



COMMERCIAL

# PROJECT DEVELOPMENT AGREEMENT

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\* Schedule 2 Sponsors' Requirements VS. 4.1.0 dated 10 March 2010 on CMS



# Crossrail Project Development Agreement

The Secretary of State for Transport

and

Transport for London

and

Crossrail Limited

3 December 2008

**Revised as approved by the Sponsor Board on 6 April 2011  
(REDACTED)**



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**THIS AGREEMENT IS MADE THIS [3<sup>rd</sup>] DAY OF [December] 2008**

**BETWEEN:**

**THE SECRETARY OF STATE FOR TRANSPORT** of Great Minster House, 76 Marsham Street, London SW1P 4DR ("**SoS**");

**TRANSPORT FOR LONDON** of Windsor House, 42-50 Victoria Street, London SW1H 0TL ("**TfL**");  
and

**CROSSRAIL LIMITED**, whose registered address is at 25 Canada Square, LONDON, E14 5LQ ("**CRL**").

**WHEREAS**

**RECITALS**

- (A) The Crossrail Project is a key element of the transport planning strategy of both Her Majesty's Government and the Mayor of London.
- (B) SoS and TfL have agreed to act as sponsors in relation to, and to co-operate to procure the development and implementation of, the Crossrail Project.
- (C) CRL was originally established principally to assist in the promotion of the Crossrail Bill and for the purpose of implementing the development of the Crossrail Project in accordance with the terms of the Project Documents. CRL intends to change its name to Crossrail Limited (CRL).
- (D) As of the date of this Agreement, each of SoS and TfL owns 50 per cent of the issued share capital of CRL. Pursuant to the Sponsors Agreement, SoS has agreed to procure the transfer of its indirect ownership interest in CRL to a wholly-owned subsidiary of TfL and, as of the Effective Date, CRL shall be an indirect wholly-owned subsidiary of TfL.
- (E) SoS and CRL have been promoting the Crossrail Bill and on 22 July 2008 the Crossrail Act received Royal Assent. SoS and TfL have also secured the funding commitments necessary to implement the Crossrail Project.
- (F) Having secured the funding commitments and legislative support necessary for the Crossrail Project, SoS and TfL now wish to formally appoint CRL to manage the delivery of the Crossrail Project.
- (G) This Agreement sets out the terms and conditions upon which CRL is appointed to deliver and implement the Crossrail Project.

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**Access Charge** means any charge payable by CRL to Network Rail in respect of track access, station access or depot access on the On-Network Sections in connection with the Crossrail Project;

**Acquisition Documentation** means the notices and plans to be served on the owners of Land to be acquired for the Crossrail Project and any related correspondence pursuant to the provisions of the Crossrail Act;

**Actual Final CRL Direct Costs** means the aggregate of all Costs incurred by CRL or accrued for payment by CRL in respect of the Project Period (net of any recovered VAT) plus, to the extent not already included:

- (a) the cost of purchase (net of any recovered VAT) of the CWG Works for the then current forecast Asset Price (as defined in the CWG Agreement), as shown in the Financial Models;
- (b) the amounts (net of any recovered VAT) payable to Berkeley Homes for the BH Works, as shown in the Financial Models; and
- (c) any amount paid out (net of any recovered VAT) by TfL or SoS in respect of a liability of CRL pursuant to any guarantee or other credit support provided in respect of CRL's obligations to deliver the Crossrail Project,

less the aggregate of any such Costs which have been recovered by CRL (other than pursuant to Clause 17.3) and any claims which have been recovered by CRL;

**Adjusted Anticipated Final Cost** means the aggregate of:

- (a) the Anticipated Final CRL Direct Costs;
- (b) [£ redacted] (representing the deemed Costs of the On-Network Works); and
- (c) [£ redacted] (representing the deemed Costs of the Depot),

less:

- (d) NR Financing Costs; and
- (e) Tax Costs,

as shown in the Financial Models;

**Adverse Event** has the meaning given to such term in Clause 22.1;

**Adverse Event Notice** has the meaning given to such term in Clause 22.1;

**Affiliate** means, in relation to a person, a subsidiary or a holding company of that person or a subsidiary of the holding company of that person and the expressions **holding**

**company** and **subsidiary** shall have the meanings respectively given to them pursuant to Section 1159 of the Companies Act 2006 (as modified, amended or replaced from time to time);

**Affirmation** means the affirmation of the interpretation of any requirement of the Sponsors Requirements in accordance with Clause 15.1;

**Affirmation Process** means the process agreed from time to time between CRL and the Sponsors for Affirmation in accordance with Clause 15.1;

**Annual Budget** means the annual budget developed by CRL in accordance with clause 17 of the TfL Shareholder Agreement;

**Annual Business Plan** means the forward business plan developed by CRL in accordance with clause 17 of the TfL Shareholder Agreement;

**Anticipated Final Cost** means the aggregate of:

- (a) the Anticipated Final CRL Direct Costs;
- (b) the Costs incurred and forecast to be incurred (net of any recovered or recoverable VAT) by Network Rail in delivering the On-Network Works in respect of the Project Period; and
- (c) the actual and forecast Costs (net of any recovered or recoverable VAT) of the Depot in respect of the Project Period,

less:

- (d) NR Financing Costs; and
- (e) Tax Costs,

as shown in the Financial Models;

**Anticipated Final CRL Direct Costs** means the aggregate of all Costs incurred or forecast to be incurred by CRL or accrued for payment by CRL in respect of the Project Period (net of any recovered or recoverable VAT) plus, to the extent not already included

- (a) the amounts (net of any recovered or recoverable VAT) payable to Berkeley Homes for the BH Works, as shown in the Financial Models; and
- (b) any amount paid out or to be paid out (net of recovered or recoverable VAT) by TfL or the SoS in respect of a liability of CRL pursuant to any guarantee or other credit support provided in respect of CRL's obligations to deliver the Crossrail Project;

less the aggregate of any such Costs which are recovered or recoverable by CRL (other than pursuant to Clause 17.3) and any claims which have been recovered by CRL or have become due and payable to CRL.

**Applicable Law** means:



- (a) any applicable national, regional, municipal, local, civil, criminal or administrative law, common law, statute, statutory instrument, regulation, directive, order, direction, ordinance, tariff regime;
- (b) any rule, code, standards and guidance (having the force of law); or
- (c) any decree or judgment or measure of similar effect to any of the foregoing (including any amendment, extension or re-enactment or any of the same enforced from time to time),

of any Government Authority which has appropriate jurisdiction;

**Applicable Standards** means all codes of practice or other guidelines issued by any Government Authority or other body having jurisdiction to issue such guidelines in respect of the Crossrail Project;

**Asset Price** has the meaning given to such term in the CWG Agreement;

**Asset Price Payment Date** has the meaning given to such term in the CWG Agreement;

**Assurance Process** has the meaning given to such term in Clause 15.2(a);

**BAA** means BAA Airports Limited, a company registered in England under company number 01970855 and having its registered office at 130 Wilton Road, London SW1V 1LQ;

**BAA Compensation Agreement** means the agreement of that name dated 30 May 2008 and entered into between SoS, HEOC, HAL and BAA;

**BAA Contribution and Service Commitment Letter** means the letter dated 10 November 2008 between HAL and SoS;

**BAA Deed of Undertaking** means the deed of that name dated 30 May 2008 between SoS, BAA, HAL and HEOC;

**BAA Deed of Waiver and Amendment** means the deed of that name dated 30 May 2008 between SoS, Network Rail, HEOC, HAL and BAA;

**BAA Deed of Waiver and Amendment Side Letter** means the side letter of that name dated 30 May 2008 between SoS, BAA, Network Rail, HAL and HEOC;

**BAA Documents** means:

- (a) the BAA Interface Agreement;
- (b) the BAA Deed of Waiver and Amendment;
- (c) the BAA Deed of Undertaking;
- (d) the BAA Supplemental Agreement;
- (e) the BAA Compensation Agreement;
- (f) the BAA Contribution and Service Commitment Letter;
- (g) the BAA Deed of Waiver and Amendment Side Letter; and

(h) such other documents as the Parties may agree is a BAA Document;

**BAA Interface Agreement** means the agreement of that name dated 17 July 2006 between SoS, BAA, HAL and HEOC;

**BAA Supplemental Agreement** means the agreement of that name dated 30 May 2008 between Network Rail and HEOC;

**BAA TAO** means the track access option to be entered into between SoS and HAL;

**Background Crossrail IP** has the meaning given to such term in Clause 19.1(a)(ii);

**Baseline Crossrail Investment Model** means the Crossrail Investment Model to be agreed and identified as such by no later than 30 September 2009, as further adjusted as the Sponsors may subsequently agree in accordance with Schedule 7;

**Baseline Indices** has the meaning given to such term in paragraph 3 of Part 2 of Schedule 7;

**Baseline OSD Works Design** means the design assumptions specified in the CRL document entitled "Over Site Development - Key Interface Design Parameters" and identified as document number CR-PY-PRW-X-TD-00001;

**Baseline Project Financial Model** means the Project Financial Model to be agreed and identified as such by no later than 30 September 2009, as further adjusted as the Sponsors may subsequently agree in accordance with Schedule 7;

**Berkeley Homes** or **BH** means Berkeley Homes (East Thames) Limited, a limited company incorporated and existing under the laws of England and Wales with registered number 04480928 and with its registered office at Berkeley House, 19 Portsmouth Road, Cobham, Surrey KT11 1JG;

**Best Current Practice** means practices corresponding with or equivalent to successful, reliable and safe examples of relevant modern designs, construction methods, systems and systems operation, railway operation and management and governance procedures employed on recent national or international railway and tunnelling projects or major construction works;

**BH Works** means the permanent and temporary works to be carried out by Berkeley Homes under the Woolwich Station Box Deed;

**British Waterways Board** means the non-departmental public corporation created by the Transport Act 1962 as the navigation authority for the inland waterways under its control;

**BWB Documents** means the agreements among SoS, CRL, CWG and/or TfL and the British Waterways Board relating to a Development Opportunity at the Isle of Dogs Station;

**CAG** means the joint assurance body known as the "CRL Compliance and Assurance Group" and appointed by CRL, LUL, RfL and Network Rail for the purposes of assuring compliance with the requisite standards and statutory regulation in relation to the design and construction of the Crossrail Project;

**Cash Management Funding Amount** has the meaning given in the TfL Shareholder Agreement;

**CDM Regulations** has the meaning given to such term in Clause 12.1;

**Central Access Section** means that part of the Central Operating Section which is the subject of the demise by TfL to CRL pursuant to the CRL Lease;

**Central Core Area** means that part of the Central Operating Section between (i) Royal Oak (in the City of Westminster) and Pudding Mill Lane (in the London Borough of Newham) and (ii) Royal Oak (in the City of Westminster) and Plumstead (in the London Borough of Greenwich);

**Central Core Area Infrastructure** means the new tunnels and the new tracks, signalling, utility and other railway infrastructure and systems to be developed in the Central Core Area other than the Central Operating Section Stations;

**Central Core Area Works** means the Crossrail Project Works being carried out under this Agreement between (i) Royal Oak (in the City of Westminster) and Pudding Mill Lane (in the London Borough of Newham) and (ii) Royal Oak (in the City of Westminster) and Plumstead (in the London Borough of Greenwich);

**Central Operating Section** means the part of the Crossrail Network (i) between Royal Oak (in the City of Westminster) and Pudding Mill Lane (in the London Borough of Newham) and (ii) between Royal Oak (in the City of Westminster) and Abbey Wood (in the London Borough of Greenwich), the exact parameters of which shall be determined pursuant to the Sponsors Requirements;

**Central Operating Section Stations** means:

- (a) the new sub-surface stations at Paddington, Bond Street, Tottenham Court Road, Farringdon, Liverpool Street, Whitechapel and the Isle of Dogs referred to in the Sponsors Requirements;
- (b) the existing station at Custom House that is to be upgraded and that is referred to in the Sponsors Requirements; and
- (c) if commissioned and fitted out (which it is acknowledged is outside the scope of this Agreement as at the date of this Agreement) the station at Woolwich for which the Woolwich Station Box is being constructed;

**Change** means:

- (a) any variation proposed by either the Sponsors or CRL (whether by way of addition, deletion, amendment or further definition) to the Sponsors Requirements;
- (b) any requirement of the Sponsors for CRL to change the manner in which CRL undertakes the design, construction, commissioning and completion of the Crossrail Project or the Crossrail Project Works including any additional or removed requirement or constraint unless such change is required to ensure that CRL complies with its obligations under this Agreement;
- (c) any requirement of the Sponsors for CRL to procure any study, investigation, design or other service or report in connection with the Crossrail Project which CRL is not otherwise required to provide pursuant to this Agreement;
- (d) any new CRL Undertaking identified pursuant to Clause 4.2(c)(i); and
- (e) any other matter that this Agreement specifically deems to be a Change;

**Change Appraisal** means any written report delivered by CRL in accordance with paragraph 4.1 of Schedule 4 and containing the information specified in paragraph 4.2 of Schedule 4;

**Change Appraisal Instruction** means a written notification provided by the Sponsors pursuant to paragraph 3.2(b) of Schedule 4 and containing the information specified in paragraph 3.3 of Schedule 4;

**Change Confirmation Notice** has the meaning given to such term in paragraph 7.1 of Schedule 4;

**Change in Law** means the introduction, repeal (in whole or in part) or amendment, alteration or modification to or change in interpretation of any Applicable Law, that occurs after the date of this Agreement, if such introduction, repeal, amendment, alteration, modification or change results in a delay in the carrying out of any construction work during the Development Phase and/or results in an increase in the Costs to CRL of performing its obligations;

**Change Notice** means either (a) a notice served jointly by the Sponsors on CRL pursuant to paragraph 1.1 of Schedule 4 or (b) a notice served by CRL on the Sponsors pursuant to paragraph 1.2 of Schedule 4, as the context may require;

**Change Rejection Notice** has the meaning given to such term in paragraph 7.3 of Schedule 4;

**City of London Corporation** means the municipal governing body of the City of London more formally known as the Mayor and Commonalty and Citizens of the City of London;

**City of London Corporation Additional Contribution** means all funding amounts in excess of £250 million (which sum is, for the avoidance of doubt, included within the SoS Funding Amount) which the City of London Corporation commits in writing to make available for the purposes of the Crossrail Project;

**City of London Corporation Agreement** means the agreement to be entered into between SoS and the City of London Corporation in respect of financial contributions to the costs of the Crossrail Project;

**Communications Strategy** has the meaning given to such term in Clause 20.1(a);

**Confidential Information** means information not in the public domain that ought to be considered as confidential (however it is conveyed or on whatever media it is stored), including information which is designated in writing as confidential or whose disclosure would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property and know-how of any party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1988;

**Consents** means all permissions, approvals, certificates, permits, licences or authorisations of a Government Authority which are required in order to achieve Final Completion;

**Consultation Member** has the meaning given to such term in Clause 10.2;

**Costs** means, in relation to any costs referred to in this Agreement:

(a) the nominal amount of such costs incurred up to the relevant calculation date; and

- (b) the nominal amount of such costs forecast to be incurred after the relevant calculation date (including risk contingency) determined on a P50 (unless stated otherwise) basis pursuant to Part 1 of Schedule 7 and assuming an inflation rate equal to the then current Mid Case Indices;

**CRL Articles** means the memorandum and articles of association of CRL to be adopted on or around the Effective Date by TTL as sole shareholder of CRL in the form agreed between TfL, SoS and CRL as the same may be amended from time to time;

**CRL Bank Account** has the meaning given to such term in the TfL Shareholder Agreement;

**CRL Board** means the board of directors of CRL;

**CRL Default** has the meaning given to such term in Clause 23.5(a);

**CRL Executives** means the Executive Chair or the Chief Executive Officer (if appointed) and the executive directors of the CRL Board and the first layer of senior management of CRL below board level;

