



Conformed Version

Works Agreement

Crossrail Limited

and

Docklands Light Railway Limited

Relating to the Crossrail Project and the
Docklands Light Railway

8 February 2010

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THIS AGREEMENT (the "**Agreement**") is made as a deed on 8 February 2010

BETWEEN

- (1) **CROSSRAIL LIMITED** (Company Number 04212657) whose registered address is at 25 Canada Square, Canary Wharf, London E14 5LQ ("**CRL**"); and
- (2) **DOCKLANDS LIGHT RAILWAY LIMITED** (Company Number 02052677) whose registered address is at Operations and Maintenance Centre, P.O. Box 154, Castor Lane, Poplar, London E14 0DX ("**DLRL**").

RECITALS

- (A) The Crossrail Project is a key element of the transport planning strategy of both Her Majesty's Government and of the Mayor of London.
- (B) CRL is a wholly owned subsidiary of TfL. In accordance with the Crossrail Act, the SoS has appointed CRL as the nominated undertaker to deliver the majority of the Crossrail Project.
- (C) DLRL is a wholly owned subsidiary of TfL which, along with other subsidiaries of TfL, discharges the obligations imposed upon TfL to provide or secure the provision of public passenger transport services in Greater London. DLRL is the owner of the Docklands Light Railway and is in the course of planning and implementing several investment schemes for the purposes of expanding the capacity of the Docklands Light Railway.
- (D) The Crossrail Act contains provisions requiring DLRL (as controller of a railway asset) to co-operate with CRL, as nominated undertaker for the Crossrail Project, in respect of the delivery of the Crossrail Project.
- (E) The delivery of the Crossrail Project will involve (i) certain replacement works in respect of DLRL Property and (ii) construction works relating to the Crossrail infrastructure which are in close proximity to and interface with the DLRL Property. The Parties are concerned to ensure that the design and construction of these works is carried out so as to enable the successful, timely and cost effective delivery of the Crossrail Project and minimise any adverse impact on DLRL's operations and investment schemes.
- (F) The Parties have agreed to enter into this Agreement to regulate the manner in which the works referred to in recital (E) are to be carried out.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following words and expressions shall have the following meanings, except where the context otherwise requires:

"3 Car Scheme" means the scheme and works authorised by the Docklands Light Railway (Capacity Enhancement) Order 2005 and the Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007;

"Alignment Data Detailed Design" has the meaning given in Clause 6.4(a);

"ATC System" means the automatic train control and signalling system for the Docklands Light Railway;

"ATC System Works" means all works required to modify the existing ATC System to take account of the Replacement Works;

"ATC System Works Contract" means any contract between DLRL and an ATC System Works Contractor in respect of the ATC System Works (including, as applicable, the DLRL Franchise Agreement and the Thales Contract);

"ATC System Works Contractor" means Thales, the DLRL Franchisee or any other subcontractor employed by DLRL to carry out the ATC System Works;

"ATC System Work Package Documents" has the meaning given in Clause 6.3(a)(ii);

"ATC System Works Possession" has the meaning given in Clause 14.1(c);

"Bank Holiday" means a day other than a Saturday or a Sunday on which clearing banks are not open (other than by reason of a strike, lockout or other stoppage affecting such banks) for business in the City of London;

"Bank Holiday Possession" means a Possession either:

- (a) between 01.30 hours on a Friday which is a bank holiday and 04.30 hours on the next following Monday; or
- (b) between 01.30 hours on a Saturday and 04.30 hours on the next following Tuesday including a Monday which is a Bank Holiday; or
- (c) between such other times as DLRL may from time to time stipulate;

"Beckton Depot" means DLRL's train maintenance depot and train stabling facility at Becton, London E6 7FB;

"Business Day" means any day on which clearing banks are generally open for business in the City of London, except for Saturdays, Sundays and Bank Holidays;

"CAG" means the joint assurance body known as the "CRL Compliance and Assurance Group" and appointed by CRL, London Underground Limited, Rail for London Limited and Network Rail for the purposes of assuring compliance with the requisite standards and statutory regulation in relation to the design and construction of the Crossrail Project;

"CDM Regulations" has the meaning given in Clause 22.1;

"Claim" means any action, claim, demand, proceeding or liability;

"Completion and Handover Certificate" has the meaning given in Clause 27.5(c);

"Completion Notice" has the meaning given in Clause 27.5(a);

"Confidential Information" means any confidential or proprietary information provided to or arising or acquired by either Party pursuant to the terms or performance of this Agreement;

"Connaught Tunnel" means the tunnel carrying the former North London Line underneath the Victoria and Albert Docks, including all related land, airspace, buildings, structures, apparatus, plant and equipment;

"Consent" means any approval, authorisation, certificate, consent, designation, exemption direction, licence, order, permission or permit;

"Construction Interface Statement" means a statement developed for each Interface Works Location in accordance with paragraph 3.3 of Part 1 of Schedule 4 (Protective Measures Assurance Statements);

"Construction Period" means the period from the date of this Agreement until the date on which it is anticipated that all of the Works will be completed as indicated in the Integrated Works Programme which is current at the relevant time;

"Contract Year" means a period of 12 months starting on 1 April, with the exception of the first Contract Year, which shall commence on the date of this Agreement and end on the 31 March first occurring thereafter and the last Contract Year which shall commence on 1 April and end on the date of termination of this Agreement;

"Cost" means any costs, claims, damages, demands, losses, expenses or liabilities;

"CRL Change" has the meaning given in Clause 33.2(a);

"CRL Representative" means the representative appointed by CRL in accordance with Clause 4.1;

"CRL Safety Representative" has the meaning given in Clause 21.2(b);

"Crossrail Act" means the Crossrail Act 2008;

"Crossrail Act Consents" means any Consents which CRL is required to obtain under the Crossrail Act including:

- (a) traffic and highways Consents under schedules 2 and 3 of the Crossrail Act;
- (b) any planning Consents under Schedule 6 of the Crossrail Act; or
- (c) any environmental Consents under schedule 17 of the Crossrail Act;

"Crossrail PDA" means the project development agreement entered into between the SoS, TfL and CRL on 3 December 2008 in respect of the development and implementation of the Crossrail Project;

"Crossrail Project" means the project for the development, procurement and commissioning of a railway transport system that is capable of operating services from Maidenhead in the County of Berkshire and from Heathrow Airport in the London Borough of Hillingdon through central London to Shenfield in the county of Essex and Abbey Wood in the London Borough of Greenwich;

"Crossrail Project Works" means the permanent and temporary works required for the implementation of the Crossrail Project as authorised by the Crossrail Act;

"Custom House (Crossrail) Station" means the Custom House Station constructed as part of the Crossrail Project Works to accommodate the Crossrail Project;

"Custom House (Crossrail) Station New Access Way" means the new pedestrian access way from the north side of Victoria Dock Road to the Custom House (Crossrail) Station, Custom House (DLR) Station and Excel;

"Custom House (DLR) Station Existing Access Way" means the existing pedestrian access way from the south side of Victoria Dock Road to the Custom House (DLR) Station;

"Custom House Works" means the permanent and temporary works required in accordance with:

- (a) paragraph 1.3 of Schedule 1, Part 2 (Replacement Works Functional Specification) and the specification for such works as set out in relevant paragraphs of Schedule 1, Part 2 (Replacement Works Functional Specification); and
 - (b) the relevant Detailed Design which has been endorsed "no objection",
- (and for the avoidance of doubt shall not include any ATC System Works);

"Dagenham Dock Extension" means the extension of the Docklands Light Railway from Gallions Reach to Dagenham Dock as proposed under the draft Docklands Light Railway (Dagenham Dock Extension) Order;

"Defect" means has the meaning given in Clause 28.1;

"Defects Liability Period" means:

- (a) in relation to the Custom House Works, the period commencing on Handover Date for the Custom House Works and ending on the second anniversary of such date;
- (b) in relation to the Pudding Mill Lane Works, the period commencing on the Handover Date for the Pudding Mill Lane Works and ending on the second anniversary of such date; and
- (c) in relation to the Royal Victoria Works, the period commencing on the Handover Date for the Royal Victoria Works and ending on the second anniversary of such date;

"Defects Rectification Works" has the meaning given in Clause 28.3;

"Design Interface Statement" means a statement developed for each Interface Works Location in accordance with paragraph 3.2 of Part 1 of Schedule 4 (Protective Measures Assurance Statements);

"Detailed Design" means the detailed design for the Replacement Works to be developed from the Outline Design in respect of each Part of the Replacement Works in accordance with Clause 15 (Detailed Design (Replacement Works)) so as to allow construction of that part in accordance with the Replacement Works Functional Specification;

"Dispute" means a difference or dispute of whatsoever nature arising out of or in connection with this Agreement;

"Dispute Resolution Procedure" means the procedure set out in Schedule 6 (Dispute Resolution Procedure);

"DLRL Activities" means the activities to be carried out by DLRL in complying with its obligations and functions under this Agreement (including its obligations in respect of the ATC System Works);

"DLRL Annual Resource Plan" means:

- (a) in respect of the 2009/10 Contract Year the plan referred to in Clause 9.2 as updated in accordance with Clauses 9.3 and 9.4; and
- (b) in respect of each subsequent Contract Year, the plan agreed in accordance with Clause 9.5 as updated in accordance with Clauses 9.3 and 9.4;

"DLRL Assets" means any assets including any structures, lines, circuits, wires, apparatus, plant, machinery or equipment (whether or not modified or installed as part of

the Replacement Works) which are (or following the relevant Handover Date, will be) owned, leased, held or used by DLRL or for the benefit of DLRL;

"DLRL Change" shall have the meaning given in Clause 33.1(a);

"DLRL Concessionaire" means any concessionaire with whom DLRL has contracted or may contract from time to time to design, build and maintain any part of the Docklands Light Railway;

"DLRL Contractor" means any DLRL Concessionaire, the DLRL Franchisee or any other contractor appointed by DLRL in connection with the Docklands Light Railway (including any ATC System Works Contractor);

"DLRL Electrical Asset" means any DLRL Asset which transmits or receives electrical energy or any radio, telegraphic, telephonic, electric, electronic or other signals or communications;

"DLRL Engineering Standards" means the documents with standard numbers beginning "ES" referred to in Schedule 2 (DLRL Standards and Procedures Documents);

"DLRL Franchise Agreement" means the agreement between DLRL and the DLRL Franchisee dated 7 March 2006;

"DLRL Franchisee" means Serco Limited (Company No. 00242246) or such other person as DLRL may appoint to undertake the operation of the Docklands Light Railway from time to time;

"DLRL Operational Property" means any DLRL Property which is held, used or capable of being used by DLRL in connection with and/or for the purpose of carrying on the Docklands Light Railway or any purpose ancillary thereto;

"DLRL Possession" means any planned or scheduled temporary possession of a specified part of DLRL Operational Property granted by DLRL to a DLRL Contractor or any other third party (including any such possession granted exclusively to an ATC System Works Contractor in respect of the ATC System Works);

"DLRL Property" means:

- (a) any land in which an estate or interest or right over that land is held by DLRL; and
- (b) any DLRL Assets;

"DLRL Regulatory Change" shall have the meaning given in Clause 33.1(b);

"DLRL Representative" means the representative appointed by DLRL in accordance with Clause 4.2;

"DLRL Scheme" means the:

- (a) the SIE Scheme;
- (b) the 3 Car Scheme;
- (c) the Dagenham Dock Extension; or
- (d) any other signalling upgrade and improvement schemes proposed to be carried out by DLRL.

"DLRL Standards and Procedures" means the standards and procedures referred to in Schedule 2 (DLRL Standards and Procedures Documents) as at the date of this Agreement or as varied from time to time in accordance with Clause 33.1;

"DLRL Third Party Consent" has the meaning given in Clause 12.1(b)(i);

"DLRL TWA Order" means any of the following works orders granted to DLRL under Part I of the Transport and Works Act 1992:

- (a) the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004;
- (b) the Docklands Light Railway (Capacity Enhancement) Order 2005;
- (c) the Docklands Light Railway (Stratford International Extension) Order 2006; and
- (d) the Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007;

"Docklands Light Railway" means the network of railways owned and operated by DLRL between Bank (DLR) Station and Tower Gateway Station in the City of London, Stratford (DLR) Station and Beckton Station in the London Borough of Newham, Lewisham (DLR) Station in the London Borough of Lewisham and Woolwich Arsenal Station in the London Borough of Greenwich;

"Electrical Systems Compatibility" means the compatibility (having regard to electromagnetic compatibility, stray current management and earthing and bonding concerns) between (i) any electrical assets (including equipment, systems and installations) installed as part of the Interface Works or to be used during the operation of the Crossrail Project railway comprised in the Interface Works and (ii) any DLRL Electrical Assets;

"EMC Regulations" means the Electromagnetic Compatibility Regulations 2006;

"Engineering Hours" means the period between 01.30 hours and 04.30 hours on any day from Tuesday to Saturday inclusive, between 01.30 hours and 05.30 hours on any Sunday and between 00.30 hours and 04.30 hours on any Monday;

"Engineering Hours Possession" means a Possession granted during Engineering Hours;

"Environmental Minimum Requirements" means the documents of that name referenced in the Register of Undertakings and Assurances and defining the environmental parameters of the design and construction of the Crossrail Project;

"ESC Failure" means any failure to achieve Electrical Systems Compatibility which may affect the safe and efficient operation of the relevant DLRL Electrical Assets;

"Existing Pudding Mill Lane (DLR) Station" means the Pudding Mill Lane (DLR) Station as at the date of this Agreement;

"Exit Date" means the date (if such date occurs) on which CRL ceases to be ultimately a wholly-owned subsidiary of TfL as a consequence of the SoS exercising its rights under the "SoS Call Option" in accordance with clause 29 of the Sponsors Agreement or TfL exercising its rights under the "TfL Put Option" in accordance with clause 29 of the Sponsors Agreement;

"Final Completion Certificate" has the meaning given in Clause 27.6(b);

"Final Payment Date" has the meaning given in Clause 29.7(b);

"Fire Precaution Regulations" means the Fire Precautions (Sub-surface Railway Stations) Regulation 1989 made under section 12 of the Fire Precautions Act 1971;

"FOIA" means the Freedom of Information Act 2000;

"FOIA Code" means the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the FOIA;

"Good Industry Practice" means the exercises that degree of skill, care, diligence, prudence, foresight and practice which would ordinarily be expected of a skilled and experienced developer and railway engineer engaged in developing a project of a similar nature and magnitude to the Works;

"Guidance for Developers" means the document of that name with standard number DLR-ENG-GENR-GND-00001 referred to in Schedule 2 (DLRL Standards and Procedures Documents);

"Guidance on Asset Handback" means the document of that name with standard number AG300 referred to in Schedule 2 (DLRL Standards and Procedures);

"Handover Date" has the meaning given in Clause 27.5(c);

"Handover Strategy" has the meaning given in Clause 27.2;

"HGCRA" means the Housing Grants Construction and Regeneration Act 1996;

"HGCRA Payment Due Date" has the meaning given in Clause 29.7(c);

"HMRI" means Her Majesty's Railway Inspectorate and any body or bodies which succeed to its statutory functions;

"HSE" means the Health and Safety Executive and any body or bodies which succeed to its statutory functions;

"Infrastructure Certificate" has the meaning given in Clause 27.3(d);

"Initial Track Plan (Alignment Data)" means the preliminary trackwork geometry and alignment design together with the guideway data for the associated signalling equipment concerned with the ATC System Works reflecting the requirements of the Replacement Works Functional Specification;

"Integrated Works Programme" means the integrated programme for the delivery of the Works as developed and revised in accordance with Clause 8 (Integrated Works Programme);

"Intellectual Property" means all current and future registered or unregistered trademarks, service marks, rights in e-mail addresses, patents, registered designs, utility models, applications for any of the foregoing, copyrights, database rights, unregistered designs, rights in inventions, confidential information, know-how or any other intellectual property rights;

"Interface Works" means such part of the Crossrail Project Works as are described in paragraph 2 of Part 1 of Schedule 4 (Protective Measures Assurance) (and for the avoidance of doubt shall not include any Replacement Works or ATC System Works);

"Interface Works Location" means each of the locations identified in paragraph 2 of Part 1 of Schedule 4 (Protective Measures Assurance) and shown in the plans in Part 2 of Schedule 4 (Protective Measures Assurance);

"Law" means any applicable law, statute, regulation, directive, resolution, statutory instrument, by law or other legislative instrument or common law of the United Kingdom or European Community or any other principles of law or equity established by any court;

"Legal Requirements" means the requirements of any Law of the United Kingdom or European Union or any Law, requirement or demand of any Relevant Authority which has jurisdiction with regard to any of the Works;

"Lewisham Extension" means the extension of the Docklands Light Railway authorised by the London Docklands Railway (Lewisham) Act 1993;

"LFEPa" means the London Fire and Emergency Planning Authority and any body or bodies which succeed to its statutory functions;

"LOCOG" means the London Organising Committee of the Olympic Games and Paralympic Games Limited;

"London City Airport Extension" means the extension of the Docklands Light Railway authorised by the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002;

"Method Statement" has the meaning given in Clause 17.1;

"Minor Outstanding Items" means works items which do not affect the use of the Replacement Works for their intended purpose and that can be rectified during an Engineering Hours Possession or otherwise without interference to the operation of the Docklands Light Railway;

"New Pudding Mill Lane (DLR) Station" means the new Pudding Mill Lane (DLR) Station as constructed by CRL to replace the Existing Pudding Mill Lane (DLR) Station;

"North London Line" means the former part of the North London Line railway which up until 11 December 2006 operated between Channelsea South Junction and North Woolwich together with other associated land identified in the Stratford TWA Order as being required for the SIE Scheme including the Connaught Tunnel proposed to be transferred to DLRL by Network Rail Infrastructure Limited in connection with the SIE Scheme;

"ODA" means the Olympic Delivery Authority;

"Olympics" means the Olympic and Paralympic Games to be held in London in 2012;

"Olympics Mitigation Measures" means the mitigation measures in connection with the Olympics to be agreed between the Parties in accordance with Clause 20 (Olympics);

"ORR" means the Office of Rail Regulation or any body or bodies which succeed to its statutory functions;

"Outline Design" means the outline design for the Replacement Works as set out in Schedule 3 (Outline Design (Replacement Works)) and, for the avoidance of doubt, includes the qualifications included in such outline design;

"Part of the Replacement Works" means each part of the Replacement Works as listed from (a) to (c) in the definition of Replacement Works;

"Party" means a party to this Agreement;

"Period" means each period commencing on the day after the end of the previous Period and ending on the period end date as set out in Schedule 7 (Period End Dates), such schedule to be updated by DLRL annually;

"Planned Public Event" means any planned public event which is likely to generate exceptional flows of traffic on the Docklands Light Railway, including:

- (a) the London Marathon;
- (b) the London Red Bull Air Race; or
- (c) exhibitions at Excel;

"Possession" means the temporary possession of a specified part of DLRL Operational Property for the purpose of carrying out the construction of the Works which prevents, impairs or otherwise affects the ability of DLRL to operate train services on the Docklands Light Railway;

"Possessions Application Procedure" has the meaning given in Clause 14.5(a);

"Possessions Schedule" has the meaning given in Clause 14.3(b);

"Practical Completion" means, in respect of any Part of the Replacement Works, that the works for that Part of the Replacement Works are complete except for Minor Outstanding Items;

"Property Agreement" means the Property Agreement dated on the date hereof between (1) CRL and (2) DLRL relating to the interaction and availability of the Parties' respective property interests;

"Protective Measures" has the meaning given in Clause 16.1;

"Protective Measures Assurance Statement" means a Technical Assessment Statement, Design Interface Statement or Construction Interface Statement developed by CRL in accordance with Clause 16 (Protective Measures (Interface Works)) and Schedule 4 (Protective Measures Assurance);

"Pudding Mill Lane Works" means the permanent and temporary works required for the construction of the New Pudding Mill Lane (DLR) Station and the demolition of the Existing Pudding Mill Lane (DLR) Station in accordance with:

- (a) the specification set out in Schedule 1, Part 1 (Replacement Works Functional Specification); and
 - (b) the relevant Detailed Design which has been endorsed "no objection",
- (and for the avoidance of doubt shall not include any ATC System Works);

"Quarter" means a period comprising either:

- (a) the first, second and third Periods of a Contract Year;
- (b) the fourth, fifth and sixth Periods of a Contract Year;
- (c) the seventh, eighth and ninth Periods of a Contract Year; or
- (d) the tenth, eleventh, twelfth and thirteenth Periods of a Contract Year.

"Recoverable Cost" means any Cost incurred by DLRL which it is entitled to claim from CRL in accordance with Clause 29 (Reimbursement of DLRL Costs);

"Register of Undertakings and Assurances" means the register of the same name compiled pursuant to the Crossrail Act and published on the Crossrail website;

"Relevant Authority" means any court with the relevant jurisdiction and any local, national or supranational agency, inspectorate, minister, ministry official or public or statutory person of Her Majesty's government of the European Union;

"Replacement Works" means:

- (a) the Custom House Works;
- (b) the Pudding Mill Lane Works; and
- (c) the Royal Victoria Works,

(and for the avoidance of doubt shall not include any Interface Works or ATC System Works);

"Replacement Works Functional Specification" means the specification for the Replacement Works set out in Schedule 1 (Replacement Works Functional Specification);

"Resource Plan Recoverable Costs" has the meaning given in Clause 9.1(b)(iii);

"Review Procedure" means the procedure whereby submissions are made to DLRL as set out in Schedule 5 (Review Procedure);

"ROGS" means the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (FI599/2006);

"Royal Victoria Works" means the permanent and temporary works required for the realignment of the Docklands Light Railway between Royal Victoria (DLR) Station and the Custom House (DLR) Station in accordance with:

- (a) paragraph 1.2 of Schedule 1, Part 2 (Replacement Works Functional Specification) and the specification for such works as set out in relevant paragraphs of Schedule 1, Part 2 (Replacement Works Functional Specification); and
- (b) the relevant Detailed Design which has been endorsed "no objection",

(and for the avoidance of doubt shall not include any ATC System Works);

"Safety Certificate" means any "safety certificate" (as such term is defined in ROGS) as is required to reflect the new infrastructure comprised in the Replacement Works;

"Safety Management System" means the "safety management system" (as such term is defined in ROGS) in respect of the Works;

"Safety Verification" means the procedure set out in the "written safety verification scheme" established by DLRL in accordance with regulation 6(4) of ROGS and followed by a "competent person" (appointed by DLRL for the purpose of regulation 6(4)(b) of ROGS) to establish whether the Replacement Works meet the standards and criteria contained in the written safety verification scheme;

"SIE Scheme" means the Stratford International Extension scheme currently being constructed as authorised by the Stratford TWA Order;

"Signalling System Standards" means the document of that name with standard number ES 302 and the Contractor Requirements for Supporting the Installation of Thales Signalling Works with standard number DLR-ENG-XRAI-NTE-00001 each referred to in Schedule 2 (DLRL Standards and Procedures);

"Site" has the meaning given in the Property Agreement;

"SoS" means the Secretary of State for Transport;

"Sponsors" means the SoS and TfL;

"Sponsors Agreement" means the agreement entered into between the SoS and TfL on 3 December 2008 in connection with the Crossrail Project;

"Sponsors Project Representative" means the Sponsors' representative appointed in accordance with clause 25 of the Crossrail PDA;

"Stratford TWA Order" means the Docklands Light Railway (Stratford International Extension) Order 2006;

"System Performance Demonstration" has the meaning given in Clause 27.4(a);

"TARB" or **"Technical Approval and Review Board"** means such named group or any other body appointed by DLRL (acting reasonably) for the purpose of approving certain document as referred to in paragraph 3 of Schedule 5 (Review Procedure);

"Technical Assessment Statement" means a statement developed for each Interface Works Location in accordance with paragraph 3.1 of Part 1 of Schedule 4 (Protective Measures Assurance Statements);

"Technical Assurance Regime" means the documents with standard numbers AT-341, AT-342, AT-350, AT-351, AT-360, AG-310, AT-370, AT-380 and AG-341 referred to in Schedule 2 (DLRL Standards and Procedures);

"Testing and Commissioning Plan" has the meaning given in Clause 27.2;

"TfL" means Transport for London;

"Thales" means Thales Rail Signalling Solutions Limited and Thales Rail Signalling Solutions Inc.;

"Thales Contract" means the enabling contract between DLRL and Thales dated 4 July 1995 as updated or supplemented from time to time to the extent that any such update or supplement is applicable to the ATC System Works;

"Unforeseen DLRL Property Works" has the meaning given in Clause 18.5(a);

"VAT" means value added tax;

"Weekend Possession" means a Possession between 01.30 hours on any Saturday and 04.30 hours on the next following Monday;

"Woolwich Extension" means the extension of the Docklands Light Railway authorised by the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004;

"Work Instruction Form" has the meaning given in Clause 10.1;

"Working on the Railway Manual" means the document of that name with standard number SOP PC 1.01 referred to in Schedule 2 (DLRL Standards and Procedures); and

"Works" means the Replacement Works, the Interface Works and any Unforeseen DLRL Property Works (and for the avoidance of doubt shall not include any ATC System Works).

