

AMENDED AND RESTATED PROPERTY CODE

INTRODUCTION

This Property Code is divided into the following sections:

1. LUL/Infraco Estate Plans: this section sets out a procedure for exchanging information with a view to co-ordinating the property activities of LUL and an Infraco.
2. Acquisition of Adjoining Property, Permanent Rights or Temporary Rights: this section sets out obligatory procedures which LUL and Infraco will follow in connection with the acquisition of land and property rights required by an Infraco for the provision of the Services.
3. Surplus Property: the procedure for declaring that property is surplus to operational requirements.
4. Changes to this Code: the procedure for changes to be made to this Code.

INTERPRETATION

1. To the extent applicable, the provisions of this Code shall be interpreted in accordance with clause 1.2 of the Master Definitions Agreement between London Underground Limited, Infraco BCV Limited, Infraco Sub-Surface Limited and Infraco JNP Limited (the *MDA*).
2. Words and expressions used in this Code 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.

SECTION 1

LUL/INFRACO ESTATE PLANS

1. The purpose of the LUL/Infraco Estate Plans is to assist LUL and the Infracos with the efficient co-ordination of their respective property related activities. The LUL/Infraco Estate Plans are intended to make provision for the exchange of information between LUL and the Infracos regarding intended and proposed projects and works so that for each Infraco Network the timing and design of these activities can complement one another.

The LUL/Infraco Estate Plans are intended to supplement the provisions of the PPP Contracts including without limitation Schedules 2, 3 and 5.

2. LUL shall prepare an LUL Estate Plan for each Infraco Network in respect of each Contract Year. LUL shall use reasonable endeavours to provide accurate and up-to-date information regarding proposals contained in the LUL Estate Plans and any similar information in respect of future Contract Years, which information shall be supplied as soon as reasonably practicable after it becomes available, provided that LUL shall be under no obligation to provide Infraco with such information in relation

to future Contract Years where it believes acting reasonably (and taking into account the confidentiality obligations placed on Infraco by the PPP Contract) that to do so would prejudice LUL's position in commercial negotiations or would breach any confidentiality undertaking given to a third party or where LUL believes acting reasonably that the information is too uncertain or uncrystallised to make disclosure to Infraco through the LUL Estate Plan appropriate.

3. Subject to paragraph 2, each LUL Estate Plan shall include the following information in relation to the Infraco Network to which it relates:

- (a) a schedule of property related projects to be implemented pursuant to any Major Enhancement Agreement which are in progress, in the course of preparation, or identified for future planning insofar as such schemes affect Operational Property or Adjoining Property;
- (b) locations where additional Adjoining Property may be required (for example, to assist Major Enhancements);
- (c) details of potentially Surplus Property identified by LUL;
- (d) details of LUL's accommodation requirements in respect of any of the Office Accommodation Properties;
- (e) any proposed LUL Commercial Exploitation;
- (f) any Essential Works or Essential Services or other works and services that LUL considers it is likely to require or request in connection with any proposal in the LUL Estate Plan;
- (g) any maintenance or other works relating to Non-Operational Property likely to affect the relevant Infraco;
- (h) any PFI Commercial Exploitation or other property-related activities under a PFI Contract; and
- (i) any information of which LUL is aware in relation to maintenance or other works or activities of any other Infracos likely to affect the relevant Infraco.

4. By no later than 31 October of each year of the Contract Period LUL shall provide to each Infraco a copy of the LUL Estate Plan relating to its Infraco Network for the following Contract Year.

5. By no later than 31 December in each Contract Year each Infraco shall prepare an LUL/Infraco Estate Plan (on the basis set out in paragraphs 6 and 7 below) and provide a copy to LUL.

6. In preparing the LUL/Infraco Estate Plans, Infracos shall act in good faith and shall have regard to the LUL Estate Plan relating to their respective Infraco Networks with a view to each producing an LUL/Infraco Estate Plan which efficiently co-ordinates the activities proposed by LUL in the relevant LUL Estate Plan and the

Infraco's proposals for compliance with the obligations in its PPP Contract (including those in Schedules 2 and 3 to its PPP Contract) so that the timing and design of these activities can complement each other and which facilitates (so far as is reasonably possible) LUL's priorities indicated in the LUL Estate Plan.

