

THIS AMENDED AND RESTATED AGREEMENT is made on **31 DECEMBER 2002**

BETWEEN:

- (1) **LONDON UNDERGROUND LTD** whose registered office is at 55 Broadway London SW1H 0BD (**LUL**);
- (2) **INFRACO BCV LIMITED** whose registered office is at 55 Broadway London SW1H 0BD (**BCV**);
- (3) **INFRACO SUB-SURFACE LIMITED** whose registered office is at 55 Broadway London SW1H 0BD (**SSL**);
- (4) **INFRACO JNP LIMITED** whose registered office is at 55 Broadway London SW1H 0BD (**JNP**).

WHEREAS:

(A) Pursuant to the PPP Contracts each dated the date hereof between SSL, BCV and JNP and LUL respectively, the Infracos have agreed to provide certain services to LUL.

(B) To enable the Infracos to exercise certain rights and to comply with certain obligations contained in the Transaction Documents they require access to and use of certain Assets.

(C) This Agreement operates to regulate maintenance and other obligations between Infracos in relation to certain Assets by establishing the general principles of Asset Allocation hereinafter contained and by setting out the rights and obligations of each Infraco resulting from such Asset Allocation.

(D) This Agreement also records and regulates the obligations owed by one Infraco to another in relation to use of Alien Allocated Space (as defined in Schedule 5 to this Agreement).

(E) This Agreement amends and restates the Inter-Infraco Assets and Facilities Agreement entered into on 1 April 2000.

IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

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

1.2 Words and expressions used in this Agreement shall, to the extent applicable and unless defined herein at Schedule 1 (or in respect of the matters dealt with in Schedule 2 and Schedule 4 as therein defined) or the context otherwise requires have the meanings assigned to them in Schedule 2 of the MDA.

1.3 In interpreting and performing the obligations contained in this Agreement the parties shall have regard to the principles and purposes set out in italic text at the beginning of each relevant Schedule.

1.4 References to any of the parties in this Agreement shall include the successors and permitted transferees and assigns of such parties.

1.5 In order that the provisions of this Agreement shall operate correctly so as to apportion responsibility between the Infracos at all times (including in the period prior to the grant of all of the leasehold interests which it is agreed are to be granted to each Infraco on the Transfer Date applicable to its PPP Contract) the parties agree that until the later of the Transfer Date in respect of the BCV Contract and the Transfer Date in respect of the SSL Contract, where reference is made in this Agreement to any property having been leased, let or demised to any lease having been granted or to any document effecting any of the foregoing, such reference shall be read so as to include, without limitation, reference to any property in respect of which an agreement exists for the property to be so leased, let or demised, or for such a lease to be granted, and references to 'demise', 'tenant', 'Lease', 'Ancillary Lease', 'Supplemental Lease' and 'Depot Sub-lease' shall be construed accordingly.

2. CONTRACT PERIOD

2.1 Subject to paragraph 2.2 below this Agreement shall commence on the Start Date and will, unless the parties otherwise agree in writing, continue until the Expiry Date of the PPP Contract last to expire upon which it shall terminate automatically without notice;

2.2 Where a party to this Agreement ceases to be a party to the applicable PPP Contract this Agreement will automatically cease in relation to that party without prejudice to any antecedent breaches or the rights and obligations of any party in relation thereto.

3. COMPLIANCE AND CONSENT

3.1 Each of the Infracos hereby agrees with the other Infracos to comply with its obligations under the applicable PPP Contract as at the date of this Agreement and any amendments to the same, to the extent that such amendments do not increase its obligations under this Agreement.

3.2 Without prejudice to the rights and obligations of the parties under the Transaction Documents, LUL hereby consents to the grant and exercise of rights in accordance with this Agreement.

4. ASSET ALLOCATION

The parties agree that the principles governing Asset Allocation shall be those detailed in Schedule 2 to this Agreement.

5. INTER INFRACO ASSET OBLIGATIONS

The parties agree to comply with the obligations contained in Schedule 3 to this Agreement which shall operate independently of those provisions contained in Schedule 4 to this Agreement.

6. CONTROL ROOMS

The parties agree to comply with the provisions of Schedule 4 to this Agreement in relation to Control Rooms which shall operate independently of those principles and obligations contained in Schedule 2 and Schedule 3 of this Agreement.

7. SCHEDULES 3 AND 4

The provisions of Schedule 3 and Schedule 4 to this Agreement shall be mutually exclusive.

8. ALIEN ALLOCATED SPACE

The parties agree to comply with the provisions of Schedule 5 to this Agreement (Alien Allocated Space).

9. DISPUTES AND AUDIT

Dispute Resolution

9.1 Any Dispute under this Agreement shall be resolved in accordance with the Dispute Resolution Agreement.

Audit

9.2 (a) Each Infraco or any of its authorised representatives may, from time to time, after giving reasonable notice undertake an audit of the performance of obligations owed to that Infraco under this Agreement. Each Infraco shall use all reasonable endeavours to manage the number, scope, timing and method of undertaking audits so as to ensure that they do not prevent, hinder, obstruct or interfere with the performance of obligations or exercise of rights by any other party under the Transaction Documents.

(b) Clause 9.2(a) shall not oblige any Infraco to disclose information which constitutes Commercially Sensitive Information as defined in Clause 48 of the applicable PPP Contract.

10. FORCE MAJEURE EVENT

10.1 If a party is affected by a Force Majeure Event such that it is or will be unable to perform its obligations hereunder to a material extent it shall promptly notify the other parties affected thereby of the nature and extent of the circumstances in question and the delay or failure likely to result therefrom.

10.2 Notwithstanding any other provisions of this Agreement a party (the *Affected Party*) shall be deemed not to be in breach of this Agreement or otherwise be liable for any delay in performance or other non performance of any of its obligations under this Agreement to the extent that the delay or non performance is due to any Force Majeure Event of which it has notified the other parties affected. The Affected Party shall use all reasonable efforts to remedy the situation so far as possible and subject thereto will comply with its obligations hereunder provided that there shall be no obligation on the Affected Party to settle labour disputes or to test or to refrain from testing the validity of any order regulation or law in any court having jurisdiction. The Affected Party shall give prompt notice to other parties affected of the cessation of any Force Majeure Event.

11. SURVIVAL

11.1 The provisions of this Agreement and the rights and obligations of each Infraco pursuant to this Agreement and the other Transaction Documents (including any appropriate Schedules) which by their nature or implication (including in respect of any accrued rights and liabilities and the allocation of Assets and Control Rooms) are required to survive termination or expiry of this Agreement pursuant to Clause 54 of the PPP Contract shall so survive and continue in full force and effect along with any other clauses or Schedules of this Agreement necessary to give effect to them.

11.2 The provisions of clause 16 shall survive the termination or expiry of this Agreement and continue in full force and effect.

12. NOTICES

12.1 Save where specified otherwise in this Agreement any notice affecting this Agreement and any invoices (together *Notices*) shall be in writing and signed by the Contract Manager referred to in clause 12.2 for the party giving it on behalf of that party and may be served by leaving it at or sending it by fax, prepaid recorded delivery, special delivery or registered post to the address and for the attention of the Contract Manager of the other party. Proof of posting or despatch of any notice or communication shall be deemed to be proof of receipt:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of fax, the Business Day after the despatch;
- (c) in the case of recorded delivery, special delivery or registered post, forty eight (48) hours from the date of posting.

12.2 Notices or communications referred to in clause 12.1 affecting this Agreement shall in the case of LUL be addressed to:

9th Floor
Albany House
Petty France
London
SW1H 0BD

Tel: 020 7918 3850

Fax: 020 7918 4138

Attention: Contract Manager

and in the case of BCV be addressed to:

30 The South Colonnade
London
E14 5EU

Tel: 020 7308 7415

Fax: 020 7308 4537

Attention: Contract Manager

and in the case of SSL be addressed to:

30 The South Colonnade
London
E14 5EU

Tel: 020 7308 4790

Fax: 020 7308 4670

Attention: Contract Manager

and in the case of JNP be addressed to:

30 The South Colonnade
London
E14 5EU

Tel: 020 7308 3745

Fax: 020 7308 2894

Attention: Head of Prime Contract Management

or such person or address as the relevant party may from time to time notify in writing to the others.

12.3 Notices not governed by Clause 12.1 may be given in such manner as the parties may from time to time agree.

13. WAIVER

13.1 The failure of any party at any time to enforce any provision of this Agreement shall in no way affect its right to require complete performance by the

other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any provision, or be a waiver of the provision itself.