1.2 Interpretation

In this Agreement, except where the context or the express provisions of this Agreement otherwise require:

- (a) the masculine includes the feminine and vice versa;
- (b) the singular includes the plural and vice versa;
- (c) any reference in this Agreement to a "Clause" or "Schedule" is, except where it is expressly stated to the contrary, a reference to a clause of or schedule to this Agreement;
- (d) save where stated to the contrary, any reference to this Agreement or to any other agreement shall include:
 - (i) any permitted variation, amendment, or supplement to such document; and
 - (ii) such document as substituted, novated or assigned;
- (e) any reference to any statutory provision or provision of any enactment, order, code of practice or other similar instrument (including any EU instrument) shall be construed as a reference to such provision as amended, replaced, consolidated or re-enacted;
- (f) a reference to a "person" includes any firm, partnership, corporation, individual, trust, government, governmental body, authority, emanation, agency or instrumentality, unincorporated body of persons or association and their successors and permitted assignees or transferees;
- (g) headings and sub-headings are for convenience of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement;
- (h) the Schedules to this Agreement are an integral part of this Agreement and reference to this Agreement includes reference to such Schedules;
- (i) any reference to a time of day shall be a reference to whatever time of day shall be in force in England and Wales;
- (j) any reference to "day" shall, unless otherwise stated, mean the period of time which begins with one midnight and ends with the next;
- (k) the words "herein", "hereto" and "hereunder" refer to this Agreement as a whole and not to the particular Clause, Schedule, paragraph in which such word may be used;
- (l) in construing this Agreement:
 - (i) the words "including" and "include" shall mean including without limiting the generality of the words preceding or following such term; and
 - (ii) the rule known as the ejusdem generis rule (or any similar rule or approach to construction of this Agreement) shall not apply and accordingly general words introduced or followed by the word(s) "other" or "including" or "includes" or "in particular" shall not be given a restrictive meaning because

they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words;

- (m) the words in this Agreement shall bear their natural meaning; the Parties have had the opportunity to take legal advice on this Agreement and no term shall, therefore, be construed *contra preferentem*;
- (n) any reference to a public organisation or representative shall be deemed to include a reference to any successor to such public organisation or representative or any organisation or entity or representative which has taken over the functions or responsibilities of such public organisation or representative;
- (o) all monetary amounts are expressed in pounds sterling;
- (p) any reference to "construction" shall include, as applicable in the context, execution, demolition, reconstruction, alteration, placing, replacing, relaying, removal and "construct" and "constructed" shall be construed accordingly;
- (q) any reference to a document being in "agreed form" is a reference to the form of the relevant document agreed between the Parties and for the purpose of identification initialled by each of them or on their behalf; and
- (r) any reference to a document "which has been endorsed "no objection"" shall mean the version of the relevant document which has been, or has been deemed to be, endorsed "no objection" by DLRL in accordance with the Review Procedure.

1.3 **Precedence of Documentation**

- (a) In the event of any inconsistency between the provisions of the body of this Agreement and the Schedules, the body of this Agreement shall take precedence.
- (b) In the event of any inconsistency between Schedule 1 (Replacement Works Functional Specification) and Schedule 3 (Outline Design (Replacement Works)), Schedule 1 (Replacement Works Functional Specification) shall take precedence.
- (c) In the event of any inconsistency between on the one hand Schedules 1 (Replacement Works Functional Specification) and 3 (Outline Design (Replacement Works)) and on the other hand the documents referred to in Schedule 2 (DLRL Standards and Procedures Documents), then Schedules 1 (Replacement Works Functional Specification) and 3 (Outline Design (Replacement Works)) shall take precedence.
- (d) In the event of any other inconsistency the Parties shall endeavour to agree which of the inconsistent requirements is to apply, failing which either Party may refer the matter for resolution under the Dispute Resolution Procedure.

2. **COMMENCEMENT AND DURATION**

This Agreement and the rights and obligations of the Parties under this Agreement shall commence on the date of execution of this Agreement and, without prejudice to Clause 34.2, shall terminate upon completion of the Parties respective obligations under this Agreement unless and to the extent previously terminated in accordance with the provisions of this Agreement.

3. DUTY TO LIAISE AND CO-OPERATE

3.1 Duty to Liaise and Co-operate

The Parties agree to co-operate and liaise with each other in the planning, design, construction, integration, commissioning and completion of the Replacement Works and the Interface Works in order to:

- (a) enable the timely and cost effective delivery of the Crossrail Project;
- (b) without prejudice to Clause 3.2, minimise any adverse impact of the Works upon the operation of Docklands Light Railway and the implementation of the DLRL Schemes; and
- (c) comply with the Olympics Mitigation Measures.

3.2 Resolution of competing priorities

Where CRL on the one hand and DLRL (or any DLRL Contractor) on the other hand have competing priorities in respect of any activity or other matter to be carried out under this Agreement, the Parties shall take into consideration the relative impact which that activity or matter would have on:

- (a) the economic and efficient implementation of the Crossrail Project Works on the one hand; and
- (b) the economic and efficient operation and maintenance of the Docklands Light Railway or the implementation of the DLRL Schemes on the other hand.

In the event that the Parties are unable to agree the relative impact of the activity or matter or how the relative impact should be taken into consideration, then either Party may refer the dispute to the Dispute Resolution Procedure.

4. REPRESENTATIVES AND CONTRACT ADMINISTRATION

4.1 CRL Representative

- (a) CRL has appointed the CRL Representative to act as its agent in relation to this Agreement. The CRL Representative has full authority to act on behalf of CRL in relation to the administration of this Agreement and to exercise any right or function of CRL under this Agreement other than the rights and functions set out in sub-clause (b) below which may only be exercised by either the chief executive of CRL (or such other senior representative of CRL as CRL has from time to time notified to DLRL in writing), as applicable.
- (b) The rights and functions referred to in sub-clause (a) above which may only be exercised by the chief executive of CRL (or such other senior representative of CRL as CRL has from time to time notified to DLRL in writing) are:
 - (i) the right to notify DLRL in respect of the authority of any other senior representative in accordance with sub-clause (a) above;
 - (ii) the right to modify the authority of the CRL Representative in accordance with sub-clause (d) below;
 - (iii) the right to replace the CRL Representative in accordance with sub-clause (e) below;
 - (iv) the right to propose a CRL change in accordance with Clause 33.2;

- (v) the right to give a notice to terminate this Agreement in accordance with Clause 34 (Termination of Crossrail Project);
 - (vi) the right to assign, transfer, charge or declare a trust of the benefit of CRL's obligations or benefits arising under this Agreement in accordance with Clause 40 (Assignment);
 - (vii) the right to vary this Agreement in accordance with Clause 43 (Variation);
 - (viii) the right to waive any term, provision or condition of, or consent granted under, this Agreement in accordance with Clause 44.1 or waive or discharge any breach of any provision of this Agreement in accordance with Clause 44.3; and
 - (ix) the right to act as the senior representative at the meeting referred to in paragraph 3 of Schedule 6 (Dispute Resolution Procedure).
- (c) The CRL Representative may from time to time appoint a deputy to carry out any of the rights and functions which it is authorised to perform in accordance with sub-clause (a) above, provided that at any given time there may only be one deputy appointed in accordance with this sub-clause (c). The CRL Representative shall notify DLRL in writing of the identity of any such deputy.
 - (d) CRL may at any time by notice to DLRL in writing modify the authority of the CRL Representative as set out in sub-clauses (a) and (b) above.
 - (e) CRL may at any time replace the CRL Representative and shall forthwith notify DLRL in writing of the identity of any replacement CRL Representative.
 - (f) DLRL shall be entitled to treat any act of the CRL Representative or his deputy which is authorised by sub-clauses (a) and (c) above as being expressly authorised by CRL and DLRL shall not be required to determine whether an express authority has in fact been given.
 - (g) DLRL shall not treat any act of an officer, employee or other person engaged by CRL as being the authorised exercise of a right or function of CRL under this Agreement unless such act is carried out by a person authorised to carry out such act pursuant to this Clause 4.1.

4.2 **DLRL Representative**

- (a) DLRL has appointed the DLRL Representative to act as its agent in relation to this Agreement. The DLRL Representative has full authority to act on behalf of DLRL in relation to the administration of this Agreement and to exercise any right or function of DLRL under this Agreement other than the rights and functions set out in sub-clause (b) below which may only be exercised by Jonathan Fox or such other director of DLRL as DLRL has from time to time notified to CRL in writing.
- (b) The rights and functions referred to in sub-clause (a) above are:
 - (i) the right to notify CRL in respect of the authority of any other director in accordance with sub-clause (a) above;
 - (ii) the right to modify the authority of the DLRL Representative in accordance with sub-clause (d) below;
 - (iii) the right to replace the DLRL Representative in accordance with sub-clause (e) below;

- (iv) the right to suspend the construction of the Replacement Works in accordance with Clause 18.3(c);
 - (v) the right to propose any DLRL Change in accordance with Clause 33.1;
 - (vi) the right to assign, transfer, charge or declare a trust of the benefit of DLRL's obligations or benefits arising under this Agreement in accordance with Clause 40 (Assignment);
 - (vii) the right to vary this Agreement in accordance with Clause 43 (Variation);
 - (viii) the right to waive any term, provision or condition of, or consent granted under, this Agreement in accordance with Clause 44.1 or waive or discharge any breach of any provision of this Agreement in accordance with Clause 44.3; and
 - (ix) the right to act as the senior representative at the meeting referred to in paragraph 3 of Schedule 6 (Dispute Resolution Procedure).
- (c) The DLRL Representative may from time to time appoint a deputy to carry out any of the rights and functions which it is authorised to perform in accordance with sub-clause (a) above, provided that at any given time there may only be one deputy appointed in accordance with this sub-clause (c). The DLRL Representative shall notify CRL in writing of the identity of any such deputy.
 - (d) DLRL may at any time by notice to CRL in writing modify the authority of the DLRL Representative as set out in sub-clauses (a) and (b) above.
 - (e) DLRL may at any time replace the DLRL Representative and shall forthwith notify DLRL in writing of the identity of any replacement DLRL Representative.
 - (f) CRL shall be entitled to treat any act of the DLRL Representative or his deputy which is authorised by sub-clauses (a) and (c) above as being expressly authorised by DLRL and CRL shall not be required to determine whether an express authority has in fact been given.
 - (g) CRL shall not treat any act of an officer, employee or other person engaged by DLRL as being the authorised exercise of a right or function of DLRL under this Agreement unless such act is carried out by a person authorised to carry out such act pursuant to this Clause 4.2.

5. GENERAL OBLIGATIONS

5.1 Replacement Works

- (a) CRL shall design, construct, commission, integrate and complete the Replacement Works:
 - (i) so as to meet the requirements of the Replacement Works Functional Specification;
 - (ii) in compliance with the DLRL Standards and Procedures;
 - (iii) in compliance with the Detailed Design which has been endorsed "no objection" and, in respect of design only, the Outline Design;
 - (iv) in compliance with the Method Statements which have been endorsed "no objection";

- (v) in compliance with the Olympics Mitigation Measures;
 - (vi) in compliance with any Environmental Minimum Requirements or Crossrail Act Consents which relate to the Replacement Works;
 - (vii) so as not to put DLRL in breach of any undertaking given by DLRL under any DLRL TWA Order;
 - (viii) in accordance with Good Industry Practice; and
 - (ix) in compliance with all applicable Legal Requirements.
- (b) During the construction of the Replacement Works, CRL:
- (i) shall not obstruct the use of or commence the decommissioning of the Custom House (DLR) Station Existing Access Way until either (A) a temporary replacement access way is in operational use and shall maintain such temporary replacement access way until the Custom House (Crossrail) Station New Access Way is operational, or (B) until the Custom House (Crossrail) Station New Access Way has been constructed and is operational; and
 - (ii) shall not obstruct the use of or commence the decommissioning of the Existing Pudding Mill Lane (DLR) Station until after the Handover Date in respect of the New Pudding Mill Lane (DLR) Station.

5.2 **Interface Works**

- (a) CRL shall design and construct the Interface Works in compliance with the Protective Measures Assurance Statements which have been endorsed "no objection".
- (b) Unless otherwise agreed between the Parties, CRL shall construct the Interface Works in compliance with the DLRL Standards and Procedures to the extent that such standards and procedures are applicable to the relevant Interface Works (but excluding the DLRL Engineering Standards unless expressly agreed in the relevant Protective Measures that any Engineering Standard should apply to the relevant Interface Works).

5.3 **ATC System Works**

- (a) DLRL shall be responsible for procuring the design, manufacture, supply, installation, commissioning, testing and completion of the ATC System Works and shall comply with its obligations under this Agreement in connection with the ATC System Works.
- (b) CRL shall comply with its obligations under this Agreement in connection with the ATC System Works.

6. **DLRL CONTRACTORS**

6.1 **Relationship with DLRL Contractors**

- (a) CRL acknowledges that DLRL has contracted or will contract with the DLRL Contractors in connection with:
 - (i) the operation and maintenance of the Docklands Light Railway and the implementation of the DLRL Schemes; and

- (ii) the design, manufacture, supply, installation, commissioning, testing and completion of the ATC System Works.
- (b) CRL shall use its best endeavours to develop efficient working relationships with the DLRL Contractors and promptly notify DLRL if it encounters any difficulties in its relationship with any of them in connection with this Agreement.
- (c) DLRL shall use all reasonable endeavours to procure that the DLRL Contractors reasonably co-operate with CRL to develop efficient working relationships with CRL.

6.2 Co-operation

Without prejudice to Clause 3.2, 6.3 and 6.4 and any other express provisions in this Agreement regarding the ATC System Works Contractors:

- (a) CRL shall co-operate with and make due allowance for the DLRL Contractors at all times in constructing, commissioning, integrating and completing the Works;
- (b) CRL shall use all reasonable endeavours to co-ordinate and integrate the construction, commissioning, integration and completion of the Works with the work of the DLRL Contractors with a view to ensuring that all parties are able to comply with the timeframes and programmes under this Agreement and the various DLRL Schemes; and
- (c) DLRL shall use all reasonable endeavours to procure that the DLRL Contractors reasonably co-operate with and make due allowance for CRL in carrying out their works.

6.3 ATC System Works Contractors

- (a) CRL acknowledges that:
 - (i) DLRL will employ Thales, Serco and/or other ATC System Works Contractors to carry out the ATC System Works pursuant to the Thales Contract, the DLRL Franchise Agreement and/or any other ATC System Works Contract;
 - (ii) in order to let a works package pursuant to the relevant ATC System Works Contract, DLRL will:
 - (A) provide certain information and documents (the "**ATC System Work Package Documents**") to the ATC System Works Contractors including in respect of the Thales Contract:
 - (aa) the "Work Package Specification", a "Statement of Work", a "Work Package Price", "Drawings" (each as defined and provided for in the Thales Contract) in respect of which sub-clause (c) below shall apply; and
 - (bb) the Initial Track Plan (Alignment Data)) in respect of which Clause 6.4 shall apply, and
 - (B) to the extent that it has the flexibility to do so pursuant to the terms of the relevant ATC System Works Contract, agree with the relevant ATC System Works Contractor any specific arrangements relating to the relevant part of the ATC System Works including arrangements in respect of:
 - (aa) the programme for implementing the relevant part of the ATC System Works (including flexibility to change the programme

- to take account of the programme for carrying out the Replacement Works under this Agreement);
 - (bb) the design arrangements to take account of the design interface between the Replacement Works and the ATC System Works;
 - (cc) the access arrangements in respect of the Sites for the Replacement Works and ATC System Works;
 - (dd) the Possessions arrangements to take account of joint possessions in respect of both the Replacement Works and the ATC System Works;
 - (ee) the completion arrangements to take account of the testing, commissioning, completion and handover of the Replacement Works and the ATC System Works in accordance with Clause 27 (Testing, Commissioning, Completion and Handover (Replacement Works and ATC System Works));
 - (ff) the price and payment terms for the relevant part of the ATC System Works; and
 - (gg) compliance with any Environmental Minimum Requirements or Crossrail Act Consents which relate to the ATC System Works.
- (iii) the ATC System Works which are to be carried out by Thales will be managed in accordance with the Signalling System Standards and the Thales Contract.
- (b) Without prejudice to sub-clause (c) below, DLRL shall use all reasonable endeavours to ensure that the ATC System Work Package Documents are agreed with the relevant ATC System Works Contractor in sufficient time to enable such contractor to implement the relevant part of the ATC System Works in accordance with the Integrated Works Programme.
- (c) The Parties agree that:
- (i) prior to issuing the ATC System Work Package Documents, DLRL shall consult with CRL and agree the specific arrangements referred to in sub-clause (a)(ii)(B) above to be requested from the relevant ATC System Works Contractor so as to ensure that the implementation of the ATC System Works is compatible with the implementation of Replacement Works pursuant to this Agreement;
 - (ii) when negotiating the ATC System Work Package Documents, DLRL shall use all reasonable endeavours to agree with the relevant ATC System Works Contractor the arrangements as agreed or determined pursuant to sub-clause (i) above and to the extent that any such arrangements are not agreed by the relevant ATC System Works Contractor then DLRL shall consult further with CRL in order to agree amendments to the proposed arrangements;
 - (iii) following agreement of the ATC System Work Package Documents, DLRL will not agree to any amendment to, waiver of rights under or termination of the agreed works package without consulting CRL and agreeing the relevant course of action; and

- (iv) if the Parties are not able to reach agreement during any consultation under sub-clauses (i), (ii) or (iii) above, then the matter shall be referred to the Dispute Resolution Procedure.

6.4 **Initial Track Plan (Alignment Data)**

- (a) The Parties acknowledge that any Detailed Design which is required in respect of the Initial Track Plan (Alignment Data) (the "**Alignment Data Detailed Design**") will need to be developed and endorsed "no objection" before DLRL is able to submit the ATC System Work Package Documents to Thales in accordance with Clause 6.3(a)(ii).
- (b) DLRL shall facilitate discussions between CRL, DLRL and Thales to agree the date by which CRL is required to submit any Alignment Data Detailed Design to the Review Procedure so as to ensure that DLRL is able to submit the Initial Track Plan (Alignment Data) to Thales in sufficient time to enable Thales to implement the relevant part of the ATC System Works in accordance with the Integrated Works Programme.
- (c) As soon as practicable after the Alignment Data Detailed Design has been endorsed "no objection" in accordance with the Review Procedure, DLRL will prepare and submit the Initial Track Plan (Alignment Data) as part of the process referred to in Clause 6.3(a) to Thales to enable Thales to carry out simulations and modelling of the ATC System to assess whether Replacement Works constructed in accordance with such Initial Track Plan (Alignment Data) will meet the Replacement Works Functional Specification. DLRL shall use all reasonable endeavours to procure that Thales carries out such simulations and modelling in an efficient and expeditious manner.
- (d) If, following the simulations and modelling referred to in sub-clause (c) above, Thales concludes that Replacement Works constructed in accordance with the Initial Track Plan (Alignment Data) will not meet the Replacement Works Functional Specification, then DLRL shall provide to CRL a detailed explanation of why such conclusion has been reached. As soon as reasonably practicable thereafter, CRL shall amend the Alignment Data Detailed Design and re-submit it to the Review Procedure and the procedure set out in sub-clause (c) above will be repeated until and acceptable simulation is achieved.

7. **INFORMATION**

7.1 **DLRL Information**

- (a) DLRL shall, as soon as reasonably practicable, make available to CRL any data or information (including technical, programming, planning and environmental information) which is in DLRL's possession or control in respect of the DLRL Property, the operation of the Docklands Light Railway or the DLRL Schemes, any DLRL TWA Order or the ATC System Works which, acting reasonably, DLRL believes CRL may require in order to comply with its obligations under this Agreement including:
 - (i) any information required in connection with the preparation of the Integrated Works Programme in accordance with Clause 8 (Integrated Works Programme);
 - (ii) any information required in connection with the preparation of any Detailed Design in accordance with Clause 15 (Detailed Design (Replacement Works));

- (iii) any information required in connection with the preparation of the Protective Measures in accordance with Clause 16 (Protective Measures (Interface Works));
 - (iv) any information required in connection with the preparation of any Method Statement in accordance with Clause 17 (Method Statements);
 - (v) any information which CRL is required to provide to the Sponsors in accordance with the Crossrail PDA; and
 - (vi) any updated or supplemented version of the Thales Contract.
- (b) Without prejudice to sub-clause (c) below, DLRL does not warrant the accuracy or sufficiency of the information provided to CRL pursuant to sub-clause (a) above and CRL shall be responsible for verifying the accuracy and assessing the sufficiency of all data and information provided.
 - (c) To the extent that CRL has relied on any of the information or data provided by DLRL in order to comply with the Replacement Works Functional Specification, then CRL shall not be deemed to be in breach of its obligations under this Agreement to the extent that such information or data proves to be inaccurate.

7.2 **CRL Information**

- (a) CRL shall, as soon as reasonably practicable, make available to DLRL any data or information (including technical, programming, planning and environmental information) which is in CRL's possession or control in respect of the Works which, acting reasonably, CRL believes DLRL may require:
 - (i) in order to comply with its obligations under this Agreement (including its obligations in respect of the DLRL Annual Resource Plan);
 - (ii) in connection with the operation of the Docklands Light Railway;
 - (iii) in connection with the implementation of the DLRL Schemes; or
 - (iv) in connection with the implementation of the ATC System Works.
- (b) Without prejudice to sub-clause (c) below, CRL does not warrant the accuracy or sufficiency of the information provided to DLRL pursuant to sub-clause (a) above and DLRL shall be responsible for verifying the accuracy and assessing the sufficiency of all data and information provided.
- (c) To the extent that DLRL has relied on any of the information or data provided by CRL in order to comply with its obligations in respect of the ATC System Works, then DLRL shall not be deemed to be in breach of its obligations under this Agreement to the extent that such information or data proves to be inaccurate.

8. **INTEGRATED WORKS PROGRAMME**

8.1 **Co-operation**

- (a) The Parties acknowledge that the Crossrail Project and the DLRL Schemes will be implemented over similar timescales covering the next 10 or more years and the Parties agree to maintain an Integrated Works Programme for the purpose of planning and reviewing progress of the Works in the context of the programmes for delivering the DLRL Schemes and the Crossrail Project Works.

- (b) The Parties agree to co-operate in revising the Integrated Works Programme in accordance with this Clause 8 (Integrated Works Programme).

8.2 **Form of Integrated Works Programme**

The form of the Integrated Works Programme will be determined by CRL provided that, as a minimum, it shall contain:

- (a) milestones for the submission of the Detailed Design for each part of the Replacement Works;
- (b) milestones for the submission of the Protective Measures Assurance Statements for each part of the Interface Works (having regard to the requirements of Clause 16.3(b));
- (c) construction milestones for the Replacement Works and Interface Works;
- (d) milestones for the design, supply and installation of the ATC System Works;
- (e) if applicable, construction milestones for any Unforeseen DLRL Property Works;
- (f) the then current Possessions Schedule;
- (g) milestones in connection with the implementation of the DLRL Schemes to the extent that such milestones may have an impact or bearing on the Works; and
- (h) the anticipated timetable for obtaining the Consents.

