agreement, or any Connected Agreement, on the basis that that arbitrator shall have the powers set out in paragraphs 16.2 and 16.3 above.
18. Save as expressly otherwise provided, the arbitrator shall have full power to open up, review and revise any endorsement, decision, opinion, instruction, notice, statement of objection, finding, determination, requirement or certificate of a Contract Administrator related to the Dispute or the dispute and any decision of a Technical Panel, Financial Panel and/or Operational Panel and to order the rectification of this Agreement and of any Connected Agreement or DRP

Construction Contract, and of any agreement made between the parties pursuant thereto subject to any rule of law which would restrict this power.

19. Notwithstanding any provision in the LCIA Rules to the contrary and in addition to all the powers given to the arbitrator by the LCIA Rules and by statute, the arbitrator shall (unless the Dispute Parties agree otherwise at the time of the reference) have the following powers (which he shall exercise having regard to his duties under Section 33 of the Arbitration Act 1996):

19.1 to proceed, to make an award on the basis only of documents submitted by the parties to the Dispute;

19.2 to proceed, to make an award on the basis of affidavit evidence alone without hearing oral evidence; and

19.3 to proceed, to make an award for the whole or part of the amount of any claim or counterclaim on an expedited basis.

20. A past or present member of a Panel shall not be eligible for appointment as an arbitrator unless the parties otherwise agree in writing.

21. Not used.

22. EUROPEAN CONVENTION ON HUMAN RIGHTS

22.1 The parties acknowledge and agree that this Disputes Resolution Procedure complies with Article 6 of the European Convention on Human Rights and hereby waive to the fullest extent possible any and all objections to the Disputes Resolution Procedure based upon non-compliance or violation of Article 6 of that Convention.

APPENDIX 1

ADJUDICATION RULES

1. Commencement

1.1 A party may commence a reference under these rules by serving an original notice of the issue in dispute upon the other party or parties to the Dispute. An original notice shall include:-

1.1.1 a concise summary of the nature and background of the Dispute and the issues arising;

1.1.2 a statement of the relief claimed;

1.1.3 a statement of any matters which the parties to the Dispute have already agreed in relation to the procedure for determination of the Dispute;

1.1.4 copies of all documents which have an important and direct bearing on the issues and on which the claimant intends to rely (or a list of those documents if they are already in the possession of the recipient of the notice);

1.1.5 a statement to that effect if the party considers that, once appointed, the Technical Panel should appoint a legal assessor pursuant to Adjudication Rule 3.3; and

1.1.6 confirmation that the Dispute is a Construction Dispute.

1.2 At the same time as it serves an original notice of dispute pursuant to Adjudication Rule 1.1 above, the party serving such notice shall comply with the requirements of paragraph 2 of the Annex to these Adjudication Rules in respect of the appointment of the Relevant Technical Panel and the referral of the Dispute to it.

2. Procedure

2.1 The recipient or recipients of an original notice shall, if it or they intend to dispute the notice, serve a counter notice within seven days of the referral of the Dispute to the Relevant Technical Panel. A counter notice shall include:-

- 2.1.1 a concise summary of that recipient party's case, including details of any response to the claims raised in an original notice and of any counterclaim;
- 2.1.2 a statement of the relief claimed against the party serving the original notice or against any other party to this Agreement or pursuant to Adjudication Rule 8.2;
- 2.1.3 the like details and documents required by Adjudication Rules 1.1.3, 1.1.4. and 1.1.5; and
- 2.1.4 a statement as to whether the recipient party agrees or does not agree that the Dispute is a Construction Dispute and, if he does not agree that it is a Construction Dispute, whether he considers that the Dispute should be referred to an Operational Panel or a Financial Panel.

Where a statement of the relief claimed is against a party upon whom an original notice was not served under Adjudication Rule 1 then the party claiming relief shall serve a copy of the original notice and counter notice upon that party as if it were a notice under Adjudication Rule 1.1 and the provisions of this Adjudication Rule 2.1 shall apply to that other party (subject to Adjudication Rule 8.2).

- 2.2 Following the receipt of a counter notice under Adjudication Rule 2.1, each Dispute Party may make one written submission to the Relevant Technical Panel, a copy of which shall be sent to the other Dispute Party or Dispute Parties within seven days of the expiry of the time limit for service of the counter notice. Any such submission shall include a list of those witnesses who would be available if requested by the Relevant Technical Panel to attend any oral examination that may be called by the Relevant Technical Panel. Subject to Adjudication Rules 3.4 and 3.5, no other written submissions to the Relevant Technical Panel will be permitted. Subject to Adjudication Rules 2.4, 3.2, 3.4 and 3.5, no oral submissions or representations by the parties will be permitted. The Relevant Technical Panel shall consider all written submissions and representations made in accordance with these rules, which for the avoidance of doubt includes video, photographic and computer generated evidence and any permitted oral submissions or representations in reaching its decision.
- 2.3 Subject always to Adjudication Rule 2.2, the Relevant Technical Panel shall have the widest discretion permitted by law to determine its procedure (including without limitation delegation by the Relevant Technical Panel of the power to make procedural rulings to its chairman) and to ensure the just, expeditious and economical determination of the Dispute after such investigation as the Relevant Technical Panel may think fit provided that the Relevant Technical Panel shall

adopt all and any procedures agreed in writing by the Dispute Parties to be appropriate for the determination of a Dispute.

- 2.4 Without prejudice to the generality of Adjudication Rule 2.3, the chairman of the Relevant Technical Panel shall decide whether or not to convene a hearing in order to examine witnesses or otherwise take oral evidence from witnesses or proceed to determine the Dispute on a documents-only basis subject to the right of each Dispute Party to make representations to the chairman of the Relevant Technical Panel in relation to such matters.
- 2.5 The chairman of the Relevant Technical Panel shall fix the date, time and place of any meetings, hearings, inspections, tests, examinations or enquiries which the Relevant Technical Panel deems appropriate, and shall give the Dispute Parties and other members of the Relevant Technical Panel reasonable notice of those particulars.
- 2.6 The chairman of the Relevant Technical Panel may in advance of any hearing submit to the Dispute Parties a list of questions which he wishes their witnesses to treat, with special attention.
- 2.7 All meetings, hearings or inspections shall be in private unless the Dispute Parties agree otherwise.
- 2.8 Each Dispute Party may appoint representatives to appear on its behalf at a hearing, subject to such proof of authority as the Relevant Technical Panel may require.
- 2.9 The Relevant Technical Panel shall owe a duty to each of the Dispute Parties to act impartially.