**CRL Lease** means the lease to be entered into between TfL and CRL pursuant to Clause 11.4;

**CRL Novated Agreement** has the meaning given to such term in Clause 7.4(b);

**CRL-RfL Interface Programme** has the meaning given to such term in paragraph 1.1 of Schedule 12;

**CRL Transferred Obligation** has the meaning given to such term in Clause 7.4(c);

**CRL Undertaking** has the meaning given to such term in Clause 4.2(a);

**CRL Undertakings Default** has the meaning given to such term in Clause 4.2(j);

**Crossrail Act** means the Crossrail Act 2008;

**Crossrail Hardship Policy** means the Crossrail Information Paper C8 Purchase of Property in Cases of Hardship first published in November 2005, as updated from time to time;

**Crossrail Intellectual Property** means the Background Crossrail IP and the Developed Crossrail IP;

**Crossrail Investment Model** means the financial model recording the actual and forecast funding and Costs of CRL (including the assumptions used, the cell logic network for the financial model software and any accompanying documentation necessary to operate the financial model), as updated from time to time in accordance with this Agreement;

**Crossrail Network** means the railway routes, depots and stations forming part of the Crossrail Project;

**Crossrail Programme Functional Requirements** means the document developed by CRL setting out the functional requirements which CRL intends to deliver to satisfy the Sponsors Requirements, as the same may be amended from time to time by CRL in accordance with Clause 3.4;

**Crossrail Project** means the project for the development, design, procurement, construction, commissioning, integration and completion of a railway transport system that is capable of operating services from Maidenhead in the County of Berkshire and from Heathrow Airport in the London Borough of Hillingdon through central London to Shenfield in the County of Essex and Abbey Wood in the London Borough of Greenwich in accordance with the Sponsors Requirements;

**Crossrail Project Works** means the permanent and temporary works required for the implementation of the Crossrail Project;

**Crossrail TOC** means any train operating company operating Train Services;

**CWG** means Canary Wharf Group plc;

**CWG Agreement** means the Isle of Dogs station building development agreement to be entered into amongst, *inter alios*, SoS and/or TfL, the CWG SPV and CWG (as guarantor) pursuant to which the CWG SPV procures the design and construction of Isle of Dogs Station and SoS or TfL (as appropriate) gives certain undertakings to facilitate such design and construction;

**CWG Direct Agreement** means the direct agreement to be entered into between SoS and the senior funders to the CWG SPV in relation to the CWG Works;

**CWG Documents** means:

- (a) the CWG Agreement;
- (b) the CWG Parent Company Guarantee;
- (c) the TfL CWG Credit Support;
- (d) the Isle of Dogs OSD;
- (e) the Isle of Dogs Station Lease;
- (f) the CWG Direct Agreement;
- (g) any leaseback arrangement entered into pursuant to the CWG Agreement; and
- (h) such other documents as the Parties may agree is a CWG Document;

**CWG Parent Company Guarantee** means the parent company guarantee to be issued by CWG in favour of CRL and SoS (or his nominee) in respect of certain obligations of the CWG SPV;

**CWG SPV** has the meaning given to the term "Contractor" in the CWG Agreement;

**CWG Works** means the permanent and temporary works to be carried out by the CWG SPV under the CWG Agreement;

**Delivery Contractors** means each of the counterparties to the Delivery Contracts;

**Delivery Contract Requirements** means the mandatory core terms for all Delivery Contracts as set out in Schedule 9;

**Delivery Contracts** means each of the contracts that CRL will enter into after the date of this Agreement to procure the design, construction, commissioning and/or completion of the Central Core Area Works (but excluding the Industry Partner Agreements and the Delivery Partner Appointments);

**Delivery Partner** means the person or persons appointed by CRL to assist CRL in the areas of programme and project management of the Crossrail Project;

**Delivery Partner Appointment** means any contract entered into by CRL to appoint a Delivery Partner;

**Delivery Strategy** means the strategy to be developed by CRL setting out the manner in which CRL intends to procure the implementation of the Crossrail Project, as the same may be amended from time to time by CRL in accordance with Clause 3.5;

**Depot** means the light maintenance and stabling depot as referred to in the Crossrail Programme Functional Requirements;

**Depot Commercial and Operational Requirements** has the meaning given to such term in Clause 9.5;

**Depot Contract** means the contract to be entered into between the person nominated by the Sponsors and the Depot Contractor for the procurement of the Depot;

**Depot Contractor** means the contractor engaged to design, construct, operate and maintain the Depot;

**Depot Interface Specification** has the meaning given to such term in Clause 9.6;

**Depot Lease** means the lease dated 22 February 1996 made between Railtrack plc and Mainline Freight Limited;

**Depot Procurement Programme** means the programme for the procurement of the Depot to be developed by CRL, TfL and RfL pursuant to Clause 9.3;

**Depot Procurement Strategy** has the meaning given to such term in Clause 9.8(a);

**Depot Technical Specification** has the meaning given to such term in Clause 9.7;

**Depot Works** means the permanent and temporary works to be carried out by the Depot Contractor under the Depot Contract;

**Developed Crossrail IP** has the meaning given to such term in Clause 19.1(a)(i);

**Development Opportunity** means the development or opportunity for development of any Land acquired for the purposes of the Crossrail Project as contemplated by clause 13 of the Sponsors Agreement (including any over-site development referred to in the Environmental Minimum Requirements) where such Land is generally not required for the operation of the Railway;

**Development Opportunity Change** has the meaning specified in Clause 11.7(i);

**Development Opportunity Matters** has the meaning given to such term in Clause 11.7(d);

**Development Phase** means the period commencing on the Effective Date and ending on the Final Completion Date;

**Development Sites** means those property sites (including those which are subject to the Oversight Development Collaboration Agreements) which are acquired for the purpose of the Crossrail Project and which are either surplus to the needs of the Operators or are otherwise capable of being developed for non-railway uses following the implementation of the Crossrail Project;

**Dispute** means any dispute, disagreement, difference of opinion or deadlock arising between any of the Parties under or in respect of any matter arising from this Agreement, any other Principal Project Document or otherwise in connection with the Crossrail Project;

**Dispute Resolution Procedure** means the procedure for the escalation and resolution of Disputes set out in Clause 29;

**Disputes Panel** means the panel of experts established by CRL and notified to the Sponsors from time to time;

**DLR Documents** means:

- (a) the DLR Overarching Agreement;
- (b) the DLR Works Agreement;
- (c) the DLR Property Agreement;
- (d) the DLR O&M Framework Agreement; and
- (e) such other documents as the Parties may agree is a DLR Document;

**DLRL** means Docklands Light Railway Limited (company number 02052677), whose registered office is at Operations and Maintenance Centre, PO Box 154, Castor Lane, Poplar, London E14 0DX;

**DLR O&M Framework Agreement** means the agreement of that name to be entered into between DLRL and CRL in connection with the interface arrangements for the operation and maintenance of the Crossrail Project Works and DLRL property;

**DLR Overarching Agreement** means the agreement of that name dated on or about the date hereof between DLRL and CRL in connection with (i) the process and timetable for finalising the DLR Works Agreement, the DLR Property Agreement and the DLR O&M Framework Agreement; and (ii) the carrying out of certain design development work and surveys prior to entering into the DLR Works Agreement;

**DLR Property Agreement** means the agreement of that name to be entered into between CRL and DLRL governing the interaction of the parties' respective property interests during the implementation of the Crossrail Project;

**DLR Works** means (i) the replacement works in respect of DLRL property which are required as a consequence of the Crossrail Project; and (ii) the Crossrail Project Works which are in close proximity to and interface with DLRL property;



**DLR Works Agreement** means the agreement of that name to be entered into between CRL and DLRL in connection with the design, construction, commissioning, integration and completion of the DLR Works;

**Dynamic Testing** means the stage of testing that requires the movement of trains to demonstrate those functions that cannot be fully demonstrated by static testing alone as part of the Assurance Process;

**Effective Date** means the date on which the Sponsors Agreement becomes unconditional in accordance with the terms thereof (save with regard to any condition relating to the conditionality of this Agreement);

**Element** has the meaning given to such term in Clause 16.2(a);

**EMR Allocation Process** has the meaning given to such term in Clause 4.2(b);

**Environmental Minimum Requirements** means the requirements set out in the following documents:

- (a) Environmental Minimum Requirements - General Principles - Version 5.0 - dated 22 July 2008, paragraphs 1.5 and 3.6 to 3.10;
- (b) the undertakings and assurances concerning the Crossrail Project specified in the Crossrail Register of Undertakings and Assurances published by the Department for Transport; and
- (c) EMR Annex 2 - Planning Memorandum - Draft 4.0 - dated 2 November 2007;

**Equality Impact Assessment** means the Crossrail Equality Impact Assessment (Project and Policy Assessment Report), published in January 2006, together with the Amendment of Provisions Equality Impact Assessment, published on 12 February 2007, the Amendment of Provisions 4 Equality Impact Assessment, published on 1 August 2007, and the Crossrail Equality Impact Assessment (Public Consultation Comments and Crossrail's Response), published on 24 January 2008 as well as any future equality impact assessment documents or revisions agreed by the Parties;

**Escrow Materials** means (i) the source code versions of all software (including any corrected, updated or enhanced versions of that software), other than under Standard Software Licences and (ii) all other materials (including documentation, technical information and hardware), required by any of CRL, the Sponsors and/or the Operators in connection with the Crossrail Project;

**EWS** means English Welsh & Scottish Railway Ltd (registered company number 2938988), whose registered office is at Lakeside Business Park, Carolina Way, Doncaster DN4 5PN;

**Final Completion** means the satisfaction of the Final Completion Criteria;

**Final Completion Certificate** has the meaning given to such term in Clause 16.5(b)(i);

**Final Completion Criteria** has the meaning given to such term in Clause 16.5(a);

**Final Completion Date** means the date at which Final Completion occurs as certified by CRL and endorsed by the Sponsors in accordance with Clause 16.5(b);

**Final Delivery Date** means the date on which Substantial Completion occurs in respect of the last Element of the Railway as certified by CRL and endorsed by the Sponsors pursuant to Clause 16.3(c);

**Financial Models** means the Crossrail Investment Model, Project Financial Model and the QRA;

**FOIA** means the Freedom of Information Act 2000;

**FOIA Discloser** has the meaning given to such term in Clause 31.2;

**FOIA Recipient** has the meaning given to such term in Clause 31.2;

**FOI Legislation** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them, and any guidance issued by the Information Commissioner (as defined therein), the Ministry of Justice, or the Department for Environment, Food and Rural Affairs (including in each case its successors) in relation to such legislation;

**Forecast Final Delivery Date** means the date on which the Final Delivery Date is forecast by CRL to occur in each Semi-Annual Construction Report;

**Funding Date** means each date identified in the Funding Schedule;

**Funding Schedule** means Schedule 8;

**GLA** means the Greater London Authority, a body corporate established under the Greater London Authority Act 1999;

**Government Authority** means any legislative, judicial, regulatory, governmental or administrative body, agency or other authority of any kind (whether of a national, regional, municipal, local, civil or administrative nature) (or any subdivision of them) of the United Kingdom or the European Union or any supranational body which has rule-making power or whose directions, instructions, rulings, laws or regulations are directly enforceable against a person including Her Majesty's Treasury, HMRI, the Health and Safety Executive, the Rail Safety and Standards Board, and the ORR;

**Group** means, in respect of any person, that person and its Affiliates;

**GVD** means a general vesting declaration made pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981;

**HAL** means Heathrow Airport Limited, a company registered in England under company number 01991017 whose registered address is at 130 Wilton Road, London SW1V 1LQ;

**HAL Contribution Agreement** means the agreement between SoS and HAL dated 10 November 2008 pursuant to which HAL will make a contribution towards the cost of the Crossrail Project;

**Handover** has the meaning given to such term in Clause 16.2(a);

**HEOC** means Heathrow Express Operating Company Limited, a company registered in England under company number 03145133 and having its registered office at 130 Wilton Road, London SW1V 1LQ;

**HMRI** means Her Majesty's Railway Inspectorate and includes any successor to all or any of its functions;

**Industry Partner Agreements** means the NR Delivery Agreements, the LUL Agreement, the CWG Documents, the Woolwich Documents, the BAA Documents, the DLR Documents and the BWB Documents;

**Industry Partners** means each of Network Rail, LUL, CWG, Berkeley Homes, BAA, DLRL and BWB;

**Inflation Expert** means National Economic Research Associates (NERA) or such other independent expert as the Sponsor may agree from time to time;

**Information** has the meaning given to such term in Section 84 of the FOIA;

**Information Request** means any request by any person for Information under the FOI Legislation;

**Infrastructure Manager** means, in relation to any infrastructure forming part of the Crossrail Project, the person satisfying the definition of "infrastructure manager" as set out in Section 2(1) of the ROGS in relation to such infrastructure;

**Initial Change Appraisal** has the meaning given to such term in paragraph 2.1 of Schedule 4;

**Initial CRL Transferred Obligations** means the obligations of the Sponsors pursuant to the Industry Partner Agreements as set out in Schedule 6;

**Insurance Strategy** has the meaning given to such term in Clause 18.1;

**Intellectual Property** means: (i) all current and future registered or unregistered trade marks, service marks, rights in logos, rights in get-up, trade names, domain names, rights in e-mail addresses, patents, rights in inventions, rights in designs, utility models, copyright (including rights in computer software and copyright relating to any constructional, technical and/or design plans relating to the Crossrail Project) and moral rights, semi-conductor topography rights, database rights (including rights to extract information from databases), and rights in confidential information, trade secrets and know-how; (ii) all other intellectual property rights (whether or not registered) and similar or equivalent rights anywhere in the world which currently exist or are recognised in the future; and (iii) applications, extensions and renewals in relation to any such rights;

**Interim Property Income** means income (exclusive of VAT and net of costs and expenses (such costs and expenses to be exclusive of recoverable VAT)) received by, or forecast to be received by, CRL arising from CRL's management of Land pursuant to Clause 11.1(b)(v) prior to the commencement of construction activities on such Land or otherwise until such Land is disposed of;

**Intervention Point 0** or **IP 0** means an amount equal to the sum of:

- (a) the Total Sponsor Committed Funding from time to time less [£ redacted]
- (b) all forecast and actual Cash Management Funding Amounts up to an aggregate cap of [£ redacted];
- (c) any City of London Corporation Additional Contribution; and

(d) any actual and forecast Interim Property Income.

**Intervention Point 1** or **IP 1** means an amount equal to the sum of:

- (a) the Total Sponsor Committed Funding from time to time;
- (b) all forecast and actual Cash Management Funding Amounts up to an aggregate cap of [£ redacted];
- (c) any City of London Corporation Additional Contribution; and
- (d) any actual and forecast Interim Property Income

**Intervention Point 2** or **IP 2** means an amount equal to the sum of:

- (a) the Total Sponsor Committed Funding from time to time;
- (b) the TfL Contingency;
- (c) any TfL Additional Funding;
- (d) all forecast and actual Cash Management Funding Amounts;
- (e) any City of London Corporation Additional Contribution; and
- (f) any actual and forecast Interim Property Income.