8.3 **Initial Integrated Works Programme**

The Parties acknowledge that, as at the date of this Agreement, an initial high level Integrated Works Programme has been prepared and will be developed into a full Integrated Works Programme in accordance with Clause 8.4.

8.4 **Revisions to Integrated Works Programme**

- (a) DLRL shall provide to CRL details of any change of circumstances relating to the operation and maintenance of the Docklands Light Railway or the implementation of any DLRL Scheme which may impact on the Integrated Works Programme as soon as reasonably practicable after such change of circumstances has arisen.
- (b) By no later than 30 September each year, CRL shall submit a revised Integrated Works Programme to the Review Procedure.
- (c) In addition to each annual update referred to in sub-clause (b) above, CRL may submit a revised Integrated Works Programme to the Review Procedure at any other time if it believes that it is appropriate to do so as consequence of any material change to the programme including any such change which results from:
 - (i) the continued development of any Detailed Design in accordance with Clause 15 (Detailed Design (Replacement Works)), any Protective Measures Assurance Statements in accordance with Clause 16 (Protective Measures (Interface Works)) or any Method Statement in accordance with Clause 17 (Method Statements);
 - (ii) any update to the programme for implementing the ATC System Works;
 - (iii) any update to the Possessions Schedule in accordance with Clause 14.3;

- (iv) any anticipated delay in the progress of the Works;
- (v) a change of circumstances relating to the Crossrail Project Works; or
- (vi) any change of circumstances relating to the operation and maintenance of the Docklands Light Railway or the implementation of any DLRL Scheme as notified to CRL pursuant to sub-clause (a) above.

When submitting any such revised Integrated Works Programme to the Review Procedure, CRL shall also submit an explanation of the events or circumstances giving rise to the requirement to revise the Integrated Works Programme.

- (d) Following agreement or determination of a revised Integrated Works Programme in accordance with the Review Procedure, each of the Parties shall initial two hard copies of the agreed form Integrated Works Programme and one copy shall be kept by each Party.

9. DLRL ANNUAL RESOURCE PLAN

9.1 Contents of DLRL Annual Resource Plan

- (a) DLRL shall prepare and update a DLRL Annual Resource Plan in respect of each Contract Year in accordance with this Clause 9.1.
- (b) Each DLRL Annual Resource Plan shall be based on and consistent with the Integrated Works Programme which is current at the time the DLRL Annual Resource Plan is prepared or updated and shall contain:
 - (i) a description of the DLRL Activities which DLRL anticipates it will carry out during the Contract Year;
 - (ii) a resource plan setting out the resources which DLRL will require in order to carry out the DLRL Activities referred to in sub-clause (i) above;
 - (iii) an estimate of any Recoverable Costs as referred to in limbs (a), (b), (c), (d), (g) and (j) of Clause 29.1 ("**Resource Plan Recoverable Costs**") for the Contract Year, such estimate to include:
 - (A) any claim for Resource Plan Recoverable Costs which DLRL has already incurred but which DLRL was not able to include in a previous DLRL Annual Resource Plan because, at the relevant time, DLRL could not have reasonably anticipated such Resource Plan Recoverable Costs;
 - (B) a detailed break down of each category of Resource Plan Recoverable Cost including, where applicable, evidence that the rates included in Schedule 8 (DLRL Costs) have been applied in order to calculate the relevant Resource Plan Recoverable Cost;
 - (C) a break down of the total estimated Resource Plan Recoverable Costs for each Period within the Contract Year; and
 - (D) an explanation of the measures which DLRL intends to take to mitigate the Resource Plan Recoverable Costs in accordance with Clause 29.3 and confirmation that estimate of Resource Plan Recoverable Costs assumes that these measures have been carried out in full.

9.2 **Initial DLRL Resource Plan**

The Parties will finalise the DLRL Annual Resource Plan for the remainder of the 2009/10 Contract Year within one month of the date of this Agreement.

9.3 **Quarterly update of the DLRL Annual Resource Plan**

DLRL shall prepare a draft update of the DLRL Annual Resource Plan in respect of the second, third and fourth Quarter of each Contract Year and submit such draft under the Review Procedure by no later than 30 Business Days prior to the commencement of the relevant Quarter.

9.4 **Additional Resource Plan Recoverable Costs**

If, at any time prior to the submission of a draft Quarterly update under Clause 9.3, DLRL anticipates that it will incur Resource Plan Recoverable Costs during the current Quarter which exceed the anticipated costs for that Quarter (as included in the DLRL Annual Resource Plan current at that time) by £2,000 or more, then DLRL shall promptly submit to the Review Procedure the amendments proposed to the DLRL Annual Resource Plan to take account of the additional Resource Plan Recoverable Costs and provide:

- (a) an explanation of why it anticipates it will incur the additional Resource Plan Recoverable Costs; and
- (b) such other information as CRL may reasonably require.

9.5 **DLRL Annual Resource Plan for subsequent Contract Year**

DLRL shall prepare a draft DLRL Annual Resource Plan for each Contract Year and submit such draft under the Review Procedure by no later than 31 October preceding the commencement of the relevant Contract Year.

9.6 **Agreed Form of DLRL Annual Resource Plan**

In respect of each DLRL Annual Resource Plan which has been endorsed "no objection" each of the Parties shall initial two hard copies of the agreed form DLRL Annual Resource Plan and one copy shall be kept by each Party.

10. **WORK INSTRUCTION FORMS**

10.1 **Contents of Work Instruction Forms**

CRL shall issue an instruction form (a "**Work Instruction Form**") in respect of all DLRL Activities which shall:

- (a) be substantially in the form set out in Schedule 9 (Form of Work Instruction Form);
- (b) contain all relevant information consistent with the agreed DLRL Annual Resource Plan to which the Work Instruction Form relates; and
- (c) be signed by the CRL Representative.

10.2 **Issue of Work Instruction Forms**

- (a) The Parties acknowledge that prior to the date of this Agreement, CRL has issued a Work Instruction Form which applies to the DLRL Activities to be performed by DLRL immediately following the date of this Agreement. The Parties agree that CRL shall issue a replacement Work Instruction Form within 20 Business Days from the date of this Agreement.

- (b) Without prejudice to sub-clause (c) below, no later than the last Business Day during the last Period in respect of which a Work Instruction Form has been issued under this Clause 10 (Work Instruction Forms), CRL shall issue a further Work Instruction Form in respect of the following Period and any number of subsequent consecutive Periods during that Contract Year as CRL elects at its absolute discretion.
- (c) Within 5 Business Days following agreement or determination of any amendments to the DLRL Annual Resource Plan in accordance with Clause 9 (DLRL Annual Resource Plan), CRL shall issue a revised Work Instruction Form which is consistent with the revised DLRL Annual Resource Plan. Such revised Work Instruction Form may apply to the same Periods as the Work Instruction Form being replaced or for such other consecutive Periods during the relevant Contract Year as CRL elects at its absolute discretion.

11. **SURVEYS**

11.1 **CRL Surveys**

DLRL acknowledges that, prior to constructing the Works, CRL may conduct certain non-intrusive and intrusive surveys on the DLRL Property.

11.2 **Access**

DLRL shall grant to CRL rights of access to the DLRL Property in accordance with Clause 13.2 or Clause 14 (Possessions) to the extent reasonably required by CRL to carry out the surveys referred to in Clause 11.1.

11.3 **CRL Undertakings**

In carrying out any surveys referred to in Clause 11.1, CRL shall:

- (a) procure that such surveys do not interfere with the operation of the Docklands Light Railway;
- (b) to the extent that any Possession is required for any such survey in accordance with Clause 14 (Possessions), only request Engineering Hours Possessions and not Weekend Possessions or Bank Holiday Possessions; and
- (c) repair any damage caused to the DLRL Property to the reasonable satisfaction of DLRL.

11.4 **Survey Information**

CRL shall maintain a survey schedule and make available to DLRL, in accordance with Clause 7.2, copies of all information, records and test results (including any interpretation of such test results) which result from the surveys referred to in Clause 11.1.

12. **CONSENTS**

12.1 **Responsibility for Consents**

- (a) In respect of the Interface Works, CRL shall be responsible for obtaining, maintaining and complying with all necessary or appropriate Consents (including any Crossrail Act Consents) required for the construction of the Interface Works.
- (b) In respect of the Replacement Works, CRL shall:

- (i) be responsible for obtaining all necessary or appropriate Consents required for the construction of the Replacement Works other than (A) any Consent which DLRL is required by contract to obtain from any DLRL Contractor or any other third party or (B) any Consent where, in accordance with any Legal Requirement, DLRL is the only party that may obtain the same (each of (A) and (B) being a "**DLRL Third Party Consent**");
 - (ii) not commence construction of any element of any Part of the Replacement Works until it has obtained all planning or other Consents which could impose conditions on or otherwise impact on the Detailed Design for that Part of the Replacement Works;
 - (iii) be responsible for maintaining and complying with all Consents relating to the Replacement Works until the relevant Handover Date.
- (c) DLRL shall be responsible for:
- (i) obtaining all necessary or appropriate Consents relating to the ATC System Works; and
 - (ii) maintaining and complying with all Consents relating to the Replacement Works after the relevant Handover Date.

12.2 **DLRL to benefit from Consents**

Where any Consents (other than DLRL Third Party Consents or any Consent relating to the ATC System Works) are required by DLRL for the performance of its functions under this Agreement or for the operation or maintenance of the Replacement Works, CRL shall use its best endeavours to ensure that any Consents obtained in accordance with Clause 12.1 above are on a basis that will ensure that DLRL enjoys the benefits thereof, provided that this obligation on the part of CRL shall not apply in respect of those Consents which, in accordance with the applicable Legal Requirements, can only be granted to CRL on a personal basis.

13. **ACCESS TO DLRL OPERATIONAL PROPERTY AND THE SITES**

13.1 **Possessions**

If CRL or its sub-contractors requires access to DLRL Operational Property and such access will prevent, impair or otherwise affect the ability of DLRL to operate train services on the Docklands Light Railway, then CRL shall request a Possession in accordance with Clause 14 (Possessions).

13.2 **Access without Possession**

- (a) If CRL or its sub-contractors requires access to DLRL Operational Property and CRL believes that such access will not prevent, impair or otherwise affect the ability of DLRL to operate train services on the Docklands Light Railway, then CRL may issue a notice to DLRL requesting such access in accordance with this Clause 13.2. DLRL shall only be entitled to refuse access if it reasonably believes that:
 - (i) such access will prevent, impair or otherwise affect its ability to operate train services or undertake essential maintenance; or
 - (ii) DLRL or, without prejudice to Clause 13.4, any DLRL Contractor requires sole access to the relevant DLRL Operational Property in connection with any DLRL Scheme or DLRL's business.

- (b) CRL shall submit a Method Statement under Clause 17 (Method Statements) in respect of the activities it intends to carry out on the relevant DLRL Operational Property pursuant to access granted under this Clause 13.2. Such Method Statement shall identify the dates on which access is required and shall comply with the guidance for Method Statement content included in the Working on the Railway Manual. Neither CRL nor its sub-contractors shall access the relevant DLRL Operational Property until there is a Method Statement in place which has been endorsed "no objection".
- (c) When accessing any DLRL Operational Property under this Clause 13.2, CRL shall and shall procure that its sub-contractors shall:
 - (i) comply with the Method Statement which has been endorsed "no objection";
 - (ii) adhere to DLRL's operational and health and safety requirements including appropriate training; and
 - (iii) repair any damage to DLRL Property in accordance with Clause 18.4.
- (d) If DLRL believes that CRL is in breach of the Method Statement or any of DLRL's operational or health and safety requirements, then DLRL may suspend CRL's access rights under this Clause 13.2 pending resolution of such matter in accordance with Clause 18.3 or otherwise.
- (e) Any access granted by DLRL under this Clause 13.2 shall be by way of licence only and shall not grant or be deemed to grant any legal estate or other interest in land.

13.3 **Property Agreement**

Each of the Parties shall comply with their respective obligations under the Property Agreement in respect of:

- (a) rights of temporary occupation in respect of certain of the Sites; and
- (b) the permanent vesting of property in respect of parts of certain of the Sites,

so as to enable the Parties to comply with their obligations under this Agreement.

13.4 **Access for ATC Systems Works**

- (a) CRL shall grant to the ATC System Works Contractors such access to the Sites for the Replacement Works as is reasonably requested by the ATC System Works Contractors.
- (b) DLRL shall facilitate discussions between CRL and the ATC System Works Contractors to agree appropriate access arrangements in respect of the ATC System Works.
- (c) Where access requested by an ATC System Works Contractor would interfere with the construction of the Replacement Works by CRL or its subcontractors, then (without prejudice to Clause 3.2) CRL shall have the right to determine the priority of access having regard to the overall programme for the implementation of both the Replacement Works and the ATC System Works provided that if CRL varies any access arrangements previously agreed with the ATC System Works Contractor in accordance with sub-clause (b) above then it shall compensate DLRL for any increased costs payable by DLRL to the ATC System Works Contractor as a consequence of such variation.

- (d) DLRL shall use all reasonable endeavours to procure that the ATC System Works Contractors shall at all times comply with the reasonable requirements of CRL in respect of any access granted under this Clause 13.4.
- (e) The Parties acknowledge that if an ATC System Works Contractor requires access to DLRL Operational Property then:
 - (i) where such access is required during a Possession requested by CRL, Clause 14 (Possessions) shall apply; and
 - (ii) in all other circumstances, the ATC System Works Contractor shall arrange such access directly with DLRL as a DLRL Possession or otherwise.

14. POSSESSIONS

14.1 Acknowledgement

- (a) DLRL acknowledges that CRL will require Possessions in order to carry out certain of the Replacement Works, including Possessions in connection with:
 - (i) tie-in works at both Pudding Mill Lane and Royal Victoria;
 - (ii) erecting cranes and other plant at Pudding Mill Lane, Royal Victoria and Custom House;
 - (iii) lifting of bridges, viaducts and station structures (whether temporary or permanent) at Pudding Mill Lane and Custom House;
 - (iv) protective fencing at Pudding Mill Lane and Custom House; and
 - (v) testing and completion of the Replacement Works.
- (b) DLRL acknowledges that, in addition to the Possessions referred to in sub-clause (a) above, CRL may require further Possessions in order to:
 - (i) carry out certain of the Interface Works;
 - (ii) carry out any Unforeseen DLRL Property Works; or
 - (iii) carry out any Defects Rectification Works.
- (c) CRL acknowledges that DLRL or its sub-contractors will require access to DLRL Operational Property during a portion of certain of the Possessions referred to in sub-clause (a) above in order to install, commission, test and complete the ATC System Works (an "**ATC System Works Possession**").

14.2 Permitted Possessions

- (a) CRL shall not request any Possession other than:
 - (i) an Engineering Hours Possession;
 - (ii) a Weekend Possession; or
 - (iii) a Bank Holiday Possession.
- (b) Without prejudice to Clause 3.2, wherever reasonably practicable CRL shall:
 - (i) minimise the number of Possessions which it requests under this Clause 14 (Possessions); and

- (ii) limit its requests for Possessions to Engineering Hours Possessions.
- (c) Notwithstanding sub-clauses (a) and (b) above, CRL may submit a request to DLRL for extended Weekend Possessions, extended Bank Holiday Possessions or any other category of Possession. DLRL will consider and give CRL the opportunity to discuss any such request, provided that following such consideration and discussion DLRL will be entitled to reject the request at its absolute discretion.

14.3 Possessions Schedule

- (a) No later than 31 May and 30 November each year, DLRL shall provide to CRL a schedule identifying:
 - (i) the Planned Public Events and DLRL Possessions which at that time it knows or anticipates will take place during the Construction Period;
 - (ii) in respect of the DLRL Possessions referred to in sub-clause (i) above, any opportunities to share Possessions in order to optimise the programmes for delivering the DLRL Schemes and the Crossrail Project Works;
 - (iii) any period during which the number of Possessions booked by DLRL Contractors is such that, if CRL requested a Possession during that period, DLRL would be entitled to raise an objection in accordance with paragraph 4.6(d) of the Review Procedure; and
 - (iv) if known, its anticipated requirements in respect of ATC System Works Possessions.
- (b) By no later than 30 June and 31 December each year, CRL shall submit to the Review Procedure an updated schedule of Possessions (the "**Possessions Schedule**") which shows:
 - (i) the Engineering Hours Possessions, Weekend Possessions and Bank Holiday Possessions which CRL anticipates it will require during the 12 month period from:
 - (A) in the case of a 30 June submission, 1 October in the same year;
 - (B) in the case of a 31 December submission, 1 April in the following year;
 - (ii) the Weekend Possessions and Bank Holiday Possessions which CRL anticipates it will require during the period from the end of the period referred to in sub-clause (i) above until the end of the Construction Period; and
 - (iii) those Possessions referred to in sub-clause (i) and (ii) above which are also ATC System Works Possessions.
- (c) In addition to each update referred to in sub-clause (b) above, CRL may submit a revised Possessions Schedule to the Review Procedure at any other time if it believes that it is appropriate to do so as consequence of:
 - (i) any material change to the Possessions which it anticipates it will require; or
 - (ii) any change of circumstances relating to the operation and maintenance of the Docklands Light Railway, the implementation of any DLRL Scheme or the implementation of the ATC System Works as notified to CRL by DLRL.

- (d) When preparing each Possessions Schedule, CRL shall have regard to each of the grounds for objection set out in paragraph 4.6 of the Review Procedure.
- (e) When submitting any Possessions Schedule, CRL shall also provide a report which sets out in respect of each Possession referred to in sub-clause (b)(i) above:
 - (i) details of the nature and scope of the works to be carried out during the relevant Possession;
 - (ii) an explanation of why the Possession is required (including, in the case of any Weekend Possession or Bank Holiday Possession, an explanation of why it anticipates the relevant Works cannot be carried out in an Engineering Hours Possession); and
 - (iii) in the case of a Possession relating to the Interface Works, an explanation of why there is no other reasonably practical means of construction of the Works without requiring a Possession.
- (f) During the preparation of the Possessions Schedule, DLRL shall facilitate discussions between CRL and the ATC System Works Contractors to agree the requirements for each of the ATC System Works Possessions within the Possessions Schedule, including:
 - (i) the required window of time within the Possession required to carry out the relevant ATC System Works; and
 - (ii) requirements in respect of the condition of the Replacement Works and Site necessary to carry out the relevant ATC System Works during that window.

14.4 **Use of Possessions Schedule**

CRL shall be entitled to make an application in accordance with Clause 14.5 in respect of any Possession in the then current Possessions Schedule which has been endorsed "no objection" and, without prejudice to DLRL's rights under Clause 14.7, DLRL may only reject such application on the grounds set out in the Possessions Application Procedure.

14.5 **Working on the Railway Manual – Application for Possessions**

- (a) The parties acknowledge that for each Possession an application must be made in accordance with the application procedure set out in section 2.01 of the Working on the Railway Manual (the "**Possessions Application Procedure**") and for the purposes of the Possessions Application Procedure CRL will be deemed to be a "Contractor".
- (b) In respect of each application for a Possession, CRL shall:
 - (i) prepare each of the documents which the "SD Sponsor" or "Line Manager" is required to generate in accordance with the Possessions Application Procedure in sufficient time to enable the "SD Sponsor" or "Line Manager" to comply with the timetable applicable for that Possession as set out in the Possessions Application Procedure; and
 - (ii) co-operate and liaise fully with all persons referred to in the Possessions Application Procedure.
- (c) DLRL shall procure that:
 - (i) in connection with any application for a Possession which is an ATC System Works Possession, the ATC System Works Contractors co-operate with and

provide information to CRL to enable it to comply with its obligations in respect of the Possessions Application Procedure;

- (ii) each person referred to in the Possessions Application Procedure performs his obligations under the Possessions Application Procedure and complies with the timetables set out in the Possessions Application Procedure; and
- (iii) the "sponsoring Manager/Supervisor" responsible for approving an application for a Possession only rejects the application if (A) one of the grounds for rejection specified in the Possessions Application Procedure applies and (B) such ground for rejection applies due to an act or omission of CRL.

14.6 **Working on the Railway Manual – Implementation of Possession**

- (a) During any Possession:
 - (i) CRL shall, and shall procure that each of its subcontractors shall, comply with the requirements of the Working on the Railway Manual;
 - (ii) in respect of any ATC System Works Possession, DLRL shall procure that each of the ATC System Works Contractors complies with the requirements of the Working on the Railway Manual, provided that CRL shall act as the Possessions manager in respect of the ATC System Works Possession.
- (b) CRL and DLRL shall liaise with one another in accordance with the Working on the Railway Manual to determine actions required to be taken by either CRL or DLRL to minimise the impact of any Possession upon the safe operation of the Docklands Light Railway.
- (c) CRL shall take all reasonable actions to minimise the impact of any Possession upon the operation of the Docklands Light Railway including access to the Beckton Depot.
- (d) In respect of a request for any Possession, DLRL may in accordance with the Working on the Railway Manual impose such conditions on the granting of the Possession as DLRL, acting reasonably, considers necessary to ensure the safe operation of the Docklands Light Railway and the protection or reinstatement of DLRL Property and CRL shall comply with any such conditions.

14.7 **Cancellation by DLRL**

- (a) Notwithstanding the granting of a Possession, DLRL may notify CRL that it intends to reduce or cancel the time for Possessions granted in accordance with the Possessions Application Procedure on the grounds that, in the opinion of DLRL acting reasonably, the reduction or cancellation is required:
 - (i) to permit trains which have been delayed for any reason to complete their journeys;
 - (ii) to permit the recovery of trains which have been stranded or stalled on the relevant section of the Docklands Light Railway provided that DLRL has consulted with CRL as to the timing of such recovery; or
 - (iii) in response to an emergency on the Docklands Light Railway.
- (b) DLRL shall consult with CRL in respect of any such reduction or cancellation and give due consideration to any comments made by CRL, provided that the decision as to whether or not to implement the reduction or cancellation shall be at DLRL's

absolute discretion if, in its reasonable opinion, one of the grounds referred to in clause (a) above applies.

- (c) Within 5 Business Days after the date on which a Possession is reduced or cancelled in accordance with sub-clause (b) above, DLRL shall notify CRL of an alternative period of Possession equal to or greater in duration than the period of the reduction or cancellation, which shall be at a time reasonably acceptable to CRL and does not materially delay CRL's works programme.
- (d) DLRL shall have no liability towards CRL for any costs, losses or expenses incurred by CRL arising out of or in consequence of the cancellation by DLRL of a Possession in the circumstances referred to in Clause 14.7(a)(iii).

14.8 Loss of passenger revenue and claims by DLRL Franchisee

- (a) Without prejudice to sub-clause (b) below and Clause 14.9, DLRL shall not be entitled to recover costs in respect of lost passenger revenue resulting from any Possession granted in accordance with this Clause 14 (Possessions).
- (b) In respect of any claims brought by the DLRL Franchisee in connection with a Possession, the provisions of paragraph 1 of Schedule 8 (DLRL Costs) shall apply.

14.9 Liquidated damages for late hand-back

- (a) CRL acknowledges that, if any section or part of the Docklands Light Railway is handed back late at the end of a Possession and as a consequence there is a delay in operations on the Docklands Light Railway, then DLRL will suffer damages. Therefore, CRL specifically agrees that, subject to sub-clause (b) below, it shall pay DLRL the amount calculated in accordance with paragraph 2 of Schedule 8 (DLRL Costs) if CRL:
 - (i) fails to vacate and hand back part of the Docklands Light Railway which is subject to a Possession at the end of the period for that Possession as agreed under the Possessions Application Procedure;
 - (ii) hands back any part of the Docklands Light Railway in a condition that prevents DLRL from re-energising the traction power on that part of the Docklands Light Railway safely; or
 - (iii) disrupts the operation of train services on any part of the Docklands Light Railway.
- (b) To the extent that the late hand-back is wholly or partly due to the performance or non-performance of the ATC System Works by the ATC System Works Contractors then, where the ATC System Works Contractors are wholly responsible for the delay, CRL shall not be required to pay the amount referred to in sub-clause (a) above or, where the ATC System Works Contractors are partially responsible for the delay, such amount shall be reduced on a pro-rata basis.