3. Witnesses

- 3.1 Before any hearing to examine witnesses or other oral examination of witnesses, the Relevant Technical Panel may require the Dispute Parties to exchange or provide statements of evidence to be given by those witnesses by a time specified by the Relevant Technical Panel in advance of the hearing.

- 3.2 The Relevant Technical Panel may allow, refuse or limit the appearance of witnesses, whether witnesses of fact or expert witnesses, save where the Dispute Parties have jointly agreed in writing that the Relevant Technical Panel should hear the evidence of specified witnesses, in which case the Relevant Technical Panel shall hear that evidence and, pay due regard to it.
- 3.3 If a statement by a Dispute Party has been made pursuant to Adjudication Rule 1.1.5, the Relevant Technical Panel shall appoint a legal assessor to provide legal advice as appropriate upon the matters in issue to the Relevant Technical Panel. The Relevant Technical Panel may commission advice from a legal assessor or expert evidence to be prepared and adduced by a witness independent of the Dispute Parties. Unless otherwise agreed by the Dispute Parties not more than one legal assessor and two such other witnesses may be called.
- 3.4 Any witness who gives oral evidence at a hearing or other oral examination may be questioned only by the Relevant Technical Panel provided always that the Dispute Parties shall be entitled at the end of the hearing of such oral evidence to request the Relevant Technical Panel for leave to make submissions to the Relevant Technical Panel in respect of any such evidence and if the Relevant Technical Panel shall grant such leave it shall decide whether such submissions shall be oral or in writing and shall stipulate the time within which such submissions are to be made.
- 3.5 The Relevant Technical Panel may allow the evidence of a witness to be presented in written form either as a signed statement or by a duly sworn affidavit. Any Dispute Party may make representations that such a witness should attend for oral examination by the Relevant Technical Panel at a hearing or other oral examination. If the Relevant Technical Panel so orders, and if the witness fails to attend, the Relevant Technical Panel may place such weight on the written evidence as it thinks fit, or exclude it altogether.

4. **Powers of the Relevant Technical Panel**

- 4.1 Without prejudice to Adjudication Rule 2.3 and to any powers which may be given to the Relevant Technical Panel elsewhere in these Adjudication Rules or in this Agreement, the Relevant Technical Panel shall have power:
- (a) to examine any witness or conduct an inspection of any property or thing relevant to the Dispute or dispute in the absence of any or any other representative of the Dispute Parties or any other person;

- (b) at any time to permit any Dispute Party to amend any submissions subject always to informing the other Dispute Parties of the proposed amendment and permitting comments from such other Dispute Parties upon the proposed amendment;
- (c) to continue with the reference in default of appearance or of any act by any of the Dispute Parties in like manner as a judge of the High Court might continue with proceedings in that court where a party fails to comply with an order of that court or a requirement of rules of court (including, for the avoidance of doubt and without limitation, power to strike out any claim, defence, counterclaim or other submission and to make any decision consequent upon any striking out), in the event a Dispute Party fails within the time specified in these Adjudication Rules, or in any order, to do any act required by these Adjudication Rules or to comply with any order;
- (d) to order a Dispute Party to produce to any other Dispute Party and to the Relevant Technical Panel for inspection, and to supply copies of any documents which do not have legal privilege in that party's possession, custody or power, which, in the event of dispute, the Relevant Technical Panel determines to be relevant;
- (e) to order a Dispute Party to answer interrogatories on the application or any other Dispute Party;
- (f) to order the inspection, preservation, storage, interim custody, sale or other disposal of any property or thing relevant to the Dispute or dispute under the control of any Dispute Party;
- (g) to make orders authorising any sample to be taken, or any observation to be made, or experiment to be tried which may, in the Relevant Technical Panel's discretion, be necessary or expedient for the purpose of obtaining full information or evidence; and
- (h) to require the Dispute Parties to provide a written statement of their respective cases in relation to particular issues, to provide a written answer to those statements and to give reasons for any disagreement.

4.2 For the avoidance of doubt, nothing in these Adjudication Rules shall be taken as conferring power upon the Relevant Technical Panel to order a Dispute Party or a

representative of a Dispute Party to give evidence (whether in person or by way of documentary or similar evidence) or do anything else which could not be ordered if the proceedings were before the High Court.

5. **Decisions**

- 5.1 Subject to Adjudication Rules 7.3.1 and 8.4.1, the Relevant Technical Panel shall make its decision within 28 days of the date of the reference of the Dispute to it or within such other period as the Dispute Parties may agree in writing. The Relevant Technical Panel may extend the period of 28 days by up to 14 days with the consent of the party responsible for serving the original notice of dispute in accordance with Adjudication Rule 1.1.
- 5.2 Where the Relevant Technical Panel acts as adjudicator, a decision of the Relevant Technical Panel may be made by majority of the Relevant Technical Panel members, but if there is no majority the decision may be made by the chairman.
- 5.3 The Relevant Technical Panel shall deliver its decision in writing. Unless the Dispute Parties otherwise agree in writing, the Relevant Technical Panel shall give reasons for the decision and any reasons for dissent shall be given. The decision shall be dated and signed or otherwise acknowledged in writing by all members of the Relevant Technical Panel. Where a single member Technical Panel acts as adjudicator, he shall deliver his decision in writing and, unless the Dispute Parties otherwise agree, shall give reasons for his decision. The decision shall be dated and signed by him.
- 5.4 If a member of the Relevant Technical Panel refuses or fails to sign or acknowledge the decision, the signature of the chairman shall be sufficient to bind the Dispute Parties provided that the reason for the omitted signatures is stated.
- 5.5 The Relevant Technical Panel may allow interest on any sum which is the subject of a decision at the Reference Interest Rate plus a margin of 1%, subject to such other rate, if any as this Agreement expressly provides.
- 5.6 Decisions of the Relevant Technical Panel shall be binding on the Dispute Parties as from the date upon which they are made.