13.2 Save as expressed to the contrary in this Agreement each party's rights and remedies under this Agreement are cumulative and shall not apply to exclude or limit any right or remedy at law or any claim for equitable relief.

14. ASSIGNMENT

14.1 No Infraco shall assign its rights under this Agreement other than in accordance with this Clause 14.

14.2 This Clause 14 does not require an Infraco to obtain the consent of the other Infracos for an assignment of its rights under this Agreement to the same assignee and in the same circumstances as an assignment of the applicable PPP Contract is permitted in accordance with the terms of the applicable PPP Contract.

14.3 No Infraco may assign, transfer, charge or otherwise deal with, in whole or in part, any of its rights or obligations under this Agreement (nor grant, declare a trust of, create or dispose of any right or interest in it) without the prior written consent of the other parties to this Agreement provided that no such consent under this Agreement shall be required from any party if such assignment, transfer or charge is entered into by SSL, JNP or BCV by way of security in accordance with the terms of the relevant PPP Contract.

15. SEVERABILITY

Should any provision of this Agreement be held to be invalid or unenforceable then such provision shall so far as invalid or unenforceable be given no effect and shall be deemed not to be included in this Agreement but without invalidating any of the remaining provisions of this Agreement. The parties shall then use all reasonable endeavours to replace the invalid or unenforceable provision by a valid provision the effect of which is the closest possible to the intended effect of the invalid or unenforceable provision.

16. LIMITATION ON LIABILITY

16.1 Subject to clause 16.2 the aggregate liability of any one Infraco under this Agreement in relation to claims made by each of the other Infracos in respect of incidents acts or omissions occurring in any Contract Year whether arising by reason of breach of contract or any tortious act or omission including negligence or breach of statutory duty or otherwise shall not exceed £300,000.00 per Infraco. For the avoidance of doubt any one Infraco's total aggregate liability to both the other Infracos shall not exceed a total maximum of £600,000.00 in any Contract Year

16.2 Clause 16.1 shall not apply to any claim for incidents acts or omissions by an Infraco against another Infraco which is covered by any of the Insurances or Employer's Liability Insurance.

17. CONSTRUCTION CONTRACTS (ENGLAND AND WALES) EXCLUSION ORDER 1998

The parties acknowledge and agree that this Agreement is entered into by them under a project applying similar principles to the private finance initiative as referred to in the Construction Contracts (England and Wales) Exclusion Order 1998 (SI 1998 No. 648).

18. VALUE ADDED TAX

18.1 All sums payable in respect of supplies under this Agreement shall be exclusive of VAT (if any). Subject to clause 18.2 below, if VAT is chargeable on any supply under this Agreement the recipient of the supply shall pay any VAT on that supply subject to prior receipt of a valid VAT invoice in respect of the supply complying with the VAT Regulations 1995; and the recipient shall not be liable for any interest or penalties arising to the extent that such a VAT invoice is not issued in respect of such supply;

18.2 Where under this Agreement any amount is calculated by reference to any sum which has been or may be incurred by any person, the amount shall not include any VAT except Irrecoverable VAT (if any);

18.3 Each party shall provide each other party with any information reasonably requested by that other party in relation to the amount of VAT chargeable in accordance with this Agreement.

19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

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

20. GOVERNING LAW

Without prejudice to Clause 9.1, this Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales as provided for in clauses 9.1 to 9.5 of the Disputes Resolution Agreement.

21. CHANGE PROCESS

21.1 Any party to this Agreement may apply for a change to the principles governing Asset Allocation detailed in Schedule 2 to this Agreement or to the principles and provisions contained in Schedule 4 to this Agreement in relation to Control Rooms (a *Change*).

21.2 (a) Each party shall nominate a single point of contact for its organisation in relation to any proposed Changes to this Agreement and shall notify such nomination to the other parties in writing.

- (b) The party applying for a Change (the *Applicant*) shall notify all other parties in writing of the proposed Change.
- (c) The merits of any proposed Change shall be properly and objectively assessed by all parties.

21.3 Any Change proposed by an Applicant shall only be made where all affected Infracos and LUL (acting reasonably) agree that the Change should be made.

21.4 Any Change to be made in accordance with this Clause 21 shall be recorded by means of a written variation to this Agreement signed by a duly authorised representative of each party to this Agreement.

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

SIGNED by MARTIN CALLAGHAN)	MARTIN CALLAGHAN
and FRANCES LOW)	FRANCES LOW
for and on behalf of)	
LONDON UNDERGROUND LTD)	

SIGNED by MARTIN CALLAGHAN)	MARTIN CALLAGHAN
and FRANCES LOW)	FRANCES LOW
for and on behalf of)	
INFRACO BCV LIMITED)	

SIGNED by MARTIN CALLAGHAN)	MARTIN CALLAGHAN
and FRANCES LOW)	FRANCES LOW
for and on behalf of)	
INFRACO JNP LIMITED)	

SIGNED by MARTIN CALLAGHAN)	MARTIN CALLAGHAN
and FRANCES LOW)	FRANCES LOW
for and on behalf of)	
INFRACO SUB-SURFACE LIMITED)	

SCHEDULE 1

DEFINITIONS

AC Signal Mains Cable means the main distribution cable supplying electrical power to lineside signalling equipment and equipment rooms.

Air Main means the pipes, fixtures and fittings installed longitudinally alongside the Track distributing air at a nominal pressure of 4.1 bar throughout the railway system, for the operation of electro-pneumatic equipment.

Affected Party has the meaning given in Clause 10.2 of this Agreement.

Allocation means the allocation of an Asset to an Infraco pursuant to Schedule 2 to this Agreement giving the Infraco responsibility for, inter alia, the maintenance, renewal and enhancement of such Asset pursuant to the relevant Asset Management provisions of the applicable PPP Contract and for any loss of performance of Infraco or others consequent upon the failure thereof and the terms **Allocated**, **Responsible** and **Responsibility** shall be construed accordingly.

Alien Asset means:

- (a) any Asset (including any replacement thereof) which is Allocated by reference to Schedule 2 of this Agreement to an Infraco which is not the Owner Infraco; and
- (b) any other Asset Delivered into Service after the date hereof and which is agreed in writing between the relevant Infracos to be an Alien Asset for the purpose of this Agreement.

Alien Shared Use Asset means an Alien Asset that is shared by or is provided for the benefit of Infracos other than the Owner Infraco.

Alien SER means a SER that contains signalling equipment and associated Assets which serves the Line of an Infraco other than the Owner Infraco and which is from time to time Allocated to an Infraco other than the Owner Infraco.

Area of Control means a designated area of the railway which contains converging or diverging train paths controlled by an interlocking system.

Baker Street (Bakerloo/Jubilee) IMR means the Interlocking Machine Room located within Baker Street Station within the Premises of SSL and which serves the Jubilee Line and the Bakerloo Line.

Blockjoint means an insulated joint in a running rail which provides electrical isolation between adjacent sections of rail.

Cable Management Systems or **CMS** means any item or apparatus used to carry or support cables including but not limited to trunking, traywork and conduits, brackets,

hangers, posts, troughs, ducts, manholes and drawpits as referred to in the definition of the term “Conducting Media” in the MDA.

Conductor Rail means any rail (including the jumpers, fixings and fastenings) that acts as a conduit for the Traction Supply within the Underground Network.

Controlled Type II Information has the meaning given to that expression in the Information Agreement

Defect Notice has the meaning given in paragraph 5.3 of Schedule 3 to this Agreement.

Facilities Management Services means the maintenance, renewal, replacement and improvement of heating, lighting, ventilation, air conditioning and cooling equipment (where such facility exists at the Start Date and forms part of the structure or building services as opposed to any portable items of such equipment) and the provision of cleaning services (including specialist cleaning if appropriate) necessary for the operation, use, maintenance, renewal, replacement and improvement of any Alien Asset or Shared Use Asset.

Finsbury Park IMR means the Interlocking Machine Room located within Finsbury Park Station with the Premises of JNP and which serves the Piccadilly Line and the Victoria Line.

Interface Record has the meaning given to that expression in paragraph 1.5 of Schedule 2 to this Agreement.

Interlocking Machine Room or IMR means a large signalling equipment room which holds the equipment associated with the signalling interlocking system.

Limit of Control means the length of track from a signal to the end of the overlap of the next signal ahead.

