

Dated 4 APRIL 2003

Agreement between

London Underground Limited

and

Infraco BCV Limited

MAJOR CLOSURES AGREEMENT

THIS AGREEMENT is made the 14th day of APRIL 2003

BETWEEN

- (1) London Underground Limited, whose registered office is at 55 Broadway, London SW1H 0BD ("**LUL**"); and
- (2) Infraco BCV Limited, whose registered office is at 55 Broadway, London, SW1H 0BD ("**BCV**").

WHEREAS:

- (A) BCV has sought Major Closures in accordance with the Access Code so as to undertake the renewal and/or maintenance of Lifts (**Lift Refurbishments**) at Edgware Road (Bakerloo) Station, Holland Park Station, Lambeth North Station, Lancaster Gate Station, Queensway Station and Regent's Park Station (**the Stations**).
- (B) In consideration of the payment of GBP1 by BCV to LUL, LUL has granted such Major Closures subject to the terms and conditions of this Major Closures Agreement (**this Agreement**).

IT IS AGREED as follows:

1. DEFINITIONS

- 1.1 To the extent applicable, the provisions of this Agreement shall be interpreted in accordance with Clause 1.2 of the Master Definitions Agreement between LUL, BCV, Infraco JNP Limited and Infraco Sub-Surface Limited (**the MDA**).
- 1.2 Words and expressions used in this Agreement shall, to the extent applicable or unless otherwise defined in Clause 1.3, have the meanings assigned to them in the above Recitals and in Schedule 2 of the MDA.
- 1.3 In this Agreement:

Lifts	Means those Lifts identified in Schedule 1 in accordance with the Station Layout Plans;
Major Closure Area	Means those parts of a Station identified in accordance with the Station Layout Plans and agreed in accordance with Clause 5;
Major Closure Commencement Date	Means the start of Engineering Hours which immediately follow the Traffic Hours commencing on a date agreed in accordance with Clause 4;
Major Closure Completion Date	Means the start of Traffic Hours on a date agreed in accordance with Clause 4;

Major Closure Period	Means the number of days identified by reference to the period commencing on the Major Closure Commencement Date and ending on the Major Closure Completion Date;
Provisional Major Closure Area	Means those parts of a Station identified in Schedule 1 in accordance with the Station Layout Plans;
Provisional Major Closure Commencement Date	Means the start of Engineering Hours which immediately follow the Traffic Hours commencing on the provisional date identified in Schedule 2;
Provisional Major Closure Completion Date	Means the start of Traffic Hours on the provisional date identified in Schedule 2; and
Provisional Major Closure Period	Means the number of days identified in Schedule 2 by reference to the period commencing on the Provisional Major Closure Commencement Date and ending on the Provisional Major Closure Completion Date.

2. AGREEMENT DURATION

- 2.1 This Agreement shall commence on the Transfer Date and shall continue until all Lifts in the Major Closure Areas have been subject to a Lift Refurbishment and subsequently been made Available for use by Customers.

3. CONDITIONS

- 3.1 BCV shall satisfy the conditions set out in Schedule 3 for each Major Closure not less than 28 Business Days (save in respect of paragraph 1(i) of Schedule 3) prior to the Major Closure Commencement Date relating to such Major Closure.
- 3.2 BCV shall pay any costs and expenses reasonably incurred by LUL as a result of BCV's failure to satisfy any of the conditions referred to in Clause 3.1 by the Major Closure Commencement Date for each Major Closure.

4. DURATION OF MAJOR CLOSURE

- 4.1 Subject to Clause 4.2, the provisions of clause 7 of Schedule 3.1 of the BCV Contract shall apply.
- 4.2 When developing and agreeing Work Package Plans in respect of each Major Closure LUL and BCV shall use reasonable endeavours to confirm in the first instance the relevant Provisional Major Closure Commencement Date as the Major Closure Commencement Date, the relevant Provisional Major Closure Completion

Date as the Major Closure Completion Date and the relevant Provisional Major Closure Period as the Major Closure Period and failing which such other dates and/or period as the parties, taking account of the principles in Clause 4.3, may agree.