- 5.7 The Relevant Technical Panel may correct a decision so as to remove any clerical mistake or error arising from an accidental slip or omission in or from the decision.

6. **Costs**

- 6.1 If the Relevant Technical Panel considers that anything has been done, or that any omission has been made, unreasonably or improperly by or on behalf of a Dispute Party, the Relevant Technical Panel shall have the power to make a decision in respect of liability for all or part of the costs of the reference including the charges and expenses of the Relevant Technical Panel, costs of an administrative nature (such as the hire of rooms) and the legal and other costs incurred by a Dispute Party in preparing and presenting its case to the Relevant Technical Panel, and to determine or assess the amount of those costs.
- 6.2 Subject to Adjudication Rule 6.1 the Dispute Parties shall bear equally the charges and expenses of the Relevant Technical Panel in relation to the Dispute including costs of an administrative nature (such as the hire of rooms).
- 6.3 Save as provided in Adjudication Rule 6.1, the Relevant Technical Panel shall not have the power to make a decision in respect of liability for the legal or other costs incurred by a party in preparing and presenting its case to the Relevant Technical Panel. Those costs shall be borne by the party incurring them.

7. **Joinder and Consolidation of Disputes and Concurrent Hearings**

- 7.1 If a dispute arises under, out of or in connection with a Connected Agreement to which the Secretary of State is not a party or a DRP Construction Contract (the "**Initial Dispute**") which, in either case, a Dispute Party intends to refer to a Technical Panel for determination the following shall apply:-
- 7.1.1 the party serving the original notice pursuant to Adjudication Rule 1.1 shall immediately inform the Secretary of State and serve copies of all notices served including any counter notice served pursuant to Adjudication Rule 2.1; and
- 7.1.2 within seven days of service of copies of the notices and any counter notice under Adjudication Rule 7.1.1, if the Secretary of State in his sole discretion considers that the issues in the reference are substantially the same as or connected with issues between the parties to any Agreement to which the Secretary of State the party (the "**Second Agreement**"), he may by notice served on all other parties to the Second Agreement, all of the

parties to the Connected Agreement or the DRP Construction Contract, and upon the Relevant Technical Panel established in relation to the Initial Dispute (once such Technical Panel has been appointed), require such rights, obligations and issues to be determined by the Relevant Technical Panel in a similar manner as if he were party to a High Court action under the provisions relating to third party and similar proceedings or the ordering of concurrent hearings or consolidation of proceedings.

7.2 A notice served under Adjudication Rule 7.1.2 shall include:-

7.2.1 a concise summary of the rights and obligations of or the issues between the Secretary of State and the parties to the Second Agreement, identifying the issues as between the parties to the Connected Agreement or the DRP Construction Contract which are substantially the same as or connected with the issues between the parties to the Second Agreement;

7.2.2 a statement of the decision requested by the Secretary of State; and

7.2.3 the like details and documents required by Adjudication Rule 2.1.3.

7.3 In the event of service of a notice under Adjudication Rule 7.2:

7.3.1 the parties to the Connected Agreement or the DRP Construction Contract may agree to extend the time limit for issue of a decision under the Dispute to expire 28 days after service of the notice;

7.3.2 the parties to the Connected Agreement or the DRP Construction Contract shall be permitted to make a written submission to the Relevant Technical Panel on any point of construction of the Second Agreement to the extent that it relates to the issues in dispute in relation to the Connected Agreement or the DRP Construction Contract;

7.3.3 the Relevant Technical Panel shall give a decision or decisions which shall bind the parties upon the issues between the parties to the agreements concerned; and

7.3.4 subject to any provision to the contrary in the Connected Agreement and to Adjudication Rule 6.1, the charges and expenses attributable to the reference shall be borne equally between the parties to the agreements concerned.

8.1 If an original notice is served by a party in accordance with Adjudication Rule 1 (the "**Original Dispute**"), any Dispute Party may immediately notify the parties to a Connected Agreement or to a DRP Construction Contract to which it is a party

or any party from whom he intends to seek a contribution under the Civil Liability (Contribution) Act 1978, forward a copy of the notice served and may forward copies of any other notices which are served in accordance with Adjudication Rule 1 (save for any documents contained in the notice which are already in the possession of the parties to the Connected Agreement or the DRP Construction Contract)

8.2 If a party giving or in receipt of a notice under Adjudication Rule 8.1 (provided he is also a party to a Connected Agreement) considers that the issues in the reference are substantially the same as or connected with issues between the parties to the Connected Agreement or the DRP Construction Contract or between the party giving and the party receiving the notice, he may within seven days of receiving notice under Adjudication Rule 1 or this Rule (as the case may be), by notice served on the parties to this Agreement and on the other parties to the Connected Agreement or the DRP Construction Contract and the chairman of the Relevant Technical Panel established in relation to the Original Dispute (once such Technical Panel has been appointed), require such rights, obligations and issues to be determined by that Relevant Technical Panel, in a similar manner as if he were party to a High Court action under the provisions relating to third party and similar proceedings or the ordering of concurrent hearings or consolidation of proceedings.

8.3 A notice served under Adjudication Rule 8.2 shall include:-

8.3.1 a concise summary of the rights and obligations of or the issues between the parties to the Connected Agreement or the DRP Construction Contract, identifying the issues in the Dispute to be referred to the Relevant Technical Panel which are substantially the same as or connected with the issues between the parties to the Connected Agreement or the DRP Construction Contract as the case may be;

8.3.2 a statement of the decision requested by the party to the Connected Agreement or the DRP Construction Contract; and

8.3.3 the like details and documents required by Adjudication Rules 1.1.3, 1.1.4 and 1.1.5.

