

**31 DECEMBER 2002**

**LONDON UNDERGROUND LIMITED**

**INFRACO JNP LIMITED**

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**LEASE**

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**THIS LEASE** made on **31 DECEMBER 2002**

**BETWEEN**

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

**INFRACO JNP LIMITED** (company registration number 03923425) whose registered office is at 55 Broadway London SW1H 0BD (*Infraco*)

is entered into pursuant to a service contract (the *PPP Contract*) made between LUL and Infraco relating to the provision of infrastructure services in respect of the JNP Network.

### **INTERPRETATION**

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

1.2 Words and expressions used in this Lease 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 Lease are being construed and thus:

- (a) in so far as there may be any inconsistency between any term of this Lease and any term of the PPP Contract then the term in this Lease 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 Lease as expressed in the PPP Contract but where the inconsistency shall be between a less specific/detailed provision in the PPP Contract or the Lease 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 Lease the expression Infraco includes Infraco's permitted successors in title (if any) and the expression LUL includes the estate owner for the time being of the reversion immediately expectant on the Termination of the Lease Term.

### **DEMISE AND RENTS**

2. In consideration of the rent hereby reserved and the covenants on the part of Infraco, LUL demises to Infraco (by way of separate demise of each Relevant Parcel and of the remainder of the Lease Premises respectively)<sup>1</sup> the Lease Premises (in this

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

Lease only referred to as ***Leased Areas***) together with (for the applicable parts of the Leased Areas and so far as LUL is able to grant them) the rights set out in Part I of the First Schedule and (if any) in the Third Schedule excepting and reserving to LUL and to all other persons from time to time (including without limitation any other Infraco) entitled to them for the applicable parts of LUL's Premises the rights set out in Part II of the First Schedule and (if any) in the Third Schedule to hold them to Infraco subject to the rights of any party pursuant to a Third Party Document and subject to (but without prejudice to the provisions of Schedule 1.3 of the PPP Contract) the PFI Contracts and all Title Matters for the Lease Term yielding and paying to LUL the annual rent of one pound.

#### **INFRACO'S COVENANTS**

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

#### **DEPOT PREMISES**

4. The provisions of the **Third Schedule** shall have effect in relation to the Depot Premises.

#### **PROVISOS**

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

#### **GLA ACT CERTIFICATION**

6. The parties hereby certify that this Lease 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 Lease shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

#### **VALUE ADDED TAX**

8. The provisions of clauses 53.3, 53.4, 53.6 and 53.7 of the PPP Contract shall apply in respect of this Lease as if repeated herein provided that references to "the Contract" shall be replaced with references to "this Lease" and the words in brackets in the first sentence of clause 53.3 shall not so apply.

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

## **THE FIRST SCHEDULE**

### **Part I Rights granted**

The following rights in common with LUL and all others now or hereafter entitled to the like rights subject to the terms of the PPP Contract, this Lease, the PFI Contracts (but without prejudice to the provisions of Schedule 1.3 of the PPP Contract), the Title Matters and all Third Party Documents:

#### **Access to LUL's Premises**

1. Insofar as Infraco cannot reasonably otherwise exercise its rights and/or comply with its obligations under the PPP Contract or any Transaction Document the right to enter other parts of LUL's Premises at all reasonable times and (except in case of emergency) upon reasonable notice and prior appointment with the tenants and occupiers thereof (subject to compliance with any conditions restrictions and provisions affecting the exercise of such rights including any contained in any aforesaid leases or licences granted to tenants and occupiers of other parts of LUL's Premises):

- (i) for the purpose of exercising its rights and/or complying with its obligations under the PPP Contract or any Transaction Document; and
- (ii) for the purpose of inspecting maintaining cleansing repairing renewing and replacing such Conducting Media serving the Leased Areas as are located within other parts of LUL's Premises,

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 other parts of LUL's Premises and shall make good to the reasonable satisfaction of LUL and (as the case may require) consistent with their leases or licences to the satisfaction of any tenants and occupiers of other parts of LUL's Premises thereby affected, all damage or disturbance thereby caused to such other parts of LUL's Premises.