**Intervention Points** means Intervention Point 0, Intervention Point 1 and Intervention Point 2;

**IP Licensees** has the meaning given to such term in Clause 19.1(b);

**Isle of Dogs OSD** means the Isle of Dogs over-site development agreement relating to the development of the over-site retail complex to be entered into between TfL, CWG, the CWG SPV and British Waterways Board;

**Isle of Dogs Station** means the new station to be constructed under the surface of the West India Dock North at Canary Wharf;

**Isle of Dogs Station Lease** means the lease of the Isle of Dogs Station for a term of 125 years to be entered into between TfL, CWG and a CWG Affiliate for the purposes of the development of the Isle of Dogs Station;

**Joint Sponsor Team** has the meaning given to such term in Clause 25.1(a);

**Joint Sponsor Team Lead** has the meaning given to such term in Clause 25.1(b);

**Key Delivery Contracts** means:

- (a) the Tunnel Boring Contract(s);
- (b) the Signalling Contract(s);
- (c) the Track Contract(s);
- (d) the Station Contract(s); and

(e) all other Delivery Contracts designated as such by the Sponsors;

**KPIs** means the key performance indicators relating to the remuneration and benefits package of the CRL Executives;

**Land** means land of any tenure and mines and minerals and buildings or parts of buildings and includes any easement, right, privilege or benefit in, over or derived from land;

**Land Disposal Policy** means the CRL information paper of such name with reference C10 and dated 20 November 2007;

**Legislation** means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972, in each case in the United Kingdom;

**Light Maintenance Depot** has the meaning given to such term in Clause 9.1;

**London Development Agency** means the regional development agency for Greater London, a functional body of GLA;

**Longstop Date** means 13 September 2020, as may be amended in accordance with this Agreement;

**LUL** means London Underground Limited, a company registered in England under company number 01900907 whose registered address is at 55 Broadway, London SW1H 0BD;

**LUL Agreement** means the agreement to be entered into between LUL and CRL in connection with the Crossrail Project;

**LUL Interface Works** has the meaning given to such term in the LUL Agreement;

**LUL Related Works** has the meaning given to the term "Interface Works" in the LUL Agreement;

**LUL Stations** means the Central Operating Section Stations other than Paddington, Isle of Dogs, Custom House and Woolwich;

**LUL Suspended Claims** means the claims designated as "Suspended Claims" pursuant to the LUL Agreement;

**Maintenance & Support Services** means any maintenance or support services, in connection with any asset forming part of the Railway, required by the Operators after Handover;

**Material Event** has the meaning given to such term in Clause 24.2;

**Material Event Notice** has the meaning given to such term in Clause 24.3(b);

**Material Event Report** has the meaning given to such term in Clause 24.3(d);

**Mayor** means the Mayor of London;

**Mid Case Indices** means the mid case inflation indices forecasts provided to CRL by the Inflation Expert from time to time in accordance with Part 2 of Schedule 7;

**Model Custodian** has the meaning given to such term in Clause 21.1(a);

**Negative Project Review Notice** has the meaning given to such term in Clause 27.4(b);

**Network Rail** or **NR** means Network Rail Infrastructure Limited, a company registered in England under company number 2904587 and having its registered office at Kings Place, 90 York Way, London N1 9AG;

**Novated Agreements** means those agreements to be novated in full from one party to another pursuant to the Relevant Agreement Allocation Process;

**Novating Sponsor** has the meaning given to such term in Clause 7.4(e);

**NR Delivery Agreements** means the NR Implementation Agreement and the NR Regulatory Protocol;

**NR Financing Costs** means the Costs paid and forecast to be paid (net of any recovered or recoverable VAT) by CRL in relation to Network Rail's financing Costs in respect of the On-Network Works;

**NR Implementation Agreement** means the agreement to be entered into between Network Rail and CRL relating to the interface between the Central Core Area and the On-Network Sections;

**NR Protective Provisions Agreement** means the agreement of such name between SoS and Network Rail, dated 9 October 2006;

**NR Regulatory Protocol** means the protocol identified as such in Schedule 5;

**NR Track Access Option** means the access option granted on 22 September 2008 by NR to SoS pursuant to section 18 of the Railways Act 1993;

**On-Network Sections** means those sections of the Crossrail Project outside the Central Core Area;

**On-Network Works** means the Crossrail Project Works undertaken by NR pursuant to the NR Regulatory Protocol: (i) between Maidenhead in the County of Berkshire and Royal Oak in the City of Westminster; (ii) between Pudding Mill Lane in the London Borough of Newham and Shenfield in the county of Essex; and (iii) between Plumstead and Abbey Wood, both in the London Borough of Greenwich;

**On-Network Works Cost Overrun** means the amount (if any) by which the aggregate cost (exclusive of recoverable VAT) of the On-Network Works exceeds [£ redacted];

**Operators** means RfL (in its capacity as concession letting authority and as Infrastructure Manager for the RfL Stations) Network Rail (in its capacity as Infrastructure Manager for the Central Core Area Infrastructure and the On-Network Works), LUL (in its capacity as Infrastructure Manager for the LUL Stations), the Crossrail TOC or RfL (in respect of the Rolling Stock, and in the capacity of Infrastructure Manager for any station on the Railway other than the RfL Stations and the LUL Stations unless otherwise agreed) and any operator appointed from time to time in respect of the Depot;

**Option** means the SoS Call Option or the TfL Put Option and **Options** means both of them;

**ORR** means the independent statutory body named the Office of Rail Regulation established under the Railways and Transport Safety Act 2003;

**Oversite Development Collaboration Agreements** means the agreements that SoS or TfL (after novation by SoS to TfL) has entered into with a number of existing landowners, property developers and similar parties to develop land and land interests over and around the Railway, a list of which is set out in Part 2 of Schedule 1 and any other agreement entered into pursuant to a Development Opportunity Change;

**Parties** means the parties to this Agreement and **Party** shall mean each of them or any one of them as the context requires;

**Positive Project Review Notice** has the meaning given to such term in Clause 27.4(b);

**Project Representative** has the meaning given to such term in Clause 25.2(a);

**Principal Project Documents** means the documents listed in Schedule 1;

**Project Delivery Schedule** has the meaning given to such term in Clause 6.1;

**Project Documents** means any agreement entered into or to be entered into by CRL in relation to the implementation of the Crossrail Project;

**Project Financial Model** means the financial model having the structure described in Schedule 7 Part 3 and showing the actual and forecast Costs, Sponsor Committed Funding, Cash Management Funding Amount and other funding of the Crossrail Project (as derived from the Crossrail Investment Model) (including the assumptions used, the cell logic network for the financial model software and any accompanying documentation necessary to operate the financial model), as updated from time to time in accordance with this Agreement;

**Project Milestones** means the key milestone target dates for delivery of the Crossrail Project as set out in Schedule 3;

**Project Period** means the period from 1 April 2007 to the date forecast to be the Final Completion Date in the most recent Semi-Annual Construction Report;

**Project Review** has the meaning given to such term in Clause 27.1;

**Property Developments** means the developments to be undertaken on the Development Sites in accordance with this Agreement;

**QRA** means the Crossrail Quantified Risk Analysis, maintained by CRL, that is a statistical model of the effect of uncertainty used to forecast future Costs;

**Railway** means the railway transport system as delivered by the Crossrail Project, once commissioned and accepted in accordance with this Agreement;

**Railways Act** means the Railways Act 1993;

**Recipient Sponsor** has the meaning given to such term in Clause 7.4(e);

**Regular Construction Report** has the meaning given to such term in Clause 26.1;

**Relevant Agreement** means each of the NR Delivery Agreements, the NR Track Access Option, the NR Protective Provisions Agreement, the BWB Documents, the BAA Documents, the BAA TAO, the CWG Documents, the Woolwich Documents and any other document or agreement designated as a Relevant Agreement by the Sponsors from time to time;

**Relevant Agreement Allocation Process** means the process for allocating responsibility for the discharge of certain agreements and obligations as more particularly described in clause 17.A of the Sponsors Agreement;

**Relevant Operator** means, in relation to any Delivery Contract, the Operator who will take responsibility for the maintenance of the assets that will be procured under that Delivery Contract;

**Remedial Action Plan** has the meaning given to such term in Clause 22.3;

**Remuneration Principles** means the principles set out in schedule 4 of the Sponsors Agreement;

**Review Point 3** has the meaning given to such term in Clause 27.1(a);

**Review Point 4** has the meaning given to such term in Clause 27.1(b);

**Revised TfL Base Funding Amount** means the amount calculated in accordance with Clause 17.6(a);

**RfL** means Rail for London Limited, a company registered in England with company number 05965930 whose registered address is at Windsor House, 42-50 Victoria Street, London SW1H 0TL;

**RfL Interface Schedule** means Schedule 12;

**RfL Stations** means the Central Operating Section Stations at Isle of Dogs, Paddington, Custom House and (if fitted out and commissioned) Woolwich;

**ROGS** means the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (FI599/2006);

**Rolled Forward Excess** has the meaning given to such term in Clause 17.6(b);

**Rolling Stock** means the rolling stock specified in the Sponsors Requirements to be procured for operating Train Services;

**Rolling Stock Contract** means the contract to be entered into by the counterparty identified in accordance with Clause 8.4(e) with the Rolling Stock Contractor;

**Rolling Stock Contractor** means the contractor engaged to design, manufacture and, to the extent required by the Rolling Stock Contract, maintain the Rolling Stock;

**RS Commercial and Operational Requirements** has the meaning given to such term in Clause 8.4;

**RS Procurement Programme** means the programme for the Rolling Stock procurement to be developed by CRL, TfL and RfL pursuant to Clause 8.2;

**RS Procurement Strategy** has the meaning given to such term in Clause 8.7(a);



**RS Technical Specification** has the meaning given to such term in Clause 8.6;

**Safety Authorisation** means a safety authorisation as defined in ROGS;

**Safety Certificate** means a safety certificate as defined in ROGS;

**Safety Management System** means a safety management system as defined in ROGS;

**Safety Verification Scheme** means a written safety verification scheme, as required by regulation 5(4), 5(7) or 6(4) of ROGS;

**Semi-Annual Construction Report** has the meaning given in Clause 26.2;

**Semi-Annual Reporting Period** means each period of six months ending on 31 March and 30 September, except that the last Semi-Annual Reporting Period shall end on the Final Completion Date;

**Signalling Contracts** means each of the contracts that CRL enters into for the design, supply and/or installation of signalling and/or telecommunication infrastructure for any part of the Crossrail Project, other than as part of the On-Network Works;

**SoS Additional Funding** means amounts of funding in excess of (and separate from) the SoS Funding Amount which are contributed by SoS after the date at which the Actual Final CRL Direct Costs as set out in the most recent Semi-Annual Construction Report exceeds Intervention Point 2 if such additional funding becomes necessary in order to achieve Final Completion in accordance with the Sponsors Requirements;

**SoS Call Option** means the call option granted by TfL in favour of SoS in respect of the whole of the issued share capital of CRL held by TfL and its Affiliates pursuant to clause 29.1 of the Sponsors Agreement;

**SoS Funding Amount** means the aggregate funding to be provided by SoS as set out in the column headed "SoS Funding Amount" in the Funding Schedule as such amounts may be revised, subject to Clause 17.3(l), in accordance with the Sponsor Documents;

**Spares** means any replacement part of any asset forming part of the Railway which requires replacement after Handover;

**Sponsor Board** means the representative board established by the Sponsors pursuant to the Sponsors Agreement for all matters related to the Crossrail Project;

**Sponsor Committed Funding** means the SoS Funding Amount and the TfL Base Funding Amount to be made available by the Sponsors to CRL in the amounts and on the dates specified in the Funding Schedule;

**Sponsor Documents** means this Agreement, the Sponsors Agreement, the TfL Shareholder Agreement and the CRL Articles and **Sponsor Document** means each or any one of them as the context requires;

**Sponsor Funding Account** has the meaning given to such term in the TfL Shareholder Agreement;

**Sponsor Funding Profile** means the funding profile for the Sponsor Committed Funding as set out in the Funding Schedule;

**Sponsors** means SoS and TfL and **Sponsor** means either of them;

**Sponsors Agreement** means the agreement of that name dated on or about the date hereof between SoS and TfL;

**Sponsors Material Event Response Notice** has the meaning given to such term in Clause 24.4(a);

**Sponsors Requirements** means the requirements of the Sponsors in respect of the Crossrail Project as set out in Schedule 2;

**Sponsors Review Point Requirements** has the meaning given to such term in Clause 27.2;

**Standard Software Licence** means a licence of uncustomised software available off-the-shelf on arm's length terms;

**Station Contract** means each of the contracts that CRL enters into for the design and construction of any station other than the Industry Partner Agreements;

**Substantial Completion** means, in respect of an Element, or group of Elements, the satisfaction of the Substantial Completion Criteria;

**Substantial Completion Certificate** has the meaning given to such term in Clause 16.3(b);

**Substantial Completion Criteria** has the meaning given to such term in Clause 16.3(a);

**Target Final Delivery Date** means 9 September 2018, as may be amended in accordance with this Agreement;

**Tax Costs** means any Costs by way of corporation tax or irrecoverable VAT paid or forecast to be paid by CRL in respect of the Project Period;

**Testing** means demonstrating that the assets and integrated systems comprising the Crossrail Project perform in accordance with CRL's obligations under this Agreement, the Crossrail Programme Functional Requirements and the Sponsors Requirements;

**TfL Additional Funding** means any amount of funding which TfL commits in writing to make available to CRL for the purposes of implementing the Crossrail Project following the occurrence of a TfL Significant Remedy Trigger Event in excess of (and separate from) the TfL Funding Amount, the TfL Contingency, the SoS Additional Funding, the City of London Corporation Additional Contribution, the Cash Management Funding Amounts and the Interim Property Income;

**TfL Base Funding Amount** means the aggregate funding to be provided by TfL as set out in the column headed "Base TfL Funding" in the Funding Schedule as such amounts may be revised, subject to Clause 17.3(l), in accordance with the Sponsor Documents;

**TfL Commissioner** means the officeholder of such name appointed by the TfL board of directors from time to time;

**TfL Contingency** means the aggregate capital funding to be provided by TfL (if required in accordance with this Agreement) as set out in the column headed "TfL Contingency" in the Funding Schedule;

**TfL Contingency Trigger** means an amount equal to the sum of:

- (a) the Total Sponsor Committed Funding from time to time;
- (b) all forecast and actual Cash Management Funding Amounts;
- (c) any City of London Corporation Additional Contribution; and
- (d) any actual and forecast Interim Property Income

**TfL Credit Support** means the credit support provided or to be provided by TfL in respect of or in connection with CRL's financial obligations to deliver the Crossrail Project

**TfL CWG Credit Support** means the TfL Credit Support to be provided by TfL to the CWG SPV in connection with CRL's payment obligations under the CWG Agreement;

**TfL-CWG Funding Agreement** has the meaning given to such term in Clause 17.6(a);

**TfL-CWG Funding Receipts** means all monies (exclusive of VAT) received by TfL pursuant to, or in relation to, the TfL-CWG Funding Agreement (whether by way of repayment, prepayment, compensation, sale of loan or otherwise and whether from the borrower directly or otherwise on behalf of the borrower) including interest and any fees;

**TfL Funding Amount** means the aggregate of the TfL Base Funding Amount and the TfL Contingency;

**TfL Group** means TfL and its Affiliates;

**TfL Group Protective Provisions Agreements** means the agreements of that name to be entered into between (i) SoS and LUL, (ii) SoS and TfL and (iii) SoS and London Bus Services Limited;

**TfL Intra-group Claims** means the claims (other than LUL Suspended Claims) for loss of revenue (calculated in accordance with the methodology set out in clause 25 of the LUL Agreement and in the DLR Documents, as applicable) which have been resolved or determined in favour of LUL against CRL under the LUL Agreement or DLRL under the DLR Documents, as applicable;

**TfL Put Option** means a put option granted by SoS in favour of TfL in respect of the whole of the issued share capital of CRL held by TfL and its affiliates pursuant to clause 29.3 of the Sponsors Agreement;

**TfL Records Management Policy** means TfL's policy or policies relating to the management of records from time to time;

**TfL Remedial Action Plan** means the remedial action plan described in Clause 23.2(a)(i);

**TfL Remedy Trigger Event** means the Anticipated Final CRL Direct Cost (as set out in the Financial Models) attached to the most recent Semi-Annual Construction Report exceeds Intervention Point 0;

**TfL Shareholder Agreement** means the agreement of that name entered into on or about the date hereof between TfL, TTL and CRL;

**TfL Significant Remedy Trigger Event** means the occurrence of any of the following events:

- (a) the Anticipated Final CRL Direct Cost (as set out in the Financial Models attached to the most recent Semi-Annual Construction Report) exceeds Intervention Point 1; and/or
- (b) the most recent Semi-Annual Construction Report specifies a Forecast Final Delivery Date that is after the Longstop Date;

**Third Party Claim** has the meaning given to such term in Clause 13.1;

**Total Sponsor Committed Funding** means the aggregate of the SoS Funding Amount and the TfL Base Funding Amount to be made available by the Sponsors to CRL pursuant to the Funding Schedule;

**Track Contract** means each of the contracts that CRL enters into for the procurement of the supply and laying of the railway track in the Central Core Area Works;

**Train Infrastructure Interface Specification** has the meaning given to such term in Clause 8.5;

**Train Services** means the commercial operation of trains carrying passengers on the Railway;

**Transferred Obligations** means those obligations of one party to be discharged by another party pursuant the Relevant Agreement Allocation Process;

**Trial Operations** means the undertaking by the Operators of tests and trials to prepare for and demonstrate that they are capable of operating the Railway in accordance with the Sponsors Requirements and the Operators' Safety Management Systems;

**Trial Running** means the integrated testing of each Element, developed by CRL as part of the Assurance Process to demonstrate that the Element (in conjunction with the other Elements) is capable of reliably meeting the capacity and other requirements of the Crossrail Programme Functional Requirements and the Sponsors Requirements;

**TTL** means Transport Trading Limited, a company registered in England with company number 03914180, whose registered office is at Windsor House, 42-50 Victoria Street, London SW1H 0TL;

**Tunnel Boring Contract** means each of the contracts that CRL enters into for the procurement of the boring of the tunnels in the Central Core Area;

**Utilised Amount** means the amount of any individual advance by TfL under the TfL-CWG Funding Agreement relating to a utilisation request notified by TfL to SoS and CRL pursuant to Clause 17.6(d);

**VAT Recipient** has the meaning given to such term in Clause 29A.1;

**VAT Supplier** has the meaning given to such term in Clause 29A.1;

**Woolwich Documents** means:

- (a) the Woolwich Station Box Deed;
- (b) the Woolwich LDA Agreement;
- (c) the Woolwich Transfer Agreement; and

(d) such other documents as the Parties may agree is a Woolwich Document;

**Woolwich LDA Agreement** means the agreement to be entered into between SoS and the London Development Agency;

**Woolwich Station Box** means a concrete trough/enclosure and ancillary works to be constructed by Berkeley Homes in accordance with the Woolwich Station Box Deed;

**Woolwich Station Box Deed** means the agreement of that name to be entered into between SoS, Berkeley Homes and Berkeley Homes plc pursuant to which Berkeley Homes shall agree to procure the design and construction of a station box at Woolwich in return for certain undertakings to be given by SoS to facilitate such design and construction;

**Woolwich Transfer Agreement** means the agreement between SoS, the London Development Agency, Berkeley Homes and Berkeley Homes Plc, and placed in escrow on 25 July 2008; and

**Working Day** means any day on which banks are generally open for business in the City of London, except for Saturdays, Sundays and public holidays.