8.4 In the event of service of a notice under Adjudication Rule 8.2:

8.4.1 the Dispute Parties may agree to extend the time limit for issue of a decision to expire 28 days after service of the notice; and

8.4.2 Adjudication Rules 7.3.2, 7.3.3 and 7.3.4 shall apply.

8.5 If a Dispute Party elects not to notify the parties to the Connected Agreement or the DRP Construction Contract pursuant to Adjudication Rule 8.1 or any party elects not to give notice pursuant to Adjudication Rule 8.2, such parties shall thereafter be estopped from joining the parties to this Agreement in any Panel or adjudication proceedings of any kind between the parties to the Connected Agreement or the DRP Construction Contract in relation to the issues concerned.

9. **Exclusion of Liability**

Neither the chairman nor any other member of the Relevant Technical Panel nor any agent nor any employee of the chairman or of any other member of the Relevant Technical Panel shall be liable to any Dispute Party for any act or omission in connection with any reference unless that act or omission was in bad faith.

10. **Notices**

10.1 Unless otherwise ordered by the Relevant Technical Panel, or agreed between the Dispute Parties, all notices required by these Adjudication Rules shall be in writing. A notice under Adjudication Rule 1.1 shall be served by first class post or delivered by hand. All other notices and written communications shall be sent by first class post, fax or delivered by hand.

10.2 Unless the intended recipient proves otherwise:

10.2.1 documents sent by first class post shall be deemed to have been received two Business Days after posting;

10.2.2 facsimiles shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and where within the period set out below there has been no telephonic communication by the recipient to the sender (to be confirmed in writing) that the facsimile has not been received in legible form and the periods are:-

(a) two hours after sending if sent on a Business Day and between the hours of 9 a.m. and 4 p.m;

- (b) 11 a.m. on the next following Business Day if sent after 4 p.m. on a Business Day but before 9 a.m. on that next following Business Day;

10.2.3 hand delivered documents shall be deemed to have been received at the time of delivery to the address stated on their face.

References in these Adjudication Rules to receipt of documents shall be construed accordingly.

- 10.3 Notices shall be effective from the time of receipt. Periods of time measured with reference to the giving, sending, or serving of a document shall be measured with reference to the time that document is received.
- 10.4 Unless otherwise ordered by the Relevant Technical Panel or agreed between the Dispute Parties, all notices and other documents received on a day which is not a Business Day or after 6 p.m. on any Business Day shall be deemed to have been received on the following Business Day.
- 10.5 Subject to Adjudication Rule 10.6, in every case in which a notice is sent to the chairman of the Relevant Technical Panel, a copy of the notice shall be sent to all other members of the Relevant Technical Panel and to the other Dispute Party or Dispute Parties.
- 10.6 Where the Dispute Parties have agreed that a single member Technical Panel shall act as adjudicator, a copy of any notice sent to the adjudicator shall be copied to the other Dispute Party or Dispute Parties.

ANNEX TO THE ADJUDICATION RULES

COMPOSITION OF A TECHNICAL PANEL

The object of the procedure in this Annex is to secure the appointment of a Technical Panel and the referral of a Dispute to it within seven days of a notice given under Adjudication Rule 1.1.

1. A Technical Panel shall consist of three members including the chairman unless the Dispute Parties agree that it shall consist of a single member acting as adjudicator (in which case the single member shall decide the Dispute and any further disputes referred to him under Adjudication Rules 7 and 8 and all references in this Disputes Resolution Procedure to a Technical Panel (or Relevant Technical Panel) or the chairman of a Technical Panel (or Relevant Technical Panel) shall unless the context otherwise requires be construed as a reference to the adjudicator).
2. At the same time as it serves an original notice of dispute pursuant to Adjudication Rule 1.1, or a notice replacing a member of a Technical Panel pursuant to paragraph 9.1 of the Disputes Resolution Procedure (each a "**Technical Panel Appointment Notice**"), the party serving such notice shall apply to the nominating authority identified below (copied to the other Dispute Parties) to appoint (as the case may be) either:
 - 2.1 all of the members of the Technical Panel and of one such person to act as its chairman; or
 - 2.2 the replacement member of the Technical Panel and, if such appointment replaces the existing chairman of that Panel, of one Panel member (which may include the new appointee) to act as its chairman,in each case within five days of the date of the Technical Panel Appointment Notice.
3. The nominating authority for the purpose of nominating members of a Technical Panel shall be the President for the time being of the Institution of Civil Engineers or in his absence the Vice-President for the time being of the said institution.
4. With a view to facilitating the nominating authority's task of identifying suitable candidates for nomination, any Dispute Party may forward to the nominating authority any relevant description which has been agreed by the Dispute Parties of the likely background and experience of a suitable nominee and/or of the likely issues which the nominee as a member of a Technical Panel would be required to decide. The nominating authority may have regard to the description but shall not

be bound by its terms. Subject to any such description, the nominating authority may have regard to the Dispute Parties' present intention that the members of a Technical Panel should be senior members of the engineering profession or of a similar background and who, so far as is reasonably practicable, possess between them expertise in the following particular areas:-

4.1 Railways:

- (a) Planning
- (b) Design
- (c) Procurement
- (d) Operations
- (e) Ticketing and Fare Collection
- (f) Maintenance

4.2 Civil and Structural Engineering:

- (a) Geotechnics and Foundations
- (b) Tunnelling
- (c) Land Drainage and Hydrology
- (d) Bridges and Viaducts
- (e) Alignments and Trackwork
- (f) Environmental Impact

4.3 E&M Engineering:

- (a) Train Control and Communications Systems
- (b) Traction Power Supplies and Current Collection
- (c) Tunnel Ventilation
- (d) Rolling Stock

5. Following the nomination of the members of a Technical Panel pursuant to paragraph 2 above, each of the proposed members of such Technical Panel shall confirm in writing to the Dispute Parties that he is willing and available to act and the Dispute Parties shall, as soon as practicable and in any event within seven days

of the date of the Technical Panel Appointment Notice, appoint such members on reasonable terms and conditions (the "**Relevant Technical Panel**").