7. In addition to information serving the general objects described in paragraph 6 above, each LUL/Infraco Estate Plan shall include the following information in respect of the Infraco Network for the succeeding Contract Year and any future Contract Year where information has been provided in the LUL Estate Plan or where activities are anticipated or proposed by the Infraco:

- (a) with reference, where applicable, to the Infraco's Asset Management Regime (required under Schedule 3 of its PPP Contract):
 - (i) the Infraco's Operational Property maintenance and renewal proposals and priorities to meet the PPP Contract requirements including Station Modernisations and Station Refurbishments, as required by Appendix 15 to Schedule 2.1 (*Service Outputs*) of its PPP Contract;
 - (ii) the Infraco's property related projects in progress, in the course of preparation, or identified for future planning in order to perform the Services;
 - (iii) locations where additional land or rights may be required by the Infraco for providing the Services or which Infraco may otherwise wish to acquire;
 - (iv) details of potentially Surplus Property identified by the Infraco;
 - (v) third party claims in respect of Operational Property or any other property in relation to which the Infraco has rights or obligations under its PPP Contract; and
 - (vi) details of the Infraco's accommodation requirements in respect of any of the Office Accommodation Properties;
- (b) the information provided by LUL in the relevant LUL Estate Plan;
- (c) details of any conflicting or potentially conflicting activities and proposals apparent from paragraphs (a) and (b) above;
- (d) details of any potential inadequacy in the Infraco's resources required to carry out any Essential Works or Essential Services or other works and services identified by LUL in the relevant LUL Estate Plan; and
- (e) without prejudice to the parties rights and obligations under clause 17 (*LUL Specified Rights*) of the PPP Contracts, insofar as is reasonably practicable on the basis of information provided by LUL in the relevant LUL Estate Plan, details of any Increased Infraco Cost or Increased Infraco Risk which may

arise from the exercise of an LUL Specified Right set out in the LUL Estate Plan.

8. LUL and each Infraco shall meet quarterly to discuss the LUL/Infraco Estate Plan. Where an LUL/Infraco Estate Plan demonstrates that conflicting or potentially conflicting activities are proposed by LUL and an Infraco at any particular location, LUL and the relevant Infraco(s) shall use reasonable endeavours to reach agreement as to their co-ordination and to agree a final form LUL/Infraco Estate Plan by the start of each Contract Year. In the event that any LUL/Infraco Estate Plan has not been agreed between LUL and the relevant Infraco by 31 March of any year during the Contract Period, then such LUL/Infraco Estate Plan shall be recorded as at that date and shall be deemed to be the final form LUL/Infraco Estate Plan for the Contract Year commencing on the following day.

9. LUL and the Infracos shall act in good faith and endeavour to safeguard the respective activities and proposals contained in the relevant LUL/Infraco Estate Plans so far as reasonably practicable in performing their respective obligations and in exercising their respective rights under the PPP Contracts or otherwise over Operational Property, Adjoining Property or Surplus Property. LUL and the Infracos shall act in good faith and shall use reasonable endeavours not to increase the costs of the other in the exercise of those rights.

10. Notwithstanding the quarterly meetings between LUL and Infraco stated in paragraph 8 if during any Contract Year LUL or an Infraco becomes aware of new proposed Major Enhancements or any other matter which would make the information in an LUL/Infraco Estate Plan inaccurate or misleading, LUL and the relevant Infraco shall as soon as reasonably practicable consult one another and exchange information in relation to such matters. LUL shall also provide any other information in respect of future Contract Years as soon as the reasons for withholding such information which are set out in the proviso to paragraph 2 cease to apply.