LUL Telephone System Assets means assets relating to LUL’s telephone system including but not limited to the following assets which serve LUL and remain within the ownership of LUL on the Start Date:

- (a) the automatic telephone exchange network including all help point telephones serving the Jubilee Line Extension;
- (b) the voice mail system;
- (c) the cordless telephone system;
- (d) the telephone network management system;
- (e) the telephone exchange and IT door access system;
- (f) the telephone exchange alarm system;

- (g) the telephone exchange fire alarm system excluding any Section 12 Station fire alarm systems;
- (h) the telephone exchange air conditioning system;
- (i) the structured building wiring;
- (j) the telephone call logging and directory system;
- (k) the telephone operator voice recorder; and
- (l) any telecommunication assets which are owned or controlled by LUL from time to time,

excluding all telecommunication systems and assets that are transferred to the Connect Contractor pursuant to the Connect Contract and any associated documents.

Maintaining Infraco means:

- (a) the User Infraco in relation to any Alien Asset;
- (b) the Owner Infraco in relation to any Shared Use Asset which is not an Alien Shared Use Asset;
- (c) the Infraco identified as the Maintaining Infraco in the Table annexed to this Schedule in relation to any Alien Shared Use Asset in accordance with paragraph 9 of Schedule 3; or
- (d) the Owner Infraco in relation to Shared Use SERs.

Non Maintaining Infraco means:

- (a) the Owner Infraco in relation to any Alien Asset; or
- (b) the User Infraco in relation to any Shared Use Asset which is not an Alien Shared Use Asset.

Owner Infraco means:

- (a) in relation to any Shared Use Asset or Alien Asset which occupies space demised by a Depot Sub-lease, the Infraco which is the tenant under that Depot Sub-lease;
- (b) in relation to any other Shared Use Asset or Alien Asset, the Infraco whose Lease and any of whose Ancillary Lease(s), Supplemental Lease(s) includes in the demise the space which the Shared Use Asset or Alien Asset occupies; and
- (c) in relation to an SER, the Infraco whose Lease and any of whose Ancillary Lease(s) or Supplemental Lease(s) includes in the demise the space which the SER occupies.

Premises shall have the meaning given to that expression in the MDA save that where the context so requires in this Agreement it shall be construed to exclude premises leased by the relevant Infraco to another Infraco by a Depot Sub-lease but include reference to any premises leased to the relevant Infraco by a Depot Sub-lease

Selection Circuit means a signalling circuit which operates a signalling asset or function where this circuit includes the verification of the status of other signalling assets.

Shared Use Alien SER means an Alien SER which contains equipment serving the line of two Infracos neither of which is the Owner Infraco.

Shared Use SER means an SER which contains equipment which serves the Lines of more than one Infraco, one of which is the Owner Infraco.

Signal Equipment Room or **SER** means a room housing signalling equipment and includes relay rooms and Interlocking Machine Rooms.

Shared Use Assets means:

- (a) those Assets which at the Start Date served or were provided for the benefit of more than one Infraco; and
- (b) any Assets Delivered into Service after the date hereof which are agreed in writing by the relevant Infracos to be Shared Use Assets for the purposes of this Agreement.

Track has the meaning given to that expression in the Leasing Principles but for the purposes of this Agreement does not include Conductor Rails.

Transition Point means in relation to Conductor Rails or Track (or other asset or asset type to which the expression is applied), the point at which Responsibility for such Conductor Rails or Track (or other asset or asset type as applicable) passes from one Infraco to another.

Tunnel has the meaning given to the expressions “Tunnel” and “Covered Way” in the Leasing Principles.

User Infraco means:

- (a) in relation to any Alien Asset the Infraco responsible for making such Alien Asset Available in accordance with Schedule 2.1 of the applicable PPP Contract or, in the absence of such Asset being specifically referred to in the applicable PPP Contract, then the Infraco Allocated such Alien Asset pursuant to the principles contained in Schedule 2 to this Agreement or in the case of any Alien Shared Use Asset the Maintaining Infraco as specified pursuant to paragraph 9 of Schedule 3 to this Agreement; and

- (b) in relation to any Shared Use Asset which is not an Alien Shared Use Asset any Infraco (other than the Owner Infraco) for whose benefit that Asset is provided.

ANNEX

ALLOCATION OF ALIEN SHARED USE ASSETS

Owner Infraco	Sharing Infracos	Maintaining Infraco
JNP	BCV/SSL	BCV
SSL	JNP/BCV	JNP
BCV	JNP/SSL	SSL

SCHEDULE 2

ASSET ALLOCATION

The main priority from a safety perspective is that all operational Assets are Allocated and that Allocation is with minimum ambiguity.

The general principle is that each Asset is treated as being the responsibility of the Infraco in whose demise that Asset is located subject to certain exceptions as defined in this Schedule.

1. PRINCIPLES OF ASSET ALLOCATION

1.1 Subject to paragraphs 1.2, 2 and 3 below each Infraco shall be responsible for all Assets within its Premises and within any other land or property which falls within that Infraco's obligations under the Property Schedules and Plans.

1.2 Each relevant Infraco shall not be responsible for any Alien Assets insofar as they are located within any part of its Premises and notwithstanding paragraph 1.1 above, each relevant Infraco shall in addition be responsible for any Alien Assets so Allocated to it pursuant to paragraph 3 below.

1.3 No Asset may be Allocated to more than one Infraco.

1.4 Where the obligations of one Infraco (the *First Infraco*) are expressed in this Agreement by reference to the obligations of another Infraco (the *Second Infraco*) under the Transaction Documents no claim shall be made unless the Second Infraco has provided sufficient information in relation to its obligations to enable the First Infraco to assess the impact of its performance or non performance on the Second Infraco's obligations or the Second Infraco's performance thereof.

1.5 It is the responsibility of each Infraco to understand the interdependencies, basic functionality and Allocation of all Assets on the Premises demised to them and the interfaces between their Assets and those on any adjoining Infraco's Premises.

Each Infraco shall identify all interface points with others (whether another Infraco or a third party) for all its Assets and shall keep such information by asset type and formally record these interfaces and the responsibilities at and across such interfaces by way of an interface record (the Interface Record) Such Interface Record shall be Controlled Type II Information.

1.6 The Infracos shall accordingly by 23rd September 2002:

- (a) carry out a preliminary review and assessment of all inter-Infraco asset interface locations and agree those interface locations where the need to record the interface is greatest so that those locations can be prioritised; and
- (b) identify and agree the scope of work required in order to produce the Interface Record (including but not limited to a record of the cross boundary protection

arrangements referred to at paragraph 3.4(a)(iv) below, the inter-Infraco interfaces and respective responsibilities in relation to earthing and bonding systems referred to at paragraph 3.4(e) below and the formal record of cross boundary signalling functions referred to at paragraph 3.5(a)(iv) below); and

- (c) agree a programme to carry out such work taking into account the prioritisation agreed pursuant to paragraph 1.6(a) above.

2. PFI AND THIRD PARTY CONTRACTS

2.1 Notwithstanding the general provisions at paragraph 1 above, the property and assets that are allocated to, or are the responsibility of, a third party pursuant to the provisions of

- (a) The Connect Contract;
- (b) The Prestige Contract;
- (c) The Power Services Contract;
- (d) Third Party Contracts;
- (e) any lease of Commercial Property; and
- (f) any associated contractual documents or future PFI Contracts,

shall be the responsibility of the relevant third party pursuant to the terms of the said contracts.

LUL TELEPHONE SYSTEM ASSETS

2.2 The LUL Telephone System Assets shall remain the responsibility of LUL.

3. ALIEN ASSETS

Where the application of the principles in this paragraph 3 results in an asset (or part thereof) being the Responsibility of an Infraco other than the Infraco in whose Premises such asset sits then the relevant asset shall be excepted from the obligations of the Infraco in whose Premises it sits pursuant to the principle set out at paragraph 1.2 above and shall instead be Allocated to the relevant Infraco mentioned below as an Alien Asset of that Infraco and shall be supplemental to the Assets of that Infraco:

Trains and Assets facilitating the movement of Trains

3.1 Trains that an Infraco is obliged to make Available under the applicable PPP Contract and any Assets that are provided solely in connection with the movement of such Trains but which are located outside the Premises of that Infraco shall be the responsibility of that Infraco.

Conductor Rails

3.2 (a) The parties agree that two types of Transition Point exist between Infracos in relation to Conductor Rails: those associated with gaps in the Conductor Rail layout and those where the Transition Point is through the Conductor Rails. In relation to the former, there are substation gaps and non-substation gaps. In relation to the latter, this type of Transition Point has been adopted at locations where no suitable gap in the Conductor Rail can be identified and is at the same point as the associated Track Transition Point.