## 1.2 Interpretation

Save as otherwise expressly provided in this Agreement:

- (a) words importing the singular shall include the plural and vice versa;
- (b) references to **persons** includes individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships, governments, states or agencies of a state, or any associations, foundations or trusts (whether or not having separate legal personality) or two or more of the foregoing and words denoting natural persons include any other persons;
- (c) references to the words **include** and **including** are to be construed without limitation;
- (d) references to one gender include all genders;
- (e) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be, amended, modified, consolidated, extended or re-enacted;
- (f) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court official or any other legal concept are, in respect of any jurisdiction other than England, deemed to include the legal concept or term which most nearly approximates in that jurisdiction to the English legal term;
- (g) the headings to the Clauses are for convenience only and do not affect the interpretation of this Agreement;
- (h) references in this Agreement to Clauses, paragraphs and Schedules are, unless the context otherwise requires, to clauses, paragraphs of and schedules to this Agreement;

- (i) references in this Agreement to the Sponsors or any other person include their successors, replacement organisations and permitted assigns and permitted transferees from time to time;
- (j) all references to agreements, documents or other instruments in this Agreement (including references to this Agreement) shall, provided that all relevant approvals of the Sponsors and other relevant parties required with respect to such amendment, variation, supplement, novation or assignment, be construed as a reference to that agreement, document or instrument as amended, varied, supplemented, substituted, suspended, novated or assigned from time to time;
- (k) all references to any statute or statutory provision shall include references to any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, instruments or other subordinate Legislation made under the relevant statute;
- (l) the governing language of this Agreement is English, as well as of all notices to be given by any party and all other communications and documentation which are in any way relevant to this Agreement or its performance or termination, including any Dispute Resolution Procedure; and
- (m) a reference to **writing** includes a typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form and expressions referring to writing are to be construed accordingly.

## 2. **CONDITIONALITY**

The rights and obligations of the Parties under this Agreement shall come into full force and effect upon the Effective Date.

## 3. **CRL'S ROLE AND PURPOSE**

### 3.1 **Appointment of CRL**

The Sponsors hereby appoint CRL to manage and implement the Crossrail Project.

### 3.2 **Project Delivery**

CRL shall manage and deliver the Crossrail Project:

- (a) so as to satisfy the Sponsors Requirements;
- (b) in accordance with the Crossrail Programme Functional Requirements;
- (c) in accordance with the terms of this Agreement and the other Principal Project Documents to which it is a party;
- (d) in a manner consistent with the Delivery Strategy;
- (e) in a manner that will oblige the Operators to accept Handover of assets and systems in accordance with Clause 16.2;
- (f) using all reasonable endeavours to meet the Project Milestones and so that the Final Delivery Date occurs on or before the Target Final Delivery Date and, in any event, on or before the Longstop Date; and

- (g) in accordance with any additional conditions that are imposed by the Sponsors as a result of the Project Review.

### **3.3 Precedence of Documentation**

- (a) The obligations set out in Clause 3.2 are independent obligations that must each be satisfied, provided that, in the event of any inconsistency between the Sponsors Requirements and either the Crossrail Programme Functional Requirements or the Delivery Strategy, the Sponsors Requirements shall take precedence.
- (b) In the event that any amendment to the TfL Shareholder Agreement after the date of this Agreement adversely affects CRL's ability to exercise its rights or perform its obligations under this Agreement, then the provisions of clauses 12.5 to 12.8 of the Sponsors Agreement shall apply.

### **3.4 Crossrail Programme Functional Requirements**

- (a) CRL will continue to develop the Crossrail Programme Functional Requirements following the Effective Date and, in doing so, CRL shall be entitled, subject to Clauses 3.4(b) and 15.2, to amend, vary or supplement the Crossrail Programme Functional Requirements from time to time at its sole discretion.
- (b) Notwithstanding the provisions of this Clause 3.4 or of Clause 15, CRL shall not amend or vary the Crossrail Programme Functional Requirements if to do so would make them inconsistent with the Sponsors Requirements.

### **3.5 Delivery Strategy**

- (a) CRL shall develop the Delivery Strategy so as to satisfy the Sponsors with regard to its maturity at Review Point 3.
- (b) Without prejudice to Clause 3.5(a), CRL may develop the Delivery Strategy in such manner as it considers appropriate and may amend, vary or supplement the Delivery Strategy, provided that:
  - (i) it is, at all times, consistent with CRL's obligations under this Agreement and the other Principal Project Documents;
  - (ii) it is, at all times, not inconsistent with the Delivery Contract Requirements; and
  - (iii) following Review Point 3, CRL may only amend, vary or supplement the Delivery Strategy to the extent that such amendment, variation or supplement applies to an area of the Delivery Strategy which is identified by CRL or the Sponsors at Review Point 3 as being subject to further development.
- (c) Following any material amendment or variation to the Delivery Strategy, CRL shall provide a copy of the revised Delivery Strategy to each of the Sponsors.

### **3.6 Project Interfaces**

CRL shall procure the delivery of:

- (a) the On-Network Works and interface works between the Central Core Area and the On-Network Sections in accordance with the NR Delivery Agreements;
- (b) the LUL Related Works, in accordance with the LUL Agreement;
- (c) the CWG Works, in accordance with the CWG Documents;
- (d) the BH Works, in accordance with the Woolwich Station Box Deed; and
- (e) the DLR Works, in accordance with the DLR Documents,

and in each case, CRL will exercise its powers and discharge its obligations under each of these Industry Partner Agreements on a basis consistent with its obligations under this Agreement.

### **3.7 No Reliefs, etc.**

CRL is responsible for delivering the Crossrail Project in accordance with the terms of this Agreement and the Parties agree that CRL will not be entitled to any relief, additional funding or adjustments to the Project Milestones other than as specifically provided for in this Agreement.

### **3.8 CRL's Duty of Care**

CRL will discharge its obligations under this Agreement using all the reasonable skill, care and diligence to be expected of a project delivery vehicle experienced in managing and delivering projects similar to the Crossrail Project and will, at all times, comply with:

- (a) all Applicable Laws, Applicable Standards and Consents, including all applicable health and safety laws, regulations, codes of practice and any other applicable principles and guidance in relation to health and safety published from time to time by any regulatory authority;
- (b) Best Current Practice, to the extent consistent with its other obligations under this Agreement;
- (c) the Equality Impact Assessment; and
- (d) the Environmental Minimum Requirements.

### **3.9 Executive Remuneration**

- (a) CRL will be responsible for developing and maintaining KPIs for incentivising CRL Executives, which KPIs shall be consistent with the Remuneration Principles. CRL undertakes to notify the Sponsors of the KPIs once approved by the CRL Board from time to time. Upon request of either Sponsor at any time, CRL shall demonstrate that the KPIs approved by the CRL Board are consistent with the Remuneration Principles.
- (b) The Sponsors shall consult with CRL before making any material amendment to the Remuneration Principles.

## **4. STATUTORY FRAMEWORK AND CONSENTS**

### **4.1 Nominated Undertaker Appointment**



Pursuant to the Crossrail (Nomination) Order 2008 (SI 2008/2036), CRL has been appointed as the nominated undertaker for all purposes specified therein.

#### 4.2 Undertakings and Assurances

- (a) CRL shall comply with the undertakings, assurances and requirements included within the Environmental Minimum Requirements and the TfL Group Protective Provisions Agreements that relate to a matter for which CRL is the nominated undertaker or for which it is responsible under this Agreement until allocated otherwise pursuant to the provisions of this Clause 4.2 (each a "**CRL Undertaking**").
- (b) CRL shall facilitate a process, in discussion with the Sponsors and LUL, by which the responsibility for complying with the undertakings, assurances or requirements included within the Environmental Minimum Requirements shall be allocated appropriately between SoS, TfL, CRL, LUL and such other parties as may be determined to be relevant and accepted by each relevant party (the "**EMR Allocation Process**"). The Sponsors and CRL shall use all reasonable endeavours to complete the EMR Allocation Process in respect of all undertakings, assurances and requirements included within the Environmental Minimum Requirements in existence at the date of this Agreement on or before 31 January 2009 or such later date as the Sponsors may agree in writing.
- (c) The EMR Allocation Process shall be ongoing throughout the Crossrail Project such that if either:
  - (i) new undertakings, assurances or requirements given after the date of the Crossrail Act are identified as being part of or added to the Environmental Minimum Requirements during the Crossrail Project; or
  - (ii) an undertaking, assurance or requirement which is part of the Environmental Minimum Requirements that has previously been allocated ought reasonably to be reallocated having regard to the current circumstances of the Crossrail Project,the relevant undertakings, assurances or requirements shall be allocated or reallocated (as the case may be) pursuant to the EMR Allocation Process.
- (d) Upon completion of the initial EMR Allocation Process, CRL shall develop and implement a compliance strategy setting out how CRL proposes to comply with the CRL Undertakings on an ongoing basis including appropriate reporting arrangements. CRL shall, if appropriate, update such compliance strategy if any new undertaking, assurance or requirement becomes a CRL Undertaking or if the compliance strategy is no longer appropriate for any CRL Undertaking.
- (e) CRL shall, at such time and within such period as may be specified in any CRL Undertaking or as may otherwise be reasonably required by either Sponsor, execute and deliver to the relevant party any deeds or agreements required by those undertakings, assurances or requirements and in the form required by the relevant undertaking, assurance or requirement or, if no such form is provided for, then in the form reasonably required by such Sponsor.
- (f) CRL may agree with the beneficial recipient or recipients, as the case may be, of a CRL Undertaking, amendments, changes, waivers or any other alterations to the terms of that CRL Undertaking with the prior written consent of the Sponsors but

nothing in this Clause 4.2(f) shall be construed as authorising CRL to amend, change, waive or in any way alter the terms of an undertaking given by SoS to Parliament.

- (g) CRL shall notify, if relevant, the local authority of the geographical area to which the CRL Undertaking relates of the new agreed terms of any CRL Undertaking that has been amended in accordance with Clause 4.2(f) and shall comply with the new agreed terms of that CRL Undertaking.
- (h) CRL shall exercise its functions as nominated undertaker and otherwise perform its obligations under this Agreement and the Principal Project Documents in such manner as to ensure that neither of the Sponsors shall be in breach of, and both Sponsors may properly perform, any obligations that he or it owes to third parties under the Principal Project Documents and/or any undertakings and/or assurances and/or requirements given to any third party under the Environmental Minimum Requirements.
- (i) CRL shall take all steps reasonably necessary and within its powers to enable it and each of SoS and TfL to comply with any or all of the Crossrail Act and any secondary Legislation relating to the Crossrail Project.
- (j) CRL shall promptly serve notice on the Sponsors in the event that it becomes aware that it has failed, or is reasonably likely to fail, to comply fully with the Environmental Minimum Requirements or that it has otherwise breached, or is reasonably likely to breach, its obligations pursuant to Clause 4.2(a) (such failure or breach hereafter referred to as a "**CRL Undertakings Default**"). Such notice shall include details of the CRL Undertakings Default.
- (k) If either Sponsor becomes aware (other than as a result of a notice from CRL pursuant to Clause 4.2(j)) that a CRL Undertakings Default has occurred or is, in the reasonable opinion of such Sponsor, likely to occur, such Sponsor may serve notice on CRL providing details of the CRL Undertakings Default.
- (l) Following service of a notice by either CRL or either Sponsor identifying a CRL Undertakings Default, CRL shall promptly provide such additional information in relation to the CRL Undertakings Default as such Sponsor may reasonably request.
- (m) Following service of a notice by either CRL or either Sponsor identifying a CRL Undertakings Default, CRL shall take such action as it considers necessary to procure the rectification of the CRL Undertakings Default (or to put in place a plan to rectify the CRL Undertakings Default) within a reasonable period of time, taking account of the circumstances prevailing at the time, provided that CRL:
  - (i) shall not be entitled to any relief from its other obligations pursuant to this Agreement and shall not take any action that would contravene, or which might result in a contravention of, this Agreement; and
  - (ii) shall procure the rectification of the CRL Undertakings Default in accordance with any requirements, deadlines or other restrictions relating to the CRL Undertakings Default imposed upon SoS by Parliament,

and CRL shall keep the Sponsors updated periodically with its plans for, and progress in relation to, this rectification.

- (n) If CRL has not rectified the CRL Undertakings Default within a reasonable period of time in accordance with Clause 4.2(m), or either Sponsor does not agree with CRL's plan for procuring such rectification, then either Sponsor shall be entitled to take such action as it reasonably considers is necessary to enable rectification of the CRL Undertakings Default provided that such Sponsor shall notify CRL in advance of what action it wishes to take and the timetable for doing so.
- (o) In considering what action (if any) it wishes to take pursuant to Clause 4.2(n), the relevant Sponsor shall use reasonable endeavours to minimise the impact of such action on the discharge by CRL of its obligations pursuant to this Agreement but CRL shall not be entitled to any relief as a result of the taking of such action.
- (p) CRL shall indemnify SoS against:
  - (i) any third party actions or claims; and/or
  - (ii) any Costs incurred by SoS in taking action pursuant to Clause 4.2(n), as a consequence of any CRL Undertakings Default.
- (q) CRL shall indemnify TfL against any Costs incurred by TfL in taking action pursuant to Clause 4.2(n) as a consequence of any CRL Undertakings Default.

#### **4.3 Operational Consents**

- (a) CRL agrees to provide such co-operation, assistance and information as each of the Operators may reasonably request (having regard to the nature of CRL's roles and purpose under this Agreement) to enable them to:
  - (i) obtain such Consents as are necessary to discharge their statutory duties; and
  - (ii) where applicable, prepare and establish a Safety Management System and a Safety Verification Scheme,
 each to the extent applicable to the relevant Operator.
- (b) Such co-operation, assistance and information to be provided by CRL pursuant to Clause 4.3(a) shall include:
  - (i) the preparation of the relevant parts of any submissions in respect of any Safety Certificate or Safety Authorisation or any Safety Management System or Safety Verification Scheme, as are required to reflect the new infrastructure or stations comprised in the Crossrail Project Works, including the On-Network Sections (as applicable) or new trains operating on the Railway;
  - (ii) the provision of necessary information, drawings and reports; and
  - (iii) assistance with, and attendance at, inspections by any Government Authority or tests or trials required by any Government Authority or to satisfy any Applicable Law or Applicable Standard.