11.1 LUL shall be entitled to require each Infraco to postpone the implementation of Station Modernisations, Station Refurbishments, Enhanced Station Refurbishments and Station Accessibility Projects (which do not constitute a Major Enhancement) where such projects are likely to be rendered superfluous by, or otherwise conflict with, a Major Enhancement or any other works (together the ***Conflicting Works***) that LUL proposes to implement, provided that LUL may only postpone a maximum of three Station Modernisations, Station Refurbishments or Station Accessibility Projects (either all three from one of these categories or a combination from such categories up to a maximum of three in total across the categories) identified in the relevant LUL/Infraco Estate Plan for implementation by that Infraco in the relevant Contract Year, and not exceeding a total of ten such projects in any Review Period.

11.2 LUL's right to postpone shall be limited to a maximum period of two years in respect of any such project.

11.3 Where LUL exercises the right to postpone a project under this paragraph 11, the Latest Completion Date for that project shall be deferred by the duration of the postponement (rounded up to the nearest whole year).

11.4 A postponement by LUL will not obviate the need for it subsequently to exercise an LUL Specified Right, where applicable, in respect of the Conflicting Works. However, in accounting for any reduction in Infraco Operating Costs and/or Infraco Capital Costs as referred to in clause 17.9 (*Mitigation*) of the PPP Contract, Infraco shall include any costs savings resulting from the postponement.

11.5 Where the postponement results in an Increased Infraco Cost and/or Increased Infraco Risk, but there is no requirement for LUL to exercise an LUL Specified Right in respect of such Conflicting Works, LUL and Infraco shall endeavour to agree the terms for compensating for such Increased Infraco Cost (and LUL shall compensate Infraco as so agreed or determined) and/or for dealing with Increased Infraco Risk which would occur as a result of such postponement.

11.6 Where any postponement occurs pursuant to this paragraph 11 then to the extent that the works comprising the postponed project are rendered superfluous by the Conflicting Works then to the extent that it has not already done so pursuant to paragraph 11.4, Infraco shall account to LUL for any resulting reduction in Infraco Operating Costs and/or Infraco Capital Costs either by direct reimbursement of such costs on or before the date that the project was (but for the postponement) to have been completed, or (where the postponement resulted from the implementation of a Major Enhancement for which LUL has appointed Infraco as the contractor) by way of a corresponding reduction in the ME Services Price.

11.7 Where a postponement has taken place, then to the extent that the postponement results in work being carried out after a Review Date which would but for the postponement have been carried out prior to that Review Date, and save to the extent that Infraco has accounted to LUL pursuant to paragraphs 11.4 and 11.6 for any resulting reduction in Infraco Operating Costs or Infraco Capital Costs, Infraco shall not be entitled to include the cost of such postponed work in the level of Underlying ISC it proposes for the Review Period commencing on the relevant Review Date.

SECTION 2

1. ACQUISITION OF NEW LAND OR RIGHTS

If an Infraco, or any Associated Company of an Infraco wishes to acquire any Adjoining Property or Permanent Rights or Temporary Rights in respect of Adjoining Property, the Infraco shall only do so, or shall procure that any Associated Company of the Infraco shall only do so, in accordance with this Property Code.

2. ACQUISITION OF TEMPORARY RIGHTS OVER ADJOINING PROPERTY

2.1 An Infraco may acquire Temporary Rights in respect of Adjoining Property in its own name but shall act in good faith when acquiring such Temporary Rights and shall have regard to the LUL/Infraco Estate Plan relating to its Infraco Network, provided that an Infraco shall not acquire any Temporary Rights in respect of Adjoining Property:

- (a) which will or which are likely materially to interfere with or prejudice the relevant LUL/Infraco Estate Plan, unless:
 - (i) the works for which the Temporary Rights are required cannot reasonably be carried out from a different location; or
 - (ii) the works can be carried out from a different location but only at materially greater expense where LUL, having received sufficient details of the greater expense from Infraco, does not agree to compensate the Infraco for the greater expense that would be incurred;
- (b) which will hinder, obstruct or interfere with LUL's operation of the Underground Network or the exercise by LUL of any rights under and in accordance with the relevant Infraco's PPP Contract, or any other Transaction Document.