(i) Sub-station Gap Transition Points

Subject to paragraph 3.2(c) below, an Infraco's Responsibility for Conductor Rails within its Premises includes traction feeder cables and any connections associated with these up to and including the connection with the output terminal within the substation even if the substation is located outside the Premises of that Infraco.

(ii) Non Substation Gap Transition Point

Where a non-substation traction gap exists on the Premises of one Infraco and the Transition Point is at that gap, the Infraco in whose Premises the gap is located shall be Responsible for all cables, switch gear and connections between the Conductor Rails of the two Infracos i.e. its own and those of the other Infraco.

Where the Conductor Rail Transition Point is at a non-substation traction gap and this coincides with the boundary between the Premises of the two Infracos Responsibility for all cables and connections between the Conductor Rails of the two Infracos shall be the subject of a site specific agreement. The table at Annex 1 records such site specific agreement as to the existing instances of this as at the Transfer Date.

(iii) Non-Gap Transition Points

Subject to paragraph 3.2(c) below, an Infraco's Responsibility for the Conductor Rails and associated fittings within its Premises shall extend up to and including the designated Track Transition Point at the relevant location as recorded in the table at Annex 2 and referred to at paragraph 3.3(c) below, with the other Infraco being Responsible for the Conductor Rail from that Transition Point.

(b) Where there is a property boundary between an Infraco and a third party Infrastructure Controller, the point at which the Responsibility for the Conductor Rails passes from that Infraco to such third party shall be as documented in the applicable National Network Agreements.

(c) Locations where there is an inter-Infraco interface in respect of Conductor Rails or Traction Supply are as set out in the table at Annex 1 to this Schedule.

The Transition Points agreed inter-Infraco as at the Transfer Date for the Conductor Rail at each such location are as identified in the final column of the table at Annex 1. To the extent that the description of inter-Infraco interface in the final column of the table at Annex 1 in relation to any such Transition Point represents a departure from the principles in paragraph 3.2(a) above then that description shall to that extent take priority over the principle in paragraph 3.2(a) above with regard to the relevant Transition Point.

Track

- 3.3 (a) Subject to paragraph 3.3(c) below, an Infraco shall be Responsible for Track within its Premises up to the fishplate or other non-insulated bolted rail joint (where that joint is not within a long welded rail site) nearest to the boundary of the Premises of that Infraco even if such fishplate or other non-insulated bolted rail joint is outside the Premises of that Infraco.
- (b) Where a sleeper or through timber supports running rails of more than one Infraco that sleeper or through timber shall be Allocated to the Infraco in whose Premises such sleeper or through timber sits. Any chairs/baseplates, keys/clips and associated Track components shall be Allocated to the Infraco who is Allocated the sleeper or through timber.
- (c) Locations where there is an inter-Infraco interface in respect of Track are as set out in the table at Annex 2 to this Schedule. The Transition Points agreed inter-Infraco as at the Transfer Date for the Track at each such location are as identified in the final column of the table at Annex 2. To the extent that the description of inter-Infraco interface in the final column of the table at Annex 2 in relation to any such Transition Point represents a departure from the principle in paragraph 3.3(a) above then that description shall to that extent take priority over the principle in paragraph 3.3(a) above with regard to the relevant Transition Point.

Other Conducting Media

3.4 Infraco shall be Responsible for other Conducting Media not dealt with in other paragraphs of this Schedule 2 in accordance with the following sub-paragraphs of this paragraph 3.4.

- (a) Low Voltage alternating current (ac) and non-traction direct current (dc) mains.
- (i) These shall be the Responsibility of the Infraco in whose Premises they are located extending from the point of initial supply from a third party sub-station up to and including any distribution board or trunk switch to which they connect.
- (ii) If the distribution board or trunk switch is located on the Premises of another Infraco any local feeds from the distribution board or trunk switch shall, from the output terminal of the distribution board or trunk

switch, be the Responsibility of that other Infraco up to any further point of transfer to a further or the original Infraco.

- (iii) If the on-going main feed from the distribution board or trunk switch transfers onto the Premises of another Infraco, other than transitorily, then the main will become that other Infraco's Responsibility from the output terminal of the distribution board or trunk switch.
- (iv) The scope of Responsibility shall include any and all operating supplies, protection devices and control or remote monitoring circuitry. All parties involved shall be responsible for ensuring that protection arrangements are collated and co-ordinated across each boundary, working upstream to the original supply authority.

(b) Low Voltage ac and Non-traction dc local distribution systems

These shall be the Responsibility of the Infraco on whose Premises they are located up to and including either the supply point at or immediately adjacent to any Alien Asset being supplied (whether such supply point is located within or outside that Infraco's Premises) or a distribution board supplying exclusively the Alien Asset. If the latter then the distribution board shall be the Responsibility of the User Infraco whose Alien Asset is supplied. All supply points, including distribution boards shall contain a means of easily isolating the supply to the Alien Asset. The Owner Infraco shall be Responsible for ensuring incorporation of correct and discriminatory protection systems.

(c) Facilities (including local power and water supplies, lighting, heating, ventilation, air conditioning and cooling) to rooms or areas housing Alien Assets

- (i) Where provided as part of a common system throughout all or part of the location these shall be the Responsibility of the Infraco in whose Premises they are located up to and including a supply point at or immediately adjacent to the room or area, irrespective of whether such supply point is located within or outside the relevant room or area. However the design or layout of such facilities within the room or area shall be mutually agreed with the User Infraco whose Alien Asset is housed within the room or area in question.
- (ii) If a means of isolation exists within the supply point and such isolation equipment is provided exclusively for the servicing of Alien Assets then it shall be the Responsibility of the User Infraco in relation to that Alien Asset.

(d) Cable Management Systems (CMS)

These shall be the Responsibility of the Infraco in whose Premises they are located where within common or public areas, up to the point of entry into an area or room used to house an Alien Asset of another Infraco. If they are

within the relevant area or room itself then the User Infraco shall be responsible for the CMS serving its Alien Asset. (All or any parties can mutually agree to share the CMS in which case the Infraco in whose Premises they are located will be deemed Responsible, or if that Infraco is not a using party then the major user will be deemed the Responsible party. Any such agreements must be notified to LUL).

(e) Earthing and Bonding

Each Infraco shall be Responsible for all main earthing and bonding systems within its Premises and for connection to earthing conductor(s) transmitting the earth back to the relevant system earth. If the system earth itself is within the Premises of that Infraco, that Infraco shall be Responsible for all earth mats, rod, spikes etc. Each Infraco shall also be Responsible for the earthing and bonding connections serving its own Assets and for connection to the main system provided by the Owner Infraco.

(f) Tunnel Lighting (including lighting to shafts, intervention points etc. where fed from the tunnel lighting system)

These shall be the Responsibility of the Infraco in whose Premises the Tunnel that the lighting serves is located and shall cover all circuitry back to and including the control panel and including any and all monitoring, control and indication circuitry including those connected to the dc traction system.

(g) Tunnel Power (including power to shafts, intervention points etc. where fed from the tunnel power system)

These shall be the Responsibility of the Infraco whose Premises include the Tunnel that the power serves, up to and including either the supply point at or immediately adjacent to the Tunnel being served, or a distribution board supplying exclusively the Tunnel. If the latter then the distribution board shall be the Responsibility of the Infraco whose Premises include the Tunnel.

(h) Water mains and water pipes (potable supplies only)

These shall be the Responsibility of the Infraco on whose Premises they are located (the *first Infraco*) commencing from the point of receipt from the supply authority up to and including the point of isolation prior to any feed or pipe supplying another Infraco's Asset or Premises, irrespective of whether such point of isolation is located within or outside the first Infraco's Premises. If only passing through another Infraco's Premises transitorily then they shall remain under the responsibility of the original Infraco. If however they are transferring to another Infraco's Responsibility immediately after passing through a third Infraco's Premises the Infraco nearest to the supply source shall be Responsible whilst passing through.

(i) Pumped Mains

These shall be the Responsibility of the Infraco in whose Premises is located the sump or reception chamber from which the water is being discharged including any parts of the pumped mains which are outside that Infraco's Premises. Responsibility shall extend up to the point of discharge. Responsibility for power supplies to pumps shall be up to and including either the supply point at or immediately adjacent to the pump being served or a distribution board supplying exclusively the pump. If the latter then the distribution board shall be the Responsibility of the Infraco whose pump is being supplied. Responsibility for control panels together with any monitoring and remote indication facilities shall be with the Infraco Responsible for the pumps.

In the case of multiple sump installations, Responsibility for the entire system shall rest with the Infraco in whose Premises the pump is located.