6. The appointment of the Relevant Technical Panel shall take effect upon receipt by the Dispute Parties of confirmation from each member of the Panel that he is willing and available to act, whether or not the terms of his appointment have been accepted. Upon receipt of such confirmation, the Dispute Party who served the original notice of dispute under Adjudication Rule 1.1 shall give notice to the Relevant Technical Panel referring the Dispute to it. Such notice shall be accompanied by a copy of the original notice of dispute served under Adjudication Rule 1.1 and all the documents that were served with or referred to in it, together with a copy of the relevant terms of the agreement from which the Dispute arose, insofar as such terms have not already been included in the documents served with the original notice.

APPENDIX 2

PANEL RULES

1. **General**

- 1.1 These Panel Rules apply to any reference to a Financial Panel or an Operational Panel. In these rules, notwithstanding paragraph 1 of Schedule 8, the term "Panel" means a Financial Panel or an Operational Panel (as the case may be) and the term "chairman of a Panel" means, the chairman of a Financial Panel or an Operational Panel (as the case may be).

2. **Commencement**

- 2.1 A party may commence a reference under these rules by serving an original notice of the issue in dispute upon the other party or parties. An original notice shall include:-
- 2.1.1 a concise summary of the nature and background of the Dispute and the issues arising;
 - 2.1.2 a statement of the relief claimed;
 - 2.1.3 a statement of any matters which the parties to the Dispute have already agreed in relation to the procedure for determination of the Dispute;
 - 2.1.4 copies of all documents which have an important and direct bearing on the issues and on which the claimant intends to rely (or a list of those documents if they are already in the possession of the recipient of the notice);
 - 2.1.5 a statement to that effect if the party considers the Panel should appoint a legal assessor pursuant to Panel Rule 5.3; and
 - 2.1.6 a statement indicating whether the party wishes to refer the dispute to a Financial Panel or an Operational Panel.
- 2.2 The recipient or recipients of an original notice shall, if it or they intend to dispute the notice, serve a counter notice within seven days of receipt of an original notice. A counter notice shall include:-

- 2.2.1 a concise summary of that recipient party's case, including details of any response to the claims raised in an original notice and of any counterclaim;
- 2.2.2 a statement of the relief claimed against the party serving the original notice or against any other party to this Agreement or pursuant to Panel Rule 10.2;
- 2.2.3 the like details and documents required by Panel Rules 2.1.3, 2.1.4 and 2.1.5; and
- 2.2.4 a statement as to whether the recipient party agrees to the Dispute being referred to the Panel proposed by the originating party and, if not, as to whether the recipient party contends that the Dispute should be referred to another Panel (and, if so, which) or wishes to refer the Dispute directly to arbitration.

Where a statement of the relief claimed is against a party upon whom an original notice was not served under Panel Rule 2.1 then the party claiming relief shall serve a copy of the original notice and counter notice upon that party as if it were a notice under Panel Rule 2.1 and the provisions of this Panel Rule 2.2 shall apply to that other party.

3. **Quorum**

- 3.1 Unless the Dispute Parties agree otherwise in writing and subject to paragraph 7.2, the quorum for all proceedings of the Panel shall be all of its members (including the chairman) present in person.

4. **Procedure**

- 4.1 Following the appointment of the Relevant Panel in accordance with the provisions contained in the Annexes to these Panel Rules, each Dispute Party may make one written submission to the Relevant Panel, a copy of which shall be sent to the other Dispute Party or Dispute Parties, within seven days of the appointment of the Relevant Panel. Any such submission shall include a list of those witnesses who would be available if requested by the Relevant Panel to attend any oral examination that may be called by the Relevant Panel. Subject to Panel Rules 5.4 and 5.5, no other written submissions to the Relevant Panel will be permitted. Subject to Panel Rules 4.3, 5.2, 5.4 and 5.5, no oral submissions or representations by the parties will be permitted. The Relevant Panel shall consider all written submissions and representations made in accordance with these rules, which for the avoidance of doubt includes video, photographic and

computer generated evidence and any permitted oral submissions or representations in reaching its decision.

- 4.2 Subject always to Panel Rule 4.1 the Relevant Panel shall have the widest discretion permitted by law to determine its procedure (including without limitation delegation by the Relevant Panel of the power to make procedural rulings to its chairman) and to ensure the just, expeditious and economical determination of the Dispute after such investigation as the Relevant Panel may think fit provided that the Relevant Panel shall adopt all and any procedures agreed in writing by the Dispute Parties to be appropriate for the determination of a Dispute.
- 4.3 Without prejudice to the generality of Panel Rule 4.2, the chairman of the Relevant Panel shall decide whether or not to convene a hearing in order to examine witnesses or otherwise take oral evidence from witnesses or proceed to determine the Dispute on a documents-only basis subject to the right of each Dispute Party to make representations to the chairman of the Relevant Panel in relation to such matters.
- 4.4 The chairman of the Relevant Panel shall fix the date, time and place of any meetings, hearings, inspections, tests, examinations or enquiries which the Relevant Panel deems appropriate, and shall give the Dispute Parties and other members of the Relevant Panel reasonable notice of those particulars.
- 4.5 The chairman of the Relevant Panel may in advance of any hearing submit to the Dispute Parties a list of questions which it wishes their witnesses to treat with special attention.
- 4.6 All meetings, hearings or inspections shall be in private unless the Dispute Parties agree otherwise.
- 4.7 Each Dispute Party may appoint representatives to appear on its behalf at a hearing, subject to such proof of authority as the Relevant Panel may require.
- 4.8 The Relevant Panel shall owe a duty to each of the Dispute Parties to act impartially.