2.2 The costs of acquisition by an Infraco of any Temporary Rights and any related expenses shall be for the account of the Infraco making the acquisition.

2.3 As soon as reasonably practicable following the acquisition of any Temporary Rights by an Infraco, it shall notify LUL in writing and provide reasonable details of such acquisition.

2.4 Where an Infraco wishes to acquire Temporary Rights and would be permitted to do so under the provisions of paragraph 2.1 above, but the person who controls the grant of those rights will only treat on the basis of a permanent transfer of Adjoining Property and/or a grant of Permanent Rights in respect of Adjoining Property or in respect of LUL's Premises, the provisions of paragraph 3 below shall apply to the acquisition of such Adjoining Property or Permanent Rights, subject to the amendments set out in paragraph 2.5 below.

2.5(a) In addition to the information referred to in paragraph 3.2(a)(ii) Infraco shall also explain the nature of the Temporary Rights (including details of any periodic payments to be made in respect of those rights) that Infraco originally sought to acquire and the estimated open market value of those rights and related expenses of making the acquisition.

(b) If LUL decides to acquire the relevant Adjoining Property or Permanent Rights LUL shall fund the costs of acquisition and any related expenses, but shall be entitled to a contribution from Infraco equal to the open market value of the Temporary Rights required and the reasonable expenses that would have been incurred in the acquisition of those rights.

(c) On acquisition of the relevant Permanent Rights or Adjoining Property and receipt of the sums to be paid by Infraco under paragraph 2.5(b) above LUL shall grant to Infraco Temporary Rights on the terms (other than as to any initial payment reflected in the sums paid by Infraco to LUL) originally sought by Infraco and the provisions of paragraph 3.6 shall not apply.

- (d) If LUL decides it does not wish to acquire the relevant Permanent Rights or Adjoining Property, Infraco may acquire the relevant Permanent Rights or Adjoining Property in its own name.

2.6 Where Infraco has acquired Permanent Rights or Adjoining Property in accordance with paragraph 2.5(d) above, then as soon as reasonably practicable following completion of the works for which the relevant Temporary Rights were required Infraco shall dispose of any Adjoining Property and Permanent Rights acquired in place of the grant of those Temporary Rights.

2.7 Infraco shall not dispose of any Adjoining Property or Permanent Rights pursuant to paragraph 2.6 unless it has first given notice to LUL offering the same to LUL on open market terms and LUL has not within four months thereafter accepted such offer by notice in writing.

2.8 If the notice served by LUL under paragraph 2.7 specifies that LUL will purchase the Adjoining Property or Permanent Rights then the acquisition shall be completed within two months of the date of such notice.

2.9 If Infraco does not receive a notice from LUL within the period specified in paragraph 2.7 or the notice from LUL specifies that LUL does not wish to accept such offer then Infraco may dispose of any such Adjoining Property or Permanent Rights without any further reference to LUL.

2.10 If paragraph 2.7 is void or voidable for perpetuity (or would be but for this paragraph 2.10) then:

- (i) the perpetuity period applicable to the same shall be 21 years; and
- (ii) LUL shall not be entitled to a right of pre-emption under paragraph 2.7 on or after the twenty-first anniversary of the relevant date of acquisition by Infraco of the relevant Adjoining Property or Permanent Rights (as appropriate); and
- (iii) paragraph 2.7 shall have effect subject to the following proviso:

“provided that where the rule against perpetuities applies as contemplated by paragraph 2.10, the Restated Terms may for the Review Period commencing on the Second Review Date and/or the Third Review Date include contractual terms which LUL proposes so as to enable the arrangements contemplated by paragraph 2.7 to be capable of effective implementation until the Expiry Date.”