(j) Gravity Drains (other than track drains)

Each length of drain shall be the Responsibility of the Infraco in whose Premises it is located and, where applicable, through to the point of discharge into a third party's drainage system, including any surcharge prevention devices.

(k) Gas Mains

These shall be the Responsibility of the Infraco on whose Premises they are located (the *first Infraco*) commencing from the point of receipt from the supply authority up to and including the point of isolation prior to any feed or pipe supplying another Infraco's Asset or Premises, irrespective of whether the point of isolation is located within or outside the first Infraco's Premises. If only passing through another Infraco's Premises transitorily then they shall remain under the Responsibility of the first Infraco. If however they are transferring to another Infraco's Responsibility immediately after passing through a third Infraco's Premises the Infraco nearest to the supply source shall be Responsible whilst passing through.

(l) Tunnel and Public Area Ventilation (including fans, support steelwork, power supplies, dampers, louvres, grilles, attenuators etc. and any associated control and indication and monitoring circuitry and panels wherever fitted)

These shall be the Responsibility of the Infraco whose Premises include the Tunnel to or from which the air is supplied or exhausted initially, irrespective of whether the point of supply or extraction is within another Infraco's Premises e.g. a platform.

(m) Rights to Air

In the case of both ventilation and draught relief shafts or any other Tunnel and public area air route the Infraco that they supply air to or exhaust air from

shall have the right to an adequate air path sufficient for current operating parameters. No restrictions to air flow shall be installed without the agreement of all parties affected. Where any modifications to the Tunnel Public Area Ventilation (TPAV) and shaft installations or any changes to or introduction of anything that could impact the TPAV system, such as installation of any heat producing equipment in a public area, are proposed it shall be incumbent on the party proposing the change to ensure that the requirements of all affected parties are addressed.

- (n) Station Non-public area ventilation, air conditioning and cooling systems

These shall be the Responsibility of the Infraco in whose Premises they are located and largely serve.

- (o) Platform Edge Doors (*PEDs*)

These shall be the responsibility of the Infraco whose Premises include the relevant Tunnel. If lighting and communication equipment are installed integral to the PEDs they shall be integrated into the platform design and shall be agreed with the Infraco whose Premises include the relevant Station (if a different Infraco).

- (p) Supervisory Control and Data Acquisition (Power Control System) (*SCADA*) Building Management System (*BMS*), Remote Monitoring Systems (*RMS*)

Indication and control circuitry for the SCADA, BMS and RMS shall be the Responsibility of the Infraco whose Assets these systems currently monitor or serve. This Responsibility shall continue to the prime connection medium or outstation (wired or non-wired) where the Responsibility shall change to the Owner Infraco (if different).

- (q) Meters

Where installed these shall be maintained and read by the Infraco Responsible for the Asset at the point at which they measure gas, air, electricity or other product or service being conveyed.

- (r) Commercial Property Interface

Where any Conducting Media for which Infraco is Responsible serves Commercial Property (including any commercial car parks operated under licence) whether such Commercial Property is outside or within that Infraco's Premises, Infraco's Responsibility shall extend up to the point of connection or isolation within or immediately adjacent to the relevant Commercial Property even where such point of connection or isolation is outside that Infraco's Premises.

Signalling

3.5 (a) Signalling Equipment

Signalling and signalling control equipment provided solely in connection with the safe movement of Trains of an Infraco or used exclusively by or exclusively benefiting one Infraco shall be Allocated to that Infraco even where the equipment is located outside the Premises of that Infraco and according to the following principles:

- (i) The Air Main within an Area of Control shall be Allocated to and be the Responsibility of the Infraco in whose Area of Control it is within, such Responsibility to extend up to the isolating point nearest to the boundary of its Area of Control.
- (ii) The AC Signal Mains Cable within an Area of Control shall be Allocated to and be the Responsibility of the Infraco in whose Area of Control it is within, such Responsibility to extend up to the isolating point nearest to the boundary of its Area of Control.
- (iii) The whole Blockjoint must be Allocated to a single Infraco.
- (iv) Subject to paragraph 3.5(c) below, each controlled or automatic signalling area shall have single Infraco accountability for the management of the assets including the design and approval of changes to the design within the relevant area. The Infracos shall agree responsibility for 'cross boundary signalling functions including for signalling equipment (including software) and cabling and isolation/disconnection points and shall catalogue this in a formal record of who has Responsibility for all such assets.

(b) Signal Equipment Rooms

- (i) Signalling and signalling control equipment and associated Assets within any SER shall be Allocated to the Infraco most dependent upon the equipment within the room regardless of room location and Owner Infraco.
- (ii) SERs that serve exclusively the Lines of an Infraco other than the Owner Infraco shall be Allocated to that other Infraco as Alien SERs in respect of the maintenance renewal and enhancement of the signalling control equipment and associated Assets therein which equipment and Assets shall be Allocated as Alien Assets of the Infraco whose Lines they serve and in the case of any Shared Use Alien SERs, the assets and equipment within the Shared Use Alien SERs shall be Alien Shared Use Assets and the principles of allocation specified in Schedule 3, paragraph 9 of this Agreement shall apply.
- (iii) Subject to paragraphs 3.5(b)(i) and 3.5(b)(ii) above, the Owner Infraco shall be the Maintaining Infraco in respect of Shared Use SERs and

shall be Responsible for providing all other services including cleaning relating to such Shared Use SERs.

(iv) In the case of an Alien SER, the Owner Infraco shall be Responsible for the structure and internal fabric of such Alien SER but shall not have Responsibility for the maintenance of any signalling or signalling control equipment or associated Assets therein which shall be the Responsibility of the User Infraco. The Owner Infraco shall be entitled to audit the User Infracos performance of its obligations under this Agreement so as to satisfy itself that the condition of the Alien SER is not detrimental to safety either within the Alien SER or any other part of the Premises of which the relevant Alien SER forms part and the User Infraco shall permit. access to the Owner Infraco on reasonable notice in order to exercise such rights.

(v) This paragraph 3.5(b) is subject to paragraphs 3.5(d) and 3.5(e) below.

(c) Signalling Cabling

(i) Where a signal asset of one Infraco is electrically fed by a signal supply from another Infraco's SER, then the Infraco whose asset is being fed shall be Responsible for the cabling up to and including the outgoing terminal on the termination point within the SER.

(ii) Where a signal asset of one Infraco (the first Infraco) is supplying a feed to an asset of another Infraco (the second Infraco) within the second Infraco's SER, then the first Infraco is Responsible for all cabling up to and including the incoming terminal of the second Infraco's termination point within the SER.

(iii) Where the Selection Circuit of a signal asset leaves one Area of Control to feed the Selection Circuit of another Infraco's asset (e.g. a repeater signal) then the cabling shall be Allocated to the Infraco from within whose Area of Control it originates, e.g. the Infraco Responsible for the main signal, not the Infraco Responsible for the repeater.

(iv) In the case of interconnecting wires and cables between SERB and the Premises of the relevant User Infraco, the following principles shall apply:

(A) Where the cable network between the two Infracos is integrated the Owner Infraco shall be Responsible for such cables.

(B) Subject to paragraph 3.5(c)(iv)(A) above the Infraco that maintains the site to which a cable feed is taken shall be Responsible for such cables.

(C) Any cable shafts (but not the cables therein except as provided above) shall be the Responsibility of the Owner Infraco.

(d) Baker Street (Bakerloo/Jubilee) IMR

Notwithstanding the provisions of paragraph 3.5(b) above, Responsibility for the Baker Street (Bakerloo/Jubilee) IMR shall be as follows:

- (i) SSL as the Owner Infraco, shall be Responsible for the structure and internal fabric of the Baker Street (Bakerloo/Jubilee) IMR but shall not have any Responsibility for the maintenance of any signalling or signalling control equipment or associated assets therein which shall be the Responsibility of the User Infraco.
- (ii) The signalling or signalling control equipment and associated assets within the Baker Street (Bakerloo/Jubilee) IMR including the interlocking frame shall be Alien Shared Use Assets and notwithstanding paragraph 9 of Schedule 3 to this Agreement, shall be Allocated to BCV as the Maintaining Infraco and User Infraco.

(e) Finsbury Park IMR

Notwithstanding the provisions of paragraph 3.5(b) above, Responsibility for the Finsbury Park IMR shall be as follows:

- (i) JNP as the Owner Infraco, shall be Responsible for the structure and internal fabric of the Finsbury Park IMR but shall not have any Responsibility for the maintenance of any signalling or signalling control equipment or associated assets therein which shall be the Responsibility of the User Infraco.
- (ii) The signalling or signalling control equipment and associated assets within the Finsbury Park IMR shall be allocated to BCV as the User Infraco such Assets being Shared Use Assets (which are not Alien Shared Use Assets).