15. DETAILED DESIGN (REPLACEMENT WORKS)

15.1 Development of Detailed Design

- (a) The Parties acknowledge that the procedure set out in this Clause 15 (Detailed Design (Replacement Works)) provides a mechanism whereby the Detailed Design in respect of the Replacement Works can be reviewed as the relevant designs are developed.

- (b) CRL shall carry out the design of the Replacement Works and ensure that the design complies with the Replacement Works Functional Specification and other requirements of this Agreement.
- (c) The Parties acknowledge that, although CRL has submitted the Outline Design to DLRL prior to the date of this Agreement, certain elements of the design of the Replacement Works need to be worked up to final form.
- (d) Without prejudice to DLRL's rights to receive copies of the Detailed Design under Clause 15.3, DLRL may make a reasonable written request to CRL for a copy of any document relating to the design of the Replacement Works and CRL shall not unreasonably withhold or delay providing the same to DLRL upon receipt of such a request.
- (e) CRL shall comply with its obligation under Clause 6.4 in respect of the Alignment Data Detailed Design.

15.2 **Submission of Detailed Design documents**

- (a) CRL shall submit to the Review Procedure each Detailed Design in accordance with the Integrated Works Programme.
- (b) Each Detailed Design submitted by CRL to DLRL for review shall:
 - (i) contain sufficient detail and, where applicable, be in the form required in accordance with the Technical Assurance Regime;
 - (ii) be accompanied by sufficient information to enable DLRL to assess whether it has any grounds for objection in accordance with the Review Procedure;
 - (iii) be accompanied by the information which CRL is required to provide pursuant to Clause 22 (CDM Regulations); and
 - (iv) to the extent that the Replacement Works to which the Detailed Design relates may cause any ground movement or settlement, such Detailed Design shall be accompanied by settlement and stability analysis including a report on (A) the anticipated impact of the Replacement Works on DLRL Property, (B) the design of any ground movement and other monitoring measures and (C) contingency plans in respect of any ground movement or settlement.
- (c) Where a revised Detailed Design is submitted, CRL shall also ensure that such revision clearly identifies the revision made to the Detailed Design which it revised.
- (d) Upon the Detailed Design being, or being deemed to have been, endorsed "no objection" by DLRL in accordance with the Review Procedure, CRL shall (subject to complying with its obligations under Clause 17 (Method Statements) and the other requirements under this Agreement) be entitled to carry out the relevant part of the Replacement Works in accordance with the relevant Detailed Design which has been endorsed "no objection".

15.3 **Design Consents**

- (a) DLRL shall, within 10 Business Days of receipt of any submission under Clause 15.2, notify CRL of any DLRL Third Party Consents which DLRL is required to obtain in respect of the relevant Detailed Design and the anticipated time period for obtaining such DLRL Third Party Consents. DLRL shall use all reasonable endeavours to obtain any DLRL Third Party Consent as soon as practicable.

- (b) If CRL is required to submit any Detailed Design to CAG, then DLRL shall provide all support and co-operation in respect of any such submission as is reasonably requested by CRL.
- (c) In respect of each Detailed Design which has been endorsed "no objection", DLRL shall, where applicable, issue an "Asset Modification Notice" in respect of the relevant Replacement Works if such notice is required in accordance with the Working on the Railway Manual.

16. **PROTECTIVE MEASURES (INTERFACE WORKS)**

16.1 **Development of Protective Measures**

- (a) CRL acknowledges that in carrying out the design and construction of the Interface Works it will be necessary to implement certain measures ("**Protective Measures**") in order to protect against:
 - (i) any material damage to DLRL Property; or
 - (ii) any other interference,which may affect the safe operation of the Docklands Light Railway or, without prejudice to Clause 3.2, the economic and efficient operation of the Docklands Light Railway.
- (b) The Parties acknowledge that the procedure set out in this Clause 16 (Protective Measures (Interface Works)) and Schedule 4 (Protective Measures Assurance) provides a mechanism whereby the Protective Measures Assurance Statements produced by CRL in respect of the Protective Measures for each Interface Works Location can be reviewed by DLRL as they are developed.
- (c) Without prejudice to DLRL's rights to receive copies of the Protective Measures Assurance Statements under Clause 16.2, DLRL may make a reasonable written request to CRL for a copy of any document relating to the Interface Works and CRL shall not unreasonably withhold or delay providing the same to DLRL upon receipt of such a request.
- (d) CRL shall not commence construction of the Interface Works at any Interface Works Location until it has developed a Technical Assessment Statement, Design Interface Statement and Construction Interface Statement in respect of that Interface Works Location and each such Protective Measures Assurance Statement has been, or has been deemed to be, endorsed "no objection" by DLRL in accordance with the Review Procedure.

16.2 **Submission of Protective Measures Assurance Statements**

- (a) CRL shall submit to the Review Procedure proposed Protective Measures Assurance Statements in accordance paragraph 3 of Part 1 of Schedule 4 (Protective Measures Assurance) and the Integrated Works Programme.
- (b) Any Protective Measures Assurance Statement submitted by CRL to DLRL for review shall be accompanied by sufficient information to enable DLRL to assess whether it has any grounds for objection in accordance with the Review Procedure.
- (c) Where any revised Protective Measures Assurance Statement are submitted, CRL shall also ensure that such revision clearly identifies the revision made to the Protective Measures Assurance Statement.

16.3 **Monitoring of ground movement and impacts on DLRL Property**

- (a) The Parties acknowledge that:
 - (i) the Protective Measures Assurance Statements will include statements and proposals for each Interface Works Location in respect of the settlement and stability analysis to be carried out by CRL including a report on the anticipated impact of the Interface Works on DLRL Property and the design of any ground movement and other monitoring measures; and
 - (ii) DLRL will, in accordance with paragraph 4.8 of Schedule 5 (Review Procedure), be entitled to object to any statement or proposal referred to in sub-clause (a) above if in DLRL's opinion such statements or proposals are inadequate.
- (b) When revising the Integrated Works Programme in accordance with Clause 8 (Integrated Works Programme), the Parties will ensure that, subject to sub-clause (c) below, the programmed date for submission of the statements and proposals referred to in sub-clause (a) above is at least 18 months prior to the date for commencement of construction at the relevant Interface Works Location so as to allow for at least 12 months of ground movement and other monitoring measures prior to such construction commencement.
- (c) In respect of the utilities diversion works referred to in paragraph 2.7 of Schedule 4 (Protective Measures Assurance), CRL shall submit:
 - (i) a Stage 1 Technical Interface Statement as provided for in paragraph 3.1 of Schedule 4 (Protective Measures Assurance) by 29 January 2010; and
 - (ii) a Stage 2 Design Interface Statement as provided for in paragraph 3.2 of Schedule 4 (Protective Measures Assurance) by 26 February 2010.
- (d) Following a request from DLRL, CRL shall wherever reasonably practicable grant DLRL or its sub-contractors access to any equipment being used in respect of the ground movement monitoring or other monitoring measures in respect of DLRL Property. In addition, CRL shall provide a copy of all ground movement monitoring results to DLRL at the end of each Quarter or as otherwise agreed between the Parties.

17. **METHOD STATEMENTS**

17.1 **Development of Method Statements**

- (a) CRL shall develop statements (each a "**Method Statement**") detailing the method of providing:
 - (i) each Part of the Replacement Works;
 - (ii) any Unforeseen DLRL Property Works;
 - (iii) any Interface Works in sufficient detail to comply with CRL's obligations in respect of Protective Measures pursuant to Clause 16 (Protective Measures (Interface Works)) and Schedule 4 (Protective Measures Assurance); and
 - (iv) any access requested by CRL in accordance with Clause 13.2.
- (b) CRL shall not be responsible for producing method statements in respect of the ATC System Works. To the extent that the ATC System Works impact on any Method Statement which CRL is required to develop pursuant to this Clause 17 (Method

Statements), DLRL shall procure that the ATC System Works Contractors provide such co-operation and assistance with the development of such Method Statement as is reasonably requested by CRL.

17.2 **Submission of Method Statement documents**

- (a) CRL shall develop the Method Statements on an ongoing basis and shall be responsible for submitting each Method Statement to the Review Procedure in sufficient time in advance of the programmed date for the commencement of the relevant works to enable completion of the Review Procedure.
- (b) Each Method Statement submitted by CRL to DLRL for review shall:
 - (i) contain sufficient detail and, where applicable, be in the form required in accordance with the Working on the Railway Manual;
 - (ii) be accompanied by sufficient information to enable DLRL to assess whether it has any grounds for objection in accordance with the Review Procedure; and
 - (iii) contain enough information to enable adequate safety, protection and supervisory activities to be planned, organised and implemented.
- (c) Where a revised Method Statement is submitted, CRL shall also ensure that such revision clearly identifies the revision made to the Method Statement which it revised.
- (d) Upon the Method Statement being, or being deemed to have been, endorsed "no objection" by DLRL in accordance with the Review Procedure, CRL shall be entitled to carry out the relevant works in accordance with the relevant Method Statement which has been endorsed "no objection".

18. **CONSTRUCTION**

18.1 **Construction requirements**

Without prejudice to the obligations set out in Clause 5 (General Obligations), in constructing the Works CRL shall comply with the obligations set out in this Clause 18 (Construction).

18.2 **Construction of Works**

The construction of the Works shall be carried out by CRL or its subcontractors:

- (a) in accordance with:
 - (i) in the case of the Replacement Works, the Detailed Design and Method Statements which have been endorsed "no objection";
 - (ii) in the case of the Interface Works, the Protective Measures Assurance Statements which have been endorsed "no objection" and, where applicable, the Method Statements which have been endorsed "no objection"; or
 - (iii) in the case of the Unforeseen DLRL Property Works, the Method Statements which have been endorsed "no objection";
- (b) without prejudice to Clause 18.4, in such manner as to cause as little damage as possible to DLRL Property (other than any damage which is contemplated by the

relevant Detailed Design or Method Statement which has been endorsed "no objection"); and

- (c) exercising all the reasonable skill, care, diligence, prudence, foresight and practice to be expected of a suitably qualified and competent professional contractor experienced in constructing works in relation to projects of a similar size, scope, nature and complexity to the Replacement Works.

18.3 **Non-compliance with Method Statement and suspension of Works**

- (a) If CRL or any of its subcontractors fails to comply with any Method Statement then, subject to sub-clause (b) and without prejudice to sub-clause (c) below, DLRL may direct CRL in writing to alter its method of construction so as to comply with the Method Statement and, if necessary, the Parties shall work together to agree a rectification plan which takes account of such non-compliance. If the agreed rectification plan requires any consequential amendments to the Method Statements, then CRL shall propose such amendments as CRL Changes in accordance with Clause 33.2.
- (b) To the extent that any non-compliance referred to in sub-clause (a) above has been caused by the acts or omissions of any ATC System Works Contractor, then DLRL shall be responsible for resolving such matters with the ATC System Works Contractor.
- (c) In the event of:
 - (i) any emergency in respect of the Docklands Light Railway; or
 - (ii) any non-compliance with a Method Statement referred to in Clause 17.1(a)(ii) or (iv); or
 - (iii) any non-compliance with a Method Statement referred to in Clause 17.1(a)(i) or (iii) which, in DLRL's reasonable opinion, will cause Material Damage to DLRL Property or interfere with the safe operation of the Docklands Light Railway,

DLRL may direct CRL to suspend the relevant Works until CRL has taken steps to DLRL's reasonable satisfaction to address the threat of damage.

18.4 **Damage to DLRL Property**

- (a) If, in constructing the Works, CRL or its contractors cause any damage to DLRL Property (other than any damage which is contemplated by the relevant Detailed Design, Protective Measure Assurance Statement or Method Statement which has been endorsed "no objection"), then without prejudice to sub-clause (b) below:
 - (i) unless it is agreed that rectification should be carried out by DLRL, CRL shall make good such damage as soon as practicable;
 - (ii) in carrying out the rectification works referred to in sub-clause (a) above, CRL shall use all reasonable endeavours to request access only in accordance with Clause 13.2 or during an Engineering Hours Possession so as to minimise the interference with the operation of the Docklands Light Railway; and
 - (iii) CRL shall pay to DLRL all reasonable Recoverable Costs incurred by DLRL by reason of any such damage in accordance with Clause 29 (Reimbursement of DLRL Costs),

provided that where the DLRL Property which has been damaged will be replaced as part of the Replacement Works, then rectification will only be required to the extent necessary to ensure safe operation of the Docklands Light Railway up until the date on which the relevant Replacement Works become operational.

- (b) If in carrying out the ATC System Works the ATC Systems Works Contractors cause any damage to DLRL Property, then CRL shall not have any responsibility for repairing such damage or any costs relating to such repairs.

18.5 **Unforeseen DLRL Property Works**

- (a) If at any time after CRL is entitled to proceed with the Replacement Works pursuant to Clause 15.2(d) or the Interface Works pursuant to Clause 16.1(d) (including during the construction of such works) DLRL believes, acting reasonably, that any alterations, modifications or additions (either permanent or temporary) to DLRL Property are required as a direct consequence of the implementation of the Works ("**Unforeseen DLRL Property Works**"), then DLRL may provide a notice to CRL identifying the scope of such Unforeseen DLRL Property Works and an explanation of why, in DLRL's reasonable opinion, such works are required.
- (b) Following the issue of a notice under sub-clause (a) above, without prejudice to sub-clause (c) below, DLRL and CRL shall consult with one another with the view to establishing:
 - (i) the scope of the proposed Unforeseen DLRL Property Works; and
 - (ii) which Party is best placed to carry out the Unforeseen DLRL Property Works having regard to the location and type of works.

In agreeing such scope, DLRL shall be required to demonstrate that the Unforeseen DLRL Property Works are required as a direct consequence of the implementation of the Crossrail Project Works and involve the minimum works necessary to take account of the Crossrail Project Works. If the Parties fail to reach agreement on the issues referred to in sub-clauses (i) or (ii) above within 20 Business Days of issue of the notice, then either Party may refer the matter to the Dispute Resolution Procedure.

- (c) Following agreement or determination that any Unforeseen DLRL Property Works are to be carried out by CRL, CRL shall submit appropriate information in respect of such Unforeseen DLRL Property Works including information in respect of design, plans, programme and Method Statements.
- (d) The Parties acknowledge that in the case of an emergency the decision as to whether or not the proposed Unforeseen DLRL Property Works are necessary shall be at the discretion of DLRL. If DLRL is not subsequently able to demonstrate that:
 - (i) the Unforeseen DLRL Property Works are required as a direct consequence of the implementation of the Crossrail Project Works; and
 - (ii) the Unforeseen DLRL Property Works involve the minimum works necessary to take account of the Crossrail Project Works,

then such Unforeseen DLRL Property Works shall be deemed to be a DLRL Change and the provisions of Clause 33.1 shall apply.

19. **ELECTRICAL SYSTEMS COMPATIBILITY**

19.1 **Ensuring Electrical Systems Compatibility**

- (a) CRL shall in the design and construction of the Crossrail Project railway systems and the procurement and commissioning of the Crossrail Project rolling stock take all measures necessary to ensure Electrical Systems Compatibility and shall establish with DLRL (each Party acting reasonably) appropriate arrangements to verify the effectiveness of such measures.
- (b) In order to comply with sub-clause (a) above CRL shall:
 - (i) consult with DLRL as early as reasonably necessary to identify all DLRL Electrical Assets which may be at risk, and thereafter shall continue to consult with DLRL (both before and after submission of Detailed Design under Clause 15.2) in order to identify all potential ESC Failures and the measures required to eliminate them;
 - (ii) ensure that all new equipment, systems and installations are assessed for electromagnetic compatibility with the DLRL Electrical Assets in accordance with the DLRL Standards and Procedures and EMC Regulations;
 - (iii) prepare electromagnetic control plans which detail how electromagnetic compatibility is assured based on BS EN 50121, the DLRL Standards and Procedures and EMC Regulations;
 - (iv) provide supporting evidence (including appropriate test reports and technical studies) at key assurance stages as necessary to demonstrate Electrical Systems Compliance.
- (c) In order to facilitate CRL's compliance with sub-clause (a) above DLRL shall:
 - (i) make available to CRL all the information in DLRL's possession reasonably requested by CRL in respect of DLRL Electrical Assets identified pursuant to sub-clause (b) above; and
 - (ii) allow CRL reasonable facilities for the inspection of DLRL Electrical Assets identified pursuant to sub-clause (b) above.
- (d) If it is established that Electrical Systems Compatibility can only reasonably be achieved by modifications to DLRL Electrical Assets, DLRL shall not withhold its consent unreasonably to modifications to DLRL Electrical Assets. In such circumstances, DLRL shall be entitled to select, acting reasonably the means of achieving Electrical Systems Compatibility and the method of execution of any modification works, provided that if DLRL elects for the works not to be carried out by CRL then CRL will not have any responsibility for the design or implementation of the modifications.

19.2 **Occurrence of ESC Failures**

- (a) If at any time prior to the commencement of commercial operations of the whole of the Crossrail railway and notwithstanding any measures adopted pursuant to Clause 19.1, the testing or commissioning of the Crossrail Project railway systems causes any ESC Failure, then CRL shall immediately upon receipt of notification by DLRL of such ESC Failures either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use, or procure cessation of the use of, the Crossrail apparatus, systems or installations causing such ESC Failure until all measures

reasonably necessary have been taken to remedy such ESC Failure by way of modification to the relevant assets.

- (b) In the event of any ESC Failure having occurred:
 - (i) CRL shall afford reasonable facilities to DLRL for access to CRL's property in the investigation of such ESC Failure;
 - (ii) DLRL shall afford reasonable facilities to CRL for access to DLRL Property in the investigation of such ESC Failure; and
 - (iii) DLRL shall make available to CRL any additional material information in its possession reasonably requested by CRL in respect of DLRL Electrical Assets or such ESC Failure.

19.3 **Modifications to DLRL Electrical Assets**

Where DLRL approves modifications to DLRL Electrical Assets pursuant to Clauses 19.2 any such modification shall be dealt with as Unforeseen DLRL Property Works in accordance with Clause 18.5.

19.4 **DLRL Costs**

If any ESC Failure is attributable to a change to DLRL Property carried out by DLRL after the date on which there has been no objection in respect of the Protective Measures which relate to the Crossrail Project railway systems which are giving rise to the ESC Failure and, prior to such date, DLRL had not notified CRL of the intention to make such change to DLRL Property, then DLRL shall not be entitled to reimbursement of Costs under Clause 29 (Reimbursement of DLRL Costs) in respect of any works carried out by DLRL in accordance with Clause 19.3.

20. **OLYMPICS**

20.1 **Liaison with ODA and LOCOG**

From the date of this Agreement, each of the Parties shall liaise and collaborate fully with ODA and LOCOG as necessary to determine the measures for mitigating the impact of the Works on the Olympics and shall keep the other Party informed about the outcome of any discussion with ODA and LOCOG.

20.2 **Olympic Mitigation Measures**

- (a) By no later than 31 December 2010, the Parties shall meet to discuss the process for developing the Olympic Mitigation Measures.
- (b) If the Parties have not been able to agree the Olympic Mitigation Measures by 30 April 2011, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.
- (c) The Parties acknowledge that, as at the date of this Agreement, it is currently assumed that the Olympic Mitigation Measures will include the following restrictions:
 - (i) in respect of the 12 month period prior to the commencement of the Olympics during which DLRL is required to assist with the testing of the Olympics transport plan, CRL shall not be entitled to any Possessions or carry out any activities which may affect DLRL Operational Property which in DLRL's opinion acting reasonably would interfere with its obligations in respect of the testing of the Olympics transport plan;

- (ii) by no later than one month prior to the commencement of the Olympics, CRL shall ensure that each of the Sites is in a condition which allows DLRL to operate the Docklands Light Railway without any reduced capacity or any other restrictions and otherwise to comply with the Olympics transport plan during the period of the Olympics; and
 - (iii) during the Olympics, CRL shall not be entitled to any Possessions or carry out any activity affecting DLRL Operational Property which would interfere in any way with DLRL's obligations in respect of the Olympics transport plan.
- (d) Following agreement of the Olympic Mitigation Measures the Parties shall make any necessary changes to:
- (i) the Integrated Works Programme (including the Possessions Schedule) in accordance with Clause 8 (Integrated Works Programme);
 - (ii) the DLRL Annual Resource Plan in accordance with Clause 9 (DLRL Annual Resource Plan); or
 - (iii) the Method Statements or Protective Measures in accordance with Clause 33.2 (CRL Changes),
- in order to take account of the Olympic Mitigation Measures.

21. REGULATORY APPROVALS AND SAFETY

21.1 Safety Verification

- (a) CRL shall in sufficient time (and whether before or after the date of issue of any Practical Completion Certificate) provide such information and assistance as DLRL may require to obtain any Consents which are necessary or desirable in order to satisfy any Relevant Authority having jurisdiction over the Docklands Light Railway that the Replacement Works can commence operation safely and in accordance with all applicable Laws and codes of practice as an integral part of the Docklands Light Railway. Such information and assistance shall include:
 - (i) the preparation of the relevant parts of any submissions in respect of the Safety Management System or any Safety Certificate or Safety Verification;
 - (ii) the provisions of necessary information, drawings and reports;
 - (iii) assistance with, and attendance at, inspections by the authorities; and
 - (iv) the performance of tests or trials required by the authorities.
- (b) DLRL shall be responsible for obtaining any information or assistance it requires from the ATC Systems Works Contractors in connection with the Consents referred to in sub-clause (a) above.
- (c) This Clause 21.1 shall not limit CRL's obligation under Clause 12 (Consents) or any other part of this Agreement to obtain any other Consents in connection with the Works.

21.2 Safety management (Works)

- (a) CRL shall be responsible for the safety of the Works. CRL shall not be responsible for the safety of the ATC System Works.

- (b) CRL shall employ an appropriate and effective safety management system which shall include one or more suitably qualified, trained and experienced persons (each a **"CRL Safety Representative"**) to be responsible for all safety matters associated with the Works including the following aspects:
- (i) the timely consultation with the DLRL Safety Representative and all relevant regulatory authorities on safety matters relevant to the various construction methods and the Sites;
 - (ii) where appropriate developing and promulgating safety procedures, with the DLRL safety representative and agreeing these with the relevant regulatory authorities;
 - (iii) defining specific measures for particular activities, jobs and sites, producing method statements on safety aspects;
 - (iv) producing safety documentation in consultation with the DLRL Safety Representative;
 - (v) defining and reporting on tests and trials needed to demonstrate safety;
 - (vi) performing safety analyses and quantified risk assessments;
 - (vii) reporting on safety matters and accident statistics to DLRL, ORR, HSE and HMRI, the holder of any Safety Certificate or any "infrastructure manager" (as defined under ROGS) as appropriate;
 - (viii) training construction personnel (including sub-contractors' staff) on all safety matters;
 - (ix) performing safety inspections, audit and spot checks on its own and sub-contractors' personnel;
 - (x) taking appropriate actions on discovery of breaches of safety procedures; and
 - (xi) establishing a suitable safety management regime including attendance at the DLRL's safety meetings and the preparation and monitoring of an annual safety plan.
- (c) The CRL Safety Representative(s) shall, as far as reasonably possible, be independent of other functions in CRL's organisation, and shall have sufficient authority to ensure that safety requirements are complied with by all of CRL's and its subcontractors' personnel. Such person or persons shall work closely with and co-ordinate all of the above duties and activities with the DLRL Safety Representative. CRL shall give the DLRL safety representative advance notice of all meetings (and the agenda) arranged pursuant to this Clause 21.2 and invite him to attend.

22. **CDM REGULATIONS**

22.1 **Definitions**

For the purposes of this Clause, "CDM Co-ordinator", "Client", "Construction Phase Plan", "Designer", "Executive", "Health and Safety File" and "Principal Contractor" have the same meanings as in the Construction (Design & Management) Regulations 2007 as such regulation may be amended or replaced (the **"CDM Regulations"**). For the avoidance of doubt, the term "Executive" as used in this clause shall include reference to the Office of

Rail Regulation in all cases where reference in the CDM Regulations to the "Executive" is to be read as reference to the ORR.