2.11 Infraco shall provide LUL at LUL’s cost with all reasonable assistance to allow it to protect against challenge by any third parties its pre-emption rights pursuant to the above paragraph 2.7 and 2.10 including but not limited to upon acquisition of the Permanent Rights or Adjoining Property:

- (a) completing any deed or instrument as LUL may reasonably require to document the aforesaid rights; and

- (b) arranging or procuring that the land or charge certificate (as appropriate) relating to the title of the relevant Adjoining Property or land providing Permanent Rights (as appropriate) is placed on deposit at H.M. Land Registry to allow registration of LUL's interest.

3. LAND OR PERMANENT RIGHTS REQUIRED FOR OPERATIONAL PURPOSES OR INTENDED TO BECOME PART OF THE OPERATIONAL PROPERTY

3.1 Subject to the following provisions of this paragraph 3 and to paragraphs 2.4 and 2.5 above, unless LUL otherwise agrees in writing, acquisitions of any Adjoining Property and/or Permanent Rights in respect of Adjoining Property shall be effected in the name and beneficial ownership of LUL.

3.2 Subject to paragraph 3.8 below, if an Infraco or any Associated Company of Infraco wishes to acquire Adjoining Property and/or Permanent Rights in respect of Adjoining Property the following procedure shall apply;

- (a) the Infraco shall give written notice to LUL to include the following information:
- (i) identification of the Adjoining Property and/or Permanent Rights which the Infraco or the Associated Company of Infraco wishes to acquire;
 - (ii) if relevant, an explanation as to why the land or rights are required by the Infraco for the performance of the Services;
 - (iii) if available, terms or heads of terms agreed for the proposed acquisition; and
 - (iv) if the proposed acquisition is to be carried out by any Associated Company of Infraco, an explanation of that arrangement.
- (b) LUL shall respond in writing as soon as reasonably practicable and shall either:
- (i) give consent in principle and (aa) request that the Infraco proceeds to negotiate the terms of the acquisition on LUL's behalf; or (bb) confirm that LUL will conduct negotiations for the acquisition; or
 - (ii) consent to the proposed acquisition on the terms agreed and confirm that LUL shall use reasonable endeavours to complete the purchase; or
 - (iii) object to the proposed acquisition, setting out reasons for objecting and/or suggested amendments to the terms agreed provided that no objection may be made where an Infraco demonstrates that there are operational safety requirements which cannot practicably be fulfilled without the acquisition.

3.3 Where an Infraco is to negotiate on behalf of LUL, that Infraco shall use all reasonable endeavours to agree appropriate terms for the purchase, having regard to the purposes of its PPP Contract and the operational requirements of the Underground Network and insofar as relevant, the relevant LUL/Infraco Estate Plan.

In particular, the Infraco shall use all reasonable endeavours to ensure that any agreement for the purchase of Adjoining Property or Permanent Rights and any documentation to be entered into pursuant to it:

- (a) minimises LUL's liabilities in respect thereof;
- (b) provides for capital payments to be made on the acquisition of the Adjoining Property or Permanent Rights rather than rental payments;
- (c) does not contain terms which would hinder, obstruct or interfere with LUL's operation of the Underground Network or any part of it or the exercise by LUL of any rights under and in accordance with the PPP Contract, the LUL Leases or the Infraco Leases.;
- (d) contains, where a grantor of Permanent Rights requires as a condition of the grant the ability to relocate LUL plant, equipment or structures, a provision that the exercise of such right will be at the grantor's cost and subject to providing suitable alternative arrangements for LUL;
- (e) does not contain grantor's termination provisions for Permanent Rights (except by forfeiture where they are acquired by way of a lease) or relocation provisions (except as contemplated by paragraph (d) above);
- (f) has insurance provisions which are consistent with LUL's requirements, as notified to Infraco in writing from time to time;
- (g) applies not only to LUL, but also to its successors in title; and
- (h) where the land or rights are leasehold or held under a licence, easement or other contract, gives LUL the right to assign and/or sublet in part or in whole.

