

**THIS UNDERLEASE** made on **4 APRIL** 2003

**BETWEEN**

**INFRACO BCV LIMITED** (company registration number 03923496) whose registered office is at 55 Broadway London SW1H 0BD (*Infraco*) and

**LONDON UNDERGROUND LIMITED** (company registration number 01900907) whose registered office is at 55 Broadway London SW1H 0BD (*LUL*)

**WITNESSES** as follows:

**INTERPRETATION**

1.1 To the extent applicable, the provisions of this Underlease shall be interpreted in accordance with clause 1.2 of the Master Definitions Agreement made between LUL, Infraco, JNP and SSL (the *MDA*).

1.2 Words and expressions used in this Underlease shall, to the extent applicable and unless defined herein or the context otherwise requires, have the meaning assigned to them in Schedule 2 of the MDA.

1.3 LUL and Infraco agree that the provisions of the PPP Contract and the obligations under it shall be of primary importance when the terms of this Underlease are being construed and thus:

- (a) in so far as there may be any inconsistency between any term of this Underlease and any term of the PPP Contract then the term in this Underlease shall be construed so far as possible so as to give full effect to the terms of the PPP Contract and the intentions of the parties to this Underlease as expressed in the PPP Contract but where the inconsistency shall be between a less specific/detailed provision in the PPP Contract or the Underlease and a more specific/detailed provision in the other document then the more specific/detailed provision shall prevail; and
- (b) references to the PPP Contract shall mean as it may be varied modified or substituted from time to time.

1.4 In this Underlease the expression Infraco includes the estate owner for the time being of the reversion expectant on the termination of the Underlease Term and the expression LUL includes LUL's successors in title and assigns.

**DEMISE AND RENTS**

2. In consideration of the rent hereby reserved and the covenants on the part of LUL and the conditions hereinafter contained Infraco demises to LUL (by way of a separate demise of each Relevant Parcel and of the remainder of the Underlet Premises respectively)<sup>1</sup> the Underlet Premises together with so far as Infraco is able to

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<sup>1</sup> Note: omit words in parenthesis in the case of an Underlease derived out of an Ancillary Lease.

grant them the rights set out in Part II of the First Schedule excepting and reserving to Infraco and to all other persons (including LUL) from time to time entitled to them the rights set out in Part III of the First Schedule to hold them to LUL subject to the rights of any party pursuant to a Third Party Document and subject to the PFI Contracts and all Title Matters for the Underlease Term yielding and paying to Infraco the annual rent of one pound.

**LUL'S COVENANTS**

3. LUL covenants with Infraco as set out in the **Second Schedule**.

**INFRACO'S COVENANTS**

4. Infraco covenants with LUL as set out in the **Third Schedule**.

**PROVISOS**

5. It is agreed and declared as set out in the **Fourth Schedule**.

**GLA ACT CERTIFICATION**

6. The parties hereby certify that this Underlease is a PPP lease for the purposes of section 218 of the GLA Act.

**CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

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

**DULY DELIVERED** as a **DEED** on the date inserted on page 1.

## THE FIRST SCHEDULE

### Part I The Underlet Premises

The same premises as demised by the Lease (out of which this Underlease is derived) dated the same date as this Underlease and made between LUL (1) and Infraco (2) but excluding all Depot Premises other than any Depot PFI Unit.

### Part II Rights granted

1. The rights (subject to the rights excepted and reserved in Part III of this Schedule) in common with Infraco and all others now or hereafter entitled to them granted in Part I of the First Schedule to the Lease (but excluding (i) the rights of access to LUL's Premises in paragraph 1 and paragraph 5 of Part I of the First Schedule to the Lease; and (ii) the benefit of the easements rights or privileges in paragraph 3 of Part 1 of the First Schedule to the Lease) and Part II of the Third Schedule to the Lease.