22.2 **Election**

CRL elects, for the purposes of the CDM Regulations, to be the only Client in respect of the Works and CRL shall serve any necessary notification to this effect on the Executive pursuant to the CDM Regulations. For the avoidance of doubt, CRL will not act as the Client in respect of any works carried out by the ATC System Works Contractors pursuant to Clause 13.4.

22.3 **Performance of duties**

CRL represents and warrants to DLRL that it is and shall continue to be competent to perform the duties imposed on a Client by the CDM Regulations, and that it shall carry out and comply with all the obligations, requirements and duties of the Client arising under the CDM Regulations in connection with the Works. CRL shall not at any time terminate, withdraw or derogate in any manner from its declaration or its acceptance of its responsibilities as Client.

22.4 **CDM Co-ordinator, Designer and Principal Contractor**

CRL shall:

- (a) appoint a CDM Co-ordinator, a Designer and a Principal Contractor in respect of each part of the Works and take all steps as are in the circumstances reasonable to ensure that each is provided with sufficient information to enable him to perform his duties under the CDM Regulations;
- (b) allow sufficient time and resources to enable the CDM Co-ordinator, the Designer, Contractor and Principal Contractor to comply with their obligations relating to health and safety matters arising from the CDM Regulations and to co-operate with them to that end;
- (c) notify the CDM Co-ordinator, the Designer Contractor and Principal Contractor of any change in circumstances relating to the Replacement Works of which it is or ought to be aware which may affect the health and safety of persons involved, or likely to become involved, in the Works;
- (d) comply with the Construction Phase Plan; and
- (e) include in the design all information in relation to the design and materials which might affect the health and safety of persons working on or in relation to the Replacement Works and its maintenance and repair.

22.5 **Health and Safety File**

- (a) As soon as is reasonably practicable after the Handover Date for each Part of the Replacement Works, CRL shall:
 - (i) provide a certified copy of the full and complete Health and Safety File relating to that Part of the Replacement Works to DLRL;
 - (ii) grant to DLRL an irrevocable, royalty free and non-exclusive licence to use and reproduce any information or documents contained at any time within such Health and Safety File for any purpose connected with the Replacement Works or the operation of the Docklands Light Railway.

The licence referred to in sub-clause (ii) above shall carry the right to grant sub-licences and shall be transferable to third parties.

- (b) DLRL shall incorporate the Health and Safety File referred to in sub-clause (a) above with the overall Health and Safety File for the operation of the Docklands Light Railway and shall ensure its availability for use in connection with future works and services as may be carried out to the completed Replacement Works.

22.6 **Intellectual Property**

Insofar as the beneficial ownership of copyright and all other intellectual property and design rights in any information or documents to be contained at any time in the Health and Safety File referred to in Clause 22.5 will be vested in any person other than CRL, CRL shall procure, as a condition precedent to the appointment of such beneficial owner, that they grant to DLRL an irrevocable, perpetual, royalty free and non-exclusive licence to use and reproduce the Health and Safety File for any and all purposes connected with the Replacement Works. Such licence shall carry the right to grant sub-licences and shall be transferable to the third parties.

23. **RELEVANT AUTHORITIES AND UTILITIES DIVERSIONS**

23.1 **Relevant Authorities**

Except where in accordance with any Legal Requirement DLRL is the only party that may undertake the same and CRL has provided DLRL with sufficient and reasonable notice of such fact (in which event DLRL shall use best endeavours to undertake the same within a reasonable time), CRL shall be responsible for liaising with all Relevant Authorities in relation to the Works, and, in carrying out the Works, will comply with all reasonable requirements and/or statutory requirements of the Relevant Authorities.

23.2 **Utilities**

- (a) Without prejudice to the generality of the foregoing, CRL shall at its own cost:
 - (i) be responsible for complying with the requirements of all statutory undertakers affected by the Works; and
 - (ii) be responsible for the relocation, disconnection or installation of all services, to the extent necessary in order to carry out and complete the Works.
- (b) CRL shall consult fully with DLRL and take account of DLRL's reasonable comments before submitting to National Grid or Thames Water (as statutory undertakers) in accordance with paragraph 8(1) of Schedule 17, Part 2 of the Crossrail Act a plan and description of any Royal Victoria Works which are near to or may affect National Grid and Thames Water apparatus and the protective measures which CRL proposes to take in respect of such apparatus.
- (c) In the event that National Grid and/or Thames Water request requirements for the alteration or protection of or securing access to the apparatus referred to in sub-clause (b) above in accordance with paragraph 8(2) of Schedule 17, Part 2 of the Crossrail Act, CRL shall:
 - (i) consult fully with DLRL in respect of such request and have regard to DLRL's representations on how such requirements are addressed to avoid encumbrance or interference on the operation of the Docklands Light Railway; and
 - (ii) use its best endeavours to resolve such requirements with National Grid and/or Thames Water in a way that should not impose any encumbrance or

interference on the operation of the Docklands Light Railway once the relevant Royal Victoria Works become operational.

For the purposes of sub-clause (c)(ii) above, CRL shall be deemed to have used its best endeavours if it has exercised all rights which it has under the Crossrail Act or otherwise to dispute any request which it or DLRL believes to be unreasonable including referring the matter to arbitration.

- (d) In the event that, notwithstanding CRL complying with sub-clause (c) above, CRL is required to comply with requirements which will impose an encumbrance or interference on the operation of the Docklands Light Railway, the Parties shall agree such additional measures (to be carried out by CRL or at CRL's cost) as are reasonably necessary to minimise the effects of such encumbrance or interference.
- (e) DLRL acknowledges that CRL shall be entitled to proceed with the design and construction of the relevant Royal Victoria Works in accordance with the terms of this Agreement whilst any of the matters referred to in sub-clauses (c) and (d) are being resolved.

23.3 **Notices**

CRL shall supply DLRL with copies of all notices received from Relevant Authorities which relate to the Works and affect DLRL within 5 Business Days of receipt.

23.4 **Assistance from DLRL**

Without limiting the obligations of CRL under this Clause 23 (Relevant Authorities and Utilities Diversions), DLRL shall, where reasonably requested by CRL, provide to CRL reasonable assistance in liaising with all Relevant Authorities in relation to the Works and complying with all reasonable and/or statutory requirements of the Relevant Authorities.

23.5 **Utilities Information**

DLRL shall provide CRL with any information in its possession relating to the location of utilities affected or potentially affected by the Works.

24. **SUBCONTRACTING**

24.1 **Right to subcontract**

Each Party shall be free to sub-contract any of its obligations under this Agreement to a subcontractor.

24.2 **Replacement Works warranties**

- (a) CRL shall procure that each of its principal contractors who is performing any design or construction function in respect of:

- (i) the Replacement Works; or

- (ii) subject to 24.2(b), any Interface Works on or touching DLRL Property,

executes and delivers to DLRL warranties in respect of the design and/or construction of such works in the form of the the warranties given from time to time by contractors of CRL in favour of London Underground Limited or such other form as DLRL shall reasonably require having regard to current market practice for such warranties.

- (b) In respect of any Interface Works on or touching DLRL Property which is to be transferred pursuant to clause 27.2 of the Property Agreement to the "Acquiring Authority" (as defined in the Property Agreement), CRL shall only be required to procure that the warranty referred to in Clause 24.2(a) applies for as long as the relevant land remains DLRL Property.

24.3 **Responsibility for subcontractors**

Each Party shall retain full responsibility and liability for the performance of its subcontractors and shall procure that such subcontractors, in the performance of their respective obligations, observe and comply with all undertakings in this Agreement given by the Party which has employed the relevant subcontractor.

25. **PERSONNEL**

25.1 **Qualified Personnel**

- (a) In relation to the Works and the ATC System Works, CRL and DLRL shall employ and shall ensure that its subcontractors employ only such persons as are properly qualified, experienced and competent to perform the work assigned to them.
- (b) Where any person employed by CRL or DLRL (or their subcontractors) are engaged in any form of safety critical work, CRL or DLRL, as applicable, shall ensure that the relevant requirements of ROGS are complied with. Evidence that persons have been properly assessed as competent to perform their safety critical duties shall be provided to the other Party, if requested.

25.2 **Replacement of Personnel**

If either Party (for the purposes of this Clause 25.2, the "**Notifying Party**"), acting reasonably, considers that:

- (a) any individual employed or engaged by the other Party or its subcontractors is not properly qualified, experienced or competent to perform the work assigned to him/her; or
- (b) any individual employed or engaged by the other Party or its subcontractors has a poor working relationship with one or more of the employees or agents of the Notifying Party or its sub-contractors and that such relationship is having a negative impact on the performance of either Party's obligations under this Agreement,

the Notifying Party may notify the other Party and include in such notification an explanation of the events or circumstances giving rise to the Notifying Party's concerns. The Parties shall use all reasonable endeavours to resolve the matter, provided that if they are unable to resolve the matter within 20 Business Days, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

26. **PROGRESS REPORTS AND INSPECTION RIGHTS**

26.1 **Progress reports**

- (a) Within 15 Business Days following the end of each Period, CRL shall provide DLRL with a progress reports in respect of that Period covering the following matters in so far as they relate to the Works:
 - (i) the progress of the Works against the Integrated Works Programme and any milestones shown therein;

- (ii) a schedule of all Works carried out during the relevant Period;
 - (iii) a schedule of all Works to be carried out during the subsequent Period;
 - (iv) a record of all safety and environment related incidents or matters including the presence, release, disposal, escape, deposit, accumulation or storage of hazardous substances or waste occurring on the Sites which are known to CRL;
 - (v) all actual or potential issues of a material nature affecting the Integrated Works Programme or the design or construction of the Works impacting upon the operation of DLRL together with proposals for addressing such issues;
 - (vi) all dealings with Relevant Authorities;
 - (vii) all dealings with the public and media organisations; and
 - (viii) progress on the transfer of property interests pursuant to the Property Agreement.
- (b) Within 15 Business Days following the end of each Period, DLRL shall provide CRL with a progress report in respect of that Period covering the following matters in so far as they relate to the Works and ATC System Works:
- (i) the progress of the ATC System Works against the Integrated Works Programme and any milestones shown therein;
 - (ii) a schedule of all ATC System Works to be carried out during the subsequent Period;
 - (iii) all actual or potential issues of a material nature affecting the Integrated Works Programme and arising out of the design or construction of the ATC System Works together with proposals for addressing such issues;
 - (iv) a record of the DLRL resources expended during the relevant Period identified against the Annual Resource Plan;
 - (v) any change in circumstances notified to CRL in accordance with Clause 8.4(a); and
 - (vi) progress on the transfer of property interests pursuant to the Property Agreement.

26.2 **Inspection rights**

- (a) DLRL may on reasonable notice to CRL and with the consent of CRL (such consent not to be unreasonably withheld or delayed) enter any part of the Sites in order to inspect, test and view the state and progress of the Replacement Works and to ascertain whether they are being executed in accordance with this Agreement.
- (b) If any item or issue disclosed to DLRL in any report provided under Clause 26.1 gives DLRL reasonable cause for concern that any Protective Measures are not being executed in accordance with the terms of this Agreement, then DLRL shall be entitled to enter the relevant part of the Sites in order to inspect, test and view the state and progress of such Protective Measures and to ascertain whether they are being executed in accordance with this Agreement. DLRL will only be entitled to enter such relevant Sites with the prior consent of CRL (such consent not to be unreasonably withheld or delayed). It will not be unreasonable for CRL to withhold

consent if in the opinion of CRL it would be unsafe to allow access to DLRL personnel.

26.3 **Opening up of Replacement Works**

DLRL may, if it believes that any completed Replacement Works have not been carried out in accordance with this Agreement, require CRL to open up the relevant part of the Replacement Works for inspection or testing, provided that if any such inspection or testing does not reveal that there has been a material failure to comply with this Agreement any works undertaken by CRL for the purpose of inspection or testing and/or making good damage caused to the Replacement Works for the purpose of the inspection or testing will be deemed a DLRL Change and Clause 33.1 will apply.

26.4 **Notification of non-compliance**

- (a) Within 5 Business Days of receiving carrying out any inspection under Clause 26.2, DLRL shall provide a notice to CRL either:
 - (i) identifying in writing any non-compliance with this Agreement of which it becomes aware as a result of its inspection, such notification to include reasonable detailed particulars of the non-compliance; or
 - (ii) confirming that it has no comments in respect of the inspection.
- (b) If CRL disagrees with any such notice of non-compliance and the Parties have not resolved the issue in dispute within 5 Business Days, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

26.5 **Remediation**

CRL shall immediately at its own expense take all such measures as are necessary to remedy the non-compliance identified by DLRL pursuant to Clause 26.4 and which are agreed by the Parties or determined pursuant to the Dispute Resolution Procedure.

26.6 **Progress meetings**

At the end of each Quarter (or at such other intervals as the Parties may agree from time to time), the Parties shall meet to discuss the progress of the Works including each of the items identified in sub-clauses (a) and (b) of Clause 26.1.

26.7 **Sponsors' Project Representative**

The Parties shall provide the Sponsors Project Representative with such access to the Sites as he reasonably requires for the purposes of carrying out his monitoring functions under the Crossrail PDA.

27. **TESTING, COMMISSIONING, COMPLETION AND HANDOVER (REPLACEMENT WORKS AND ATC SYSTEM WORKS)**

27.1 **Compliance with Guidance on Asset Handback**

The Parties will comply with the Guidance on Asset Handback in respect of the testing, commissioning, completion and handover of the Replacement Works and the ATC System Works.

27.2 **Handover Strategy**

- (a) No later than 12 months prior to the anticipated first date for Practical Completion of a Part of the Replacement Works, CRL will provide DLRL with its outline strategy

(the "**Handover Strategy**") for handover of each Part of the Replacement Works, such strategy to include a testing and commissioning plan (the "**Testing and Commissioning Plan**") for each Part of the Replacement Works and the activities leading to the transfer of the relevant property interests pursuant to clauses 7.1(a) and 7.2(a) of the Property Agreement.

- (b) No later than 6 months prior to the anticipated first date for Practical Completion of a Part of the Replacement Works, CRL will update its Handover Strategy for that Part of the Replacement Works and submit it to the Review Procedure.
- (c) CRL shall ensure that the Handover Strategy is consistent with the Possessions Schedule.
- (d) The Parties acknowledge that:
 - (i) the ATC System Works Contractors shall be responsible for the testing, commissioning and completion of all ATC System Works; and
 - (ii) the strategy for such testing, commissioning and completion shall be included within the Handover Strategy prepared by CRL.

DLRL shall procure that the ATC Systems Works Contractors provide such co-operation and assistance as is reasonably requested by CRL to enable CRL to include arrangements in respect of the testing, commissioning and completion of the ATC System Works within the Handover Strategy and Testing and Commissioning Plan. The Handover Strategy and Testing and Commissioning Plan will clearly identify the responsibilities of CRL, the ATC System Works Contractors and where appropriate DLRL.

27.3 **Practical Completion, testing and Infrastructure Certificate**

- (a) When CRL reasonably considers that any Part of the Replacement Works and the related ATC System Works have reached Practical Completion, CRL shall notify DLRL that such works are ready for inspection with a view to the issue of an Infrastructure Certificate for the relevant Part of the Replacement Works. Such notice shall provide the proposed dates and times for implementing the Testing and Commissioning Plan.
- (b) CRL shall carry out, and DLRL shall procure that the ATC Systems Works Contractors carry out, immediate and static system tests, integration and standalone tests and assimilation tests in accordance with the Testing and Commissioning Plan to which there has been no objection. DLRL shall be entitled to attend all such tests.
- (c) Promptly following the completion of the tests carried out pursuant to Clause 27.3(b), CRL and DLRL shall carry out a joint inspection of the relevant Replacement Works. During any such inspection, DLRL shall be entitled to access any area of the Sites that it requires in order to confirm that the relevant Replacement Works are complete in accordance with the Replacement Works Functional Specification the Detailed Design which has been endorsed "no objection".
- (d) If the Replacement Works on the relevant Part of the New Works meet the requirements of this Agreement (other than for items which are Minor Outstanding Items) then DLRL shall within 3 Business Days of the inspection referred to in Clause 27.3(c) (or such shorter period as set out in the Handover Strategy to which there has been no objection) issue a notice to CRL to that effect (a "**Infrastructure Certificate**") for the relevant Part of the Replacement Works

together with a list of the Minor Outstanding Items (the "**Minor Outstanding Items List**").

- (e) DLRL will not withhold an Infrastructure Certificate on account of:
 - (i) any defects, discrepancies, errors, failures or omissions which are solely related to the ATC System Works save to the extent that any such defects, discrepancies, errors, failures or omissions are as a consequence of any act or omission by CRL or any of its subcontractors; or
 - (ii) the existence of Minor Outstanding Items.

27.4 **System Performance Demonstration and Commissioning Certificate**

- (a) Promptly following the issue of an Infrastructure Certificate in respect of a Part of the Replacement Works and the related ATC System Works, CRL shall carry out a system performance demonstration in accordance with the Handover Strategy to which there has been no objection in order to demonstrate that the Part of the Replacement Works is fully functional in compliance with the Replacement Works Functional Specification and the other requirements of this Agreement save in respect of any Minor Outstanding Items (a "**System Performance Demonstration**").
- (b) If any System Performance demonstration is unsuccessful on account of any defects, discrepancies, errors, failures or omissions which are solely related to the ATC System Works, then CRL shall not be responsible for any costs incurred by DLRL in respect of any subsequent System Performance Demonstration.
- (c) Within 5 Business Days of a successful System Performance Demonstration, DLRL shall issue a Commissioning Certificate in respect of the relevant Part of the Replacement Works.

27.5 **Completion and Handover Certificate**

- (a) As soon as practicable following the issue of the Commissioning Certificate for any Part of the Replacement Works, CRL shall issue a notice to DLRL (a "**Completion Notice**") accompanied by the following documents in respect of the Part of the Replacement Works:
 - (i) confirmation that CRL's personnel, supplies, equipment, waste, materials, rubbish and temporary facilities have been removed from the relevant Site except those reasonably required for the completion of the Minor Outstanding Items, any Defects, or for the normal operation of the Docklands Light Railway;
 - (ii) draft as built engineering drawings;
 - (iii) the health and safety file;
 - (iv) the results of all inspections, tests and trials;
 - (v) draft operation and maintenance manuals; and
 - (vi) any Asset Modification Notice issued in accordance with Clause 15.3(c).

Unless otherwise agreed by DLRL, any documents referred to above which include plans or technical information shall be provided in both AutoCAD (dwg) format and in PDF format and all other documents shall be provided in Microsoft Word format.

- (b) CRL will be entitled to issue the Completion Notice notwithstanding the existence of any Minor Outstanding Items in respect of the relevant Part of the Replacement Works.
- (c) Unless DLRL issues a notice to CRL within 10 Business Days of receipt of the Completion Notice that it believes the Replacement Works fail to comply with this Agreement (other than Minor Outstanding Items), CRL will issue to DLRL a certificate (the "**Completion and Handover Certificate**") stating that the Replacement Works are, from the date stated within such certificate, to be handed over to DLRL ("**Handover Date**").

27.6 **Rectification of Minor Outstanding Items and Final Completion Certificate**

- (a) To the extent the Minor Outstanding Items have not been rectified prior to the Handover Date, CRL shall at no cost to DLRL rectify all Minor Outstanding Items as soon as reasonably practicable, subject to DLRL granting sufficient Possessions pursuant to the Clause 14 (Possessions) where necessary.
- (b) CRL shall notify DLRL in writing when it believes all Minor Outstanding Items in respect of a Part of the Replacement Works have been rectified whereupon DLRL shall carry out an inspection and thereafter, if the Minor Outstanding Items have been rectified, shall issue a certificate to that effect to CRL (a "**Final Completion Certificate**") accompanied by final as built engineering drawings and operation and maintenance manuals. If all Minor Outstanding Items have not been rectified the procedure in this Clause 27.6 will be repeated until such time as the Minor Outstanding Items have been rectified.
- (c) If CRL fails to achieve the Final Completion Certificate for any Part of the Replacement Works within 3 months of the Practical Completion Certificate for that Part of the Replacement Works then DLRL may issue a notice to that effect to CRL stating that if CRL fails to achieve the Final Completion Certificate within 15 Business Days from the date of such notice, DLRL may rectify or procure the rectification of any remaining Minor Outstanding Items so as to meet the requirements of this Agreement and recover its reasonable and properly incurred costs of so doing from CRL in accordance with Clause 29 (Reimbursement of DLRL Costs).

27.7 **Access and Occupation from Handover Date**

- (a) In the event that by the date four weeks prior to the Handover Date in respect of each Part of the Replacement Works TfL is not the registered proprietor of the freehold title to the relevant property proposed to be transferred to DLRL pursuant to clause 7.1(a) of the Property Agreement, CRL shall use best endeavours to procure from SoS a licence to occupy each such property to be transferred (and to operate its railway thereon) from the Handover Date until the completion of the transfer of such property interest.
- (b) DLRL hereby confirms that from the Handover Date in respect of each Part of the Replacement Works until the completion of the transfer of the relevant property interest to be transferred to the Acquiring Authority (as defined in the Property Agreement) pursuant to clause 7.2(a) of the Property Agreement, CRL has a licence to occupy each such property to be transferred and to construct and operate its railway thereon.

28. **DEFECTS**

28.1 **Responsibility for Defects**

- (a) During the Defects Liability Period, CRL will, subject to Clause 28.5, be responsible for the rectification of:
- (i) any defect, discrepancy, error, failure or omission that appears within the Replacement Works; and
 - (ii) any damage to DLRL Property caused by any subsidence which occurs as a consequence of the Interface Works,
- (each a "**Defect**") except to the extent that such Defects are the result of breach by DLRL of the provisions of this Agreement.
- (b) CRL shall not be responsible for the rectification of any defect, discrepancy, error, failure or omission that appears within the ATC System Works.

28.2 **Notification of Works Defects**

If DLRL becomes aware of a Defect within the Defects Liability Period, it shall notify CRL as soon as reasonably possible.

28.3 **Defects Rectification Works**

If notification is received by CRL within the Defects Liability Period and CRL agrees that the Defect exists, it shall within a reasonable period undertake all works that are required to remedy the same (the "**Defects Rectification Works**") at no cost to DLRL.

28.4 **Disputed Defects**

If CRL does not agree that a Defect exists or does not agree the extent to which the Defect is CRL's responsibility, the matter shall be referred to the Dispute Resolution Procedure.

28.5 **Defects affecting safety**

Where DLRL discovers a Defect which it reasonably considers prevents safe operation of any part of the Docklands Light Railway and therefore requires immediate rectification DLRL may, where practical and after consultation with CRL, carry out any required Defects Rectification Works and CRL shall reimburse DLRL for all reasonable and proper costs incurred by DLRL in undertaking such Defects Rectification Works in accordance with Clause 29 (Reimbursement of DLRL Costs).

28.6 **Possessions for Defects Rectification Works**

If CRL requires any Possessions in order to undertake the Defects Rectification Works, then it shall:

- (a) use all reasonable endeavours to limit such Possessions to Engineering Hours Possessions; and
- (b) request appropriate updates to the Possessions Schedule in accordance with Clause 14.3 and comply with the provisions of Clause 14 in respect of any such Possessions.

28.7 **Survey**

Six months prior to the expiry of the Defects Liability Period DLRL and CRL will jointly undertake a survey of the Replacement Works in order to identify any Defects.