3.4 The parties shall act in good faith when proposing and considering a proposed acquisition.

3.5 Unless otherwise agreed in writing with LUL (but subject to paragraph 2.5(b) above), an Infraco shall fund the acquisition and any related costs of any Adjoining Property and/or Permanent Rights which it has requested in accordance with this Property Code.

3.6 Following acquisition of any Adjoining Property or Permanent Rights required for the operation of the Underground Network, or any part of it:

- (a) LUL shall grant the Infraco a Supplemental Lease of the new Adjoining Property and/or a deed of grant in respect of Permanent Rights; and

- (b) the Infraco shall grant LUL a Supplemental Underlease of the new Adjoining Property

in accordance with the provisions of paragraph 4.1 of Part I Schedule 1.5 to the PPP Contracts (*Grant of Supplemental Leases*).

3.7(a) Where LUL (acting reasonably) agrees that Adjoining Property and/or Permanent Rights is or are required for the performance of the Services and agreement with the owner of the Adjoining Property or grantor of the Permanent Rights cannot be reached, LUL hereby agrees, to the extent it is permitted to do so, that it shall if reasonably requested by Infraco exercise and pursue any statutory powers of acquisition.

- (b) Any costs reasonably and properly arising from the exercise and pursuit of such statutory powers pursuant to paragraph (a) above, including compensation payable to the owner of the Adjoining Property or grantor of the Permanent Rights, will be met by the Infraco requiring the Adjoining Property and/or Permanent Rights in question.

3.8(a) The Infracos shall not (as tenant or purchaser) enter into any lease, agreement, licence, or other arrangement for the occupation or use by Infraco staff of any office or other premises which are not Adjoining Property and which are independent from their respective Infraco Networks in connection with the performance of their obligations under the PPP Contracts other than on arm's length reasonable open market terms.

- (b) Any lease agreement or licence entered into or agreed to be purchased by an Infraco (or lease required to be entered into pursuant to any such agreement) must be due to expire or be capable of unconditional termination by that Infraco without penalty no more than two years after the Expiry Date.

4. STRATEGIC INFORMATION

LUL hereby notifies the Infracos that Strategic Information is to be treated as Commercially Sensitive Information. Clause 48 of the PPP Contract shall apply accordingly.

SECTION 3

SURPLUS PROPERTY

1. Where LUL identifies property forming part of any Infraco Network that it considers to be Surplus Property the following procedure will apply:

Notice to be given

- (a) LUL shall serve on the Infraco whose Infraco Network is affected and any other Infraco which may be affected written notice (*Notice*) which shall include the following information:

- (i) the property considered to be Surplus Property;
 - (ii) whether the property is considered to be temporarily or permanently Surplus Property;
 - (iii) if temporary, the date or conditions upon which the Surplus Property would cease to be Surplus Property;
 - (iv) any steps to be carried out or pre-conditions to be met to make the property Surplus Property;
 - (v) the date by which LUL anticipates that the property will become Surplus Property;
 - (vi) (if available) details of requirements for compliance by Infraco with the matters set out in paragraph 4.2.6 of Part I of Schedule 1.5 and the timescales involved; and
 - (vii) either:
 - (A) that the proposed treatment of property as Surplus Property is connected with Permitted Commercial Exploitation or if it is not
 - (B) that LUL proposes to exercise an LUL Specified Right in accordance with clause 17 (*LUL Specified Rights*) of the PPP Contracts.
- (b) Where paragraph 1(a)(vii)(A) applies and the Permitted Commercial Exploitation in question is not a Pre-disclosed Commercial Transaction if Infraco can demonstrate and LUL accepts (acting reasonably) Infraco's demonstration that the requirement for the property to become Surplus Property was not previously disclosed to Infraco LUL shall revise the Notice to state that paragraph 1(a)(vii)(B) applies and shall as soon as reasonably practicable after such acceptance by LUL serve such revised notice on Infraco.
- (c) Any Notice containing the statement referred to at paragraph 1(a)(vii)(B) (including any revised Notice served pursuant to paragraph 1(b)) shall be treated as the notice in accordance with the provisions in clause 17.2 (*Notices*) of the relevant Infraco(s) PPP Contract(s) and all other provisions of clause 17 (*LUL Specified Rights*) of the relevant PPP Contract(s) shall apply accordingly.