2. All rights granted by any lease of a Depot PFI Unit.

3. The right to enter the Depot Premises for the purpose of the operation of the Underground Network, or of exercising any rights (including without limitation any LUL Specified Right) under, or complying with any obligation on the part of LUL contained in, the PPP Contract or any Transaction Document, or for making use of the Services or for using and/or occupying (as appropriate) any Staff Accommodation and Train Staff Facilities and Train Service Facilities or offices occupied by LUL Staff as at the Transfer Date located on the Depot Premises and identified in the attached Appendix A (*LUL Occupation at Depot Premises*) to this Schedule and in exercising such right LUL will comply with the provisions of the PPP Contract relating to the same (if any).

### Part III Rights excepted and reserved

The following rights (subject always in each case to the use by LUL of the Underlet Premises in accordance with paragraph 3 of the Second Schedule to this Underlease and to the exercise by LUL of the rights granted by the Underlease) provided that Infraco in exercising such rights shall do so with all due diligence causing as little damage and inconvenience as reasonably possible and so far as reasonably practicable Infraco shall not interfere with Relevant Let Property and shall make good to the reasonable satisfaction of LUL and consistent with the terms of the Standard Letting Documents, any document in the Deeds Room on or after the First Review Date or, where Infraco first has prior notice of the same after the date of this Underlease, the actual lease or licence by which any tenant or occupier holds the Underlet Premises thereby affected, all damage or disturbance thereby caused to the Underlet Premises or any part thereof:

**Access**

1. The right in accordance with the terms of the PPP Contract and/or the Transaction Documents to enter any part of the Underlet Premises consisting of Relevant Let Property and to exercise the rights granted to the tenant under the Lease in each case for the purposes of performance of its obligations under the PPP Contract or any Transaction Document subject to the rights of any occupier of the Relevant Let Property and in the case of any Relevant Let Property which is unoccupied subject to the terms which would apply were it occupied on the basis of the Standard Letting Documents; and
2. The right in accordance with the terms of the PPP Contract and the Transaction Documents to enter the Underlet Premises not consisting of Relevant Let Property and to exercise the rights granted to the tenant under the Lease in each case for the purposes of performance of its obligations under the PPP Contract or any Transaction Document and to permit other Infracos to enter the Underlet Premises and to exercise the rights granted to the tenant under the Lease in accordance with the provisions of the Inter-Infraco Assets and Facilities Agreement.

**Allocated Space**

3. The right to occupy and use the Allocated Space (as defined in the Fifth Schedule) within the Underlet Premises for the purposes of performance of its obligations under the PPP Contract or any Transaction Document subject to the terms and conditions set out in the Fifth Schedule.

**Other rights**

4. Rights in relation to the Underlet Premises in the same terms (mutatis mutandis) as are granted in paragraphs 2 and 4 of Part I of the First Schedule to the Lease in relation to certain parts of LUL's Premises.

## APPENDIX A

## LUL Occupation at Depot Premises

Depot Premises	Description of area	Occupied by whom
Stonebridge Park (Bakerloo)	LUL occupy and use a mess room	Bakerloo Line train crew
London Road (Bakerloo)	<ol style="list-style-type: none"> <li>1) LUL occupy and use one training room for staff training and a Train Crew mess room adjoining the training room within the old Accommodation Block as well as sharing the toilet facilities</li> <li>2) LUL exclusively occupy and use for training/office purposes a portacabin situated at the rear of the old Accommodation Block against the retaining wall of the car park</li> <li>3) LUL use 6 allocated car parking spaces situated against the fence of the car park</li> </ol>	Bakerloo Line train crew staff
Hainault (Central)	<ol style="list-style-type: none"> <li>1) LUL use a portacabin which houses a 92 stock simulator and is situated adjacent to the main depot carriage shed for training purposes</li> <li>2) LUL use 14 car-parking spaces along the depot entrance road and also (exclusively) a fenced carpark adjacent to such depot road</li> </ol>	Central Line train crew staff
Ruislip (Central)	No LUL occupation	
Waterloo (Central)	No LUL occupation	
Northumberland Park (Victoria)	<ol style="list-style-type: none"> <li>1) LUL use a training room/office which is used by instructor operators and is situated on the upstairs section of the main carriage shed within the Depot</li> <li>2) LUL use the Duty Manager Train's office and train operations accommodation adjacent to the secondary carriage shed at the northern end of the Depot as a</li> </ol>	Victoria Line train crew staff