- 4.3 Where either party in accordance with clause 7 of Schedule 3.1 of the BCV Contract or otherwise proposes an adjustment to any or all of the Provisional Major Closure Commencement Date, the Provisional Major Closure Completion Date and the Provisional Major Closure Period the party proposing any amendment shall provide in writing to the other party (**the Recipient**) an explanation as to why such amendment is sought together with details of any revised date and/or period (as the case may be). The Recipient shall use reasonable endeavours to agree the request, but shall not be under any obligation to approve such request where:
- (i) the number of days comprising the Provisional Major Closure Period would be increased except to the extent that the parties acting reasonably and having regard to the nature and extent of the works to be undertaken as part of the Lift Refurbishment agree that, notwithstanding Good Industry Practice, the number of days comprising the Provisional Major Closure Period should be increased;
 - (ii) the proposed amendment would lead to more than seven Station-related Major Closures and/or Minor Closures being undertaken simultaneously on the Underground Network; or
 - (iii) the effect of the proposed amendment would unduly limit journey opportunities for significant numbers of Customers.
- 4.4 Where pursuant to Clause 4.2 the parties agree that any or all the Provisional Major Closure Commencement Date, the Provisional Major Closure Completion Date and the Provisional Major Closure Period shall be amended then the date and/or period so amended shall be deemed to be the Major Closure Commencement Date, the Major Closure Completion Date and/or the Major Closure Period as the case may be.
- 4.5 Where the parties having used reasonable endeavours are unable to agree any or all of the Major Closure Commencement Date, the Major Closure Completion Date and/or the Major Closure Period then the provisions of Clause 9 shall apply.

5. EXTENT OF MAJOR CLOSURE

- 5.1 Subject to Clause 5.2, the provisions of clause 7 of Schedule 3.1 of the BCV Contract shall apply.
- 5.2 When developing and agreeing Work Package Plans in respect of each Major Closure LUL and BCV shall use reasonable endeavours to confirm in the first instance the relevant Provisional Major Closure Area as the Major Closure Area

and failing which such other area as the parties, taking account of Clause 5.3, may agree.

- 5.3 Where either party in accordance with clause 7 of Schedule 3.1 of the BCV Contract or otherwise proposes an adjustment to the Provisional Major Closure Area the party proposing any amendment shall provide in writing to the Recipient an explanation as to why such amendment is sought together with details of the revised area. Without prejudice to the Emergency Plans or any obligation of the Recipient pertaining to safety the Recipient shall use reasonable endeavours to agree the request having regard to the nature and extent of the works to be undertaken as part of the Lift Refurbishment.
- 5.4 Where pursuant to Clause 5.2 the parties agree that the Provisional Major Closure Area shall be amended then the area so amended shall be deemed to be the Major Closure Area.
- 5.5 Where the parties having used reasonable endeavours are unable to agree the Major Closure Area then the provisions of Clause 9 shall apply.
- 5.6 During any Major Closure, the Major Closure Area shall not be Available to Customers, but shall remain Available to Staff.
- 5.7 Staff Accommodation shall remain Available at the Stations throughout each Major Closure.

5A PERFORMANCE

- 5A.1 The provisions of Schedule 2.1 of the BCV Contract and the Performance Measurement Code shall apply to each Major Closure.
- 5A.2 Subject to Clause 5A.6 from the Major Closure Commencement Date to the Major Closure Completion Date paragraph 2.2 of Schedule 4 of the Performance Measurement Code shall be deemed to apply to the Major Closure Area to which the aforesaid Major Closure Commencement Date and Major Closure Completion Date relate.
- 5A.3 Subject to Clause 5A.6 from the Major Closure Commencement Date to the Major Closure Completion Date paragraph 5.1.4 (e) of Section 2 of the Performance Measurement Code shall be deemed to apply to the Station to which the aforesaid Major Closure Commencement Date and Major Closure Completion Date relate.
- 5A.4 Subject to Clause 5A.6 from the Major Closure Commencement Date to the Major Closure Completion Date Lost Customer Hours shall not accrue to BCV in respect of the Major Closure Area to which the aforesaid Major Closure Commencement Date and Major Closure Completion Date relate.
- 5A.5 Facilities faults and fault rectification faults in respect of Staff Accommodation at Stations affected by the Major Closures shall be addressed in accordance with Schedule 2.1 of the BCV Contract and the Performance Measurement Code.