#### **4.4 Planning Consents**

The Parties acknowledge that section 10(1) of the Crossrail Act deems planning permission to be granted under Part 3 of the Town and Country Planning Act 1990 for the carrying out of development authorised by the Crossrail Act, subject to its terms.

#### **4.5 Other Consents**

With the exception of the Consents described or listed in Clause 4.3, CRL shall procure that all Consents necessary for the design, construction, completion and commissioning of the Central Core Area Works, or to carry out its other obligations under this Agreement are obtained and maintained in force for the duration of the Crossrail Project. Where any of the Operators will also require such consents for the operation, repair or maintenance of any part of the Railway, CRL shall use its reasonable endeavours to ensure that such Consents are obtained on a basis that will ensure that the relevant Operator enjoys the benefits of those Consents (but without requiring CRL to prejudice its own ability to fulfil its obligations under this Agreement).

### **5. MUTUAL CO-OPERATION AND REASONABLENESS**

**5.1** The Parties agree to co-operate with each other in good faith to facilitate the implementation of the Crossrail Project.

**5.2** Each Sponsor shall give such assistance to CRL as may reasonably be requested and as may reasonably be provided to facilitate the discharge of CRL's obligations pursuant to this Agreement provided that CRL shall remain solely responsible for the discharge of such obligations and shall not be relieved to any extent as a result of the failure or inability of the Sponsors to provide such assistance for any reason.

### **6. SCHEDULING AND PROGRAMME MANAGEMENT**

#### **6.1 Project Delivery Schedule**

CRL shall produce and maintain a schedule setting out the anticipated timetable for implementation of the Crossrail Project (the "**Project Delivery Schedule**"). The Project Delivery Schedule shall at all times:

- (a) record progress, or projected progress, of the Crossrail Project against the Project Milestones;
- (b) identify CRL's projection for the Final Delivery Date;
- (c) identify, if relevant:
  - (i) key remaining procurement dates;
  - (ii) an indicative timetable for the remaining land acquisition process;
  - (iii) commencement and completion dates for key design, construction and commissioning phases and activities for each element of the Crossrail Project; and
  - (iv) required dates for all key inputs required in accordance with this Agreement from either of the Sponsors and the Operators.

CRL shall periodically update the Project Delivery Schedule to take account of the circumstances at that time and so as to enable the Sponsors to monitor the overall progress of the Crossrail Project.

## **6.2 Overall Programme Management**

CRL will organise, manage and co-ordinate the delivery of each of the different elements of the Crossrail Project so that:

- (a) the progress of the design process for the various elements of the Crossrail Project, and the provision of design inputs and solutions for and from each element of the Crossrail Project, is properly planned and co-ordinated across the Crossrail Project as a whole;
- (b) the progress of the construction and completion of each element of the Crossrail Project that interfaces with other elements of the Crossrail Project, is properly planned and co-ordinated across the Crossrail Project as a whole; and
- (c) the commissioning, acceptance, completion and handover process for each of the various elements of the Crossrail Project is properly planned and co-ordinated across the Crossrail Project as a whole,

in each case so as to promote the efficient, timely and cost-effective delivery of the Crossrail Project.

## **7. PROJECT DELIVERY**

### **7.1 Appointment of the Delivery Partners**

- (a) CRL shall be entitled to appoint one or more Delivery Partners in accordance with this Clause 7.1.
- (b) Prior to entering into any Delivery Partner Appointment, CRL shall provide to the Sponsors a copy of the proposed terms and conditions of such appointment.
- (c) CRL shall not be permitted to enter into any Delivery Partner Appointment until both Sponsors have approved the terms of any proposed remuneration payable, and/or incentives offered, to the Delivery Partner and, following execution of the Delivery Partner Appointment, CRL shall not be permitted to amend or supplement such terms without further approval from both Sponsors.
- (d) CRL shall not be relieved of any of its obligations pursuant to this Agreement as a result of entering into any Delivery Partner Appointment.

### **7.2 Procurement of Delivery Contracts**

- (a) Subject to complying with the Delivery Strategy and the requirements of Schedule 9, CRL shall be entitled at its own discretion to procure, award and execute the Delivery Contracts.
- (b) CRL shall not enter into any Delivery Contract otherwise than in accordance with the Delivery Strategy and Schedule 9, except with the prior written consent of the Sponsors.
- (c) CRL will enter into each Delivery Contract on a basis that passes down the obligations and rights assumed by CRL under this Agreement in so far as applicable to the relevant Delivery Contract, except where CRL determines (in its reasonable opinion and provided always that such determination is not inconsistent with the requirements of Schedule 9) that it will represent better value for money for CRL to manage any such risk or obligation.

- (d) CRL will not contract in a manner that would breach, or put CRL in breach, of the terms of this Agreement or any other agreement to which it is a party.
- (e) With the exception of ancillary contracts for professional services (including any Delivery Partner Appointment), technical support, accommodation or other facilities management services, CRL shall not, without the prior written consent of the Sponsors, enter into any contract except in accordance with the Delivery Strategy.

### **7.3 Management of Industry Partner Agreements and Delivery Contracts**

CRL shall:

- (a) comply in all material respects with its obligations under the Industry Partner Agreements and the Delivery Contracts and any applicable authorisations;
- (b) take all steps reasonably necessary or desirable to protect, maintain, exercise and enforce all its rights in all material respects with respect to the Industry Partner Agreements and the Delivery Contracts to procure the due performance by each other party to the Industry Partner Agreements and the Delivery Contracts of such party's respective obligations under each of the Industry Partner Agreements and the Delivery Contracts provided that CRL shall not terminate any Industry Partner Agreement or Delivery Contract without the prior written consent of the Sponsors;
- (c) acquire at the appropriate time for the Crossrail Project to be implemented in accordance with the Industry Partner Agreements and the Delivery Contracts and then preserve all such property, rights and interests as are necessary for the performance of its obligations under each of the Industry Partner Agreements and Delivery Contracts;
- (d) not amend, vary, waive, or modify or agree to the amendment, variation, waiver or modification of any material provision of the Industry Partner Agreements;
- (e) not amend, vary, waive or modify or agree to the amendment, waiver, variation or modification of any Delivery Contract which would result in such Delivery Contract following the amendment, variation, waiver or modification, conflicting with or being other than in accordance with the terms of this Agreement;
- (f) not assign any of its rights or transfer any of its obligations under any Industry Partner Agreement or Delivery Contract in whole or in part;
- (g) not agree to any other party to any Delivery Contract or Industry Partner Agreement assigning any of its rights or transferring any of its obligations under any such document in whole or in part save to the extent that such assignment is by way of security in favour of a funder providing financing to the relevant counterparty for the performance of its obligations pursuant to such Delivery Contract or Industry Partner Agreement; and
- (h) with the exception of the Industry Partner Agreements, not enter into any agreement, transaction or other arrangement with or for the benefit of any other person other than in the ordinary course of business, for full market value and on arm's length terms,

unless otherwise agreed with the Sponsors.

#### 7.4 Delegation of Relevant Agreements

- (a) CRL acknowledges and agrees that, following execution of this Agreement:
- (i) certain of the Relevant Agreements entered into by either Sponsor prior to the date of this Agreement shall be novated to CRL so that CRL shall become a party to such agreements and assume the obligations and liabilities of the novating Sponsor pursuant to such agreements following the execution of such novation; and
  - (ii) CRL shall be obliged to comply with and/or discharge certain rights and obligations of the Sponsors pursuant to the Relevant Agreements as if such obligations were obligations of CRL pursuant to this Agreement,
- and CRL shall participate, to the extent required, in the Relevant Agreement Allocation Process.
- (b) The agreements to be novated pursuant to Clause 7.4(a)(i) shall be:
- (i) the BAA Compensation Agreement, which shall be novated by SoS to CRL; and
  - (ii) such other Novated Agreements as may be allocated to CRL pursuant to the Relevant Agreement Allocation Process,
- (together, the "**CRL Novated Agreements**") and each Party shall, and shall use all reasonable endeavours to procure that any relevant third party shall, execute such documents and do such acts and things required for the purpose of giving effect to such novations.
- (c) The obligations to be complied with and/or discharged by CRL pursuant to Clause 7.4(a)(ii) shall be:
- (i) the Initial CRL Transferred Obligations set out in Part 1 of Schedule 6; and
  - (ii) such other Transferred Obligations as may be allocated to CRL pursuant to the Relevant Agreement Allocation Process,
- (together, the "**CRL Transferred Obligations**").
- (d) From the date of novation of a CRL Novated Agreement or transfer of a CRL Transferred Obligation, CRL shall be responsible for compliance with such CRL Novated Agreement or such CRL Transferred Obligation and, in respect of a CRL Novated Agreement, CRL shall assume all accrued and future liability under such CRL Novated Agreement as if it had been a party to such CRL Novated Agreement since the date of signing.
- (e) In respect of a Novated Agreement which, pursuant to the Relevant Agreement Allocation Process, is novated by one Sponsor (the "**Novating Sponsor**") to the other Sponsor (the "**Recipient Sponsor**"), any amount paid by the Recipient Sponsor under that Novated Agreement in satisfaction of a claim (other than a claim in relation to a scheduled payment obligation which has not been delegated to CRL) made by a counterparty thereto shall:
- (i) unless such liability arose as a result of a breach by either Sponsor of an obligation under such Novated Agreement which was not at that time

delegated to CRL, be for the account of CRL and, accordingly, the Recipient Sponsor's funding obligation pursuant to Clause 17.3(b) or 17.3(d) (as applicable) on the next Funding Date shall be reduced by an amount equal to the amount (exclusive of recoverable VAT) paid by the Recipient Sponsor provided that the Recipient Sponsor's funding obligation cannot be reduced to less than zero on any Funding Date and any outstanding balance shall serve to reduce the Recipient Sponsor's funding obligation on the subsequent Funding Date;

- (ii) where such liability arose prior to the date of a novation as a result of a breach by the Novating Sponsor of an obligation under such Novated Agreement which was not at that time delegated to CRL, be for the account of the Novating Sponsor and:
  - (A) the Recipient Sponsor's funding obligation pursuant to Clause 17.3(b) or 17.3(d) (as applicable) on the next Funding Date shall be reduced by an amount equal to the amount (exclusive of recoverable VAT) paid by the Recipient Sponsor provided that the Recipient Sponsor's funding obligation cannot be reduced to less than zero on any Funding Date and any outstanding balance shall serve to reduce the Recipient Sponsor's funding obligation on the subsequent Funding Date; and
  - (B) the Novating Sponsor's funding obligation pursuant to Clause 17.3(b) or 17.3(d) (as applicable) on any Funding Date shall be increased by an amount equal to the reduction of the Recipient Sponsor's funding obligation on any such Funding Date pursuant to Clause 7.4(e)(ii),

such that the aggregate Sponsor Committed Funding on any such Funding Date shall not be reduced as a consequence of this Clause 7.4(e)(ii).

## **7.5 Personnel and Advisers**

CRL shall:

- (a) ensure that sufficient properly qualified and trained personnel are at all times available to it as necessary to enable it to comply with its obligations under the Project Documents; and
- (b) employ appropriate advisers for the taking of all steps as are necessary or desirable to enable it to comply with its obligations under the Project Documents.

## **7.6 Contractual Claims Management**

CRL shall:

- (a) on a basis consistent with the best interests of the Crossrail Project and the reputation of CRL and the Sponsors take all steps necessary to defend any litigation, arbitration or administrative proceedings which are current, threatened or pending against it;
- (b) notify the Sponsors of:
  - (i) any claims, disputes or proceedings raised or made by or against CRL or any other party under any Industry Partner Agreement or Delivery Contract; and



- (ii) any other claims, disputes or proceedings raised or made by or against CRL, which, when aggregated with the disputed portions of any other outstanding claims, disputes or proceedings raised or made between the same claimant and respondent, exceed £25 million;
- (c) keep the Sponsors informed on a regular basis in reasonable detail of the progress of such claims, disputes or proceedings and, if requested by the Sponsors, provide copies of all documentation relating to the same;
- (d) not, without the prior written consent of the Sponsors, settle or compromise:
  - (i) any claim brought by CRL against a third party with respect to any Project Document where the value of such claim, when aggregated with the disputed portions of any other outstanding claims, disputes or proceedings between CRL and the same counterparty, exceeds £50 million; or
  - (ii) any claim brought against CRL by a third party with respect to any Project Document where the value of the proposed settlement or compromise, when aggregated with the disputed portions of any other outstanding claims, disputes or proceedings (or the proposed settlement values thereof) between CRL and the same counterparty, exceeds £50 million; or
  - (iii) any litigation, arbitration or administrative proceedings which are current, threatened or pending against it in any amount where the amount claimed under such proceedings, when aggregated with the disputed portions of any other outstanding claims, disputes or proceedings between CRL and the same counterparty, exceeds or is reasonably likely to exceed £50 million; and
- (e) use all reasonable endeavours to ensure that any claim, dispute or proceeding does not bring the name of either of the Sponsors into disrepute,

unless otherwise agreed with the Sponsors. For the avoidance of doubt, this Clause 7.6 shall not apply in respect of payments made by CRL in the normal course of its business for works carried out on behalf of CRL under the Industry Partner Agreements or Delivery Contracts and where the amount of such payment is not disputed by CRL.

## **7.7 RfL Interface**

- (a) The RfL Interface Schedule defines the principal activities and responsibilities of RfL in relation to the delivery of the Crossrail Project. TfL shall ensure that RfL performs such activities and responsibilities, together with the other obligations expressed to be assumed by RfL under this Agreement, in accordance with the programme and as otherwise agreed between CRL and RfL.
- (b) CRL shall comply with its responsibilities specified in the RfL Interface Schedule.

## **8. ROLLING STOCK PROCUREMENT**

### **8.1 CRL to Manage Procurement**

CRL will be responsible for the overall management of the procurement of Rolling Stock for the Crossrail Project.

## **8.2 RS Procurement Programme**

CRL, TfL and RfL shall develop in co-operation with each other the Rolling Stock procurement programme (the "**RS Procurement Programme**") which shall be consistent with the Project Delivery Schedule and shall set out the activities to be performed by each of them and the date for such activities to be performed. CRL, TfL and RfL shall comply with the RS Procurement Programme.

## **8.3 Funding of Rolling Stock**

- (a) Subject to Clause 16.2(e), CRL shall not use the Sponsor Committed Funding to meet the contract payments under the Rolling Stock Contract, unless expressly agreed by both Sponsors (including pursuant to a Change), provided that CRL may use such funding to meet Costs incurred directly by CRL in managing the procurement process for the Rolling Stock and performing its obligations under the other Delivery Contracts and the Principal Project Documents.
- (b) Subject to Clause 16.2(e), the Parties acknowledge that, irrespective of whether CRL is a party to the Rolling Stock Contract, the Sponsors shall be responsible for providing or procuring the provision of funds to pay the capital costs of the Rolling Stock under the Rolling Stock Contract in addition to the Sponsor Committed Funding.
- (c) The Sponsors shall develop, in consultation with CRL, a programme for financing the procurement of the Rolling Stock which shall be consistent with, and incorporated into, the RS Procurement Programme and shall set out amounts to be made available, the dates for such amounts and other activities relating to the procurement of financing. The Sponsors agree to inform CRL of the occurrence of any event which would result in the financing programme not being met in any material respect and, as the responsible party, provide alternative direction to CRL to address such matter.

## **8.4 RS Commercial and Operational Requirements**

In accordance with the timescales set out and agreed in the RS Procurement Programme, TfL will work with SoS to develop (and ensure RfL is involved in developing) and obtain the Sponsors' approval for the "**RS Commercial and Operational Requirements**" for the Rolling Stock procurement, which shall be consistent with the Sponsors Requirements and the Crossrail Programme Functional Requirements. The RS Commercial and Operational Requirements shall set out the commercial parameters for the Rolling Stock procurement and will specify:

- (a) TfL's proposed commercial criteria for the Rolling Stock procurement;
- (b) the proposed financing structure for the Rolling Stock procurement;
- (c) the requirements for the Rolling Stock procurement that are to be observed to meet TfL's affordability criteria;
- (d) the extent to which maintenance and spare parts supply arrangements must be procured together with construction of the Rolling Stock;
- (e) the procuring counterparty who will enter into the Rolling Stock subcontracts (which may be CRL, TfL, RfL or another party);

- (f) whether the financing for the Rolling Stock is to be integrated with that of the Depot and, if so, the implications of this for the RS Procurement Programme and the Depot Procurement Programme; and
- (g) RfL's specific requirements for the Rolling Stock, including whole life cost and performance issues.