29. **REIMBURSEMENT OF DLRL COSTS**

29.1 **Recoverable Costs**

Subject to Clauses 14.8, 14.9, this Clause 29.1 and Clauses 29.2 to 29.6 and Schedule 8 (DLRL Costs), CRL shall reimburse DLRL for all Costs reasonably incurred by DLRL in carrying out the DLRL Activities or as a consequence of the Works including any Costs incurred by DLRL in respect of:

- (a) the employment or procurement of the services of any additional staff or professional and technical advisors provided that such costs shall be calculated in accordance with Clause 29.2;
- (b) additional operational costs for:
 - (i) any special traffic working;
 - (ii) the procuring of temporary or replacement bus services;
 - (iii) additional temporary lighting of DLRL Operational Property in the vicinity of the Works;
 - (iv) providing passenger information both prior to and during construction of the Works including signage, advertising in the media, posters and leafleting;
 - (v) providing temporary ticketing and other facilities for passengers at any railway stations;
- (c) the design, manufacture, supply, installation, commissioning, testing and completion of the ATC System Works provided that any costs shall be determined in accordance with Clause 29.3;
- (d) any Possession provided that such Costs shall be limited to any amounts payable in accordance with Clauses 14.8, 14.9 and paragraphs 1 and 2 of Schedule 8 (DLRL Costs);
- (e) any damage to DLRL Property as referred to in Clause 18.4;
- (f) any Unforeseen DLRL Property Works carried out by DLRL in accordance with Clause 18.5;
- (g) any costs incurred by DLRL in respect of modifications to DLRL Electrical Assets in accordance with Clause 19.1(d);
- (h) any costs to be reimbursed in accordance with Clause 33.1(e)(ii) or Clause 33.2(d)(ii);
- (i) any claim brought against DLRL:
 - (i) by any DLRL Contractor for increased payment under its contract with DLRL;
or
 - (ii) by any third party for damage to property or personal injury,

where such claim has arisen as a direct consequence of the acts or omissions of CRL or its contractors in performing or failing to perform its obligations under this Agreement; and

- (j) any form of tax, duties, imports and levies which DLRL may be or become bound to make to any person as a result of the operation of any enactment relating to taxation and all penalties, charges and interest relating to any claim or assessment for taxation levied, assessed or imposed by government (central or local), authorities and other agencies or bodies having lawful authority to do so, as a result of the Works.

29.2 **Staff Costs**

- (a) All staff, consultant and contractor costs shall be determined in accordance with the schedules of rates set out in paragraph 3 of Schedule 8 (DLRL Costs).
- (b) In respect of any staff costs, DLRL may include the cost of any person engaged by DLRL (either through an agency or as a consultant or contractor) specifically in relation to the DLRL Activities, provided that where such person is not solely engaged in the DLRL Activities the Parties shall agree in the DLRL Annual Resource Plan the appropriate proportion of time spent by that person on the DLRL Activities and reimburse for such proportion of time only.
- (c) In respect of any consultant and contractor costs (but not staff costs), DLRL may include the cost of any expenses claimed by the consultant or contractor where such claim is in accordance with the terms of their contract with DLRL.
- (d) Where, after the date hereof, DLRL proposes to enter into any contract appointing any staff, consultant or contractor which relates exclusively to work to be carried out in connection with the Crossrail Project, DLRL shall first consult with and obtain the prior written approval of CRL to the financial terms of the appointment (such approval not to be unreasonably withheld or delayed).

29.3 **ATC System Works**

- (a) In respect of Costs incurred in connection with the ATC System Works, DLRL shall be entitled to recover:
 - (i) any payments due to the ATC System Works Contractors calculated in accordance with the relevant ATC System Works Contract;
 - (ii) any Costs referred to in Clause 29.1(a);
 - (iii) any Costs referred to in Clause 29.1(i)(i) or (ii) to the extent that DLRL is not able to recover such Costs pursuant to the insurances referred to in Clause 30.2(a) having used all reasonable endeavours to recover under such insurances.
- (b) CRL shall not be responsible for amounts claimed by any ATC System Works Contractor to the extent that any such claim has arisen due to the breach by DLRL of its obligations under the relevant ATC System Works Contract (save to the extent that such breach has been caused by the acts or omissions of CRL or its sub-contractors).
- (c) In mitigating its Costs pursuant to Clause 29.4, DLRL shall (unless otherwise agreed by CRL) pursue any Claims it is entitled to pursue under any ATC System Works Contract and exercise any rights it has to withhold or set-off amounts against payments to the relevant ATC System Works Contractor in respect of any breach, failure or non-performance by the ATC System Works Contractor.

- (d) If CRL suffers any Cost (other than a Recoverable Cost payable to DLRL pursuant to this Clause 29 (Recoverable Costs)) as a consequence of any act, omission, negligence or default of any ATC Works Contractor, then CRL shall be entitled to claim such cost from DLRL provided that DLRL shall only be required to make payment to CRL in respect of such claim to the extent that it has actually received the benefit of a corresponding claim against the ATC System Works Contractor.

29.4 **Duty to mitigate**

- (a) DLRL shall use all reasonable endeavours to mitigate any Costs which it is entitled to recover under Clause 29.1.
- (b) In mitigating its Costs, DLRL shall (unless otherwise agreed by CRL) pursue any such claim and exercise any rights it has to withhold or set-off amounts against payments to any DLRL Contractor in respect of any breach, failure or non-performance by such DLRL Contractor.

29.5 **Costs which are not recoverable**

DLRL shall not be entitled to reimbursement in respect of any of the following Costs:

- (a) any Costs which are not recoverable due to the application of Clauses 19.4, 29.3(b) or 29.6;
- (b) any Costs to the extent attributable to the wilful default or negligence of DLRL or its sub-contractors or their employees or agents;
- (c) save as provided in Clause 29.2(b) above, the costs of any staff who are regularly employed by DLRL;
- (d) save as provided in Clause 29.2(c) above, any expenses claimed by consultants and contractors;
- (e) the costs of DLRL's normal office overheads;
- (f) the costs of any DLRL Change (other than a DLRL Regulatory Change) which are the responsibility of DLRL as agreed or determined in accordance with Clause 33.1; or
- (g) save as expressly contemplated in the list of losses set out in sub-clauses (a) to (j) of Clause 29.1, any loss of profit, loss of revenue, loss of contracts, loss of opportunity and any other indirect or consequential losses.

29.6 **Reimbursement of Resource Plan Recoverable Costs**

- (a) DLRL shall be entitled to reimbursement of Resource Plan Recoverable Costs pursuant to this Clause 29 provided that:
 - (i) such Resource Plan Recoverable Costs have been included in a DLRL Annual Resource Plan authorised pursuant to a Work Instruction Form; and
 - (ii) the resources in respect of which payment is sought are consistent with those authorised by the relevant Work Instruction Form.
- (b) If any Resource Plan Recoverable Cost incurred by DLRL has not been authorised by a Work Instruction Form, then DLRL shall only be entitled to reimbursement of such Resource Plan Recoverable Cost after it has been included in a revised DLRL Annual Resource Plan and has been authorised pursuant to a revised Work Instruction Form.

29.7 Invoicing and Payment

- (a) DLRL shall invoice CRL in arrears for the Recoverable Costs due in respect of the preceding Period. Each invoice must specify the Recoverable Costs incurred and payable in respect of the preceding Period, together with all supporting information as is reasonably required by CRL. Invoices shall include the amount of any VAT to be paid by CRL.
- (b) CRL shall pay to DLRL amounts that are due and payable in accordance with this Clause 29 within 30 days of the submission of each invoice in compliance with sub-clause (a) above (the "**Final Payment Date**").
- (c) For the purposes of sub-clause (b) above and the HGCRA, the due date for payment of invoices shall be 20 days after the date of receipt of each invoice ("**HGCRA Payment Due Date**").
- (d) Not later than 5 days after the HGCRA Payment Due Date, CRL shall give a written notice to DLRL which shall, in respect of the amount stated as due in that invoice, specify:
 - (i) the amount of the payment proposed to be made on the Final Payment Date and the basis on which the amount has been calculated; and
 - (ii) any amount proposed to be withheld or deducted and the grounds for withholding or deducting payment.
- (e) Where CRL has not made any withholding or deduction pursuant to sub-clause (d) above, CRL shall pay DLRL the amount due pursuant to the invoice on the Final Payment Date. Where CRL has made a withholding or deduction pursuant to sub-clause (d) above, CRL shall pay DLRL the undisputed amount of the invoice on the Final Payment Date and DLRL shall have the right to dispute the amount withheld. The Parties shall use all reasonable endeavours to reach agreement in respect of any disputed amount provided that if the Parties fail to reach agreement within 25 Business Days of the Final Payment Date, then either Party may refer the dispute to the Dispute Resolution Procedure.

29.8 Third party claims against DLRL

- (a) If DLRL receives any notice, demand, letter or other document concerning any Claim from a third party (including any DLRL Contractor) from which it appears that DLRL is or may become entitled to recover Costs from CRL under this Agreement, DLRL shall give notice to CRL as soon as reasonably practicable.
- (b) Following the issue of a notice pursuant to sub-clause (a) above in respect of a Claim by a DLRL Contractor, DLRL shall consult with CRL in respect of DLRL's resistance of such Claim.
- (c) Following the issue of a notice pursuant to sub-clause (a) above in respect of a Claim by any third party other than a DLRL Contractor, CRL shall be entitled to and shall resist the Claim in the name of DLRL at its own expense and shall have the conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations, and DLRL will give CRL all reasonable cooperation, access and assistance for the purposes of considering and resisting such Claim. With respect to any such Claim:
 - (i) CRL shall keep DLRL fully informed and consult with DLRL about the conduct of the Claim;

- (ii) to the extent that DLRL is not entitled to recover Costs from CRL for all of the liability arising out of the act or omission which is the subject of the Claim, CRL shall not take any action pursuant to sub-clause (b) above which shall increase the amount of any payment to be made by DLRL in respect of that part of the Claim in respect of which DLRL is not entitled to recover Costs from CRL; and
- (iii) CRL shall not pay or settle such Claim without the consent of DLRL, such consent not to be unreasonably withheld or delayed.

29.9 **Audit rights**

DLRL shall provide to CRL all information, documents and records in the possession of or available to DLRL as are reasonably requested by CRL to support any claim for reimbursement of Costs pursuant to this Clause 29 (Reimbursement of DLRL Costs).

30. **INSURANCE**

30.1 **CRL Insurances**

- (a) The Parties acknowledge that CRL will develop an insurance strategy that identifies and details CRL's insurance proposals for the Crossrail Project (the "**Crossrail Insurance Strategy**") and that such Insurance Strategy and any amendments thereto will be approved by the Sponsors in accordance with clause 18 of the Crossrail PDA.
- (b) When developing the Crossrail Insurance Strategy, CRL shall consult with DLRL in respect of any insurances which relate to the Works and shall give due consideration to any comments made by DLRL.
- (c) CRL undertakes to DLRL that it shall at all times comply with the Crossrail Insurance Strategy (as approved from time to time by the Sponsors) insofar as it relates to the Works.
- (d) CRL shall have no responsibility for providing any insurance in respect of any Part of the Replacement Works from the Handover Date for that Part of the Replacement Works.

30.2 **DLRL Insurances**

DLRL shall be responsible for taking out and maintaining any insurances it requires in respect of:

- (a) the ATC System Works at all times; and
- (b) each Part of the Replacement Works from the Handover Date for that Part of the Replacement Works.

31. **TAX**

31.1 **VAT**

- (a) Where any taxable supply for VAT purposes is made under or in connection with this Agreement by one Party to the other Party, the payer shall, in addition to any payment required for that supply, pay upon presentation of a valid tax invoice such VAT as is chargeable in respect of that supply.
- (b) Where under this Agreement one Party has agreed to reimburse or indemnify the other Party in respect of any payment made or costs incurred by the other Party

then the first Party shall also reimburse any VAT paid by the other which forms part of its payment made or cost incurred to the extent that such VAT is not available for credit for the other, or for any person with whom the indemnified party is treated as a member of a group for VAT purposes, under sections 25 and 26 of the Value Added Tax Act 1994.

- (c) Where any rebate or repayment of any amount is payable by one Party to this Agreement to the other Party, and the first Party is entitled as a matter of law or Customs and Excise practice to issue a valid VAT credit note, such rebate or repayment shall be paid together with an amount representing the VAT paid on that part of the consideration in respect of which the rebate or repayment is made and the first Party shall issue an appropriate VAT credit note to the other Party.

32. INTELLECTUAL PROPERTY

32.1 Replacement Works IPR

DLRL shall own all Intellectual Property rights in respect of the Replacement Works created by CRL or DLRL or on behalf of either of them pursuant to this Agreement.

32.2 Licence to DLRL

In respect of any Intellectual Property rights that are created or used as part of the provision of the Replacement Works (other than those owned by DLRL pursuant to Clause 32.1), CRL shall use its best endeavours to procure the grant to DLRL prior to the Handover Date of an irrevocable, royalty-free, non-exclusive license to use all such Intellectual Property rights for any purposes:

- (a) in connection with DLRL's rights and obligations under this Agreement or otherwise in connection with the carrying out of the DLRL Activities;
- (b) where necessary for DLRL to prevent, address, alleviate or comply with (as applicable) an emergency, any legal requirement, any direction from a regulatory body or a contractual commitment existing on the Handover Date;
- (c) in connection with the maintenance, reinstatement, repair and extension of the Replacement Works; or
- (d) in order for DLRL to comply with the obligations on its part owed to any DLRL Contractor.

Any such licence granted under this Clause 32.2 shall include the right to grant sub-licences and shall be freely assignable by DLRL.

33. CHANGE PROCEDURE

33.1 DLRL Changes

- (a) DLRL may by issuing a notice to CRL propose a change (whether by addition, amendment, substitution, omission or otherwise) to:
 - (i) the Replacement Works Functional Specification;
 - (ii) the DLRL Standards and Procedures;
 - (iii) any Detailed Design which has been endorsed "no objection";
 - (iv) any Protective Measures Assurance Statement which has been endorsed "no objection"; or

- (v) any Method Statement which has been endorsed "no objection",
(a **"DLRL Change"**).
 - (b) The notice referred to in sub-clause (a) above shall set out:
 - (i) details of the proposed DLRL Change in sufficient detail to enable CRL to assess each of the matters referred to in sub-clauses (d)(ii) below; and
 - (ii) the reason for DLRL requesting the change, including whether the change is required as a consequence of a change in Law including any regulations relating to the safe operation of the Docklands Light Railway (a **"DLRL Regulatory Change"**).
 - (c) As soon as practicable and in any event within 2 months after CRL receives a notice under sub-clause (a) above, it shall provide to DLRL its initial assessment of the cost of implementing the proposed DLRL Change.
 - (d) If, following receipt of the assessment referred to in sub-clause (c) above, DLRL wishes to proceed with the proposal the Parties shall discuss and endeavour to agree, acting reasonably, whether or not to implement the proposed DLRL Change, provided that:
 - (i) DLRL may require CRL to implement any DLRL Regulatory Change; and
 - (ii) CRL may, without prejudice to the Parties' rights under Clause 3.2, refuse to implement a DLRL Change (other than a DLRL Regulatory Change), if in its reasonable opinion the proposed change would:
 - (A) be technically unfeasible;
 - (B) be unsafe or contrary to any applicable Law;
 - (C) cause any necessary Consent to be revoked or require any additional Consent to be obtained; or
 - (D) have any material and adverse impact on the implementation of the Crossrail Project Works or the future operations of the Crossrail railway.
- If the Parties cannot agree whether or not CRL is required to implement a DLRL Change in accordance with this sub-clause (d) then either Party may refer the matter for resolution under the Dispute Resolution Procedure.
- (e) In respect of any DLRL Regulatory Change, CRL shall:
 - (i) bear all Costs incurred as a consequence of implementing such change (including the cost of preparing the initial assessment pursuant to sub-clause (c) above); and
 - (ii) reimburse DLRL for any Costs incurred by DLRL as a consequence such change in accordance with and subject to the provisions of Clause 29 (Reimbursement of DLRL Costs).
 - (f) In respect of any DLRL Change agreed or determined in accordance with sub-clause (d) above (other than a DLRL Regulatory Change), DLRL shall bear any costs which it incurs as a consequence of such change and shall reimburse CRL for any Costs incurred by CRL as a consequence of implementing such change

(including the cost of preparing the initial assessment pursuant to sub-clause (c) above).

- (g) In the event that DLRL elects not to proceed with a DLRL Change, DLRL shall bear any costs which it incurs as a consequence of such proposal and shall reimburse CRL for the cost of preparing the initial assessment pursuant to sub-clause (c) above.
- (h) Following an agreement or determination to implement a DLRL Change under sub-clause (d) above, the Parties shall discuss and endeavour to agree, acting reasonably, all matters necessary to implement such change including:
 - (i) the changes to be made to the document referred to in sub-clause (a) above;
 - (ii) any consequential changes to the Integrated Works Programme, the DLRL Annual Resource Plan, the Possessions Schedule, any Protective Measures, any Method Statement, the Olympic Mitigation Measures or any other document referred to in this Agreement;
 - (iii) any submissions to the Review Procedure required as a consequence of the matters referred to at (i) and (ii);
 - (iv) the process for obtaining any new or amended Consents which are required in order to implement the proposed DLRL Change; and
 - (v) the Costs referred to in sub-clauses (e) and (f) above.

If the Parties are unable to resolve any matter, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

- (i) Once the matters referred to in sub-clause (h) above have been agreed or determined, CRL shall confirm those matters in writing and proceed with the implementation of the DLRL Change.

33.2 **CRL Changes**

- (a) CRL may by issuing a notice to DLRL propose a change (whether by addition, amendment, substitution, omission or otherwise) to:
 - (i) the Replacement Works Functional Specification;
 - (ii) any Detailed Design which has been endorsed "no objection";
 - (iii) any Protective Measures Assurance Statement which has been endorsed "no objection"; or
 - (iv) any Method Statement which has been endorsed "no objection",(a **"CRL Change"**).
- (b) The notice referred to in sub-clause (a) above shall set out:
 - (i) details of the proposed CRL Change in sufficient detail to enable DLRL to assess each of the matters referred to in sub-clause (c)(ii) below; and
 - (ii) the reason for CRL requesting the change, including whether the change is required as a consequence of a "Change" under the Crossrail PDA (a **"Crossrail PDA Change"**).

- (c) As soon as practicable after DLRL receives a notice under sub-clause (a) above, the Parties shall discuss and endeavour to agree, acting reasonably, whether or not to implement the proposed CRL Change, provided that:
- (i) CRL shall be entitled to implement any Crossrail PDA Change; and
 - (ii) DLRL may, subject to the Parties' rights under Clause 3.2, object to CRL implementing any CRL Change (other than a Crossrail PDA Change) if, in its reasonable opinion the proposed change would:
 - (A) be technically unfeasible;
 - (B) be unsafe or contrary to any applicable Law;
 - (C) be contrary to DLRL Standards and Procedures; or
 - (D) have any material and adverse impact on the operations and maintenance of the Docklands Light Railway.

If the Parties cannot agree whether or not CRL is entitled to implement a CRL Change in accordance with this sub-clause (c) then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

- (d) In respect of all CRL Changes agreed or determined in accordance with sub-clause (c) above, CRL shall:
- (i) bear the Costs incurred as a consequence of implementing such change; and
 - (ii) reimburse DLRL for any Costs incurred by DLRL as a consequence such change in accordance with and subject to the provisions of Clause 29 (Reimbursement of DLRL Costs).
- (e) As soon as practicable after DLRL receives a notice under sub-clause (a) above, the Parties shall discuss and endeavour to agree, acting reasonably, all matters necessary to implement the CRL Change including:
- (i) the changes to be made to the document referred to in sub-clause (a) above;
 - (ii) any consequential changes to the Integrated Works Programme, the DLRL Annual Resource Plan, the Possessions Schedule, any Protective Measures, any Method Statement, the Olympic Mitigation Measures or any other document referred to in this Agreement;
 - (iii) any submissions to the Review Procedure required as a consequence of the matters referred to at (i) and (ii);
 - (iv) the process for obtaining any new or amended Consents which are required in order to implement the proposed CRL Change; and
 - (v) the Costs referred to in sub-clause (d) above.

If the Parties are unable to resolve any matter, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

- (f) Once the matters referred to in sub-clause (e) above have been agreed or determined, CRL shall confirm those matters in writing and proceed with the implementation of the CRL Change.

34. **TERMINATION OF CROSSRAIL PROJECT**

34.1 **TfL and SoS election to discontinue Crossrail Project**

The Parties acknowledge that TfL and SoS may in their absolute discretion elect to discontinue the Crossrail Project. If TfL and SoS make such election then CRL shall give notice to DLRL that this Agreement will terminate.

34.2 **Consequences of election to discontinue Crossrail Project**

(a) If CRL gives notice under Clause 34.1, then:

- (i) this Agreement shall terminate with immediate effect other than the provisions of this Clause 34.2, Clause 29 (Reimbursement of DLRL Costs), Clause 32 (Intellectual Property), Clause 36 (Publicity), Clause 37 (Confidentiality), Clause 38 (Freedom of Information), Clause 39 (Dispute Resolution) and any other provisions which are required to give effect to such Clauses which shall survive termination of this Agreement;
- (ii) the Parties shall co-operate with each other and act reasonably in order to implement an orderly cessation to the activities contemplated by this Agreement;
- (iii) the Parties shall immediately commence to demobilise and wind down their activities so as to cease such activities in a prompt, orderly and cost-efficient manner;
- (iv) DLRL shall deliver to CRL all information, materials, documents and records that it holds in relation to the Crossrail Project.

If the Parties fail to reach agreement on what actions should be taken in accordance with sub-clauses (ii) or (iii) above, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

(b) DLRL shall, within 20 Business Days of CRL's notice under Clause 34.1, provide CRL with a notice identifying:

- (i) any outstanding Costs for which it is entitled to reimbursement in accordance with Clause 29 (Reimbursement of DLRL Costs); and
- (ii) the estimated Costs of completing the demobilisation and other activities contemplated by this Clause 34.2.

The Parties shall use all reasonable endeavours to agree the costs referred to in the notice provided under this sub-clause (b), provided that if the Parties fail to reach agreement within 20 Business Days of the date of such notice, then either Party may refer the matter for resolution under the Dispute Resolution Procedure.

35. **ADVERSE EVENTS AND SECRETARY OF STATE STEP-IN**

35.1 **Adverse Events**

In the event that CRL has issued (in accordance with clause 22.1(c) of the Crossrail PDA) an "Adverse Event Notice" in connection with the Works as a consequence of the behaviour of DLRL, then DLRL shall provide all necessary co-operation and assistance to CRL in the preparation, revision, agreement and implementation of the "Remedial Action Plan" (in accordance with clause 22.2 of the Crossrail PDA).

35.2 **Variation to the Dispute Resolution Procedure**

- (a) Prior to the occurrence of the Exit Date, paragraph 4 of Schedule 6 (Dispute Resolution Procedure) shall apply in respect of any Dispute.
- (b) After the occurrence of the Exit Date, paragraph 5 of Schedule 6 (Dispute Resolution Procedure) shall apply in respect of any Dispute.

36. **PUBLICITY**

36.1 **Announcements**

Without prejudice to Clause 36.2, the Parties agree that neither of them will make any announcement to the press or public or any section thereof in connection with the execution and performance of this Agreement without obtaining the prior consent (both as to the text and manner of such announcement) from the other Party who shall act reasonably, and for the purposes of determining what announcements are reasonable the Parties acknowledge that:

- (a) DLRL shall be entitled to make such announcements as may be required in its day to day management of its undertaking in order to bring to the attention of the public at large any alterations to the availability of any part of the Docklands Light Railway due to the construction of the Works; and
- (b) CRL shall be entitled to make announcements which relate to the Crossrail Project as a whole.

36.2 **Communications Strategy**

The Parties shall procure that any announcement made in accordance with Clause 36.1 shall, as far as is practicable, comply with the Communications Strategy (as referred to in clause 20.1 of the Crossrail PDA).