#### **Services**

2. To use and (where Infraco is responsible for them pursuant to the PPP Contract) retain all Conducting Media now or hereafter during the Lease Perpetuity Period provided from time to time for the Leased Areas and laid in under or over other parts of LUL's Premises or in under or over any other property across which LUL shall have rights to carry the same for the passage of surface water and sewage from and water gas electricity telecommunications and other services to and from the Leased Areas together with the right (so long as there is sufficient capacity, all Laws are complied with and the supply or discharge (as applicable) of such utility services to and from other parts of LUL's Premises or benefiting any third party are not thereby materially adversely affected) to connect into all Conducting Media within other parts of LUL's Premises let or intended to be let to any other Infraco insofar as LUL can lawfully grant the same.

### **Rights benefiting LUL's Premises**

3. (So far only as they relate to and benefit the Leased Areas and are necessary for the performance by Infraco of its obligations or the exercise of its rights under the PPP Contract and/or any Transaction Document) the benefit of the easements rights or privileges benefiting LUL's Premises whether pursuant to any Title Matters, Third Party Documents, existing PFI Property Interests or otherwise (excluding for the avoidance of doubt the benefit of any payment or capital monies receivable under them) insofar as LUL can lawfully grant the same.

### **Support and shelter**

4. The right of support and shelter for the Leased Areas from other parts of LUL's Premises as presently enjoyed or such other rights of support and shelter as substituted by LUL from time to time but excluding any right to enter other parts of LUL's Premises except as provided in paragraph 1 above.

### **Use of LUL's Premises**

5. The right to occupy and use for the purposes of performance of its obligations or the exercise of its rights under the PPP Contract and/or any Transaction Document the rooms and space within the other parts of LUL's Premises more particularly specified and described in the Fifth Schedule subject to the terms and conditions set out in the Fifth Schedule.

## **Part II Rights excepted and reserved**

### **Services**

1. The free and uninterrupted passage and running of water soil gas electricity telecommunications and other services from and to all other parts of LUL's Premises and any other adjoining or neighbouring land and buildings (whether belonging to LUL or not) through and along all Conducting Media which are now or may hereafter during the Lease Perpetuity Period be in over or under the Leased Areas together with the right to connect into them.

### **Conducting Media**

2. The right to use and retain Conducting Media within the Leased Areas where such Conducting Media serve any other part of LUL's Premises together with the right to enter upon the Leased Areas at all reasonable times (except in case of emergency) for the purpose of inspecting maintaining cleansing repairing renewing and replacing them.

### **Light and air**

3. All rights of light air and other easements quasi-easements and rights (but without prejudice to those expressly granted to Infraco under this Lease) now belonging to or enjoyed by the Leased Areas or which may at any time during the

Lease Perpetuity Period be acquired by the Leased Areas from or over the other parts of LUL's Premises or any adjoining or neighbouring land or buildings.

### **Support and shelter**

4. The right of support and shelter and all other easements quasi-easements and rights now belonging to or enjoyed by other parts of LUL's Premises and/or any adjoining or neighbouring land or buildings belonging to LUL or which may at any time be acquired during the Lease Perpetuity Period.

### **Works to other parts of LUL's Premises**

5. To enter upon the Leased Areas or any part thereof and to execute such works and do such things as are necessary for the purpose of inspecting maintaining altering renewing repairing and using the structural supports foundations and piles of any other part of LUL's Premises or from which it derives support or shelter if and to the extent that the foregoing are not the responsibility of Infraco under the PPP Contract.

### **Works to and use of LUL's Premises**

6. Subject, in relation to Operational Property, to the applicable provisions of clause 29 (*Commercial Exploitation*) of the PPP Contract the right at all times during the Lease Term in such manner as LUL may think fit to:

- (a) repair, maintain, test, develop, build, rebuild, renew, alter, demolish or execute any other works on under or to any part of LUL's Premises other than Leased Areas or any other adjoining or neighbouring land and buildings (including below and above the Leased Areas) including the right to build on or into any boundary wall of the Leased Areas and make use of any column or support thereof and to erect scaffolding;
- (b) use or deal with such adjoining or neighbouring land and buildings notwithstanding that the access of light or air to the Leased Areas may thereby be diminished or interfered with or prejudicially affected;
- (c) execute any other works at the Leased Areas so far as are reasonably necessary for the exercise of the rights contained in paragraph 6(a) above (including the piling of supports and columns) such right to be exercised in accordance with a programme of works first agreed with Infraco (such agreement not to be unreasonably withheld or delayed);
- (d) carry out on or from the Leased Areas any works which in the reasonable opinion of LUL are necessary for the safe, efficient or proper operation of LUL's undertaking (such right to be exercised where reasonably practicable in accordance with a programme of works first agreed with Infraco (such agreement not to be unreasonably withheld or delayed);
- (e) during the Lease Perpetuity Period install any Conducting Media in over or under the Leased Areas, and alter, relocate or renew any Conducting Media

which are now or may hereafter during the Lease Perpetuity Period be in over or under the Leased Areas,

provided that any damage caused to the Leased Areas as a result of the exercise of such rights shall be made good to the reasonable satisfaction of Infraco at the expense of LUL.

### **Entry to the Leased Areas**

7. The right to enter the Leased Areas in so far as not comprised in the Underlease:

- (a) for the purposes of exercising rights or complying with covenants conditions and other matters comprising Title Matters and/or in any Third Party Document and/or in any PFI Contract which are now subsisting or which may hereafter subsist during the Lease Perpetuity Period;
- (b) for any purpose permitted or required by the PPP Contract or any other Transaction Document.

### **Rights in same terms as third party rights**

8.1 Rights in the same terms as benefit any third party pursuant to:

- (a) any Third Party Documents; and
- (b) any PFI Contracts (and in the case of Power Project, Project Prestige and Project Connect, pursuant to any other document referred to in the applicable PFI Contract or referred to in paragraph 8 of Part I of Schedule 1.5 to the PPP Contract and contemplated as being entered into between LUL and the PFI Contractor (but subject to the provisions of that paragraph 8 and of Schedule 1.3 to the PPP Contract)).

8.2 In relation to any void units within the Leased Areas rights in the same terms as those benefiting the tenant as set out in the Standard Letting Documents.

### **Lease or Licence of Equipment Airspace**

9. The right to grant any licence to occupy to any other Infraco as contemplated by paragraph 6 of Part 1 of Schedule 1.5 to the PPP Contract (*Lease or Licence of Equipment Airspace on another Infraco's Premises*).

### **Rights for other Infracos**

10. All rights necessary to enable LUL to grant rights to any other Infraco for the performance of its obligations under any other PPP Contract or Transaction Document including without limitation all rights ancillary to the grant of a lease to any other Infraco pursuant to any other PPP Contract.

### **Superior Landlord**

11. All rights excepted or reserved to any estate owners for the time being of any interest in reversion (whether mediate or immediate) on the termination of the term granted by any lease under which LUL holds the Leased Areas and any other lease in reversion to this Lease.

### **Mines and minerals**

12. Mines and minerals in the soil and the right to excavate or otherwise remove them.

## **THE SECOND SCHEDULE**

### **Infraco's covenants**

#### **Pay rent**

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

#### **PPP Contract**

2. Not to use or permit the Leased Areas to be used other than (i) for exercising its rights and/or performing its obligations under the PPP Contract and/or any Transaction Document; or (ii) for any purpose referred to in paragraph 3 of the Second Schedule to the Underlease (but only if the Underlease itself is granted as contemplated by the PPP Contract and for so long as the Underlease subsists).

#### **Prevent encroachments**

3. Not knowingly to permit any owner of any property adjoining or near the Leased Areas to acquire any rights of way light or air or other privilege or easement or make any encroachment over against out of or upon the Leased Areas nor to give any acknowledgement that the Leased Areas enjoy any such rights by the consent of any third party and as soon as Infraco shall become aware thereof or of any act or thing which might result in the acquisition or making of any of the same to give immediate written notice thereof to LUL and to take such steps or action as may be reasonably required by LUL (at Infraco's cost unless and to the extent that Infraco can demonstrate that the acquisition of such privilege right or easement is not as a result of a breach after the Transfer Date by Infraco of its obligations under the PPP Contract) for preventing any of the same from being acquired or made.