### **8.5 Train Infrastructure Interface Specification**

CRL will, in conjunction with Network Rail, develop a "**Train Infrastructure Interface Specification**", which will describe the aspects of the Crossrail Project railway infrastructure that will interface with the Rolling Stock, including signalling systems, train control systems, communications systems, related interfaces, permanent way geometry and kinematic envelope. CRL will deliver to the Sponsors the Train Infrastructure Interface Specification, agreed with Network Rail, in accordance with the RS Procurement Programme.

### **8.6 RS Technical Specification**

On the basis of the RS Commercial and Operational Requirements and the Train Infrastructure Interface Specification, in accordance with the RS Procurement Programme, CRL will develop, in consultation with the Sponsors, the "**RS Technical Specification**" which shall set out the technical specification for the Rolling Stock. CRL will ensure that:

- (a) the RS Technical Specification is consistent with the Sponsors Requirements, the Crossrail Programme Functional Requirements, the RS Commercial and Operational Requirements and the Train Infrastructure Interface Specification;
- (b) the Assurance Process is developed so as to demonstrate to the future Operator of the Rolling Stock that the RS Technical Specification is appropriate for the Rolling Stock's development and construction; and
- (c) the RS Technical Specification shall seek to optimise the interfaces between the Rolling Stock and other Railway infrastructure in order to achieve solutions that balance on a value for money basis the net present value of the capital cost of the Rolling Stock and the total lifetime operating and maintenance costs associated with the Rolling Stock, taking into account, among other things, commercial value to the benefit of the Crossrail Project, operational and safety requirements, reliability, condition monitoring, functionality and commercial revenues.

### **8.7 RS Procurement Strategy**

- (a) CRL will then develop a detailed "**RS Procurement Strategy**" for the Rolling Stock. The RS Procurement Strategy will:
  - (i) set out CRL's proposed strategy for the Rolling Stock procurement, including a detailed timetable (consistent with the RS Procurement Programme);
  - (ii) be consistent with the Delivery Strategy and meet the Sponsors Requirements, the RS Commercial and Operational Requirements and the RS Technical Specification;
  - (iii) be consistent with CRL's overall delivery obligations under this Agreement;
  - (iv) identify the key interfaces between the Sponsors (and RfL) and CRL during the Rolling Stock procurement, including:

- (A) those key milestones at which Sponsor approval is required during the procurement process; and
- (B) the process for the development of the Rolling Stock Contract, including Sponsor consent rights and required inputs from TfL and RfL; and
- (v) include a strategy for provision of maintenance, support and supply of spare parts and special tools.
- (b) CRL will submit the RS Procurement Strategy to the Sponsors for approval (including TfL confirmation that the RS Procurement Strategy is consistent with the RS Commercial and Operational Requirements).
- (c) CRL will implement the RS Procurement Strategy following its approval by the Sponsors but shall ensure that it continues to comply with its obligations under Clause 8.8.

### **8.8 TfL/RfL Involvement**

While it is acknowledged that CRL has overall responsibility for leading and managing the Rolling Stock procurement process, CRL shall ensure that TfL and RfL are fully involved, consulted with and kept informed throughout the process. Without limit to the generality of this statement:

- (a) CRL, TfL and RfL shall consult and co-operate with each other and reasonably consider each other's suggestions at all stages through the development of the RS Procurement Programme, the RS Commercial and Operational Requirements, the RS Technical Specification, the RS Procurement Strategy and the Rolling Stock Contract (including as to the identity of the Rolling Stock Contractor); and
- (b) where requested by CRL, this co-operation shall include the provision (which may be by way of secondment or other joint working arrangements) by TfL and/or RfL to CRL of appropriate personnel with the relevant technical, commercial and financial expertise to assist with the development of the RS Procurement Strategy. CRL shall pay TfL and/or RfL (as applicable) the reasonable costs of the provision of these personnel to CRL.

### **8.9 Amendments**

CRL may amend:

- (a) the RS Technical Specification if the amended RS Technical Specification continues to be compliant with Clause 8.6; and
- (b) the RS Procurement Strategy with the consent of the Sponsors.

The Sponsors may not require changes to the RS Technical Specification or the RS Procurement Strategy (after it is approved by the Sponsors) unless such change (i) is to ensure that it satisfies the Sponsors Requirements, the Crossrail Programme Functional Requirements, the RS Commercial and Operational Requirements and the Train Infrastructure Interface Specification or (ii) is made pursuant to a Change.

## **9. DEPOT PROCUREMENT**

### **9.1 Light Maintenance Depot**

The Parties acknowledge that, unless otherwise agreed, the Depot shall be a "**Light Maintenance Depot**", licensed under the Railways Act and the Depot shall be constructed so that, when completed, it satisfies, and is capable of satisfying throughout operations, all the applicable requirements for a Light Maintenance Depot under the Railways Act.

### **9.2 CRL to Manage Procurement**

CRL will be responsible for the overall management of the procurement of the Depot for the Crossrail Project.

### **9.3 Depot Procurement Programme**

CRL, TfL and, if RfL is the Infrastructure Manager for the Depot, RfL shall develop in co-operation with each other the Depot Procurement Programme which shall be consistent with the Project Delivery Schedule and shall set out the activities to be performed by each of them and the date for such activities to be performed. CRL, TfL and, if RfL is the Infrastructure Manager for the Depot, RfL shall comply with the Depot Procurement Programme.

### **9.4 Funding of the Depot Construction**

- (a) CRL shall not use the Sponsor Committed Funding to meet the contract payments under the Depot Contract, unless expressly agreed by both Sponsors (including pursuant to a Change), provided that CRL may use such funding to meet Costs incurred directly by CRL in managing the procurement process for the Depot and performing its obligations under the other Delivery Contracts and the Principal Project Documents.
- (b) The Parties acknowledge that, irrespective of whether CRL is a party to the Depot Contract, the Sponsors shall be responsible for providing or procuring the provision of funds to pay the capital cost of the Depot under the Depot Contract in addition to the Sponsor Committed Funding.
- (c) The Sponsors shall develop, in consultation with CRL, a programme for financing the procurement of the Depot which shall be consistent with, and incorporated into, the Depot Procurement Programme and shall set out amounts to be made available, the dates for such amounts and other activities relating to the procurement of financing. The financing programme may be combined with or incorporated into the financing programme for the Rolling Stock. The Sponsors agree to inform CRL of the occurrence of any event which would result in the financing programme not being met in any material respect and as the responsible party, provide alternative direction to CRL to address such matter.

### **9.5 Depot Commercial and Operational Requirements**

In accordance with the timescales set out and agreed in the Depot Procurement Programme, TfL will work with SoS to develop (and, if RfL is the Infrastructure Manager for the Depot, ensure RfL is involved in developing) and obtain the Sponsors approval for the "**Depot Commercial and Operational Requirements**" for the procurement of the Depot, which shall be consistent with the Sponsors Requirements and the Crossrail

Programme Functional Requirements. The Depot Commercial and Operational Requirements shall set out the commercial parameters for the procurement of the Depot and will specify:

- (a) TfL's proposed commercial criteria for the Depot procurement;
- (b) the proposed financing structure for the Depot procurement;
- (c) the requirements for the procurement of the Depot that are to be observed to meet TfL's affordability criteria;
- (d) the procuring counterparty who will enter into the Depot Contract (which may be CRL, TfL, RfL or another party);
- (e) whether the financing for the Rolling Stock is to be integrated with that of the Depot and, if so, the implications of this for the RS Procurement Programme and the Depot Procurement Programme; and
- (f) if RfL is the Infrastructure Manager for the Depot, RfL's specific requirements for the Depot, including ongoing operations and maintenance responsibility and performance levels (if applicable).

#### **9.6 Depot Interface Specification**

CRL will, in conjunction with Network Rail, develop a "**Depot Interface Specification**", which will describe the aspects of the Crossrail Project railway infrastructure that will interface with the Depot, including (i) track connections, power connections and communication links and (ii) any requirements necessary to accommodate the pre-existing rights of any other operators to use the Depot or related facilities. CRL will provide the Sponsors with the Depot Interface Specification, once agreed with Network Rail and will deliver the Depot Interface Specification.

#### **9.7 Depot Technical Specification**

On the basis of the Depot Commercial and Operational Requirements and the Train Infrastructure Interface Specification, in accordance with the Depot Procurement Programme, CRL will develop, in consultation with the Sponsors, the "**Depot Technical Specification**" which shall set out the technical specification for the Depot. CRL will ensure that:

- (a) the Depot Technical Specification is consistent with the Sponsors Requirements, the Crossrail Programme Functional Requirements, the Depot Commercial and Operational Requirements and the Depot Interface Specification;
- (b) the Assurance Process is developed so as to demonstrate to the future Operator of the Depot that the Depot Technical Specification is appropriate for the development and construction of the Depot; and
- (c) the Depot Technical Specification complies with any applicable requirements for the Depot to be a Light Maintenance Depot under the Railways Act.

#### **9.8 Depot Procurement Strategy**

- (a) CRL will develop a detailed "**Depot Procurement Strategy**" for the Depot. The Depot Procurement Strategy will:

- (i) set out CRL's proposed strategy for the procurement of the Depot, including a detailed timetable (consistent with the Depot Procurement Programme);
  - (ii) be consistent with the Delivery Strategy and meet the Sponsors Requirements, the Depot Commercial and Operational Requirements and the Depot Technical Specification;
  - (iii) be consistent with CRL's overall delivery obligations under this Agreement;
  - (iv) identify the key interfaces between the Sponsors (and, if RfL is the Infrastructure Manager for the Depot, RfL) and CRL during the procurement of the Depot, including:
    - (A) those key milestones at which Sponsor approval is required during the procurement process; and
    - (B) the process for the development of the Depot Contract, including Sponsor consent rights and required inputs from TfL and RfL; and
  - (v) include a strategy for provision of maintenance, support and supply of spare parts and special tools.
- (b) CRL will submit the Depot Procurement Strategy to the Sponsors for approval (including TfL confirmation that the Depot Procurement Strategy is consistent with the Depot Commercial and Operational Requirements).
  - (c) CRL will implement the Depot Procurement Strategy following its approval by the Sponsors but shall ensure that it continues to comply with its obligations under Clause 9.9.

## **9.9 TfL/RfL Involvement**

While it is acknowledged that CRL has the overall responsibility for leading and managing the Depot procurement process, CRL shall ensure that TfL and, if RfL is the Infrastructure Manager for the Depot, RfL are fully involved, consulted with and kept informed throughout the process. Without limit to the generality of this statement:

- (a) CRL and TfL (and, if RfL is the Infrastructure Manager for the Depot, RfL) shall consult and co-operate with each other and reasonably consider each other's suggestions at all stages through the development of the Depot Procurement Programme, the Depot Commercial and Operational Requirements, the Depot Technical Specification, the Depot Procurement Strategy and the Depot Contract; and
- (b) where requested by CRL, this co-operation shall include the provision (which may be by way of secondment or other joint working arrangements) by TfL and/or, if RfL is the Infrastructure Manager for the Depot, RfL to CRL of appropriate personnel with the relevant technical, commercial and financial expertise to assist with the development of the Depot Procurement Strategy. CRL shall pay TfL and/or, if RfL is the Infrastructure Manager for the Depot, RfL (as applicable) the reasonable costs of the provision of these personnel to CRL.

## **9.10 Amendments**

CRL may amend:

- (a) the Depot Technical Specification if the amended Depot Technical Specification continues to be compliant with Clause 9.7; and
- (b) the Depot Procurement Strategy with the consent of the Sponsors.

The Sponsors may not require changes to the Depot Technical Specification or the Depot Procurement Strategy (after it is approved by the Sponsors) unless such change (i) is to ensure that it satisfies the Sponsors Requirements, the Crossrail Programme Functional Requirements, the Depot Commercial and Operational Requirements and the Train Infrastructure Interface Specification or (ii) is made pursuant to a Change.

## **10. CRL COVENANTS**

### **10.1 Sponsor Reputation**

CRL undertakes not to act in such a manner as will bring the name of either of the Sponsors into disrepute.

### **10.2 Consultation Member**

- (a) CRL shall procure that a senior member of its executive personnel (the "**Consultation Member**") provides information and advice to the Sponsors on request. The Consultation Member shall attend all Sponsors meetings but shall not have any voting rights.
- (b) CRL may change the identity of the Consultation Member from time to time by notice to, and with the prior written consent of, the Sponsors.

### **10.3 OGC Review Reports**

CRL shall procure that the senior responsible owner shall provide a copy of all OGC review reports to each Sponsor as soon as reasonably practicable or within 10 Working Days of the receipt thereof.

## **11. LAND**

### **11.1 Acquisition**

- (a) CRL shall as required to meet the Project Delivery Schedule and within the timescales envisaged by the Crossrail Act notify SoS and TfL in writing of the details of the Land it recommends be acquired by SoS for the Crossrail Project, and, if the Costs of acquisition of any Land are not to be met from the Sponsors Committed Funding, details of other committed funding of such costs. Such Land shall be recommended by CRL to be acquired within a sufficient period of time to allow the aims of the Crossrail Project to be met, and shall include the Land:
  - (i) required for the development of the Central Core Area;
  - (ii) required for the development of the On-Network Works which is not currently owned by Network Rail; and
  - (iii) otherwise required in connection with the works permitted by the Crossrail Act,

in each case to the extent provided for in the Crossrail Act. The details to be provided by CRL above shall include plans by reference, where relevant, to each



Ordnance Datum Level affected and by reference to Land Registry plans where appropriate.

For the avoidance of doubt, CRL may recommend that Land outside of the Crossrail Act is acquired for the Crossrail Project.