5. **Witnesses**

- 5.1 Before any hearing to examine witnesses or other oral examination of witnesses, the chairman of the Relevant Panel may require the Dispute Parties to exchange or provide statements of evidence to be given by those witnesses by a time specified by the Relevant Panel in advance of the hearing.
- 5.2 The Relevant Panel may allow, refuse or limit the appearance of witnesses, whether witnesses of fact or expert witnesses, save where the Dispute Parties have jointly agreed in writing that the Relevant Panel should hear the evidence of specified witnesses, in which case the Relevant Panel shall hear that evidence and pay due regard to it.
- 5.3 If a statement by a Dispute Party has been made pursuant to Panel Rule 2.1.5, the Relevant Panel shall appoint a legal assessor to provide legal advice as appropriate upon the matters in issue to the Relevant Panel. The Relevant Panel may commission advice from a legal assessor or expert evidence to be prepared and adduced by a witness independent of the Dispute Parties. Unless otherwise agreed by the Dispute Parties, not more than one legal assessor and two such other witnesses may be called.
- 5.4 Any witness who gives oral evidence at a hearing or other oral examination may be questioned only by the Relevant Panel provided always that the Dispute Parties shall be entitled at the end of the hearing of such oral evidence to request the Relevant Panel for leave to make submissions to the Relevant Panel in respect of any such evidence and if the Relevant Panel shall grant such leave it shall decide whether such submissions shall be oral or in writing and shall stipulate the time within which such submissions are to be made.
- 5.5 The Relevant Panel may allow the evidence of a witness to be presented in written form either as a signed statement or by a duly sworn affidavit. Any Dispute Party may make representations that such a witness should attend for oral examination by the Relevant Panel at a hearing or other oral examination. If the Relevant Panel so orders, and if the witness fails to attend, the Relevant Panel may place such weight on the written evidence as it thinks fit, or exclude it altogether.

6. **Powers of the Relevant Panel**

- 6.1 Without prejudice to Panel Rule 4.2 and to any powers which may be given to the Relevant Panel elsewhere in these Panel Rules or in this Agreement, the Relevant Panel shall have power:
- (a) to examine any witness or conduct an inspection of any property or thing relevant to the Dispute or dispute in the absence of any or any other representative of the Dispute Parties or any other person;
 - (b) at any time to permit any Dispute Party to amend any submissions subject always to informing the other Dispute Parties of the proposed amendment and permitting comments from such other Dispute Parties upon the proposed amendment;
 - (c) to continue with the reference in default of appearance or of any act by any of the Dispute Parties in like manner as a judge of the High Court might continue with proceedings in that court where a party fails to comply with an order of that court or a requirement of rules of court (including, for the avoidance of doubt and without limitation, power to strike out any claim, defence, counterclaim or other submission and to make any decision consequent upon any striking out), in the event a Dispute Party fails within the time specified in these Panel Rules or in any order to do any act required by these Panel Rules or to comply with any order;
 - (d) to order a Dispute Party to produce to any other Dispute Party and to the Relevant Panel for inspection, and to supply copies of, any documents which do not have legal privilege in that party's possession, custody or power, which, in the event of dispute, the Relevant Panel determines to be relevant;
 - (e) to order a Dispute Party to answer interrogatories on the application of any other Dispute Party;
 - (f) to order the inspection, preservation, storage, interim custody, sale or other disposal of any property or thing relevant to the Dispute or dispute under the control of any Dispute Party;

- (g) to make orders authorising any sample to be taken, or any observation to be made, or experiment to be tried which may, in the Relevant Panel's discretion, be necessary or expedient for the purpose of obtaining full information or evidence; and
 - (h) to require the Dispute Parties to provide a written statement of their respective cases in relation to particular issues, to provide a written answer to those statements and to give reasons for any disagreement.
- 6.2 For the avoidance of doubt, nothing in these Panel Rules shall be taken as conferring power upon the Relevant Panel to order a Dispute Party or a representative of a Dispute Party to give evidence (whether in person or by way of documentary or similar evidence) or do anything else which could not be ordered if the proceedings were before the High Court.

7. **Decisions**

- 7.1 Subject to Panel Rules 9.3.1 and 10.4.1, the Relevant Panel shall make its decision within 21 days of the date of its appointment, or within such other period as the Dispute Parties may agree in writing.
- 7.2 A decision of the Relevant Panel may be made by majority of the Relevant Panel members, but if there be no majority the decision may be made by the chairman.

- 7.6 The Relevant Panel may make separate binding decisions on different issues at different times.
- 7.7 Decisions of the Relevant Panel shall be binding on the Dispute Parties as from the date upon which they are made.
- 7.8 The Relevant Panel may correct a decision so as to remove any clerical mistake or error arising from an accidental slip or omission in or from the decision.

8. **Costs**

- 8.1 If the Relevant Panel considers that anything has been done, or that any omission has been made, unreasonably or improperly by or on behalf of a Dispute Party, the Relevant Panel shall have the power to make a decision in respect of liability for all or part of the costs of the reference including the charges and expenses of the Relevant Panel, costs of an administrative nature (such as the hire of rooms) and the legal and other costs incurred by a Dispute Party in preparing and presenting its case to the Relevant Panel, and to determine or assess the amount of those costs.
- 8.2 Subject to Panel Rule 8.1 the Dispute Parties shall bear equally the charges and expenses of the Relevant Panel in relation to the Dispute including costs of an administrative nature (such as the hire of rooms).
- 8.3 Save as provided in Panel Rule 8.1, the Relevant Panel shall not have the power to make a decision in respect of liability for the legal or other costs incurred by a Dispute Party in preparing and presenting its case to the Relevant Panel. Those costs shall be borne by the Dispute Party incurring them.

9. **Joinder and Consolidation of Disputes and Concurrent Hearings**

- 9.1 If a dispute arises under, out of or in connection with a Connected Agreement to which the Secretary of State is not a party or a DRP Construction Contract (the "**Initial Dispute**") which, in either case, a Dispute Party intends to refer to a Financial Panel or an Operational Panel for determination the following shall apply:-
- 9.1.1 the party serving the original notice pursuant to Panel Rule 2.1 shall immediately inform the Secretary of State and serve copies of all notices served including any counter notice served pursuant to Panel Rule 2.2; and

9.1.2 within seven days of service of copies of the notices and any counter notice under Panel Rule 9.1.1, if the Secretary of State in his sole discretion considers that the issues in the reference are substantially the same as or connected with issues between the parties to any Agreement to which the Secretary of State is a party (the "**Second Agreement**"), he may by notice served on all other parties to the Second Agreement, all of the parties to the Connected Agreement or the DRP Construction Contract, and upon all members of the Relevant Panel established in relation to the Initial Dispute (once such Panel has been appointed), require such rights, obligations, and issues to be determined by the Relevant Panel in a similar manner as if he were party to a High Court action under the provisions relating to third party and similar proceedings or the ordering of concurrent hearings or consolidation of proceedings.