5A.6 Where BCV completes a Lift Refurbishment in advance of the Major Closure Completion Date and the relevant Major Closure Area including the Lifts are Available in accordance with Schedule 2.1 of the BCV Contract, then LUL shall be entitled to open the Major Closure Area to Customers and Clauses 5A.2, 5A.3 and 5A.4 shall cease to apply from such date of opening to Customers. To this extent BCV agrees that where it becomes aware that it is reasonably likely to complete a Lift Refurbishment in advance of the Major Closure Completion Date it shall advise LUL in writing of the date which it estimates the relevant Major Closure Area including the Lifts could be made Available in accordance with Schedule 2.1 of the BCV Contract. To the extent that such date changes or that the Major Closure Area will not be Available prior to the Major Closure Completion date BCV shall advise LUL in writing as necessary.

5A.7 For the avoidance of doubt, Clauses 5A.2, 5A.3 and 5A.4 shall not apply after the Major Closure Completion Date, notwithstanding that the relevant Lifts or any part of the relevant Major Closure Area may not be Available in accordance with Schedule 2.1 of the BCV Contract.

6. OVERRUN OF THE MAJOR CLOSURE

6.1 BCV shall make the Major Closure Area including the Lifts Available in accordance with Schedule 2.1 of the BCV Contract by the relevant Major Closure Completion Date.

6.2 Where any Major Closure continues beyond the relevant Major Closure Completion Date, LUL may in respect of the period after the Major Closure Completion Date:

- (i) charge BCV for all costs and expenses reasonably incurred by LUL in respect of advertising, staff and alternate bus services which result from the overrun of this Major Closure; and
- (ii) charge BCV any other costs and expenses reasonably incurred by LUL or other Infracos which result from the overrun of this Major Closure including for the avoidance of doubt any compensation paid by LUL or the Infracos in accordance with the Compensation Rate and L&E Compensation Rate under the Access Code,

until such time as the relevant Major Closure Area including the Lifts are Available in accordance with Schedule 2.1 of the BCV Contract.

7. CANCELLATION

7.1 Where the Major Closure Commencement Date and the Major Closure Completion Date have been agreed in accordance with Clause 4 then to the extent that BCV subsequently cancels such Major Closure BCV shall be liable for any costs and expenses reasonably incurred by LUL as a result of such cancellation.

7.2 Subject to Clause 7.3 where the Major Closure Commencement Date and the Major Closure Completion Date have been agreed in accordance with Clause 4 then to the extent that LUL subsequently cancels such Major Closure LUL shall be liable for any costs and expenses reasonably incurred by BCV as a result of such cancellation.

7.3 Where LUL cancels the Major Closure for operational reasons having regard to its statutory duty to run passenger services or for safety reasons LUL and BCV shall liaise in an effort to agree a revised Major Closure Period which should be commensurate with the time scales originally agreed for the Major Closure Period. BCV shall use reasonable endeavours to accept such alternative Major Closure Period and if the alternative Major Closure Period is accepted by BCV LUL shall not be held liable for any costs and expenses incurred by BCV in respect of the original Major Closure Period. For the avoidance of doubt, if BCV having used reasonable endeavours is unable to accept the alternative Major Closure Period, then Clause 7.2 shall apply.

8. NOTICES

8.1 The provisions of Clause 55 of the BCV Contract shall apply.

9. DISPUTES

9.1 Any dispute arising out of or in connection with this Agreement shall be resolved in accordance with the Dispute Resolution Agreement.

10. CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999


10.1 A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

11. GOVERNING LAW AND JURISDICTION

11.1 The provisions of Clause 67 of the BCV Contract shall apply.

IN WITNESS WHEREOF this Agreement has been signed for and on behalf of the parties on the date first above written.