37. **CONFIDENTIALITY**

37.1 **Confidential Information**

- (a) Subject to sub-clause (b) below, the Parties shall keep confidential all Confidential Information received by one Party from the other Party relating to this Agreement, the Crossrail Project or the DLRL operations and shall use all reasonable endeavours to prevent their employees and agents from making any disclosures to any person of any such Confidential Information.
- (b) Sub-clause (a) above shall not apply to:
 - (i) any disclosure of information that is reasonably required by a Party under this Agreement for the performance of its obligations including disclosure to any sub-contractors;
 - (ii) any matter which a Party can demonstrate is already or becomes generally available and in the public domain otherwise than as a result of a breach of this Clause 37.1;
 - (iii) any disclosure of information that is reasonably required by a Party for the purposes of the operation, maintenance, replacement, renewal or expansion of the Crossrail Project or the DLRL operations;
 - (iv) any disclosure of information that is reasonably required to be made to any DLRL Contractor;

- (v) any disclosure which is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction) or Parliamentary obligation placed upon the Party making the disclosure or the rules of any stock exchange or governmental or regulatory authority having the force of law or if not having the force of law, compliance with which is in accordance with the general practice of persons subject to the stock exchange or governmental or regulatory authority concerned;
- (vi) any disclosure of information which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party;
- (vii) any provision of information to the Parties' own professional advisers or insurance advisers or to relevant finance parties or their professional advisers or insurance advisers;
- (viii) any registration or recording of any Consents and property registration required;
- (ix) any disclosure of information to TfL, the SoS or any department, office or agency of the Government;
- (x) any disclosure for the purpose of:
 - (A) the examination and certification of a Party's accounts;
 - (B) any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which either Party has used its resources;
 - (C) complying with a proper request from either Party's insurance adviser, or insurer on placing or renewing any insurance policies; or
 - (D) compliance with the FOIA and/or the Environmental Information Regulations (each as defined in Clause 38 (Freedom of Information)).
- (c) Where disclosure is permitted under sub-clause (b) the Party providing the information shall use reasonable endeavours to procure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this Agreement.
- (d) The provisions of this Clause 37.1 are without prejudice to the application of the Official Secrets Acts 1911 to 1989.

37.2 **Return of Confidential Information**

Each Party shall return to any other Party such Confidential Information within its possession or control as may belong to the other Party, when reasonably requested, if the Confidential Information is no longer required by the first Party for the purposes of this Agreement, the Crossrail Project or the DLRL operations.

37.3 **Continuation of Confidentiality Obligations**

The obligations of the parties under this Clause 37 (Confidentiality) shall continue for a period of 5 years.

38. **FREEDOM OF INFORMATION**

38.1 **Definitions**

For the purposes of this Clause 38 (Freedom of Information):

"Environmental Information Regulations" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;

"Fees Regulations" means The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004;

"Information" has the meaning given under Section 84 of the Freedom of Information Act 2000; and

"Requests for Information" shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant.

38.2 **FOIA and Environmental Information Regulations**

- (a) The Parties acknowledges that they are each subject to the requirements of the FOIA and the Environmental Information Regulations.
- (b) Each Party shall facilitate the other Party's compliance with its Information disclosure requirements pursuant to the same in the manner provided for in Clause 38.3 (Requests for Information) and Clause 38.4 (Duty to Disclose).

38.3 **Requests for Information**

- (a) Where either Party (the "first Party") receives a Request for Information in relation to Information that the other Party (the "second Party") is holding on behalf of the first Party and which the first Party does not hold itself, the first Party shall refer such Request for Information to the second Party as soon as practicable and in any event within 5 Business Days of receiving such Request for Information.
- (b) The second Party shall:
 - (i) provide the first Party with a copy of all such Information in the form that the first Party requires as soon as practicable and in any event within 10 Business Days of the first Party's request; and
 - (ii) provide all necessary assistance as reasonably requested by the first Party in connection with any such Information, to enable the first Party to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.
- (c) Following notification under Clause 38.3(a), and up until such time as the second Party has provided the first Party with all the Information specified in Clause 38.3(b) the second Party may make representations to the first Party as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the first Party shall be responsible for determining at its absolute discretion:
 - (i) whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations; and

- (ii) whether Information is to be disclosed in response to a Request for Information.
- (d) Each Party shall ensure that all Information held on behalf of the other Party is retained for disclosure for at least 7 years and shall permit the other Party to inspect such Information as requested from time to time.
- (e) The Parties acknowledge that any lists provided by them listing or outlining Confidential Information are of indicative value only and that another Party may nevertheless be obliged to disclose Confidential Information in accordance with the FOIA and the Environmental Requirements.

38.4 **Duty to Disclose**

The Parties acknowledge that (notwithstanding the provisions of Clause 37 (Confidentiality)) they each may, acting in accordance with the FOIA Code, be obliged under the FOIA, or the Environmental Information Regulations to disclose Information concerning a Party or the Crossrail Project or DLRL's operations:

- (a) in certain circumstances without consulting with other Parties; or
- (b) following consultation with another Party and having taken its views into account,

provided always that if this Clause 38.4 applies the relevant Party shall, in accordance with the recommendations of the FOIA Code, draw this to the attention of other Parties prior to any disclosure.

39. **DISPUTE RESOLUTION**

Except as expressly provided in any other provision of this Agreement, all Disputes shall be resolved in accordance with the provisions set out in Schedule 6 (Dispute Resolution Procedure).

40. **ASSIGNMENT**

This Agreement is personal to the parties and accordingly no party without the prior written consent of the other shall assign, transfer, charge or declare a trust of the benefit of all or any of the other party's obligations nor any benefit arising under this Agreement.

41. **NOTICES**

41.1 **Notices**

Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post (recorded delivery) or facsimile at the addresses stated below or any other address notified to each of the other Parties in writing in accordance with this clause as an address to which notices, invoices and other documents may be sent.

In the case of Crossrail Limited:

Address: 25 Canada Square, Canary Wharf, London E14 5LQ

Fax: [REDACTED]

Attention: Company Secretary

In the case of the Docklands Light Railway Limited:

Address: P.O. Box 154, Castor Lane, Poplar, London E14 0DX

Fax: [REDACTED]

Attention: Company Secretary

41.2 Deemed service

The notice, demand or communication will be deemed to have been duly served:

- (a) if delivered by hand, at the time of delivery;
- (b) if delivered by post (recorded delivery), 3 Business Days after being posted; or
- (c) facsimile transmission, at the time of transmission;

and in proving service it will be sufficient to prove, in the case of a notice sent by post, that the envelope containing the notice was properly stamped or franked with the appropriate first class postage, addressed to the recipient of the notice and placed in the post and, in the case of a facsimile transmission, a printed record is given of all pages of the transmission having been received at the correct number,

42. ENTIRE AGREEMENT

Save in the case of fraud or fraudulent concealment, each party acknowledges that:

- (a) this Agreement, together with any other documents referred to in it, constitutes the entire and only agreement between the parties relating to the subject matter of this Agreement; and
- (b) it has not been induced to enter into this Agreement in reliance on, nor has it been given, any representation or other statement of any nature whatsoever other than those set out in this Agreement.

43. VARIATION

This Agreement may be varied only by a document signed by each of the Parties.

44. WAIVER

44.1 Form of waiver

A waiver of any term, provision or condition of, or consent granted under, this Agreement shall be effective only if given in writing and signed by the waiving or consenting party and then only in the instance and for the purpose for which it is given.

44.2 No waiver

No failure or delay on the part of any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

44.3 Consent to waiver

No breach of any provision of this Agreement shall be waived or discharged except with the express written consent of the parties.

44.4 **Rights cumulative**

The rights and remedies herein provided are cumulative with and not exclusive of any rights or remedies provided by law.

45. **INVALIDITY AND SEVERABILITY**

45.1 **Invalidity**

If any provision of this Agreement is or becomes (whether or not pursuant to any judgment or otherwise) invalid, illegal or unenforceable in any respect under the law of any jurisdiction:

- (a) the validity, legality and enforceability under the law of that jurisdiction of any other provision; and
- (b) the validity, legality and enforceability under the law of any other jurisdiction of that or any other provision,

shall not be affected or impaired in any way thereby.

45.2 **Severability**

If any provision of this Agreement shall be held to be void or declared illegal, invalid or unenforceable for any reason whatsoever, such provision shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement and the validity of the remaining provisions shall not be affected.

46. **NO PARTNERSHIP**

Nothing in this Agreement and no action taken by the parties pursuant to this Agreement shall constitute, or be deemed to constitute, the parties a partnership, association, joint venture or other co-operative entity.

47. **FURTHER ASSURANCES**

47.1 **Further actions**

Each Party shall and shall use all reasonable endeavours to promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

47.2 **Internal governance**

Each Party shall ensure that its internal governance arrangements are such as to enable it to comply with its obligations under this Agreement and the Project Documents.

48. **COUNTERPARTS**

48.1 **Execution in counterpart**

This Agreement may be executed in any number of counterparts which together shall constitute one agreement. Any Party may enter into this Agreement by executing a counterpart and this Agreement shall not take effect until it has been executed by all Parties.

48.2 **Executed signature page**

Delivery of an executed signature page of a counterpart by facsimile transmission or in Adobe™ Portable Document Format (PDF) sent by electronic mail shall take effect as delivery of an executed counterpart of this Agreement. If either method is adopted, without prejudice to the validity of such agreement, each party shall provide the others with the original of such page as soon as reasonably practicable thereafter.

49. **THIRD PARTY RIGHTS**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no rights or benefits expressly or impliedly conferred by it shall be enforceable under that Act against the parties to it by any other person.

50. **GOVERNING LAW AND JURISDICTION**

This Agreement and any dispute or claim whatsoever relating to it or its formation shall be governed by and construed in accordance with English law and the parties irrevocably agree that the courts of England shall have exclusive jurisdiction.

IN WITNESS whereof this Agreement has been executed on the date first above written.

SCHEDULE 1

Replacement Works Functional Specification

SCHEDULE 2

DLRL Standards and Procedures Documents

Standard Number	Issue	Title
MAINTENANCE STANDARDS		
<i>Note: it is agree that the Maintenance Standards are only relevant to this Agreement to the extent that they inform the design and the materials/components to be used.</i>		
DLR MR-200	3.0	Maintenance Standard for Communications Infrastructure
DLR MR-300	3.0	Maintenance Standard for Signalling and Train Control System
DLR MR-400	3.0	Maintenance Standard for Permanent Way and Trackside Environment
DLR MR-500	3.0	Maintenance Standard for Structures and Buildings
DLR MR-600	4.0	Maintenance Standard for Electrical, Mechanical Services Infrastructure
ENGINEERING STANDARDS		
ES-100	E	MANUAL INDEX
ES-101	A	NOISE AND VIBRATION POLICY
ES-201	A	COMMUNICATIONS SYSTEMS
ES-302	A	SIGNALLING SYSTEMS
ES-401	B	PERMANENT WAY STANDARDS
ES-501	B	CIVIL, STRUCTURAL, ARCHITECTURAL AND LANDSCAPING WORKS
ES-502	A	STATION AREAS
ES-503	B	SUB SURFACE STATIONS
ES-504	A	DESIGN OF UNDERGROUND STRUCTURES
ES-505	D	ES-505 BASIS OF BRIDGE DESIGN AND ASSESSMENT
ES-602	A	BUILDING AND OTHER SERVICES, MECHANICAL AND ELECTRICAL
ES-601	A	ELECTRICAL POWER SUPPLIES
ES-603	B	TUNNEL SYSTEMS
ES-604	A	EARTHING BONDING AND CORROSION PROTECTION

Standard Number	Issue	Title
ES-605	A	ELECTRICAL INSTALLATION STANDARDS
ES-606	A	750V TRACTION DISTRIBUTION PROTECTION SYSTEM
ES-609	A	HIGH VOLTAGE AND TRACTION AND POWER SUPPLY
ES-701	C	CODE OF PRACTICE FOR MATERIALS EQUIPMENT AND WORKMANSHIP FOR USE ON DLR PASSENGER ROLLING STOCK
ES-702	A	MINIMUM STANDARDS FOR ENGINEERS VEHICLES
ES-705	A	B STOCK VEHICLE INTERFACE PARAMETERS
ES-708	A	ROLLING STOCK : POWER SUPPLY INTERFACE
ES-709	A	ROLLING STOCK : PERMANENT WAY INTERFACE
ES-710	B	ROLLING STOCK : INFRASTRUCTURE INTERFACE PARAMETERS
ES-711	A	MINIMUM PERFORMANCE REQUIREMENTS FOR PASSENGER ROLLING STOCK BRAKING SYSTEMS
ES-800	A	REQUIREMENTS FOR THE CONTROL OF SOFTWARE DEVELOPMENT PRIOR TO INTRODUCTION INTO DLR SYSTEMS
DRAWINGS		
RS253	B	Vehicle & Structure Gauges – Static Vehicle Dimensions
RS254	A	Vehicle & Structure Gauges – Centre & End Throw Details
RS255	B	Vehicle & Structure Gauges – Centre & End Throws on Vertical Curves
RS256	C	Vehicle & Structure Gauges – Lateral cant Allowances
RS257	C	Vehicle & Structure Gauges – Detail of Conductor Rail area
RS258	C	Vehicle & Structure Gauges – Platform location and Minimum Dimensions
RS259	B	Vehicle & Structure Gauges – Swept Envelope
RS260	B	Vehicle & Structure Gauges – Structure Gauge for Open Track
RS261	B	Vehicle & Structure Gauges – Structure Gauge for Tunnels
RS262	A	Vehicle & Structure Gauges – Variation of Swept Envelope and Structure Gauge dimensions on curves
RS283	C	Standard Bridge Load Case

Standard Number	Issue	Title
ST001	P1	DLR Platform Markings Sheet 1
ST002	P1	DLR Platform Markings Sheet 2
TECHNICAL ASSURANCE TEMPLATE		
AT-341	3.0	Template Level 4 Assurance Plan
AT-342	3.0	Template Technical Case Level 4
AT-350	2.0	Template AiP for Design of Railway Systems
AT-351	1.0	Template AiP for Design & Assessment of Structures
AT-360	2.0	Assurance Acceptance for Construction (AfG)
AG-310	1.0	Guidance on typical Certification Required for Asset Handover Following Project works
AT-370	1.0	Assurance Acceptance for Test (AfT)
AT-380	1.0	Assurance Acceptance for Operation (AfO)
AG-341	2.0	Guide to Work Package Assurance Plan
DLR TECHNICAL NOTES AND FURTHER DOCUMENTS		
TN-229	10.0	Guidance on Setting Out of Station Platforms
DLR-ENG-GENR-GND-0001	2.0	Guidance for Developers
DLR-ENG-GENR-STR-00001	1.0	System Wide Handover / Handback Strategy
DLR-ENG-XRAI-NTE-00001	1.0	Contractor Requirements for Supporting the Installation of Thales Signalling Works
EMC REQUIREMENTS		
1-222	A1	Electromagnetic Compatibility
1-193	A2	Electromagnetic Compatibility (EMC) with LU Signalling Assets
G-222	A1	Manual of EMC best practice

Standard Number	Issue	Title
SERCO DOCKLANDS		
SOP PC 1.01	1.0	WORKING ON THE RAILWAY MANUAL

SCHEDULE 3

Outline Design (Replacement Works)

SCHEDULE 4

Protective Measures Assurance

Part 1

Protective Measures Assurance Statements

1. Introduction

This schedule sets out the procedure to be followed in developing the Protective Measures Assurance Statements pursuant to Clause 16 (Protective Measures (Interface Works)).

CRL will develop a Protective Measures Assurance Statement for each of the Interface Works locations listed in paragraph 2 below.

2. Description of Interface Works locations

2.1 Bow Church (Plan Ref: 1I0000-G0G00-C00-F-50042)

At Bow Church two Crossrail tunnels will be constructed beneath the existing twin track DLR cut and cover tunnel.

2.2 Pudding Mill Lane Portal (Plan Ref: 1I0100-C1R62-C00-F-50017, 1I0100-C1R62-C00-F-50016 and 1I0100-C1R62-C00-F-50018)

At Pudding Mill Lane, the Crossrail tunnels will emerge in a cut and cover portal structure that will also incorporate the Replacement Works for the DLR tracks either side of the New DLR Pudding Mill Lane Station. The portal works will involve utility diversions, demolitions, groundworks, foundations, above ground structures and the installation of railway systems. The portal will be constructed in stages over several years during which the DLR needs to remain operational and the Replacement Works delivered.

2.3 Limehouse (Plan Ref: 1I0000-G0G00-C00-F-50043 and 1I0000-G0G00-C00-F-50044)

At Limehouse two Crossrail tunnels will pass beneath and run adjacent to the existing DLRL twin track railway which runs on a brick viaduct structure.

2.4 West India Quay (Plan Ref: 1I0000-G0G00-C00-F-50045)

At West India Quay, a new Crossrail station will be constructed in West India Dock just to the east of the existing DLR viaduct structure.

Two Crossrail tunnels which run into the station and will pass either side of the DLR's foundations of DLR's central viaduct support columns.

2.5 Blackwall (Plan Ref: 1I0000-G0G00-C00-F-50046)

At Blackwall two Crossrail tunnels will be constructed in parallel over a length of approximately 200m but offset by about 15m from the existing DLR twin track railway which runs on viaduct structure.

2.6 Limmo to Royal Victoria (Tunnel Section) (Plan Ref: 1I0000-G0G00-C00-F-50049, 1I0000-G0G00-C00-F-50040, 1I0100-E2S02-C00-F-5005)

At Limmo a shaft will be constructed as the launch site of the tunnel boring machines.

To the east of Limmo twin Crossrail tunnels will be driven eastwards to Royal Victoria. The tunnels will pass underneath the DLR to the south of DLR's Canning Town Station at which point the DLR runs on both brick viaduct and elevated viaduct structures. Between Canning Town and Royal Victoria the Crossrail tunnels run parallel to the existing DLR branch to Beckton and emerge through a portal structure located between DLR Royal Victoria Station and DLR Custom House Station.

2.7 Royal Victoria to Custom House Station (Portal Section) (Plan Ref: 1I0100-E2S02-C00-F-50006)

Crossrail will undertake certain utilities diversion works to facilitate construction of the adjacent Replacement Works.

Crossrail will construct a new portal structure within the corridor of the former North London Line and adjacent to the DLR railway on its new alignment delivered as part of the Replacement Works. The portal structure will be constructed after the Replacement Works comprising re-alignment of the DLR tracks. The portal structure will involve deep construction as well as above ground construction adjacent to the DLR tracks.

2.8 Custom House Station (Plan Ref: 1I0100-E2S02-C00-F-50007)

Crossrail will construct a new station within the corridor of the former North London Line to the north of the existing DLR station and tracks. The two storey station will be built along the boundary with the DLR and will incorporate the new footbridge that forms the Replacement Works at this location.

2.9 Custom House Station to Connaught Tunnel (Plan Ref: 1I0100-E2S02-C00-F-50008 and 1I0100-E2S02-C00-F-50009)

Twin Crossrail tracks and associated railway systems will be constructed within the former North London Line corridor to the north of and running adjacent to the existing DLR tracks, structures and Prince Regent DLR Station before entering the Connaught Tunnel.

2.10 Connaught Tunnel South (Plan Ref: 1I0100-E2S02-C00-F-50010)

Twin Crossrail tracks and associated railway systems will be constructed within the former North London Line corridor and passing beneath the DLR at the southern approach to Connaught Tunnel. At this location Crossrail is within an existing cutting and DLR on a viaduct structure.

2.11 Woolwich Interface (Plan Ref: 1I0100-E2S02-C00-F-50011)

Twin tunnels carrying Crossrail from North Woolwich to Plumstead will pass above the DLR tunnels from King George V to Woolwich Arsenal constructed as part of the Woolwich extension.

3. **Protective Measures Assurance Statements**

A three stage process will be followed to establish the scope of the Protective Measures for each of the Interface Works Locations:

- Technical Interface Statement
- Design Interface Statement
- Construction Interface Statement

The development of these Protective Measures Assurance Statements shall be without prejudice to CRL's general obligation under Clause 5.2(b) to comply with DLRL Standards

and Procedures, in particular the Working on the Railway Manual and Guidance for Developers.

3.1 Stage 1: Technical Interface Statement

In this stage CRL will prepare an outline assessment of the impact of the Interface Works on the operation of the Docklands Light Railway.

CRL will produce a Technical Interface Statement for each Interface Works Location. Each Technical Interface Statement will comprise (but not be limited to) the following:

- (a) the Interface Works Location;
- (b) identification of existing DLRL Assets;
- (c) scope of Interface Works;
- (d) programme of Interface Works activities;
- (e) scope of interface;
- (f) potential impact on DLRL Assets;
- (g) indicative Protective Measures; and
- (h) statement as to whether CRL intends to produce a settlement and stability analysis and/or Interface Works designs as part of the Design Interface Statement and, if so, a further statement on CRL's proposed technical methodology for undertaking such settlement and stability analysis.

CRL shall submit each Technical Interface Statement to the Review Procedure.

3.2 Stage 2: Design Interface Statement

In this stage CRL will prepare a Design Interface Statement for each Interface Works Location. This will be developed from the relevant Technical Interface Statement and include:

- (a) risk assessment;
- (b) Interface Works designs (if required in accordance with the Technical Interface Statement which has been endorsed "no objection");
- (c) outline Protective Measures;
- (d) settlement and stability analysis including a report on the anticipated impact of the Interface Works on DLRL Property and the design of any ground movement and other monitoring measures (if required in accordance with the Technical Interface Statement which has been endorsed "no objection"); and
- (e) statement as to whether CRL intends to produce an updated risk assessment and/or temporary works designs as part of the Construction Interface Statement.

CRL shall submit each Design Interface Statement to the Review Procedure.

3.3 Stage 3: Construction Interface Statement

In this stage CRL will prepare a Construction Interface Statement for each Interface Works Location. This will be developed from the Design Interface Statement and include:

- (a) updated risk assessment (if required in accordance with the Design Interface Statement which has been endorsed "no objection");
- (b) Method Statement;
- (c) temporary works designs (if required in accordance with the Design Interface Statement which has been endorsed "no objection");
- (d) detailed Protective Measures;
- (e) contingency plans (including in respect of any ground movement or settlement); and
- (f) ongoing ground movement and other monitoring measures.

CRL shall submit each Construction Interface Statement to the Review Procedure.

4. Potential Protective Measures by Interface Works category

CRL has identified the following categories of Interface Works and associated potential Protective Measures which shall be considered during the development of the Protective Measures Assurance Statements. The parties acknowledge that the Interface Works may comprise other categories of work and that for each category of Interface Works additional types of Protective Measures may be required.

Interface Works category	Potential Protective Measures
Tunnelling	<ul style="list-style-type: none"> • settlement monitoring • settlement mitigation
Demolition	<ul style="list-style-type: none"> • segregation measures • constraints on plant use • possession working
Utility diversions	<ul style="list-style-type: none"> • segregation measures • constraints on plant use • settlement monitoring • settlement mitigation
Ground works (e.g. drainage, landscaping)	<ul style="list-style-type: none"> • segregation measures • constraints on plant use • settlement monitoring • settlement mitigation
Construction (below ground)	<ul style="list-style-type: none"> • segregation measures • constraints on plant use • possession working

Interface Works category	Potential Protective Measures
	<ul style="list-style-type: none"> • settlement monitoring • settlement mitigation
Construction (above ground)	<ul style="list-style-type: none"> • segregation measures • settlement monitoring • settlement mitigation • constraints on plant use • possession working
Railway Systems	<ul style="list-style-type: none"> • segregation measures • constraints on plant use • possession working • EMC suppression measures

Part 2

Interface Works Plans

SCHEDULE 5

Review Procedure

1. REVIEW PROCEDURE

- 1.1 The provisions of this Schedule shall apply whenever either Party (the "**Submitting Party**") is required to submit any documents for review by the other Party (the "**Reviewing Party**") in accordance with the Review Procedure including:
- (a) each submission by CRL of the Integrated Works Programme in accordance with Clause 8 (Integrated Works Programme);
 - (b) each submission by DLRL of the DLRL Annual Resource Plan in accordance with Clause 9 (DLRL Annual Resource Plan);
 - (c) each submission by CRL of any Possessions Schedule under Clause 14 (Possessions);
 - (d) each submission by CRL of any Detailed Design under Clause 15 (Detailed Design (Replacement Works));
 - (e) each submission by CRL of any Protective Measures Assurance Statement under Clause 16 (Protective Measures (Interface Works));
 - (f) each submission by CRL of any Method Statement under Clause 17 (Method Statements); and
 - (g) the submission by CRL of the Handover Strategy under Clause 27.2 (Handover Strategy).
- 1.2 Each submission under the Review Procedure shall be accompanied by a copy of the document to be reviewed (the entire contents of a submission being referred to in the Schedule as a "**Submitted Item**").
- 1.3 In relation to each Submitted Item, as soon as possible and in any event within 20 Business Days of the date of submission, the Reviewing Party shall return one copy of the relevant Submitted Item to the Submitting Party endorsed "no objection" or "objections" as appropriate.
- 1.4 If the Reviewing Party fails to return a copy of any Submitted Item duly endorsed in accordance with paragraph 1.3 above within the specified period, then the Submitting Party may issue a notice to the Reviewing Party notifying it of such failure (a "**Submitted Item Notice**").
- 1.5 If the Reviewing Party fails to return a copy of any Submitted Item duly endorsed in accordance with paragraph 1.3 above within 5 Business Days of receipt of a Submitted Item Notice then the Reviewing Party shall be deemed to have returned the Submitted Item to the Submitting Party endorsed "no objection", provided that this paragraph 1.5 shall not apply where the relevant Submitted Item is a Method Statement submitted in accordance with Clause 17 (Method Statements).
- 1.6 If the Reviewing Party raises an objection in respect of any Submitted Item it shall state the grounds upon which such objection is based and the evidence or other information necessary to substantiate those grounds. To the extent that the Reviewing Party raises an objection on a Submitted Item other than on the grounds set out in paragraph 4 below, or fails to comply with the provisions of this paragraph, the Submitting Party may in its absolute discretion either:

- (a) request written clarification of the basis for such objection and, if clarification is not received within 5 Business Days, refer the matter for determination in accordance with the Dispute Resolution Procedure; or
- (b) at its own risk proceed with further design or construction of the Works or the performance of the DLRL Activities (as applicable) disregarding such objection.