9.2 A notice served under Panel Rule 9.1.2 shall include:-

9.2.1 a concise summary of the rights and obligations of or the issues between the Secretary of State and the parties to the Second Agreement, identifying the issues as between the parties to the Connected Agreement or the DRP Construction Contract which are substantially the same as or connected with the issues between the parties to the Second Agreement;

9.2.2 a statement of the decision requested by the Secretary of State; and

9.2.3 the like details and documents required by Panel Rule 2.2.3.

9.3 In the event of service of a notice under Panel Rule 9.2:

9.3.1 all parties to the reference shall be deemed to have agreed that the time limit for issue of a decision in the reference shall be extended to expire 21 days from the date of service of the notice;

9.3.2 the parties to the Connected Agreement or the DRP Construction Contract shall be permitted to make a written submission to the Relevant Panel on any point of construction of the Second Agreement to the extent that it relates to the issues in the dispute in relation to the Connected Agreement or the DRP Construction Contract;

9.3.3 the Relevant Panel shall give a decision or decisions which shall bind the parties upon the issues between the parties to the agreements concerned; and

9.3.4 subject to any provision to the contrary in the Connected Agreement and to Panel Rule 8.1 the charges and expenses attributable to the reference shall be borne equally between the parties to the agreements concerned.

10.

10.1 If an original notice is served by a party in accordance with Panel Rule 2.1 (the "**Original Dispute**"), any Dispute Party may immediately notify the parties to a Connected Agreement or a DRP Construction Contract to which it is a party or any party from whom he intends to seek a contribution under the Civil Liability (Contribution) Act 1978, forward a copy of the notice served and may forward copies of any other notices which are served in accordance with Panel Rule 2 (save for any documents contained in the notice which are already in the possession of the parties to the Connected Agreement).

10.2 If a party giving or in receipt of a notice under Panel Rule 10.1 (provided he is also a party to a Connected Agreement) considers that the issues in the reference are substantially the same as or connected with issues between the parties to the Connected Agreement or the DRP Construction Contract or between the party giving and the party receiving the notice he may within seven days of receiving notice under Panel Rule 2 or this Rule (as the case may be), by notice served on the parties to this Agreement and on the other parties to the Connected Agreement or the DRP Construction Contract and upon all members of the Relevant Panel established in relation to the Original Dispute (once such Panel has been appointed), require such rights, obligations and issues to be determined by the Relevant Panel in a similar manner as if he were party to a High Court action under the provisions relating to third party and similar proceedings or the ordering of concurrent hearings or consolidation of proceedings.

10.3 A notice served under Panel Rule 10.2 shall include:-

10.3.1 a concise summary of the rights and obligations of or the issues between the parties to the Connected Agreement, identifying the issues in the Dispute referred to the Relevant Panel which are substantially the same as or connected with the issues between the parties to the Connected Agreement;

10.3.2 a statement of the decision requested by the requesting party; and

10.3.3 the like details and documents required by Panel Rules 2.1.3, 2.1.4 and 2.1.5.

10.4 In the event of service of a notice under Panel Rule 10.2:

10.4.1 all parties to the reference shall be deemed to have agreed that the time limit for issue of a decision in the reference shall be extended to expire 21 days from the date of service of the notice; and

10.4.2 Panel Rules 9.3.2, 9.3.3 and 9.3.4 shall apply.

11. **Exclusion of Liability**

Neither the chairman nor any other member of the Relevant Panel nor any agent nor any employee of the chairman or any other member of the Relevant Panel shall be liable to any Dispute Party for any act or omission in connection with any reference unless that act or omission was in bad faith.

12. **Notices**

12.1 Unless otherwise ordered by the Relevant Panel, or agreed between the Dispute Parties, all notices required by these Panel Rules shall be in writing. A notice under Panel Rule 2.1 shall be served by first class post or delivered by hand. All other notices and written communications shall be sent by first class post, fax or delivered by hand.

12.2 Unless the intended recipient proves otherwise:

12.2.1 documents sent by first class post shall be deemed to have been received two Business Days after posting;

12.2.2 facsimiles shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and where within the period set out below there has been no telephonic communication by the recipient to the sender (to be confirmed in writing) that the facsimile has not been received in legible form and the periods are:-

(a) two hours after sending if sent on a Business Day and between the hours of 9. a.m. and 4 p.m;

(b) 11 a.m. on the next following Business Day if sent after 4 p.m. on a Business Day but before 9 a.m. on that next following Business Day;

12.2.3 by hand deliveries shall be deemed to have been received at the time of delivery to the address stated on their face.

References in these Panel Rules to receipt of documents shall be construed accordingly.

- 12.3 Notices shall be effective from the time of receipt. Periods of time measured with reference to the giving, sending, or serving of a document shall be measured with reference to the time that document is received.
- 12.4 Unless otherwise ordered by the Relevant Panel or agreed between the Dispute Parties, all notices and other documents received on a day which is not a Business Day or after 6 p.m. on any Business Day shall be deemed to have been received on the following Business Day.
- 12.5 In every case in which a notice is sent to the chairman of the Relevant Panel, a copy of the notice shall be sent to all other members of the Relevant Panel and to the other Dispute Party or Dispute Parties.