	<p>booking-on point</p> <ul style="list-style-type: none"><li>3) LUL share the use of the Depot Canteen</li><li>4) Portacabins are soon to be erected adjacent to the Duty Manager Train's office and will be used by LUL</li><li>5) LUL use 8-10 car-parking spaces within the Depot per day</li></ul>	
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## THE SECOND SCHEDULE

### LUL's covenants

#### Pay rent

1. To pay to Infraco the annual rent of one pound (if demanded) on each anniversary of the date of this Underlease.

#### Alienation

2. Except as permitted by the PPP Contract not to assign (at law or in equity) this Underlease or the Underlet Premises as a whole or in part nor make any declaration of trust of them.

#### User

3. Not to use or permit the Underlet Premises to be used otherwise than for the purposes of:

- (a) carrying on its undertaking in exercise of and subject to its statutory and common law powers and obligations; or
- (b) exercising any rights under the PPP Contract or any other Transaction Document (including without limitation in connection with any LUL Commercial Exploitation and any works and activities in relation thereto); or
- (c) making use of the Services and complying with any obligations on the part of LUL contained in the PPP Contract or any other Transaction Document.

## **THE THIRD SCHEDULE**

### **Infraco's covenants**

#### **Lease**

1. To pay the rent reserved by the Lease and by way of indemnity only to observe and perform the covenants and conditions on the part of the tenant therein contained save to the extent that they are to be observed or performed by LUL under this Underlease.

## THE FOURTH SCHEDULE

### Provisos agreements and declarations

#### Termination

1.1 Infraco shall be entitled to determine this Underlease in whole or in part in accordance with the provisions of the PPP Contract (but not otherwise) and LUL shall have no right to any continuation or extension of this Underlease except as expressly contemplated by the PPP Contract.

1.2 LUL shall be entitled to determine this Underlease in whole or in part at the same time and to the same extent as it is entitled to determine the Lease.

#### Separate demises

2. Each separate demise under the Lease shall similarly be a separate demise under this Underlease and the demise of the Underlet Premises pursuant to clause 2 of this Underlease shall operate accordingly.<sup>2</sup>

#### No compensation

3. Except as expressly provided in the PPP Contract, LUL shall not have any entitlement to compensation (whether in respect of improvements or otherwise) on Termination of the Underlease Term.

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<sup>2</sup> Note: omit paragraph 2 in the case of an Underlease derived out of an Ancillary Lease.

## THE FIFTH SCHEDULE

### Rights relating to Allocated Space

1. In this Fifth Schedule the following expressions have the following meanings:

***Allocated Space*** means the rooms or space within the Underlet Premises more particularly described in the Space Allocation Table as used by Infraco and the expression includes any part or parts thereof;

***Designated Use*** means, in relation to each room or space comprised in the Allocated Space, the use specified for that room or space in the “Description/Use” column of the Space Allocation Table or such other use as may be approved by LUL from time to time in accordance with the Space Allocation Process;

***Regulations*** means any reasonable and proper regulations including any Site Specific Conditions and any variations or additions thereto from time to time notified in writing to Infraco and made by or on behalf of LUL for the proper management care or security of the Underlet Premises or the safety, comfort or convenience of occupants thereof or persons resorting thereto;

***Site Specific Conditions*** means reasonable and proper conditions of use and occupation which are specific to particular rooms or space within the Allocated Space as imposed on Infraco pursuant to paragraph 7;

***Space Allocation Table*** means the table recording the allocation of space between LUL and Infraco as agreed and initialled by them at the date hereof and from time to time amended in accordance with paragraph 6.