- (b) SoS shall:
- (i) upon receipt of written notification pursuant to Clause 11.1(a) above, review such written notification and in accordance with a schedule to be agreed confirm whether or not he approves the recommendation and where SoS has decided to acquire the land instruct CRL on his behalf to prepare and serve the necessary Acquisition Documentation;
  - (ii) in order to facilitate the approval process in good faith work closely with the Crossrail Project team dealing with acquisitions including attending regular meetings and act in a timely manner so as not to delay the Crossrail Project;
  - (iii) carry out all such acts and enter into all such documentation (subject to Clause 11.1(b)(i) above as appropriate) as is properly required of him, so as to enable CRL and/or TfL (as appropriate), to comply with any undertakings and/or assurances given by SoS or TfL in relation to the Land to be acquired for the Crossrail Project;
  - (iv) if and to the extent that SoS has approved the recommendation to acquire Land for the Crossrail Project pursuant to Clause 11.1(b)(i), and has either exercised his compulsory purchase powers under the Crossrail Act or agreed to acquire land by agreement SoS shall take all reasonable and proper steps to facilitate the acquisition exercise referred to in Clause 11.1(c) below, including:
    - (A) entering into all transfers and other documentation necessary for the acquisition of Land in connection with the Crossrail Project; and
    - (B) providing support where necessary to CRL in the acquisition of the Land by agreement;
  - (v) where CRL levies an agency fee in accordance with Clause 11.1(c)(xvi) below, pay to CRL such fee; and
  - (vi) instruct CRL that CRL shall on a monthly basis serve notice on TfL in writing (the "Land Notice") of details of the Land in respect of which completion (but not registration) of the acquisition by SoS (or in respect of a GVD, vesting in SoS) has occurred during the preceding calendar month.
- (c) SoS appoints CRL to be his agent for the purposes of the Land acquisition detailed in this Clause 11.1 and CRL shall:
- (i) act as the agent of SoS in respect of the acquisition of Land in the name of SoS that CRL identifies as required in connection with the works permitted by the Crossrail Act, whether such acquisition shall be by agreement or pursuant to compulsory purchase powers (including those powers contained in sections 7 and 47 of the Crossrail Act) exercised by SoS pursuant to the Crossrail Act;

- (ii) submit to SoS for approval standard documentation which, once approved by SoS, will be used by CRL as a template for acquisition of Land for the Crossrail Project;
- (iii) subject to SoS providing approval in accordance with Clause 11.1(b)(i), draft, sign in its capacity as agent of SoS (save for documents which require the seal of SoS to be attached to them, which shall be submitted by CRL to SoS for execution) and serve on behalf of SoS all such Acquisition Documentation as are necessary to enable SoS to acquire: (A) pursuant to the Crossrail Act so much of the Land described in the Crossrail Act including that shown on the deposited plans within the limits of deviation as identified by CRL; and (B) such other Land as required for or in connection with the Crossrail Project not described in the Crossrail Act;
- (iv) advise, in accordance with the agreed policy for such decisions, in respect of any Land subject to compulsory purchase pursuant to the Crossrail Act whether to proceed by way of notice to treat and notice of entry or by GVD and shall draft and prepare such notices, GVDs and other documentation as necessary;
- (v) where it is advised, in accordance with Clause 11.1(c)(iv) above, to proceed by way of notice to treat and notice of entry, and where SoS has agreed to exercise his compulsory purchase powers, to sign in its capacity as agent of SoS such notices and serve such notices for and on behalf of SoS on the persons whose Land is to be acquired or over which new rights are to be acquired;
- (vi) where it is advised, in accordance with Clause 11.1(c)(iv) above, to proceed by way of GVD, and where SoS has agreed to exercise his compulsory purchase powers, draft the GVD and submit it to SoS for SoS to execute the GVD and CRL shall promptly draft, execute and serve all statutory notices necessary to be served in connection with the GVD (including the relevant notice of intention to make a GVD) on all persons whose land is affected by the GVD;
- (vii) assess the validity of any claim made by any third party (including pursuant to a material detriment notice, blight notice, purchase notice, under the Crossrail Hardship Policy or otherwise but excluding compensation claims which are dealt with in Clause 11.1(c)(viii) below), prepare all necessary documentation regarding each such claim including providing for approval to SoS a recommended course of action in relation to each such claim and following receipt of such approval execute all relevant notices and communications on SoS' behalf in each case in accordance with relevant legislation and the Crossrail Hardship Policy respectively;
- (viii) negotiate as agent and be responsible for the conduct of all proceedings in so far as they relate to claims for compensation, and shall negotiate and discharge such claims in accordance with the Compensation Code with such third party referred to in Clause 11.1(c)(vii) above and with the owners of Land to be acquired for the Crossrail Project or over which new rights are to be acquired or which is otherwise affected by the Crossrail Project;
- (ix) commence, carry on or defend in the name of SoS (or TfL as the case may be) legal proceedings in the Lands Tribunal or the Courts in connection with forcible entry and eviction and determining the level of compensation for

the acquisition of Land for the purposes of the Crossrail Project, provided that CRL shall notify SoS and TfL of any such proceedings and shall conduct such proceedings subject to and in accordance with the directions of SoS and TfL (including directions as to the conduct of any forcible entry and eviction proceedings), or in exceptional circumstances SoS may after consulting TfL assume the conduct of proceedings. SoS or TfL (as appropriate according to who the defendant in the relevant proceedings is) shall conduct and control all other legal proceedings including any judicial review and CRL shall provide such assistance, which may include assuming the conduct of proceedings, as SoS or TfL (as appropriate) directs;

- (x) make payment on behalf of SoS of all compensation negotiated or awarded by the Lands Tribunal in connection with the acquisition of Land for the Crossrail Project and arising from the carrying out of the Crossrail Project Works (including compensation payable pursuant to the provisions of Part 1 of the Land Compensation Act 1973 and section 10 of the Compulsory Purchase Act 1965) and SoS shall pass to TfL any VAT recovered by SoS in relation to payments of compensation made by CRL pursuant to this Clause 11.1(c)(x) (any such sums to be applied by TfL to the Sponsor Funding Account);
- (xi) draft all transfers and other documentation (including in respect of the transfer of Land to TfL) necessary to give effect to the acquisition of Land for the Crossrail Project and to the extent the form of such transfer and other documentation has not already been approved by SoS pursuant Clause 11.1(c)(ii) above, submit such transfers and other documentation to SoS for approval;
- (xii) subject to agreement otherwise, complete on behalf of SoS or TfL (as appropriate) the registration of and all other necessary procedures (including all Stamp Duty Land Tax returns and documentation necessary to exercise an option to tax) in relation to the relevant transfer of the Land, with the Land Registry;
- (xiii) in relation to each parcel of land proposed to be acquired or temporarily used pursuant to the Crossrail Act, or in respect of which compensation is proposed to be paid, maintain securely all records and details relating to the transaction and make this information available to SoS if it is required. For the purposes of this Clause 11.1(c)(xiii) CRL confirms that its IT systems are compatible with SoS' E-Pims software;
- (xiv) obtain vacant possession of all Land required in connection with the Crossrail Project as necessary to enable the commencement of the Crossrail Project Works in accordance with the Project Delivery Schedule and to enable granting of access to the land when required to the Delivery Contractors and, where applicable, the Industry Partners; and
- (xv)
  - (A) control, manage, collect rent, maintain and secure all Land acquired for the purposes of the Crossrail Project at its own cost;
  - (B) as agent and at the cost of the relevant landowner or other responsible entity pursuant to Clause 13.25 of the Sponsors Agreement or otherwise (being SoS or TfL as appropriate) comply

with any undertakings, assurances and obligations relating to the Land; and

- (C) pay all taxes, rates, outgoing, duties, charges and impositions (whether parliamentary, parochial or otherwise) lawfully assessed, charged or payable on all and any of the land acquired for the Crossrail Project,

provided that any collection of rent by CRL pursuant to Clause 11.1(c)(xv)(A) shall be in the name of and on behalf of the relevant Land owner (being SoS or TfL as appropriate) and any net rent received (i.e. the gross rent less all costs (excluding recoverable VAT) suffered by CRL as referred to in Clause 11.1(c)(xv)(A)) and any VAT charged in respect of the rent shall be paid as soon as reasonably practicable by CRL to SoS (or TfL as appropriate) or at its direction less any agency fee which CRL levies pursuant to Clause 11.1(c)(xvi) below in relation to its management duties in this Clause 11.1(c)(xv); and

- (xvi) be entitled but not obliged to levy on the SoS or TfL as appropriate a fee in return for the performance of the duties referred to in Clause 11.1(c)(xv) above, in a discretionary amount which shall not exceed the amount of the net rent receivable by or on behalf of the SoS or TfL as appropriate (exclusive of any applicable VAT) in accordance with Clause 11.1(c)(xv) above. CRL shall consult with TfL in determining whether the levying of such fee (and the amount of such fee) is appropriate and shall not levy any such fee without the prior consent of TfL (acting reasonably). To the extent that, after the levying of any fee in accordance with this Clause 11.1(c)(xvi), there remains a net amount of Interim Property Income payable to the SoS or TfL as appropriate in accordance with Clause 11.1(c)(xv) above, CRL shall pay that net amount to the Sponsor Funding Account and such payment shall discharge the obligation of the SoS or TfL as appropriate to contribute such Interim Property Income to the Sponsor Funding Account pursuant to Clause 19 of the Sponsors' Agreement.

- (d) This Clause 11.1 shall not apply (except in relation to Clause 11.1(c)(xiii) above and unless otherwise agreed by CRL and SoS) to the temporary possession and use of Land pursuant to section 5 of, and Schedule 5 to, the Crossrail Act. CRL shall acquire such temporarily required Land and in relation to such Land, in its role as nominated undertaker (as appointed under Clause 4.1 of this Agreement) in accordance with the relevant provisions of this Agreement, exercise the powers detailed in Schedule 5 to the Crossrail Act.
- (e) SoS shall not be obliged to take steps under this Clause 11 without being satisfied that the costs of acquisition will be met from committed funding.

## **11.2 Ownership**

It is the intention of the parties that TfL will be the long-term owner of the Central Core Area and that Network Rail will be the long term-owner of the On-Network Sections (other than the Heathrow branch). Accordingly, CRL will:

- (a) take all necessary steps to comply with clause 13 of the Sponsors Agreement; and

- (b) take all steps to enable SoS to transfer, in accordance with any relevant agreements with Network Rail, Land for the On-Network Sections acquired by SoS in accordance with Clause 11.1.

### **11.3 Depot**

- (a) SoS shall, on a date to be agreed, prepare and execute a transfer scheme pursuant to Schedule 12 of the Crossrail Act to transfer all of CRL's rights and obligations under the agreement between EWS and CRL for the acquisition of the Depot Lease to SoS on the date on which the transfer scheme is made. For the avoidance of doubt, any relevant provisions of this Clause 11 shall thereafter apply to the Depot Lease as if it were Land acquired as envisaged under this Clause 11.
- (b) SoS shall assign the Depot Lease to TfL (by way of transfer scheme pursuant to Schedule 12 of the Crossrail Act) as soon as reasonably practical following completion of the acquisition, and in any case only once any necessary consent for such assignment has first been obtained, if required.

### **11.4 CRL Lease**

- (a) TfL and CRL shall as soon as reasonably practicable and by no later than Review Point 4 enter into an agreement for lease under which TfL shall agree to grant to CRL (and CRL shall agree to accept) no later than the date of Final Completion Date a 150 year lease of such Land of the Central Core Area comprised in (i) between stations, the tunnels and outer sleeve of subsoil surrounding the tunnels; and (ii) in stations, the track bed and airspace above it, but excluding, without limitation, any other Land comprised in the stations, station entrances, station concourses and platforms. In the CRL Lease, or in such other document(s) as CRL may reasonably request, TfL will grant to CRL such easements, licences, rights of way and other rights as may be necessary or desirable (including over the stations, station entrances, station concourses and platforms) to ensure that CRL can deliver the Crossrail Project and that the Railway can be safely and economically operated, maintained and renewed at all times (including, to the extent appropriate, before completion and Handover) and it is anticipated that the CRL Lease shall:
  - (i) be granted at a premium (any such premium to be funded by (A) an equity subscription by TTL in CRL; or (B) an intra-group loan from TfL to CRL (or a combination of the aforementioned (A) and (B)) as provided for by clause 14.2(a) and (b) of the Shareholder Agreement), the amount of such premium to be paid by TfL to the Sponsor Funding Account;
  - (ii) include appropriate alienation rights (which shall be subject to landlord's consent);
  - (iii) include appropriate rights to grant access to other operators (which shall be subject to landlord's consent); and
  - (iv) be structured in a manner that facilitates the proper regulation of any access contracts by the ORR in relation to the demised premises and rights over adjoining premises although nothing in the CRL Lease shall be required to extend the jurisdiction of the ORR beyond its statutory jurisdiction.
- (b) The agreement for lease referred to in Clause 11.4(a) above, shall be personal to CRL and there shall be an absolute prohibition on any right of alienation of

whatever nature (including charging) by CRL of such agreement for lease or rights and obligations therein.

- (c) SoS (for so long as it is the (legal and/or beneficial) owner of the Land acquired pursuant to this Clause 11) grants to CRL a licence, together with the right to sub-license to contractors, to access the Land for the purpose of carrying out work for the Crossrail Project and complying with any and all of its obligations under this Agreement.
- (d) TfL grants to CRL (following such date as Land acquired by SoS for the Crossrail Project pursuant to this Clause 11 is transferred to TfL pursuant to the Sponsors Agreement) a licence, together with the right to sub-license to contractors, to access the Land for the purpose of carrying out work for the Crossrail Project and complying with any and all of its obligations under this Agreement.
- (e) CRL hereby acknowledges that no representation or warranty has been given prior to the date hereof or is given or implied by this Agreement or any other agreement in connection with the Crossrail Project by either SoS or TfL that the Land comprising the Central Core Area or any existing infrastructure, structures, foundations and services are or will be fit or adequate for any particular purpose including for the purpose of enabling CRL to comply with its obligations under this Agreement or otherwise in connection with the Crossrail Project.
- (f) If, by reason of SoS retaining any Land under the terms of the Sponsors Agreement, TfL is unable to comply with its obligations under this Clause 11.4, TfL and SoS shall agree the resolution of such issues as soon as reasonably practicable and TfL shall not be in default of its obligations under this Agreement or the Sponsors Agreement to the extent of such non-compliance.

### **11.5 Liability**

Neither SoS nor TfL shall be liable to CRL (except as expressly provided in this Agreement or any other agreement between the parties hereto in connection with the Crossrail Project) or any other person in respect of:

- (a) any damage suffered by CRL or any occupier or their respective servants agents or visitors by reason of any defect in the Land;
- (b) any injury, death, damage or destruction whether to person, property or goods or financial or consequential loss due directly or indirectly to or caused by any act neglect omission or default of any other occupier for the time being of the Land (or their respective servants, agents or visitors); or
- (c) any loss, damage, nuisance, interference or annoyance suffered during the carrying out of inspections repairs additions alterations or other works whether structural or otherwise to the Land.

### **11.6 Land Funding**

CRL shall satisfy its payment obligations as agent of SoS under this Clause 11 out of Sponsor Committed Funding or other sources of income available to CRL but neither CRL nor TfL shall have any interest in Land so acquired as a result of CRL making such payment.

## 11.7 Development Opportunities

- (a) SoS has entered into the Oversight Development Collaboration Agreements.
- (b) TfL shall be entitled to all proceeds arising from the sale and/or development of the Development Sites including pursuant to the Oversight Development Collaboration Agreements provided that CRL shall be entitled to reimbursement by TfL out of any such proceeds of its reasonable direct costs (exclusive of recoverable VAT) incurred in connection with the development of appropriate schemes for such Development Sites.
- (c) The Baseline OSD Works Design represents the baseline design for the works that CRL will undertake so as to facilitate the Property Developments. The Sponsors acknowledge and agree that, as at the date of this Agreement, the Baseline OSD Works Design does not breach the following Sponsors Requirements:
  - (i) to optimise value for the benefit of the Crossrail Project; and
  - (ii) to optimise the balance between delivery Costs, over-site development proceeds and potential long-term commercial revenues,in so far as applicable to the Development Sites.
- (d) **“Development Opportunity Matters”** means among other things:
  - (i) co-ordinating and authorising the finalisation of the design for the Crossrail Project in so far as it affects the Development Sites up to the receipt of planning consent for development of the Development Sites;
  - (ii) co-ordinating the implementation of the Crossrail Project with the implementation of the Property Developments;
  - (iii) authorising changes to the design referred to in paragraph (i) within the relevant financial limits; and
  - (iv) the work and activities necessary to prepare the Development Sites for sale.
- (e) CRL and TfL shall agree a protocol for the handling of Development Opportunity Matters.
- (f) It is intended that the operation of the protocol for Development Opportunity Matters will take place on an open and collaborative basis, and with representatives from both CRL and TfL who are empowered to make decisions in relation to the Property Developments and any changes to the Baseline OSD Works Design. The protocol will acknowledge that changes to the Baseline OSD Works Design may be proposed by either CRL or TfL but any such changes will only be implemented:
  - (i) with the prior consent of both CRL and TfL (TfL consent not to be unreasonably withheld where a change to the Baseline OSD Works Design is necessary to ensure compliance with any Sponsors Requirements); or
  - (ii) through a Change (including any specific requirements required through agreement with developers at Isle of Dogs or Woolwich, as contemplated by paragraph 3.6.7 of the Sponsors Requirements).