#### **Alienation**

4. Except as otherwise expressly permitted or required by the PPP Contract or any Transaction Document and in the case of Depot Premises by paragraph 1 of Part I of the Third Schedule to this Lease not to assign (at law or in equity) underlet (except by way of the Underlease) or charge (except by way of the Charge(s)) this Lease or the Leased Areas as a whole or in part nor make any declaration of trust of it or them nor to otherwise deal with or encumber this Lease or the Leased Areas.

#### **Value Added Tax**

5. If VAT is or may be chargeable (by reason of an election of LUL or otherwise) on any supply under this Lease to pay any VAT on that supply.

## THE THIRD SCHEDULE

### Depot Premises

#### Part I

<b>JNP</b>
<b>Piccadilly Line</b> Cockfosters (drawing nos. PD01-PD03) Northfields (drawing nos. PD04 – PD06 Rev A)
<b>Northern Line</b> Golders Green (drawing nos. ND01 Rev A – ND02 Rev A) Morden (drawing nos. ND03 Rev A – ND04 Rev A)
<b>Jubilee Line</b> Stratford (drawing nos. JD01 – JD02)
<b>Transplant</b> Lillie Bridge (drawing nos. LB01 Rev A – LB02 Rev A)

#### ADDITIONAL PROVISIONS APPLICABLE TO DEPOT PREMISES

1.1A. In respect of Depot Premises the following covenant replaces the covenant in paragraph 2 of the Second Schedule:

Not to use or permit the Depot Premises to be used other than:

- (i) for exercising its rights and/or performing its obligations under the PPP Contract or any Transaction Document; or
- (ii) for any purpose referred to in paragraph 3 of the Second Schedule to the Underlease (but only if the Underlease itself is granted as contemplated by the PPP Contract and for so long as the Underlease subsists); or
- (iii) for any purpose permitted pursuant to clause 29.1 (*Infraco Commercial Exploitation*) of the PPP Contract.

#### FURTHER COVENANTS BY INFRACO RELATING TO DEPOT PREMISES

##### Underletting and sharing occupation

1.1B Infraco covenants not to underlet the Depot Premises or any part of them:

- (a) without obtaining the prior written consent of LUL (such consent not to be unreasonably withheld or delayed) save that no consent shall be required for the grant of the Depot Sub-leases;
- (b) without ensuring that the underlease contains an agreement authorised by an Order of a court of competent jurisdiction excluding in relation to the tenancy to be created by such underlease the provisions of sections 24 to 28 inclusive of the Landlord and Tenant Act 1954;
- (c) for any purpose except in connection with the exercise of its rights and/or the performance of Infraco's obligations under the PPP Contract or any Transaction Document or for any purpose permitted pursuant to clause 29.1 (*Infraco Commercial Exploitation*) of the PPP Contract;
- (d) for a term extending beyond the Expiry Date (but in any event the term of the Underlease shall be terminable at the same time and to the same extent as this Lease and in the event of a Mandatory Sale)

provided:

(i) that Infraco may on giving not less than 14 days' prior written notice to LUL of the identity of the company and (if less than the whole) of the part of the Depot Premises affected share occupation of the Depot Premises or the relevant part with a company within the same group of companies (within the meaning of section 42 of the Landlord and Tenant Act 1954) as Infraco:

- (a) for so long only as such company remains within such group;
- (b) on terms whereby such company is not given exclusive occupation of the Depot Premises or any part of them and no relationship of landlord and tenant is created; and
- (c) provided that any rent or other payment received by LUL from any such company shall be deemed to have been paid by such company as agent for Infraco;

(ii) that where the Northern Line Train Service Contracts so require (and subject to compliance with the conditions contained in this Lease and the Northern Line Train Service Contracts (as to exclusion from the provisions of the Landlord & Tenant Act 1954 and otherwise)) Infraco shall be permitted to underlet the Depot Premises by way of the grant of a Northern Line Property Interest (as defined in paragraph 8.5 of Schedule 1.5 to the PPP Contract).