#### UNDERTAKINGS

2. Infraco undertakes with LUL in the manner set out in the **Appendix 1**.

#### PROVISOS

3. It is agreed and declared in the manner set out in the **Appendix 2**.

#### DETERMINATION

4.1 LUL may determine Infraco’s right to use all or a part of the Allocated Space (as appropriate) in the following circumstances:

- (i) on fourteen (14) days’ written notice given by LUL containing or accompanied by a certificate from the Contract Manager appointed by LUL certifying that he (acting reasonably) considers that Infraco (or its authorised contractor) has permanently ceased to use the Allocated Space (or the relevant part) for the purposes of its performance of the PPP Contract;
- (ii) upon notice in writing given by LUL following a decision of LUL as to use of the Allocated Space (or the relevant part) pursuant to the Space Allocation Process;

- (iii) immediately upon written notice given by LUL at any time following any material breach by Infraco of its undertakings contained in Appendix 1.

4.2 Following any determination pursuant to paragraph 4.1 in relation to a part only of the Allocated Space, the provisions of this Fifth Schedule shall continue in force in relation to the remainder of the Allocated Space.

4.3 Any determination pursuant to paragraph 4.1 shall be without prejudice to either party's rights in respect of any antecedent breach of the obligations on the part of the other party.

### **PPP CONTRACT**

5. The obligations upon Infraco set out in this Fifth Schedule are in addition to and in no way vary or reduce the obligations owed by Infraco to LUL under the terms of the PPP Contract or any other Transaction Document and to the extent that there is a conflict between any provision of this Fifth Schedule and the provisions of the PPP Contract or any other Transaction Document, the latter shall prevail.

### **OCCUPANCY SURVEY**

6.1 It is recognised that there may be instances of Infraco occupation at other Stations and premises comprised in the Underlet Premises but which are not recorded in the Space Allocation Table. To facilitate the identification of such occupation, the parties agree to co-operate in carrying out an occupancy survey of the remainder of the Stations and other premises comprised in the Underlet Premises in order that any such occupation by Infraco can be recorded.

6.2 LUL agrees that once each phase of the occupancy survey referred to in paragraph 6.1 has been completed, the occupation by Infraco has been verified and agreed between the parties and a revised Space Allocation Table has been produced, the parties shall each initial the revised Space Allocation Table.

6.3 Pending completion of the Occupancy Survey and the amended Space Allocation Table, the parties may agree that instances of Infraco occupation of the Underlet Premises which are not yet recorded in the Space Allocation Table shall be deemed to be subject to the terms and conditions set out in this Fifth Schedule.

6.4 At the end of each Contract Year each party shall initial a current version of the Space Allocation Table which shall:

- (i) include details of any additional space within the Underlet Premises which LUL and Infraco as a consequence of the Space Allocation Process agree to be allocated to Infraco in order to enable Infraco to perform its obligations under the PPP Contract; but
- (ii) exclude any space that has been the subject of a notice served pursuant to paragraph 4 of this Fifth Schedule.

## **SITE SPECIFIC CONDITIONS**

7.1 The parties acknowledge that it may be necessary from time to time for LUL to impose certain Site Specific Conditions.

7.2 Where LUL acting reasonably considers it necessary to impose such Site Specific Conditions it will do so by notice in writing to Infracore in the form set out in Appendix 3.

## APPENDIX 1

### Infraco's undertakings

#### Condition of property

1. To keep the Allocated Space clean and tidy and clear of rubbish and leave it in a clean and tidy condition.

#### Alterations

2. Not to make any alterations or carry out any works to or at the Allocated Space other than in accordance with the PPP Contract.

#### Signs and notices

3. Not to display any signs or notices at the Allocated Space without the prior written approval of LUL (such approval not to be unreasonably withheld or delayed).

#### Nuisance and use

4.1 Not to use the Allocated Space in such a way as to cause any nuisance, physical damage or disturbance to the Underlet Premises or adjoining or neighbouring property or to the owners, occupiers or users of any adjoining or neighbouring property.

4.2 Without prejudice to the generality of the foregoing, not to use the Allocated Space other than solely for the Designated Use for the purposes of the performance of its obligations pursuant to the PPP Contract.