Date on which property becomes Surplus Property

2. The date on which any property becomes Surplus Property shall be as follows:
- (i) Subject to paragraph 2(iii) below, in the case of the proposed treatment of the property as Surplus Property in connection with Permitted Commercial Exploitation (and in respect of which paragraph 1(b) of

this Section 3 does not apply) the property shall become Surplus Property upon the date notified to Infraco in the Notice; or

- (ii) Subject to paragraph 2(iii) below, (in the case of property in respect of which the exercise of an LUL Specified Right is required), the date on which the procedure under clause 17 (*LUL Specified Rights*) of the relevant PPP Contract has been complied with and the parties agree (or it is finally determined under the Dispute Resolution Agreement) or in the event that the provisions of clause 17.11 (*Exceptions*) of the relevant PPP Contract apply on the date determined by LUL in the Notice; and
- (iii) in any case, if later than the date set out in paragraph 2(i) or (ii) (as applicable) above, the latest of:
 - A. the date on which LUL confirms to Infraco that all internal LUL procedures have been complied with and requisite approvals have been obtained internally and externally; and
 - B. the date on which all pre-conditions referred to in paragraph 1(a)(iv) above are satisfied; and
 - C. any other date notified (with reasonable notice) to Infraco by LUL (acting reasonably).

Further information

3. Where the proposed treatment of the property as Surplus Property is in connection with Permitted Commercial Exploitation and the Notice has not contained full details of the matters set out in paragraph 1(a)(vi) above LUL shall provide further information in respect of those matters as soon as is practicable.

Temporarily Surplus Property

- 4.(a) Where property has become Surplus Property temporarily, then the requirement by LUL that such property ceases to be Surplus Property shall (save as provided in sub-paragraph (c) below) be subject to compliance by LUL with the provisions of clause 17 (*LUL Specified Rights*) of the relevant PPP Contract.
- (b) Where property becomes Surplus Property on a temporary basis then notwithstanding that the property remains subject to the Infraco's Lease it shall be treated as if it were not Operational Property for so long as it remains Surplus Property on the stipulated temporary basis.
- (c) In the event that the property is to become Surplus Property temporarily then it shall cease to be Surplus Property upon either (i) the date specified in the Notice or (ii) if later, the date upon which the last of the conditions to be fulfilled in accordance with the Notice are fulfilled or (iii) if later such date as may be notified in writing to Infraco by LUL (acting reasonably), and Infraco

shall be responsible from the date so determined for the maintenance, renewal and enhancement of the relevant property in accordance with the terms of the PPP Contract, whether or not the terms for compensating Infraco for any Increased Infraco Cost and/or the terms for dealing with any Increased Infraco Risk have been agreed.

5.1 Where an Infraco identifies property forming part of its Infraco Network that it considers to be Surplus Property, the following procedure will apply:

- (a) the Infraco may either:
 - (i) propose that the relevant property be declared Surplus Property in the relevant LUL/Infraco Estate Plan; or
 - (ii) give written notice to LUL and any other Infraco which has any interest in the relevant land or any rights which might be affected by the relevant land becoming Surplus Property (the *Prejudiced Infraco*) setting out details of the relevant property, whether it is considered to be temporarily or permanently Surplus Property, any steps required to be carried out and the date by which the Infraco proposes that the relevant property shall be Surplus Property.
 - (b) LUL shall as soon as reasonably practicable after the receipt of an LUL/Infraco Estate Plan and within 28 days of receipt of written notice pursuant to paragraph 5.1(a)(ii) above, respond to the relevant Infraco. LUL shall state in that response whether it agrees (acting reasonably) that such property is or should become Surplus Property. LUL shall also notify Infraco in its response of any other Infraco that it considers is a Prejudiced Infraco and Infraco shall (if it has not already done so) within 14 days of being so notified by LUL give written notice of the proposal to that other Infraco.
 - (c) If any Prejudiced Infraco raises an objection within 28 days of the earlier of receipt of written notice of the proposal from Infraco pursuant to paragraph 5.1(a) of this Section and receipt of written notice under paragraph 5.1(b) of this Section of this Code, then the relevant property shall not become Surplus Property without the agreement of that Prejudiced Infraco. Otherwise LUL and Infraco shall agree whether the relevant land is to become Surplus Property on a permanent or a temporary basis, and the date on which the relevant land is to become Surplus Property. Where the relevant land is to become Surplus Property on a permanent basis the provisions of paragraph 4 of Schedule 1.5 of the PPP Contract shall apply. Where the relevant land is to become Surplus Property temporarily LUL and Infraco shall also agree the date on which the relevant land is to cease to be Surplus Property and from which Infraco is to be once again responsible for the maintenance, renewal and enhancement thereof, and the provisions of paragraph 4(b) of this Section of the Code shall apply.
- 5.2 Paragraph 5.1 of this Section to this Code is without prejudice to the requirements of clause 3.2 of the Depot Facilities Agreement and clauses 12.4.1 and 12.4.2 of the Ruislip Depot Loading Area Agreement for LUL to

follow the procedure set out in clause 17 (*LUL Specified Rights*) of the PPP Contract.

SECTION 4

CHANGES TO THIS CODE

1.1 This section sets out the process by which LUL or an Infraco can promote changes to this Code.

Responsibilities of the Parties

1.2 LUL carries the principal responsibility for the operation of the change process for this Code. When asked, Infracos shall participate willingly in the following roles:

- (a) ensuring that any proposed change to this Code is adequately reviewed by its organisation and that comments are sent within the appropriate time scale; and
- (b) ensuring that any change proposals to this Code are brought to the attention of those organisations under its control which need to comply with them for their review and comment.

LUL Authorisation and Control

1.3 Where LUL determines that the change of this Code meets the Objective Requirements (as if this Code were a Category 1 Standard), LUL shall:

- (a) in the case of a change which is safety related, authorise its change;
- (b) in the case of a change which is not safety related, authorise its change to take effect no less than 14 days after the date of its authorisation subject to the right of LUL or any one or more of the Infracos which considers that the change of this Code would cause an increase in costs incurred by it in performing its PPP Contract or (in the case of LUL) in the operation of the LUL Network (in this Code an *increase in costs*) so to notify the other parties;
- (c) in any case where a notice has been given under paragraph 1.3(b), inform each of the Infracos that LUL's authorisation of the change of this Code shall not become effective except with the written agreement of all parties who have given notice under paragraph 1.3(b) or where it is determined in accordance with the Dispute Resolution Agreement that such change of this Code would not cause an increase in costs. Upon such written agreement or determination, LUL shall confirm its authorisation is effective.

1.4 There shall be an appropriate and effective rapid response procedure, to cater for changes that require to be progressed, for safety or other reasons, in advance of the completion of the full procedures set out in this Code. The rapid response procedure shall not be an alternative to such full procedures, and shall require LUL authorisation and control in accordance with paragraph 1.3 of this Section of this Code.

Disputes

2. LUL's authorisation, confirmation or refusal to authorise a change to this Code shall be final and binding on LUL and the Infracos and shall not be challenged nor referred to dispute resolution under the Dispute Resolution Agreement or otherwise except upon the grounds that:

- (a) the procedures of this Code have not been followed; or
- (b) the Objective Requirements (as apply to this Code) have not been applied; or
- (c) it would result in an increase in costs in circumstances where such change is not safety related and a notice has been given under paragraph 1.3(b) of this Section of this Code and authorisation has not been agreed in writing by all of the parties who gave such notice and it has not been determined pursuant to the Dispute Resolution Agreement that such change would not cause an increase in costs.

PROPERTY CODE