1.2 Infraco may permit occupation of any part of the Depot Premises by another Infraco for the purposes of performing its obligations under any agreement to which Infraco is a party and entered into on or before the Transfer Date or otherwise with LUL's consent.

1.3 Infraco may share occupation of any part of the Depot Premises:

- (i) with any PFI Contractor or its sub-contractors where such occupation arises in connection with the discharge by Infraco of any of its PFI Obligations set out in Schedule 1.3 or is otherwise contemplated by any of the PFI Contracts; or
- (ii) (provided that this is on terms whereby no relationship of landlord and tenant is created) with its contractors or third parties where such occupation is required to facilitate the provision of services by Infraco in accordance with the PPP Contract and/or any Transaction Document and/or any Ancillary Agreement.

### **Alterations to Depot Premises**

2.1 Infraco covenants not to make any structural alterations or structural additions in or to nor to carry out any demolition, reconstruction or other material works of a structural nature (the *Works*) to the Depot Premises (or any part thereof) without first submitting to LUL detailed plans and specifications of the proposed Works and such other information as LUL may reasonably require in relation to the proposed Works.

2.2 Infraco shall not carry out the Works without obtaining the prior written consent of LUL (such consent not to be unreasonably withheld or delayed) which consent shall be on such terms and subject to such conditions as LUL may reasonably require save that LUL's consent shall not be required where such Works are permitted or required under the Northern Line Train Service Contracts and/or Northern Line Property Interest.

2.3 Infraco further covenants to carry out and complete the Works in accordance with the terms of all consents with materials of suitable quality in a proper and workmanlike manner and to the reasonable satisfaction of LUL.

2.4 Infraco shall not be entitled to any compensation as a result of or in respect of the carrying out of the Works.

2.5 Where Infraco carries out any Works for a purpose other than for or to facilitate the performance of its obligations under the PPP Contract and/or the provision of services under any Ancillary Agreement Infraco shall if required by LUL on expiry or sooner determination of this Lease remove any such Works and reinstate the Depot Premises to the reasonable satisfaction of LUL (provided that this provision shall not permit Infraco to carry out any Works in breach of the terms of clause 29.1 (*Infraco Commercial Exploitation*) of the PPP Contract).

## **Part II**

### **ADDITIONAL PROVISIONS APPLICABLE TO THE NEASDEN SERVICE CONTROL CENTRE AND THE ADJOINING DEPOT**

The following rights are granted in favour of the Neasden Service Control Centre and the following exceptions and reservations are excepted and reserved in favour of the Adjoining Depot (as defined below) in addition to those set out in Parts I and II of the First Schedule:

## **The ambit of rights granted to Infraco**

1.1(a) The rights set out in paragraph 1.2 are granted to Infraco:

- (i) for the benefit of that part of the Leased Areas being the Neasden Service Control Centre at Neasden, shown coloured pink on Drawing Number JO22 (Reference No B092/04), which drawing forms part of the Jubilee Line Volume of Property Schedules and Plans;
  - (ii) over that part of the remainder of LUL's Premises being the adjacent depot premises at Neasden shown coloured orange on drawing number MDO4 which drawing forms part of the "SSL Depot" Volume of Property Schedules and Plans (the *Adjoining Depot*);
  - (iii) for the Lease Term;
  - (iv) in so far as LUL is able to grant the same; and
  - (v) subject to such conditions as LUL may properly impose regarding safety or security at the Adjoining Depot.
- (b) These rights shall be exercised in common with LUL and any other person from time to time authorised by LUL or otherwise entitled to rights in relation to the subject matter of the grant provided that in the exercise of the rights as little hindrance obstruction interference and disturbance as is reasonably possible shall be caused to the use of the Adjoining Depot, traffic, the convenience of the public, the access to or use or occupation of public or private roads or footpaths, and properties neighbouring the Neasden Service Control Centre.