ANNEX I TO THE PANEL RULES

COMPOSITION OF A FINANCIAL PANEL

1. A Financial Panel shall consist of three members including the chairman.
2. Following the service of a counter notice pursuant to Panel Rule 2.2 or a notice replacing a member of a Financial Panel pursuant to paragraph 9.1 of the Disputes Resolution Procedure (each a "**Financial Panel Appointment Notice**"), the Dispute Parties shall endeavour in good faith and with due expedition to agree the identity of a Financial Panel to determine the relevant Dispute, and of one such person to act as its chairman.
3. In the event that the Dispute Parties are unable to agree any or all of the members of a Financial Panel within 7 days of the date of the relevant Financial Panel Appointment Notice, any Dispute Party may apply to the nominating authority identified below to nominate that member or those members. That party shall notify the nominating authority in writing of the identity of those persons who have been considered by the Dispute Parties under paragraph 2 above and who have been thought by any Dispute Party not to be suitable. In the absence of agreement to the contrary of all of the Dispute Parties, the nominating authority shall not nominate any person who shall have been so identified.
4. The nominating authority for the purpose of nominating members of a Financial Panel shall be the London Court of International Arbitration.
5. The nominating authority shall not nominate any person, who he considers has a conflict of interest with the CTRL Project or any of the Dispute Parties. In the event of the nominating authority nominating a person who is considered by any of the Dispute Parties to have such a conflict of interest, any Dispute Party may notify the nominating authority of that conflict of interest together with any written evidence of the conflict and the nominating authority can, having given due consideration to the evidence, if he considers no such conflict exists, nominate that person.
6. With a view to facilitating the nominating authority's task of identifying suitable candidates for nomination, any Dispute Party may forward to the nominating authority any relevant description which has been agreed by the Dispute Parties of

the likely background and experience of a suitable nominee and/or of the likely issues which the nominee as a member of a Financial Panel would be required to decide. The nominating authority may have regard to the description but shall not be bound by its terms.

7. Following:
 - 7.1 the agreement of the Dispute Parties as to the members of a Financial Panel (including the chairman), pursuant to paragraph 2 above; and/or
 - 7.2 the nomination of any or all of the members of a Financial Panel pursuant to paragraph 3 above,

each of the proposed members of such Financial Panel shall confirm in writing to the Dispute Parties that he is willing and available to act and the Dispute Parties shall appoint such members on reasonable terms and conditions (the "**Relevant Financial Panel**").

8. The appointment of the Relevant Financial Panel shall take effect upon receipt by the Dispute Parties of confirmation from each member of the Panel that he is willing and available to act, whether or not the terms of his appointment have been accepted. Upon receipt of such confirmation, the Dispute Party who served the original notice of dispute under Panel Rule 2.1 shall give notice to the Relevant Financial Panel referring the Dispute to it. Such notice shall be accompanied by a copy of the original notice of dispute served under Panel Rule 2.1 and all the documents that were served with or referred to in it, together with a copy of the relevant terms of the agreement from which the Dispute arose, insofar as such terms have not already been included in the documents served with the original notice.

ANNEX II TO THE PANEL RULES

COMPOSITION OF AN OPERATIONAL PANEL

1. An Operational Panel shall consist of three members including the chairman.
2. Following the service of a counter notice pursuant to Panel Rule 2.2 or a notice replacing a member of an Operational Panel pursuant to paragraph 9.1 of the Disputes Resolution Procedure (each an "**Operational Panel Appointment Notice**"), the Dispute Parties shall endeavour in good faith and with due expedition to agree the members of an Operational Panel to determine the relevant Dispute, and of one such person to act as its chairman.
3. In the event that the Dispute Parties are unable to agree any or all of the members of an Operational Panel within 7 days of the date of the relevant Operational Panel Appointment Notice, any Dispute Party may apply to the nominating authority identified below to nominate that member or those members. That party shall notify the nominating authority in writing of the identity of those persons who have been considered by the Dispute Parties under paragraph 2 above and who have been thought by any Dispute Party not to be suitable. In the absence of agreement to the contrary of all of the Dispute Parties, the nominating authority shall not nominate any person who shall have been so identified.
4. The nominating authority for the purpose of nominating members of an Operational Panel shall be London Court of International Arbitration.
5. The nominating authority shall not nominate any person, who he considers has a conflict of interest with the CTRL Project or any of the Dispute Parties. In the event of the nominating authority nominating a person who is considered by any of the Dispute Parties to have such a conflict of interest, any Dispute Party may notify the nominating authority of that conflict of interest together with any written evidence of the conflict and the nominating authority can, having given due consideration to the evidence, if he considers no such conflict exists, appoint that person.
6. With a view to facilitating the nominating authority's task of identifying suitable candidates for appointment, any Dispute Party may forward to him any relevant description which has been agreed by the Dispute Parties of the likely background and experience of a suitable appointee and/or of the likely issues which the appointee as a member of an Operational Panel would be required to decide. The nominating authority may have regard to the description but shall not be bound by its terms. Subject to any such description, the nominating authority may have regard to the Dispute Parties' present intention that the members of an Operational

Panel should be senior individuals who, as far as is reasonably practicable, possess between them expertise in the operation of domestic and international railway services including the following particular areas:-

- 6.1 Planning
- 6.2 Design
- 6.3 Procurement
- 6.4 Operations
- 6.5 Ticketing and Fare Collection
- 6.6 Maintenance
- 6.7 Train Control and Communications Systems
- 6.8 Rolling Stock

7. Following:

- 7.1 the agreement of the Dispute Parties as to the members of an Operational Panel (including the chairman), pursuant to paragraph 2 above; and/or
- 7.2 the nomination of any or all of the members of an Operational Panel pursuant to paragraph 3 above,

each of the proposed members of such Operational Panel shall confirm in writing to the Dispute Parties that he is willing and available to act and the Dispute Parties shall appoint such members on reasonable terms and conditions (the "**Relevant Operational Panel**").

8. The appointment of the Relevant Operational Panel shall take effect upon receipt by the Dispute Parties of confirmation from each member of the Panel that he is willing and available to act, whether or not the terms of his appointment have been accepted. Upon receipt of such confirmation, the Dispute Party who served the original notice of dispute under Panel Rule 2.1 shall give notice to the Relevant Operational Panel referring the Dispute to it. Such notice shall be accompanied by a copy of the original notice of dispute served under Panel Rule 2.1 and all the documents that were served with or referred to in it, together with a copy of the relevant terms of the agreement from which the Dispute arose, insofar as such terms have not already been included in the documents served with the original notice.