3.6 Communication Equipment and Systems

(a) Long Line Public Address Systems

The main controller for such systems shall be Allocated to the Infraco in whose Premises such main controller is located. Sub-controllers and speakers shall be Allocated to the Infraco in whose Premises the sub-controllers and speakers are located. The cables between control desks and PA sub-controllers or between control desks and individual speakers shall be Allocated to the Infraco to which the main controller is Allocated.

(b) CCTV Systems

CCTVs shall be Allocated to the Infraco in whose Premises they are located except:

- (i) equipment associated with Train operation (i.e. serving headwall monitors or incab CCTV) which shall be Allocated to the Infraco whose Premises include the Track.
- (ii) Where the system of one Infraco takes feeds from the cameras of another Infraco via a suitable connection, the demarcation point is normally the output side of the video modulator/demodulator. The Infraco taking the feed is Responsible for the integrity of the connection. The Infraco Responsible for the system from which the feed is being taken is Responsible for switching equipment, including the equipment allowing those taking feeds to select cameras. The Infraco taking the feed is Responsible for all cable links between the connection point and their display and/or recording equipment. The Infraco Responsible for the provision of recording equipment is Responsible for the provision of recording medium.
- (iii) Where Infracos share a platform and Train related CCTV exists and is used by both Infracos using that platform, then the system, or part system shall be Allocated to the Infraco whose Premises include the platform.

3.7 Nominated Network Assets

- (a) The TIMIS system for which SSL is the nominated network-wide provider pursuant to the TIMIS Agreements is Allocated to SSL subject always to any changes in respect of such Allocation that may be specified by LUL from time to time; and
- (b) The Transplant Vehicles for which JNP is the nominated network provider pursuant to the Transplant Agreement and which are Allocated to JNP subject always to any change in respect of such Allocation that may be specified by LUL from time to time.

3.8 General

Any Asset in addition to those specified in paragraphs 3.1 to 3.5 above used exclusively by an Infraco other than the Owner Infraco shall be Allocated to that other Infraco.

3.9 The Principles

- (a) The principles set out in this paragraph 3 (the *Principles*) shall apply to all assets as at the Transfer Date save to the extent that current working practices as at the Transfer Date in relation to specific assets or specific groups of assets are incompatible with the Principles. Each Infraco agrees to use all reasonable endeavours to identify as soon as possible specific assets or specific groups of assets where the working practices as at the Transfer Date are incompatible with the Principles.

- (b) Where an Infraco can demonstrate to LUL's reasonable satisfaction that a departure from the Principles is justified and agreed with any other affected Infraco (such agreement not to be unreasonably withheld by any such other affected Infraco), then the Infraco shall record in writing a note of the specific arrangements departing from the Principles that should be applied in relation to the relevant asset or group of assets. Any note of specific arrangements aforesaid will form part of the Interface Record and shall be adhered to by all Infracos for the purposes of determining their rights and obligations under this Agreement in relation to the relevant asset or group of assets (as appropriate).

SCHEDULE 3

INTER-INFRAACO ASSET OBLIGATIONS

The purpose of this Schedule is to set out.

- (a) *the rights and obligations of each Infraco in relation to any Alien Assets that are Allocated to it pursuant to the principles contained in Schedule 2 to this Agreement;*
- (b) *the rights and obligations of each Infraco in relation to any Shared Use Assets; and*
- (c) *the rights and obligations of each Owner Infraco in relation to any Shared Use Assets and Alien Assets or any Assets that impact on the performance obligations of any other Infraco under the applicable PPP Contract.*

1. ACCESS

Subject to:

1.1 the terms of the Lease and any Ancillary Lease or any Depot Sub-lease granted to and the Underlease and any Ancillary Underlease or any Depot Sub-lease granted by the relevant Owner Infraco;

1.2 the Access Code; and

1.3 Paragraph 5 below,

the User Infraco shall be permitted, where applicable in common with others, and at its own cost, for the purpose of exercising its rights and complying with its obligations under the Transaction Documents in relation to any Alien Asset or Shared Use Asset to enter the Premises let to the relevant Owner Infraco.

2. MAINTENANCE, REPAIR AND IMPROVEMENT

2.1 Alien Assets

The User Infraco of any Alien Asset shall (to the extent indicated at paragraph 2.4 below as the agent of the Owner Infraco) inspect such Alien Asset and ensure at its own cost that such Alien Asset is at all times maintained renewed replaced or enhanced for the purpose of complying with its obligations under the Transaction Documents so as not to prevent, hinder, obstruct or interfere with any other Infraco exercising its rights and/or performing its obligations under the Transaction Documents.

2.2 Alien Shared Use Assets

The User Infraco of an Alien Shared Use Asset shall (to the extent indicated at paragraph 2.4 below as the agent of the Owner Infraco) inspect such Alien Shared

Use Asset and ensure at its own cost that such Alien Shared Use Asset is maintained, renewed replaced or enhanced for the purpose of complying with its obligations under the Transaction Documents and so as not to prevent, hinder, obstruct or interfere with any other Infraco exercising its rights and/or performing its obligations under the Transaction Documents.

2.3 Non Alien Shared Use Assets

The Owner Infraco shall inspect and maintain any Shared Use Asset which is not an Alien Asset and at its own cost ensure that such Shared Use Asset is maintained, renewed, replaced or enhanced for the purpose of complying with its obligations under the Transaction Documents and so as not to hinder, obstruct or interfere with any other Infraco exercising its rights and/or performing its obligations under the Transaction Documents.

2.4 Alien Asset Expenditure by User Infraco

The User Infraco shall in all respects act as agent of the Owner Infraco in respect of expenditure of a capital nature incurred on any Alien Asset including, for the avoidance of doubt, any Alien Shared Use Asset (in respect of renewals, additions, replacements, improvements or otherwise) which is or is to be a fixture installed or to be installed on property in which the User Infraco does not itself have a leasehold interest (or an agreement for such) or an easement (or an agreement for such) or a licence to occupy provided that:

- (a) where and to the extent that expenditure is incurred by the User Infraco as agent under this paragraph 2.4 (rather than acting on its own account) the User Infraco shall reimburse such expenditure as a contribution of a capital sum to the expenditure of the Owner Infraco on the provision of that Alien Asset;
- (b) in all other respects the User Infraco shall act on its own account and at its own cost.

For the avoidance of doubt any contribution of a capital sum by the User Infraco under sub-paragraph 2.4(a) of this clause 2.4 shall be set off against the liability of the Owner Infraco to reimburse the User Infraco in respect of the expenditure of a capital nature which the User Infraco has incurred pursuant to this paragraph 2.4 as agent of the Owner Infraco.

2.5 Indemnity

Subject to paragraph 2.4 above the User Infraco shall fully indemnify the Owner Infraco against all other costs and liabilities of the Owner Infraco incurred as a result of any actions of the User Infraco as agent of the Owner Infraco.

3. SUPPORT FOR ALIEN ASSETS AND SHARED USE ASSETS

3.1 The Owner Infraco in relation to an Alien Asset or Shared Use Asset shall at its own cost:

- (a) provide or procure the provision of such Facilities Management Services as are necessary for the operation, use, maintenance, renewal, replacement and improvement of the Alien Asset or Shared Use Asset by the User Infraco;
- (b) ensure that such Alien Asset or Shared Use Asset is kept in such weather proof, secure (including the provision of any requisite security personnel) and watertight environment as is reasonably practicable; and
- (c) maintain its Infraco Network so as not to prevent hinder obstruct or interfere with (i) the use performance or functionality of any Alien Asset or Shared Use Asset or (ii) the carrying out of the obligations of the User Infraco under paragraph 2 above.

3.2 The Owner Infraco in relation to an Alien Asset or Shared Use Asset shall not damage such Alien Asset or Shared Use Asset nor having regard to the function of any such Shared Use Asset at the Start Date make excessive use of any such Shared Use Asset.