SIGNED by
and
on behalf of
LONDON UNDERGROUND LIMITED

) My Signature
)
)
) 
)

SIGNED by
and
on behalf of
INFRACO BCV LIMITED

) My Signature
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SCHEDULE 1

Provisional Major Closure Areas

The Provisional Major Closure Areas and the identification of the Lifts which are to be the subject of Lift Refurbishments are those parts of the relevant Stations identified below in accordance with Station Layout Plans:

- (1) Edgware Road (Bakerloo) Station;
- (2) Holland Park Station;
- (3) Lambeth North Station;
- (4) Lancaster Gate Station;
- (5) Queensway Station; and
- (6) Regent's Park Station.

SCHEDULE 2

Provisional Major Closure Commencement Dates and Provisional Major Closure Completion Dates

Edgware Road (Bakerloo) Station

Provisional Major Closure Commencement Date	14 June 2009
Provisional Major Closure Completion Date	31 October 2009
Provisional Major Closure Period	140 days

Holland Park Station

Provisional Major Closure Commencement Date	24 September 2007
Provisional Major Closure Completion Date	04 May 2008
Provisional Major Closure Period	224 days

Lambeth North Station

Provisional Major Closure Commencement Date	10 October 2008
Provisional Major Closure Completion Date	18 March 2009
Provisional Major Closure Period	160 days

Lancaster Gate Station

Provisional Major Closure Commencement Date	08 September 2008
Provisional Major Closure Completion Date	19 April 2009
Provisional Major Closure Period	224 days

Queensway Station

Provisional Major Closure Commencement Date	06 November 2005
Provisional Major Closure Completion Date	13 July 2006
Provisional Major Closure Period	250 days

Regent's Park Station

Provisional Major Closure Commencement Date	09 March 2008
Provisional Major Closure Completion Date	15 November 2008
Provisional Major Closure Period	252 days

SCHEDULE 3

Conditions

1. In respect of each Major Closure:
 - (i) not less than 90 days prior to the Major Closure Commencement Date BCV shall:
 - (a) provide LUL with evidence that Operational Assurance has been granted under the OAEW Standard (unless it is confirmed that Operational Assurance is not required, in which case evidence shall be provided to that effect); and
 - (b) confirm that a Statement of No Objection can be issued;
 - (ii) BCV shall review the Emergency Plan pertaining to the Station which is the subject of the Major Closure to determine whether any amendments are required for the duration of the Major Closure so as to enable emergency services personnel to access and egress the Station. BCV shall advise LUL in writing of the conclusions of its review including any proposed amendments to the Emergency Plan. To the extent that LUL acting reasonably is not satisfied with the conclusions of the review by BCV, BCV shall undertake to resubmit written proposals to address the concerns of LUL;
 - (iii) BCV agrees not to prejudice in any way (other than in respect of Facilities within the Major Closure Area) the operation by LUL of timetabled Customer metro services through the Station to which the Major Closure relates. Further, BCV agrees not to prejudice the operation of Engineering Trains through the Station;
 - (iv) BCV acknowledges that, notwithstanding clause 5.3.4 (c) of the Access Code LUL shall not be obliged to approve a Closure in respect of any Station in close proximity to the Station which is the subject of a Major Closure pursuant to this Agreement to the extent that if approved the Closure would overlap in full or in part the Major Closure;
 - (v) in the event that pursuant to paragraph 7 of Schedule 3.1 of the BCV Contract LUL and BCV agree (or it is determined in accordance with the Dispute Resolution Agreement) that an alternate bus service will be provided during all or part of a Major Closure then BCV agrees that it shall reimburse LUL for all costs and expenses reasonably incurred by LUL in providing such alternate bus service; and
 - (vi) to the extent that LUL is obliged under the terms of any lease, agreement or otherwise to compensate any tenant or licensee of any Commercial Property within a Station which results directly or indirectly from a Major Closure, BCV agrees that it shall be liable for all costs and expenses reasonably incurred by LUL in respect of compensating such tenant or licensee, subject to LUL advising it in writing not less than 90 days prior to the Provisional Major Closure Commencement Date (or the Major Closure Commencement Date where such date precedes the Provisional Major Closure Commencement Date) of the indicative costs and expenses likely to be incurred by BCV pursuant to this paragraph (vi).