## **Rights granted to Infraco**

1.2 The following rights are granted to Infraco:

- (a) **Passage of services:** the right to the free passage and running of water surface water sewage drainage soil gas electricity telecommunications and other services or supplies to and from the Neasden Service Control Centre in and through any existing Conducting Media which are not public Conducting Media and to the extent that they serve the Neasden Service Control Centre;
- (b) **Rights of way:** the right to pass with or without vehicles or on foot only (as the case may require) to and from the Neasden Service Control Centre for all purposes in connection with the lawful use of the Neasden Service Control Centre over such of the roadways or footpaths which now provide and are reasonably necessary for the purposes of that lawful use or access to the Neasden Service Control Centre or over such alternative route or routes as LUL may reasonably prescribe and notify to Infraco; and

- (c) **Emergency rights:** the right of exit from the Neasden Service Control Centre over such route over the Adjoining Depot as LUL shall from time to time specify or as may be specified by a competent authority in case of emergency.

### **The ambit of rights excepted and reserved to LUL**

- 1.1(a) The right set out in paragraph 1.2 is excepted and reserved to LUL, and any person deriving title through or under LUL or authorised by any of them or anyone otherwise entitled to rights and privileges now enjoyed over the Neasden Service Control Centre:
- (i) for the benefit of the Adjoining Depot;
  - (ii) over the Neasden Service Control Centre or such other property over which LUL enjoys such rights for the benefit of the Adjoining Depot;
  - (iii) for the Lease Term;
  - (iv) insofar as Infraco is able to grant the same; and
  - (v) subject to such conditions as Infraco may properly impose regarding safety or security at the Neasden Service Control Centre.
- (b) The right shall be exercised in common with Infraco and any other person from time to time authorised by Infraco or otherwise entitled to rights in relation to the subject matter of the grant provided that in the exercise of the rights as little hindrance obstruction interference and disturbance as is reasonably possible shall be caused to the use of the Neasden Service Control Centre.

### **Rights reserved to LUL**

- 1.2 The following right is reserved and excepted to LUL:

**Passage of services:** the right to the free passage and running of water surface water sewage drainage soil gas electricity telecommunications and other services or supplies to and from the Adjoining Depot in and through any existing Conducting Media in or under the Neasden Service Control Centre which are not public Conducting Media and to the extent that they serve the Adjoining Depot.

## THE FOURTH SCHEDULE

### Provisos agreements and declarations

#### Termination

1. Either LUL or Infraco shall be entitled to determine this Lease in whole or in part in accordance with the provisions of the PPP Contract and Infraco shall have no right to any continuation or extension of this Lease.

#### No compensation

2. Except as expressly provided in the PPP Contract Infraco shall not have any entitlement to compensation (whether in respect of improvements or otherwise) on Termination of the Lease Term.

#### Non-acquisition of easements

3. Infraco shall not by implication of law or otherwise be entitled to any estate or any right privilege or easement (except as expressly granted by this Lease) nor shall Infraco by virtue or in respect of the Leased Areas or this Lease be deemed to have acquired or to be entitled nor shall it during the Lease Term acquire or become entitled by length of enjoyment prescription or any other means to any such estate right privilege or easement.

#### Consent to Underlease

4. LUL consents to the grant of the Underlease in accordance with the PPP Contract.

#### Separate demises

5. The demise of the Premises pursuant to clause 2 shall operate as a separate and severable demise of each Relevant Parcel and of the remainder of the Premises the extent of each such demise comprising and being co-extensive with LUL's interest in each Relevant Parcel and the remainder of the Premises respectively<sup>2</sup>.

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<sup>2</sup> Note: omit paragraph 5 in the case of an Ancillary Lease.

## THE FIFTH SCHEDULE

### Use of LUL's Other Premises

#### DEFINITIONS

1.1 In this Fifth Schedule the following expressions shall have the following meanings:

*Alien Allocated Space* means the rooms or space within LUL's Other 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 Alien 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 in accordance with Space Allocation Process from time to time;

*LUL's Other Premises* means those parts of LUL's Premises not comprising the Premises including any which are let, or to be let, to another Infraco pursuant to another PPP Contract but excluding any which are included in the Depot Premises of another Infraco and the expression includes any part or parts thereof;