4. MANNER OF EXERCISE AND PERFORMANCE

4.1 Any party exercising its rights or performing its obligations under this Schedule shall:

- (a) do so in a manner that causes as little damage as is reasonably practicable and shall make good any damage so caused;
- (b) to the extent reasonably practicable, do so in a manner that causes the minimum obstruction or interference to any other party in the performance of its obligations or exercise of its rights under the Transaction Documents;
- (c) in the case of a proposed improvement or replacement of any Alien Asset or Shared Use Asset pursuant to paragraph 2 of this Schedule which will result in an Increased Infraco Cost to either an Owner Infraco or a User Infraco or in any of the events referred to in paragraphs 8.3(a), 8.3(b), 8.3(c) or 8.3(d) of this Schedule happening to either an Owner Infraco or a User Infraco only carry out such improvement or replacement after consultation with the Owner Infraco or User Infraco and having regard to any representations made in the context of such consultations;
- (d) In the case of works relating to any Alien Asset produce to and agree with the Owner Infraco a method statement prior to the commencement of such works provided that any modification or construction of an Alien Asset or an Alien Shared Use Asset shall (except in the case of an emergency) require the prior written approval and consent of the Owner Infraco to the said method statement and works prior to commencement of such works (such approval and consent not to be unreasonably withheld or delayed).

4.2 Each User Infraco shall, in relation to its Alien Assets, agree with the relevant Owner or other Infraco (or where applicable a third party):

- (a) Any fixings or connections which the User Infraco uses for affixing its Alien Assets to the Owner Infraco's Premises or connecting onto the assets of another Infraco prior to making the fixings or connections;
- (b) The compatibility both technically and architecturally and in relation to maintenance regime and philosophy of any such Alien Asset installed on another Infraco's Premises.

5. INFORMATION SHARING

5.1 Each party shall at all times nominate a suitably qualified person (a *Nominated Person*) who shall act as the point of contact for the purposes of sharing information in relation to any Alien Asset or Shared Use Asset.

5.2 Each party shall forthwith inform each other party of the identity of the Nominated Person and any substitute or replacement for such person.

5.3 In the event that any Non Maintaining Infraco becomes aware of a defect, fault or lack of repair or of any circumstances likely to lead to the existence of the same in any Alien Asset or Shared Use Asset where Infraco is aware or ought reasonably to be aware that such defect, fault or lack of repair interferes with or is capable of interfering with the exercise of any party's rights or the performance by any party of its obligations under the Transaction Documents, or this Agreement, then:

- (a) where the relevant Alien Asset or Shared Use Asset is covered by Schedule 2.1 of the PPP Contract, the Non Maintaining Infraco shall report the defect, fault or lack of repair to the Maintaining Infraco's Fault Reporting Centre and the Maintaining Infraco shall deal with the same in accordance with paragraphs 1, 2 and 3 of Schedule 2.1 as if the defect, fault or lack of repair had been reported by LUL staff and the provisions of Schedule 3 (Reporting Procedures) to the Performance Management Code shall apply;
- (b) in relation to Alien Assets or Shared Use Assets not covered by Schedule 2.1 of the PPP Contract, the Nominated Person of that Non Maintaining Infraco shall provide to the Nominated Person of the Maintaining Infraco a notice (a *Defect Notice*) containing such details as are available to it of the defect fault or lack of repair or the circumstances likely to lead to the same which the Maintaining Infraco is liable to repair, remedy or make good. If the Nominated Person is not the person responsible within the Infraco for remedying or avoiding any such defect fault or lack of repair, he shall pass on the information to the persons who are so responsible.

6. REMEDYING WANTS OF REPAIR

6.1 In the event that any Maintaining Infraco receives a Defect Notice pursuant to paragraph 5.3(b) above it shall in accordance with the terms of this Agreement as soon as reasonably practicable commence and diligently proceed to remedy repair or make good as applicable any defect, fault or lack of repair to which the Defect Notice relates;

6.2 If the Maintaining Infraco fails to commence to remedy repair or make good the matters prescribed in the Defect Notice and thereafter diligently proceed to complete such remedy, repair or making good in accordance with paragraph 6.1 above or in any event within 28 days of receipt of the Defect Notice, the relevant Non Maintaining Infraco shall be entitled (subject to the provisions of the Access Code) to enter the relevant Premises (together with such persons authorised by the Non Maintaining Infraco and such equipment as the Non Maintaining Infraco reasonably requires) and to remedy repair and make good the defect, fault or lack of repair to which the Defect Notice relates at the expense of the Maintaining Infraco and the Maintaining Infraco shall pay within 28 days of receipt of demand the reasonable costs and expenses incurred by the Non Maintaining Infraco in carrying out such works.

7. DISPOSALS

7.1 An Owner Infraco in relation to an Alien Asset or Shared Use Asset shall not dispose of such Alien or Shared Use Asset nor (unless the provisions of the Property Code in respect of Surplus Property have been followed in relation to such disposal) of any interest in that part of the Premises in which such Alien or Shared Use Asset is situated without the prior written consent (not to be unreasonably withheld or delayed) of any User Infraco in relation to such Alien Asset or Shared Use Asset unless the Owner Infraco procures that the same Alien Asset or Shared Use Asset shall continue to be provided under the terms of this Agreement

7.2 This paragraph 7 is without prejudice to the provisions of the Transaction Documents or the provisions of the Owner Infraco's Lease or any Ancillary Lease and shall not affect the grant of the Underlease or any Ancillary Underlease to LUL.

8. CO-OPERATION

8.1 The parties shall co-operate with one another and act reasonably and in good faith in and about the performance of their respective obligations and the exercise of their respective rights as set out in this Agreement.

8.2 Each Infraco shall use reasonable endeavours not to damage any Alien Asset or the Infraco Network of any other Infraco.

8.3 Each Infraco in exercising its rights and performing its obligations under this Agreement shall use reasonable endeavours to ensure that it is more likely than not that any other Infraco shall not:

- (a) suffer or incur abatements pursuant to the Performance Measurement Code;
- (b) suffer or incur Service Points pursuant to Schedule 8 of the Performance Measurement Code;
- (c) suffer or incur withholdings pursuant to Schedule 3 of the applicable PPP Contract; nor

- (d) fail to achieve Delivery into Service of the enhancements to the Train Facilities set out in Appendix 7B of Schedule 2.1 of the applicable PPP Contract at all or by the date which it would otherwise have achieved such Delivery into Service,

which in each case it would not have suffered incurred or failed to achieve but for the manner in which the obligation had been performed or the right exercised by the relevant Infraco.

8.4 Each Infraco shall when it is an Owner Infraco give consideration, acting reasonably, and if it so agrees, support, to a request by any User Infraco to relocate any Alien Asset or Shared Use Asset to any other part of the Owner Infraco's Premises where the request for such relocation results from any works to enhance improve or upgrade the Underground Network which the User Infraco is obliged to complete under the terms of the Transaction Documents and each User Infraco shall give equal consideration to the like request by an Owner Infraco to make such relocation.

8.5 Each Owner Infraco shall use its best endeavours to co-operate with any request by another Infraco to enhance or maintain any of the Owner Infraco's Assets where the request for such enhancement or maintenance is related to any enhancement or upgrade works required to be carried out by the other Infraco under the terms of the Transaction Documents where (in accordance with Good Industry Practice) such obligation can only be complied with in conjunction with the enhancement or upgrade of any such Asset on the Owner Infraco's Premises provided that the cost of any such enhancement shall be apportioned between the Owner Infraco and the User Infraco and any liability for the cost of such works shall be a matter for negotiation between the relevant Infracos prior to commencement of the works and provided further that the benefit anticipated to accrue to each Infraco as a result of such enhancement in terms of Availability or Capability shall be material considerations in any such negotiations.

8.6 Each Owner Infraco shall in performing; its obligation pursuant to paragraph 8.5 above produce to and agree with the User Infraco a method statement prior to the commencement of such works provided that any material modification or construction of any such Asset shall require the prior written approval and consent of the User Infraco to the said method statement and works prior to commencement of the said works (such approval and consent not to be unreasonably withheld or delayed).

9. ALIEN SHARED USE ASSETS

In relation to any Alien Shared Use Asset there shall be only one Maintaining Infraco who shall be the Maintaining Infraco specified in the table annexed to Schedule 1 in relation to each specified Infraco pairing.

SCHEDULE 5

ALIEN ALLOCATED SPACE

1. DEFINITIONS AND INTERPRETATION

In this Schedule 5 the following expressions when used in this Schedule 5 only shall, unless the context otherwise requires, have the following meanings:

Alien Allocated Space means the rooms or space within the Premises of another Infraco which are occupied or used by an Alien Infraco from time to time as more particularly described and specified in the Space Allocation Table;

Alien Infraco means an Infraco other than the Owner Infraco;

Owner Infraco means in relation to Alien Allocated Space, the Infraco whose Lease or any of whose Ancillary Lease(s) includes in the demise the relevant Alien Allocated Space.