2. FURTHER INFORMATION

- 2.1 The Submitting Party shall submit any additional information, data or documents that the Reviewing Party reasonably requires in order to determine whether it has a basis for making objections to any Submitted Item in accordance with this Schedule.
- 2.2 If the Submitting Party does not submit any such information, data or documents the Reviewing Party shall be entitled to:
 - (a) object to the Submitted Item on the basis of the information, data and documents which have been provided; or
 - (b) object to the Submitted Item on the grounds that insufficient information, data and documents have been provided to enable the Reviewing Party to determine whether he has a legitimate basis for objecting in accordance with this Schedule.

3. TARB

- 3.1 CRL acknowledges that in circumstances where DLRL is the Reviewing Party, DLRL may be required to obtain TARB approval in respect of the Submitted Item.
- 3.2 CRL shall provide all support and co-operation in respect of any TARB approval as is reasonably requested by DLRL.

4. GROUNDS OF OBJECTION

- 4.1 Without prejudice to paragraph 4.2, the Reviewing Party may make objections in relation to any Submitted Item:
 - (a) on any of the general grounds set out in paragraph 4.3; and
 - (b) on the specific grounds which apply in respect of the relevant category of Submitted Item as set out in paragraphs 4.4 to 4.10,and may not make objections in relation to a Submitted Item on any other grounds.
- 4.2 When making any objections in accordance with this paragraph 4, the Reviewing Party shall at all time consider the competing priorities of the Parties in connection with the Submitted Item and either Party shall be entitled to exercise its rights under Clause 3.2 in respect of such competing priorities.
- 4.3 The general grounds referred to in paragraph 4.1(a) are:
 - (a) the grounds set out in paragraph 2.2(b) above; or
 - (b) the Submitted Item would (on the balance of probabilities) breach any Law or not be in accordance with any necessary Consent.
- 4.4 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by CRL pursuant to Clause 8 (Integrated Works Programme) on the following grounds:

- (a) the Possessions Schedule included in the Integrated Works Programme has not been submitted to the Review Procedure in accordance with, or otherwise conflicts with the restrictions set out in, Clause 14 (Possessions);
- (b) the Integrated Works Programme conflicts with any of the Olympics Mitigation Measures agreed in accordance with in Clause 20 (Olympics);
- (c) the Integrated Works Programme conflicts with the programme for any DLRL Schemes;
- (d) the Integrated Works Programme conflicts with any of the restrictions relating to the access to Sites set out in the Property Agreement; or
- (e) the Integrated Works Programme is not consistent with the requirements set out in Clause 16.3.

4.5 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by DLRL pursuant to Clause 9 (DLRL Annual Resource Plan) on the following grounds:

- (a) any Cost included in the DLRL Annual Resource Plan is not a Resource Plan Recoverable Cost;
- (b) the estimated Costs contained in the DLRL Annual Resource Plan is not consistent with Schedule 8 (DLRL Costs); or
- (c) DLRL has not complied with its obligation to mitigate Costs.

4.6 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by CRL pursuant to Clause 14 (Possessions) on the following grounds:

- (a) that a Possession included in the revised Possessions Schedule:
 - (i) occurs on the same date as a Planned Public Event as notified to CRL in accordance with Clause 14.3(a);
 - (ii) occurs on the same date as a DLRL Possession as notified to CRL in accordance with Clause 14.3(a); or
 - (iii) fails to take account of any opportunities to share Possessions in order to optimise the programmes for delivering the DLRL Schemes and the Crossrail Project Works;
- (b) in DLRL's reasonable opinion, in respect of works which CRL is proposing to carry out during an Engineering Hours Possession included in the revised Possessions Schedule, there are other reasonably practical means of construction of the relevant works which do not require a Possession;
- (c) in DLRL's reasonable opinion, works which CRL is proposing to carry out during a Weekend Possession or Bank Holiday Possession included in the revised Possessions Schedule, could be carried out during an Engineering Hours Possession; or
- (d) the cumulative affect of all Possessions across the network requested by CRL in the revised Possessions Schedule and all other DLRL Contractors will affect the operation of the Docklands Light Railway as a whole to such an extent that there will likely be a significant adverse impact on public opinion of the operational efficiency of the Docklands Light Railway.

4.7 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by CRL pursuant to Clause 15 (Detailed Design (Replacement Works)) on the following grounds:

- (a) the Detailed Design is not consistent with the Outline Design;
- (b) the Detailed Design does not meet the Replacement Works Functional Specification;
- (c) in DLRL's reasonable opinion, the Detailed Design does not meet the requirement, spirit or intent of the Safety Management System or is unlikely to obtain any required statutory consent of HMRI, ORR or LFEPA because of the safety implications;
- (d) the Detailed Design is not in accordance with the DLRL Standards and Procedures;
- (e) in DLRL's reasonable opinion, the Detailed Design creates a material risk of damage to DLRL Property (other than any damage which is the unavoidable consequence of carrying out the Replacement Works in relation to which Clause 18.4 shall apply); or
- (f) in DLRL reasonable opinion, the Detailed Design would mean that the maintenance of the relevant Replacement Works would be impracticable or uneconomic.

4.8 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by CRL pursuant to Clause 16 (Protective Measures (Interface Works)) and Schedule 4 (Protective Measures Assurance) on the following grounds:

- (a) in DLRL's reasonable opinion, the indicative, outline or detailed (as applicable) Protective Measures do not provide adequate protection against:
 - (i) material damage to DLRL Property; or
 - (ii) any other interference,

which may affect the safe operation of the Docklands Light Railway or, without prejudice to Clause 3.2, the economic and efficient operation of the Docklands Light Railway;
- (b) in respect of a Technical Assessment Statement, in DLRL's opinion, the proposals in paragraph 3.1(h) of Part 1 of Schedule 4 (Protective Measures Assurance) are inadequate;
- (c) in respect of a Design Interface Statement, in DLRL's opinion the proposals in paragraph 3.2(d) of Part 1 of Schedule 4 (Protective Measures Assurance) are inadequate; or
- (d) in respect of a Construction Interface Statement, in DLRL's opinion the proposals referred to in paragraph 3.3(f) of Part 1 of Schedule 4 (Protective Measures Assurance) are inadequate.

4.9 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by CRL pursuant to Clause 17 (Method Statements) on the following grounds:

- (a) in DLRL's reasonable opinion, the Method Statement does not meet the requirement, spirit or intent of the Safety Management System or is unlikely to

obtain any required statutory consent of HMRI, ORR or LFEPA because of the safety implications;

- (b) the Method Statement is not in accordance with the DLRL Standards and Procedures; or
- (c) in DLRL's reasonable opinion, the Method Statement creates a material risk of damage to DLRL Property (other than any damage which is the unavoidable consequence of carrying out the Replacement Works in relation to which Clause 18.4 shall apply).

4.10 In addition to the general grounds stated in paragraph 4.3 above, the Reviewing Party may make objections in relation to any Submitted Item submitted by CRL pursuant to Clause 27.2 (Handover Strategy) on the following grounds:

- (a) the Handover Strategy is not in accordance with the Guidance on Asset Handover.

5. **EFFECT OF REVIEW**

5.1 Any Submitted Item which is returned or deemed to have been returned by the Reviewing Party endorsed "no objection" may be complied with or implemented (as the case may be) by the Submitting Party.

6. **DOCUMENT MANAGEMENT**

6.1 CRL shall compile and maintain a register of the date and contents of:

- (a) all Submitted Items that are submitted by either Party; and
- (b) all Submitted Items that are returned by either Party or deemed to be returned by either Party in accordance with paragraph 1 above.

7. **NO EXCLUSION OF LIABILITY**

7.1 No review or comment by a Reviewing Party shall operate to exclude or limit the Submitting Party's obligations or liabilities under this Agreement.

SCHEDULE 6

Dispute Resolution Procedure

1. Disputes

If the Parties cannot agree on any matter or issue arising under this Agreement, or if either Party objects to a decision or proposed decision of the other Party or considers that the other Party has failed or will fail to perform its obligations under this Agreement, such matter shall be treated as a dispute (a "**Dispute**") and the subsequent provisions of this clause Schedule 6 (Dispute Resolution Procedure) shall apply to it.

2. Dispute Notice

If a Party alleges that an Dispute has arisen, that Party shall send a written notice to the other Party setting out a description of the issues (a "**Dispute Notice**").

3. Senior representatives meeting

Within 5 Business Days of receipt of the Dispute Notice, the matters raised in the Dispute Notice shall be discussed at a meeting of the senior representatives (being those appointed by each Party to deal with Disputes).

4. Disputes prior to the Exit Date

This paragraph 4 shall apply to Disputes arising prior to the Exit Date:

- (a) If the senior representatives fail to resolve the Dispute at the meeting referred to in paragraph 3 above, either Party may refer the Dispute to the chief executive officers of CRL and DLRL for resolution.
- (b) If the chief executive officers of CRL and DLRL fail to resolve a Dispute referred to them pursuant to sub-paragraph (a) above within 5 Business Days of referral, either Party may refer the Dispute to the Commissioner for resolution.
- (c) If an Issue is referred to the Commissioner pursuant to sub-paragraph (b) above, the Parties acknowledge that:
 - (i) the Commissioner may decide the Dispute as he sees fit;
 - (ii) the Commissioner's decision will be final and binding; and
 - (iii) each Party will comply fully with the decision of the Commissioner.

5. Disputes after the Exit Date

This paragraph 5 shall apply to Disputes arising after the Exit Date has occurred:

- (a) If the senior representatives fail to resolve the Dispute at the meeting referred to in paragraph 3 above, either Party may refer the Dispute to the chief executive officers of CRL and DLRL for resolution.
- (b) If the chief executive officers of CRL and DLRL fail to resolve a Dispute referred to them pursuant to sub-paragraph (a) above within 5 Business Days of referral, either Party may refer the Dispute to the Commissioner and the Permanent Secretary of the DfT for resolution.

- (c) If the Commissioner and the Permanent Secretary of the DfT fail to resolve a Dispute referred to them pursuant to sub-paragraph (b) above within 20 Business Days of referral, either Party may refer the Dispute to the Mayor and SoS (or their appointed representatives) for resolution.

6. **Sponsor notification**

DLRL acknowledges that CRL will notify the Sponsors of any Dispute as soon as the Dispute Notice is either sent or received by CRL and CRL will be entitled to keep the Sponsors fully informed as to the progress of the Dispute.

7. **No formal proceedings**

Each Party agrees and undertakes that it shall not take any formal proceedings or action of any kind (whether through the courts or arbitration, other than for the purposes of seeking injunctive relief) against the other Party in respect of any claim it might have in relation to this Agreement.

SCHEDULE 7

Period End Dates for 2009/10

Period	Period End Date
1	02/05/09
2	30/05/09
3	27/06/09
4	25/07/09
5	22/08/09
6	19/09/09
7	17/10/09
8	14/11/09
9	12/12/09
10	09/01/10
11	06/02/10
12	06/03/10
13	31/03/10

SCHEDULE 8

DLRL Costs

1. DLRL FRANCHISEE CLAIMS FOR POSSESSIONS

1.1 The Parties acknowledge that as a consequence of a Possession granted to CRL under this Agreement:

- (a) there may be a reduction in the variable fee which the DLRL Franchisee is entitled to receive under the DLRL Franchise Agreement on account of the reduced passenger numbers; and
- (b) the DLRL Franchisee may be entitled to bring a claim against DLRL for compensation for such reduction, such compensation to be calculated by reference to the assumed deduction in passenger numbers resulting from the Possession.

1.2 If the DLRL Franchisee makes any Claim in accordance with paragraph 1.1(b) above then, subject to DLRL complying with its obligations under Clause 29.8 in respect of any such Claim, DLRL shall be entitled to recover from CRL the amount of any payment made to the DLRL Franchisee in respect of the Claim.

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

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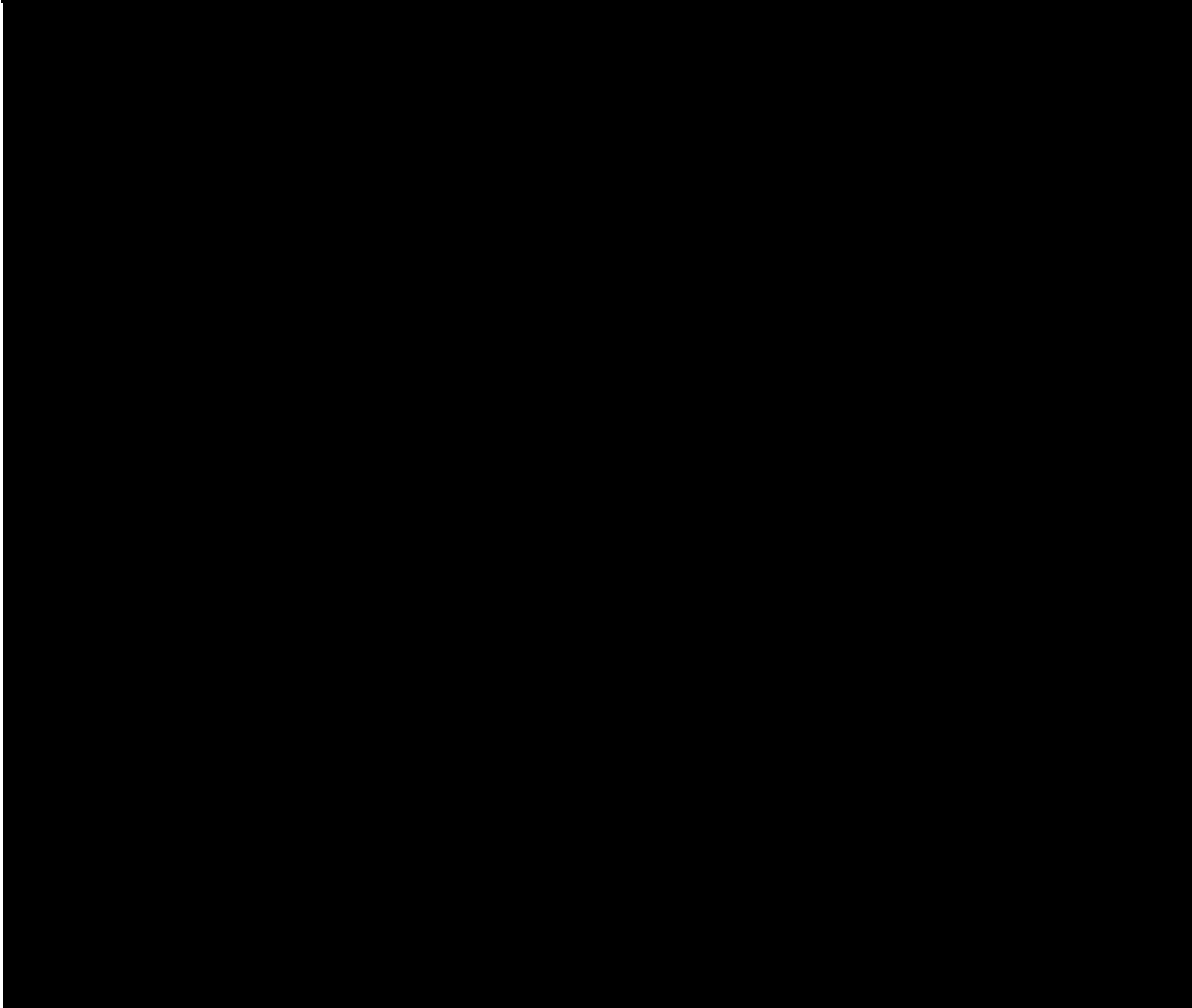
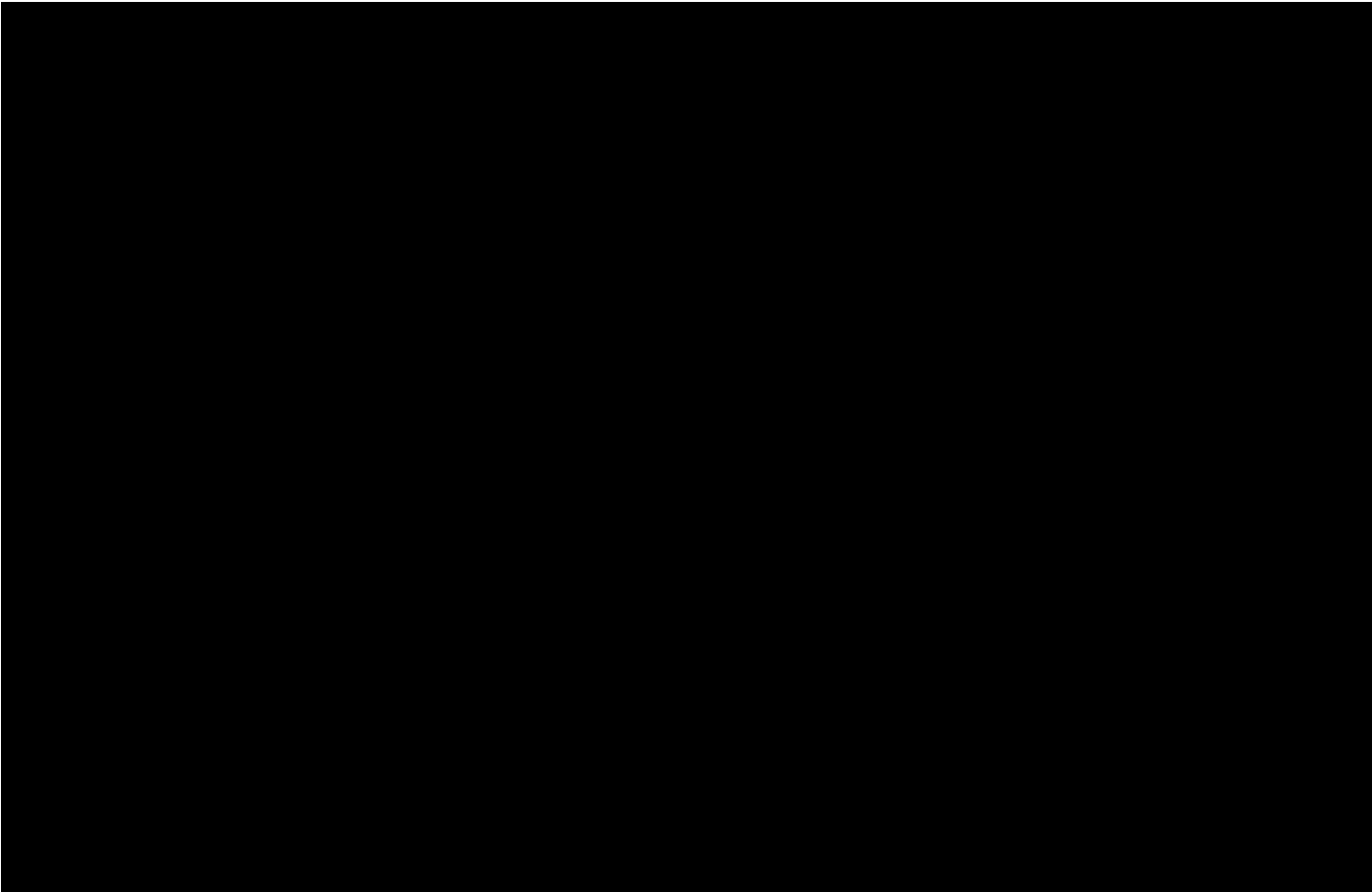
■ [REDACTED]

[REDACTED]

[Redacted header text]

[Redacted main body text]

[Redacted main body text]



3. STAFF, CONSULTANT AND CONTRACTOR COSTS

3.1 Schedule of rates

Staff/Consultant/Contractor	Rate (£)
PROJECT MANAGER	<i>[rates have been redacted]</i>
Interface Project Manager	
Cost Manager	
DMS Manager (IT)	
Safety Manager	
Risk Manager	
ARDENT	
Contract Manager	
Property Executive	
Assistant Surveyor	
SERCO	
Serco Project Manager	
M & E Engineer	
Signalling and Comm's Engineer	
Infrastructure Programme Manager	
Civils and Track Engineer	

Staff/Consultant/Contractor	Rate (£)
Senior M and E Engineer	
General Manager, Infrastructure	
E & M Manager	
E & M Supervisor	
P-Way Engineer	
Field Engineer	
ATKINS ENGINEERING	
Principal Engineer	
Team Organiser/Document Controller	
Interfaces Planner	
Tunnelling Engineer	
Structures Engineer	
Track Engineer	
Telecoms Engineer	
Electrical Engineer	
Mechanical Engineer	
Signalling Engineer	
L & E Engineer	
Architecture	
Human Factors Engineer	

3.2 Changes in Rates

The Parties acknowledge that the rates set out at paragraph 3.1 above are based on DLRL's current rates for its staff, contractors and consultants and that such rates will be reviewed from time to time in accordance with the relevant contracts appointing such staff, contractors and consultants.

Following any such review, the Parties agree that the schedule or rates in paragraph 3.1 will be updated to reflect the agreed revised rates provided that, where any contract of appointment entered into after the date of this Agreement relates exclusively to work carried out in connection with the Crossrail Project, the revised rates will be subject to CRL's prior written approval (such approval not to be unreasonably withheld or delayed).

SCHEDULE 9

Form of Work Instruction Form

<h1 style="margin:0;">WORK INSTRUCTION FORM</h1>			
To: [Supplier Name & Address details]			
Supplier please note: <ul style="list-style-type: none"> • This numbered Work Instruction Form should only be used to request goods and/or services in accordance with an approved Contract/Deed. • The Work Instruction number and contract/deed number should be quoted on invoices and any related correspondence. • The Company and Provider agree that the supply of Services pursuant to this Work Instruction Form shall be governed by and in accordance with Contract Number [insert number] which was executed by both parties on [insert date contract commenced]. 			
Contract Number	AFE number (CRL use only)	Work ID	Work Instruction Number
Scope:			
Deliverables Expected		Delivery Date	Anticipated Cost
1			
2			
3			
4			
Total anticipated cost:			
Delivery & Other instructions: [This field only visible if completed by user]			
[CRL Representative] Date: [Supplier's Representative] [Supplier's Name] Date:			
Distribution: (1) Supplier (2) Finance team (3) Procurement team			

Executed as a deed by)
CROSSRAIL LIMITED)
acting by a director and its secretary/)
two directors:)
)
)
Director)
)
Director/Secretary)
)

Executed as a deed by)
DOCKLANDS LIGHT RAILWAY)
LIMITED)
acting by a director and its secretary/)
two directors:)
)
)
Director)
)
Director/Secretary)