*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 relevant part of LUL's Other Premises and having proper regard to safety, and to the need to provide an acceptable working environment for 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 Alien Allocated Space as reasonably imposed on Infraco pursuant to paragraph 7 for the proper management, care or security of the relevant part of LUL's Other Premises and having proper regard to safety, and to the need to provide an acceptable working environment for persons resorting thereto;

*Space Allocation Table* means the table recording the allocation of space within LUL's Other Premises to Infraco as agreed and initialled by LUL and Infraco 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(a) LUL may determine Infraco's right to use all or a part of the Alien 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 considers (acting reasonably) that Infraco (or its authorised contractor) has permanently ceased to use the Alien Allocated Space (or the relevant part) for the purposes of its performance of its obligations under the PPP Contract and/or any Transaction Document if during that period of fourteen (14) days Infraco has failed to demonstrate to LUL's reasonable satisfaction that it has not permanently ceased to use the Alien Allocated Space (or the relevant part);
- (ii) expiry of notice in writing given by LUL in accordance with the Space Allocation Process following a decision of LUL as to use of the Alien Allocated Space (or the relevant part) pursuant to the Space Allocation Process;
- (iii) on seven (7) days written notice given by LUL at any time following any material breach by Infraco of its undertakings contained in Appendix 1 if during that period Infraco has not remedied the breach or agreed a programme for rectification of the breach with LUL.

4.1(b) Infraco may terminate its use of Alien Allocated Space or a part thereof upon giving fourteen (14) days prior written notice to LUL.

4.2 Following any determination pursuant to paragraph 4.1 in relation to a part only of the Alien Allocated Space, the provisions of this Fifth Schedule shall continue in force in relation to the remainder of the Alien 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 either party to the other 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 Stations and premises comprised in LUL's Other Premises 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, in phases, an occupancy survey of other Stations and

other premises let, or to be let, to another Infraco 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 such occupancy survey and the amended Space Allocation Table, the parties may agree that instances of Infraco occupation of LUL's Other 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 then current version of the Space Allocation Table which shall:

- (i) include details of any additional space within LUL's Other Premises which LUL and the Infraco as a consequence of the Space Allocation Process agree is to be or has been allocated to the Infraco in order to enable the Infraco to perform its obligations under the PPP Contract and/or any Transaction Document; but
- (ii) excluding 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 Infraco in the form set out in Appendix 3.

## **APPENDIX 1**

### **Infraco's undertakings**

#### **Condition of property**

1. To keep the Alien 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 Alien Allocated Space other than in accordance with the PPP Contract.

#### **Signs and notices**

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

#### **Nuisance and use**

4.1 Not to use the Alien Allocated Space in such a way as to cause any nuisance or damage 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 Alien Allocated Space other than for the Designated Use for the purposes of the performance of its obligations pursuant to the PPP Contract and/or any Transaction Document.

4.3 Not to store any dangerous, combustible or hazardous substances or materials (other than those with the consent in writing of LUL (such consent 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 relevant LUL's Other 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 any breach of any of Infraco's undertakings contained in this Fifth Schedule.

**Rules and regulations**

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

**LUL's rights**

8. Without prejudice to the foregoing provisions of this Fifth Schedule, in the exercise of such rights not in any way to impede LUL or its officers servants or agents in the exercise of LUL's rights of possession and control of LUL's Other 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:

9th Floor Albany House  
Petty France  
London SW1H 0BD

Attention: LUL PPP Contract Manager (JNP Contract)

1.1.2 Infraco's address for service is:

30 The South Colonnade  
London E14 5EU

Attention: Head of Prime Contract Management

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 Alien 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 which LUL may give to any change of use shall be taken as including any such representation or warranty.

### APPENDIX 3

[date]

Infraco JNP Limited  
[address]

For the attention of the Head of Prime Contract Management

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

In accordance with paragraph 7.2 of the Fifth Schedule of the Lease dated \_\_\_\_\_  
\_\_\_\_\_ and entered into between London Underground Limited and Infraco  
[JNP] 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 Alien 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**

**Alien Allocated Space**

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

**PART 2**

**Site Specific Conditions**

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

Director **MARTIN CALLAGHAN**

Secretary **FRANCES LOW**

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

Director **MARTIN CALLAGHAN**

Secretary **FRANCES LOW**