Space Allocation Table means the table recording the allocation of space within LUL's Premises to Infraco as agreed and initialled by LUL, the Owner Infraco and the Alien Infraco at the date hereof and as from time to time amended in so far as it relates to Alien Allocated Space in accordance with the provisions of the Fifth Schedule to each Lease.

2. ACCESS AND USE

In relation to each Alien Allocated Space the Owner Infraco agrees that the relevant Alien Infraco specified in the Space Allocation Table shall be permitted to use the relevant Alien Allocated Space for the use set out in the Space Allocation Table in accordance with the provisions of the Fifth Schedule to the Lease of the relevant Alien Infraco in connection with the performance by the Alien Infraco of its obligations and/or the exercise of its rights under the Transaction Documents and to enter the Premises let to the Owner Infraco together with such equipment as the Alien Infraco reasonably requires for the purposes of gaining access to the Alien Allocated Space and exercising its rights under this Schedule 5.

3. MAINTENANCE AND IMPROVEMENT OF ALIEN ALLOCATED SPACE

3.1 Each Owner Infraco acknowledges in relation to each Alien Allocated Space that as such Alien Allocated Space forms part of the Premises and is therefore the Asset of the relevant Owner Infraco, it is the responsibility of that Owner Infraco to maintain, renew and enhance such Alien Allocated Space in accordance with the applicable PPP Contract.

3.2 The Owner Infraco agrees with each Alien Infraco to use reasonable endeavours to procure that the Alien Allocated Space is maintained in such condition (including without limitation, air quality and temperature) as the Alien Infraco may reasonably require for the proper use of the Alien Allocated Space.

3.3 An Owner Infraco in relation to an Alien Allocated Space shall at the request and cost of the relevant Alien Infraco make such improvement to the Alien Allocated Space as is reasonable having regard to the respective obligations of each Infraco under the applicable PPP Contract.

4. INFORMATION SHARING

4.1 Each party shall at all times nominate a suitably qualified person (a *Nominated Person*), who shall act as the point of contact for the purposes of sharing information in relation to any Alien Allocated Space.

4.2 Each party shall forthwith inform each other party of the identity of the Nominated Person any substitute or replacement for such person from time to time.

4.3 In the event that an Alien Infraco becomes aware of a defect, fault or lack of repair, or any circumstances likely to lead to the existence of the same in any Alien Allocated Space where that Alien Infraco is aware or ought reasonably to be aware that the same interferes with or is capable of interfering with the exercise of any party's rights or the performance by any party of its obligations under any Transaction Document, the Nominated Person of that Alien Infraco shall provide to the Nominated Person of the Owner Infraco a notice (a *Defect Notice*) containing such details as are available to it of the defect, fault or lack of repair or the circumstances likely to lead to a defect, fault or lack of repair which the Owner Infraco is liable to repair, remedy or make good. If the Nominated Person is not the person responsible within the Infraco for remedying or avoiding any such defect, fault or lack of repair he shall pass on the information to the persons who are so responsible.

5. REMEDYING WANTS OF REPAIR

5.1 In the event that any Owner Infraco receives a Defect Notice pursuant to paragraph 4 above, it shall as soon as reasonably practicable commence and diligently proceed to remedy, repair or make good as applicable any defect, fault or lack of repair to which the Defect Notice relates.

5.2 If the Owner Infraco fails to commence to remedy, repair or make good the matters prescribed in the Defect Notice and thereafter diligently proceed to complete such remedy, repair or making good in accordance with paragraph 5.1 above, or in any event within 28 days of receiving the Defect Notice, the relevant Alien Infraco shall be entitled to enter the relevant Premises (together with such persons authorised by Alien Infraco and such equipment as the Alien Infraco reasonably requires) and to remedy and make good the defect, fault or lack of repair to which the Defect Notice relates at the expense of the Owner Infraco and the Infraco shall pay within 28 days of receipt of demand the reasonable costs and expenses incurred by the Alien Infraco in carrying out such works.

6. MANNER OF EXERCISE AND PERFORMANCE

6.1 Any party exercising its rights or performing its obligations under this Schedule shall:

- (a) comply with Good Industry Practice;
- (b) do so in a manner as to cause as little damage as is reasonably practicable and shall make good any physical damage caused by it;
- (c) to the extent reasonably practicable, do so in a manner so as to cause the minimum obstruction or interference to any other party in the performance of its obligations or exercise of its rights under the Transaction Documents.

7. OCCUPANCY SURVEY

7.1 It is recognised that there may be instances of Alien Infraco occupation at Stations and premises comprised in another Infraco's Premises which are not recorded in the Space Allocation Table. To facilitate the identification of such occupation, the parties agree to cooperate in carrying out, in phases, an occupancy survey of the remainder of the Stations and other premises within each Infraco's Premises in order that any such Alien Infraco occupation can be recorded.

7.2 It is agreed that once each phase of the occupancy survey referred to in paragraph 7.1 has been completed, the Alien Infraco occupation verified and agreed between the parties and a revised Space Allocation Table produced, the parties shall each initial the revised Space Allocation Table.

7.3 Pending completion of such occupancy survey and the Space Allocation Table, the parties agree that the provisions of this Schedule 5 shall apply to any instances of Alien Allocated Space notwithstanding that the same is not yet recorded in the Space Allocation Table.

7.4 At the end of each Contract Year each party shall initial the current version of the Space Allocation Table.

CONTENTS

CLAUSE	PAGE
1. DEFINITIONS AND INTERPRETATION	1
2. CONTRACT PERIOD.....	2
3. COMPLIANCE AND CONSENT	2
4. ASSET ALLOCATION.....	2
5. INTER INFRACO ASSET OBLIGATIONS	3
6. CONTROL ROOMS	3
7. SCHEDULES 3 AND 4	3
8. ALIEN ALLOCATED SPACE	3
9. DISPUTES AND AUDIT.....	3
Dispute Resolution.....	3
Audit.....	3
10. FORCE MAJEURE EVENT	3
11. SURVIVAL	4
12. NOTICES	4
13. WAIVER.....	5
14. ASSIGNMENT.....	6
15. SEVERABILITY	6
16. LIMITATION ON LIABILITY	6
17. CONSTRUCTION CONTRACTS (ENGLAND AND WALES) EXCLUSION ORDER 1998	7
18. VALUE ADDED TAX.....	7
19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	7
20. GOVERNING LAW.....	7
21. CHANGE PROCESS.....	7
SCHEDULE 1 DEFINITIONS.....	9
ANNEX ALLOCATION OF ALIEN SHARED USE ASSETS.....	14
SCHEDULE 2 ASSET ALLOCATION.....	15
1. Principles of Asset Allocation	15
2. PFI and Third Party Contracts	16
3. Alien Assets	16
SCHEDULE 3 INTER-INFRACO ASSET OBLIGATIONS	37
1. Access	37
2. Maintenance, Repair and Improvement	37

3.	Support for Alien Assets and Shared Use Assets	38
4.	Manner of Exercise and Performance	39
5.	Information Sharing	40
6.	Remedying wants of Repair	40
7.	Disposals	41
8.	Co-Operation.....	41
9.	Alien Shared Use Assets.....	42
SCHEDULE 4 CONTROL ROOMS.....		43
1.	Definitions and Interpretation.....	43
2.	Current Allocation and Principles of Future Allocation.....	47
3.	Access	49
4.	Maintenance, Repair and Improvement of Equipment within Alien Control Rooms and Alien Shared Use Control Rooms.....	49
5.	Non Alien Shared Use Control Room Equipment	50
6.	Capital Expenditure by User Infraco	50
7.	Support for Alien Control Rooms and Shared Use Control Rooms	51
8.	Manner of Exercise and Performance	51
9.	Information Sharing	52
10.	Disposals	52
11.	Co-Operation.....	53
ANNEX - PART A ALLOCATION OF CONTROL ROOMS		55
ANNEX – PART B ALLOCATION OF BACKUP CONTROL ROOMS		59
SCHEDULE 5 ALIEN ALLOCATED SPACE		61
1.	Definitions and Interpretation.....	61
2.	Access and Use	61
3.	Maintenance and Improvement of Alien Allocated Space	61
4.	Information Sharing	62
5.	Remedying Wants of Repair	62
6.	Manner of Exercise and Performance	62
7.	Occupancy Survey	63

31 DECEMBER 2002

LONDON UNDERGROUND LTD

INFRACO BCV LIMITED

INFRACO SUB-SURFACE LIMITED

INFRACO JNP LIMITED

**AMENDED AND RESTATED INTER-
INFRACO ASSETS AND FACILITIES
AGREEMENT**