4.3 Not to store any dangerous, combustible or hazardous substances or materials (other than those approved in writing by LUL (such approval not to be unreasonably withheld or delayed)) and to comply with the reasonable and proper requirements of LUL in relation to such storage.

#### Statutory requirements and insurance

5. Not to do anything that will or might constitute a breach of any statutory requirement affecting the Underlet Premises.

#### Indemnity

6. To indemnify LUL, and keep LUL indemnified, in accordance with and to the extent provided in clause 24 (*Indemnity*) of the PPP Contract, against Losses arising in any way from this Fifth Schedule, any breach of any of Infraco's undertakings, or the exercise or purported exercise of the rights reserved to Infraco in respect of Allocated Space.

#### Rules and regulations

7. To observe the Regulations governing Infraco's use of the Allocated Space.

**LUL's rights**

8. Not in any way to impede LUL or its officers servants or agents in the exercise of its rights of possession and control of the Underlet Premises or any part thereof.

## APPENDIX 2

### Provisos agreements and declarations

#### Notices

1.1 Any notices or other documents to be given under this Fifth Schedule shall be in writing in the English language and shall be deemed to have been duly given if delivered by hand or by registered post or by facsimile to a Party at the address set out below for such Party or such other address as that Party may from time to time designate by written notice to the other.

1.1.1 LUL's address for service is:

9<sup>th</sup> Floor Albany House, Petty France  
London  
SW1H 0BD  
Attention: LUL PPP Contract Manager (BCV Contract)

1.1.2 Infraco's address for service is:

30 The South Colonnade  
London  
E14 5EU  
Attention: BCV PPP Contract Manager

1.2 Any such notices or other documents shall be deemed to have been received by the addressee two Business Days following the date of despatch of the notice or other document if sent by registered post, or on the next Business Day after delivery if sent by hand or by facsimile.

#### Warranty disclaimer

2. Infraco acknowledges that no representation or warranty has been given prior to the date hereof or is given or implied by this Fifth Schedule that the use now or hereafter proposed by Infraco for the Allocated Space is or will be or will remain a use which does not constitute a breach of the Town and Country Planning Act 1990 (or any act for time being in force of a similar nature or any laws and regulations intended to control or regulate the construction demolition alteration or change of use of land or buildings or to preserve or protect the environment or national heritage) or will not require planning permission and that no consent or approval which LUL may give to any change of use shall be taken as including any such representation or warranty.

**APPENDIX 3**

[date]

Infraco BCV Limited  
[address]

For the attention of BCV PPP Contract Manager

**UNDERLEASE: SITE SPECIFIC CONDITIONS IN RELATION TO  
ALLOCATED SPACE AT [STATION/SITE NAME]**

In accordance with paragraph 7.2 of the Fifth Schedule of the Underlease dated \_\_\_\_\_  
\_\_\_\_\_ and entered into between London Underground Limited and Infraco  
BCV Limited you are hereby notified of the imposition of the Site Specific  
Conditions of use and occupation specified in Part 2 of the Schedule to this notice in  
relation to the rooms comprising the Allocated Space set out in Part 1 of the said  
Schedule.

Yours faithfully

[Signatory's name]  
LUL PPP Contract Manager  
on behalf of London Underground Limited

**SCHEDULE**

**PART 1**

**Allocated Space**

<b>Room number</b>	<b>Description/use</b>	<b>Comments</b>

**PART 2**

**Site Specific Conditions**

**EXECUTED** as a **DEED** )  
by **INFRACO BCV LIMITED** )  
acting by two directors )  
a director and the secretary )

Director **MARTIN CALLAGHAN**

Secretary **FRANCES LOW**

**EXECUTED** as a **DEED** )  
under the **COMMON SEAL** of )  
**LONDON UNDERGROUND** )  
**LIMITED** in the presence of: )

Director **MARTIN CALLAGHAN**

Secretary **FRANCES LOW**

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**4 APRIL 2003**

**INFRACO BCV LIMITED**

**LONDON UNDERGROUND LIMITED**

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**UNDERLEASE**

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