- (g) CRL shall be responsible for the work and activities necessary to prepare the Development Sites for sale. CRL will consult with, and involve (as appropriate), TfL regarding these works and activities and shall seek a TfL decision in relation to all financial and commercial matters relating to Property Developments.
- (h) If CRL proposes a change to the Baseline OSD Works Design which:
  - (i) will reduce the Anticipated Final CRL Direct Costs;
  - (ii) is agreed by TfL (and SoS, if required by this Agreement); and
  - (iii) reduces the proceeds (exclusive of VAT) received by TfL in relation to the sale and/or development of the relevant Property Development or Development Site,

then the TfL Base Funding Amount shall be reduced by an amount equal to the lesser of:

- (iv) the reduction in Costs referred to in paragraph (i) above; and
- (v) the reduction in proceeds referred to in paragraph (iii) above.
- (i) TfL may, without the consent of SoS, require CRL to implement Changes (in accordance with Schedule 4) relating to any Development Opportunity where such Change (or series of related Changes) is forecast at the time of TfL's Change instruction to result in an increase or decrease to the Anticipated Final Cost of not more than £50 million (in aggregate with respect to a series of related Changes) (a "**Development Opportunity Change**") provided that:
  - (i) SoS's consent shall be required for any Development Opportunity Changes resulting in a cumulative increase or decrease to the Anticipated Final Cost of £250 million or more;
  - (ii) such Development Opportunity Change does not result in any change to the Project Milestones set out as items 4 to 9 of Schedule 3 or to the Forecast Final Delivery Date;
  - (iii) such Development Opportunity Change does not adversely affect in any material respect CRL's ability to exercise its rights or perform its obligations under the Principal Project Documents to which it is a party; and
  - (iv) TfL agrees in writing at the time of requiring such Development Opportunity Change to be solely responsible for the cost associated with such Development Opportunity Change.

#### **11.8 Delegation of Oversight Development Collaboration Agreements**

- (a) CRL acknowledges and agrees that, following execution of this Agreement, CRL shall be obliged to comply with and/or discharge certain obligations of the Sponsors pursuant to the Oversight Development Collaboration Agreements as if such obligations were obligations of CRL pursuant to this Agreement.
- (b) The obligations to be complied with and/or discharged by CRL pursuant to Clause 11.8(a) shall be:
  - (i) the Delegated Obligations set out in Part 2 of Schedule 6; and



- (ii) such other obligations of either Sponsor pursuant to the Oversight Development Collaboration Agreements as the Sponsors may notify to CRL (by way of a Change) that they require CRL to discharge from time to time on behalf of that Sponsor.

### **11.9 Disposal of Land**

CRL, acting as the agent of SoS, will dispose of any surplus land acquired and owned by SoS except that which is transferred to TfL or Network Rail, and in doing so in relation to any Land to which the Land Disposal Policy applies, CRL will consult with SoS and will comply with the Land Disposal Policy and the Criche Down Rules insofar as the same apply and taking into account any available exclusions.

### **11.10 Possible Devolution of Certain Powers under the Crossrail Act**

If the Sponsors notify CRL that certain powers in relation to Land acquisition will be devolved by SoS to TfL pursuant to the Crossrail Act, then this Clause 11 shall continue to apply with such necessary or consequential changes and processes that would be needed to reflect that TfL shall assume the right to acquire the Land in place of SoS. The Parties hereby acknowledge that, if such devolution occurs, it is expected that CRL would act on behalf of TfL in relation to land acquisition and perform the duties and comply with the obligations referred to earlier in this Clause 11. For the avoidance of doubt, it is not intended that CRL should take on any additional obligations as a result of such devolution unless otherwise agreed by CRL.

### **11.11 Central Access Section**

- (a) TfL may direct CRL to sell, lease or otherwise dispose of its leasehold interest in the Central Access Section in any form that TfL directs provided that, until the third anniversary of the Final Completion Date, any such direction must be accompanied by the written consent of SoS.
- (b) On receipt of any value, amounts or proceeds realised from such sale, lease or other disposal (as applicable), CRL agrees to pay immediately to TfL, or a person nominated by TfL, such value, amounts or proceeds (net of any VAT and other tax arising from such sale, lease or other disposal).
- (c) Any such payment by CRL to TfL or at the direction of TfL pursuant to Clause 11.11(b) shall be utilised in repayment of the loans made by TfL to CRL under clause 15.2(b) of the TfL Shareholder Agreement and any remaining balance shall be paid by CRL to TfL by way of distribution on equity or loan.

## **12. HEALTH AND SAFETY**

- 12.1** For the purposes of this Clause 12, the terms "Client" and "Health and Safety File" have the same meanings as the equivalent uncapitalised terms have in the Construction (Design and Management) Regulations 2007 (the "**CDM Regulations**").
- 12.2** CRL hereby elects to be treated as the only Client in respect of the Central Core Area Works (excluding the LUL Interface Works, CWG Works and the BH Works) for the purpose of the CDM Regulations. CRL shall not seek to withdraw, terminate or in any manner derogate from such election. The Sponsors shall confer on CRL such authority as CRL may reasonably require in order to discharge its duties as Client under the CDM Regulations.

- 12.3** The Sponsors hereby consent to the election by CRL to be treated as the only Client in respect of the Central Core Area Works (excluding the LUL Interface Works, the CWG Works and the BH Works) for the purpose of the CDM Regulations, as set out in Clause 12.2 above.
- 12.4** CRL shall observe, perform and discharge and/or shall procure the observance, performance and discharge of all of the Client's obligations, requirements and duties arising under the CDM Regulations in connection with the Central Core Area Works (excluding the LUL Interface Works, the CWG Works and the BH Works) and shall do so in accordance with any code of practice for the time being approved by the Health and Safety Commission pursuant to the Health & Safety at Work etc. Act 1974.
- 12.5** CRL shall, on or prior to the Final Delivery Date, provide to the Sponsors certified copies of the Health and Safety Files relating to the Central Core Area Works (excluding the LUL Interface Works).
- 12.6** Upon CRL's reasonable request the Sponsors shall provide to CRL such information and assistance as the Sponsors are obliged to provide to CRL pursuant to CDM Regulations 5(1)(b), 10(1), 15 and 17(1).
- 12.7** CRL shall procure that:
- (a) Network Rail will elect to be treated as the only Client in respect of the On-Network Works;
  - (b) LUL will elect to be treated as the only Client in respect of the LUL Interface Works (except where it is necessary for a third party PPP contractor appointed by LUL to be the Client);
  - (c) the CWG SPV will elect to be treated as the only Client in respect of the CWG Works;
  - (d) BH will elect to be treated as the only Client in respect of the BH Works; and
  - (e) an appropriate Client is elected in respect of the Depot Works.
- 12.8** As between CRL and the Sponsors, neither Sponsor shall have any responsibility or liability to CRL for the safety of any design which forms part of the Central Core Area Works and, without prejudice to the foregoing provisions of this Clause 12, CRL shall either retain or impose on the Delivery Contractors or Industry Partners, such responsibility, together with a responsibility to ensure the adequacy, stability and safety of all site operations and methods of construction shall be imposed on the Delivery Contractors.

### **13. COMPENSATION**

- 13.1** Subject to Clauses 7.6, 13.2 and 13.3, as between the Sponsors and CRL, CRL shall be responsible for the management, conduct and the discharge, or procuring the discharge (as applicable) by the responsible party, of any claim brought against either CRL or the Sponsors (save to the extent that either Sponsor notifies CRL and the other Sponsor that it will manage and conduct a claim made against it) by any third party arising from the implementation of the Crossrail Project prior to the Final Delivery Date (a "**Third Party Claim**").
- 13.2** CRL shall not be responsible under Clause 13.1 for the discharge of Third Party Claims made against either Sponsor arising from the On-Network Works (including

claims by train operating companies for compensation due to disruption to services arising from such works), but CRL shall manage such Third Party Claims, to the extent necessary, in consultation with Network Rail to procure the effective resolution and discharge of all such claims by Network Rail.

- 13.3** CRL shall not be responsible under Clause 13.1 for claims by LUL or DLRL against either Sponsor arising from the disruption of services resulting from the implementation of the Central Core Area Works except to the extent that CRL is liable for such claims pursuant to the terms of the LUL Agreement or the DLR Documents.

#### **14. CHANGE**

The provisions of Schedule 4 shall apply if either of the Sponsors or CRL proposes, or is deemed to have proposed, a Change.

#### **15. AFFIRMATION AND ASSURANCE**

##### **15.1 Affirmation Process**

- (a) The purpose of the Affirmation Process shall be to give CRL the opportunity to seek clarification of any requirement of the Sponsors Requirements that is subjective, ambiguous, potentially conflicting or capable of different interpretations.
- (b) The Sponsors and CRL will jointly develop and agree, within 20 Working Days of the Effective Date, a protocol for the Affirmation Process which shall achieve the purpose set out in Clause 15.1(a) above. The protocol shall set out:
  - (i) the programme for CRL to request clarification of elements of the Sponsors Requirements;
  - (ii) the form in which CRL shall make its request (specified for each element and stage of the Affirmation Process);
  - (iii) the process (including time periods) for the Sponsors to respond with respect to a given request for clarification from CRL; and
  - (iv) the form and process for the Sponsors to provide reasons for their responses to CRL's request where appropriate.
- (c) If CRL requires clarification of any requirement of the Sponsors Requirements, then CRL shall ask the Sponsors to affirm CRL's interpretation of such requirement. Irrespective of whether CRL requests clarification, the Sponsors may clarify their requirements at any time. In each case the Sponsors and CRL shall work together to achieve a clear and common understanding of the Sponsors Requirements supported by such relevant information as may be necessary.
- (d) Without prejudice to the Sponsors' ability to grant derogations from the Sponsors Requirements, the Affirmation Process shall not:
  - (i) relieve CRL of its obligations pursuant to this Agreement;
  - (ii) constitute conclusive evidence that any deliverable shall receive the acceptance of either Sponsor, any Operator or any other person whose acceptance is required by this Agreement; or

- (iii) relieve CRL or any other person of its liabilities,

save that, once an element of the Sponsors Requirements has been Affirmed under this Clause 15, the Sponsors Requirements shall be interpreted consistently with that Affirmation for the purposes of this Agreement.

- (e) If CRL demonstrates to the Sponsors' satisfaction that it has legitimately not allowed for the performance, time and/or cost consequences of the requirement (as clarified under Clause 15.1(c)), with reference to the relevant elements of the Project Delivery Schedule and cost estimate as at the Effective Date, then the Sponsors shall require a Change in accordance with Schedule 4 to implement the requirement, in which case, on implementation of the Change, the requirement, as implemented by the Change, shall be treated as affirmed for the purposes of this Agreement. In any other circumstances, the requirements shall be treated as affirmed without any Change.
- (f) The Affirmation Process shall not prejudice the right of the Sponsors at any time to instruct a Sponsor Change for any reason.

## **15.2 Assurance Process**

- (a) CRL shall develop an assurance process that will enable it to demonstrate compliance with Clause 3.2 to the Sponsors and other interested parties as necessary, including the Operators and any relevant independent review bodies appointed by CRL (the "**Assurance Process**"). The Assurance Process shall be developed in conjunction with the Delivery Strategy in accordance with Clause 3.5(a) and shall form part of the Delivery Strategy.
- (b) CRL shall develop for agreement with the Sponsors, within 20 Working Days of the Effective Date, that part of the Assurance Process (with sufficient reference to project information) required to enable assurance of the Crossrail Programme Functional Requirements.
- (c) The Assurance Process shall require CRL to provide ongoing and progressive assurance of compliance with Clause 3.2 throughout the implementation of the Crossrail Project. The Assurance Process shall address all the assurance requirements applicable to CRL and shall provide a mechanism for CRL to demonstrate that:
  - (i) each Element or group of Elements meets the requirements of the Crossrail Programme Functional Requirements so as to satisfy the Sponsors Requirements;
  - (ii) each Element has been integrated with each other Element to the extent necessary for them all to function as a coherent whole;
  - (iii) if phased public service commencement is planned in accordance with Clause 16.5(c), and all other Elements that are to commence service have achieved Substantial Completion, all Elements comprising the phase concerned and any previous phases have been integrated as a coherent whole;
  - (iv) any necessary third party assurance requirements, such as assurance to the Operators, Infrastructure Managers and relevant regulatory bodies have been satisfied;

- (v) CRL's own internal management processes and reporting, functional and technical assurance requirements have been satisfied; and
  - (vi) it is reporting information to the Sponsors in a complete, accurate and timely manner.
- (d) The Assurance Process shall provide initial assurance to the Sponsors by Review Point 3 that CRL's proposals for the Crossrail Project, as set out in the Crossrail Programme Functional Requirements, will satisfy the Sponsors Requirements.
  - (e) CRL shall secure the agreement of the Sponsors to the Assurance Process before finalising it for inclusion in the Delivery Strategy.
  - (f) The Sponsors shall be entitled to conduct audits of CRL's compliance with any part, or all of the Assurance Process. CRL shall co-operate in full with any such audit, including by providing the Sponsors with reasonable co-operation and assistance in the conduct of the audit, access to all documents relating to the Assurance Process, explanation of all processes and decisions associated with the Assurance Process and access to all relevant personnel. If the results of the audit demonstrate any non-compliance with the Assurance Process, then CRL shall if requested promptly produce a remedial action plan to remedy the non-compliance and ensure it does not recur, such plan being submitted for approval by the Sponsors and implemented promptly thereafter.
  - (g) The Sponsors shall not conduct audits under Clause 15.2(f) more frequently than twice a year (unless the Sponsor Board determines otherwise).
  - (h) Neither the Sponsors' participation in the Assurance Process nor any audit carried out under Clause 15.2(f) shall:
    - (i) relieve CRL of its obligations in respect of complying with this Agreement;
    - (ii) necessarily constitute acceptance that any deliverable meets the requirements of Clause 3.2, unless it has been part of an endorsed certificate of either Substantial Completion or Final Completion in accordance with Clauses 16.3 and/or 16.5; or
    - (iii) relieve CRL or any other person of their liabilities.

## **16. COMPLETION**

### **16.1 CRL Responsibility**

- (a) CRL shall carry out, or procure the carrying out of, the activities necessary to achieve Substantial Completion and Final Completion in relation to the complete Railway, which activities shall include Testing, Dynamic Testing, Handover and Trial Running. The diagrams in Schedule 11 illustrate the process and division of responsibilities between CRL and the Operators. They are provided for information purposes only and shall have no legal effect.
- (b) CRL shall procure access for the Operators to CRL's suppliers and information to enable the Operators to develop their maintenance strategies and Safety Management Systems.
- (c) CRL shall ensure that the Operators prepare, at times to comply with the Project Delivery Schedule, maintenance strategies and plans and determine their

requirements for specialist plant (including specialist on-track plant), equipment, tools, Maintenance & Support Services and Spares.

- (d) Provided that the relevant Operator undertakes to pay CRL for the cost of the Maintenance & Support Services and the Spares (or to pay the suppliers directly), CRL shall procure on behalf of the Operators the economic and efficient commercial arrangements for the Maintenance & Support Services and the Spares identified as required under Clause 16.3(a)(iii)(E) in conjunction with procuring the relevant works.
- (e) CRL shall support and assist the Operators, until the end of the defect rectification and/or warranty period of each Delivery Contract, in developing relationships with relevant suppliers in order to facilitate the ongoing procurement of Maintenance & Support Services and Spares.

## 16.2 Handover

- (a) Subject to Clause 16.2(c)(i), CRL shall procure the handover of groups of assets and/or systems (each such group constituting an "**Element**" of the Railway) to the relevant Operator after satisfactory completion of Dynamic Testing in respect of each such Element in accordance with the Assurance Process (a "**Handover**").
- (b) CRL shall be permitted to effect a phased Handover of the Elements in such manner as it considers appropriate in accordance with the Delivery Strategy, subject always to the agreement of such phasing by the relevant Operators and provided that the aggregate of the Elements constitutes the complete Railway.
- (c) The Parties acknowledge that, in relation to the On-Network Works:
  - (i) Network Rail will have the responsibility for operation, care and maintenance of the On-Network Works throughout the Development Phase and so CRL will not effect a Handover of the On-Network Works as such; and
  - (ii) Network Rail will be responsible for assuring itself in relation to the design and implementation of the On-Network Works on a basis that will allow it to assume responsibility as Infrastructure Manager for the operation of the On-Network Sections after completion of such On-Network Works.
- (d) Following Handover of an Element to the relevant Operator pursuant to this Clause 16.2, CRL shall cease to have responsibility, including the responsibility to pay, for:
  - (i) the care and maintenance of that Element, provided that:
    - (A) CRL shall be obliged to carry out any outstanding works and/or rectify any snagging items that were identified by CRL and/or the relevant Operator as part of the Handover and Substantial Completion of the Element pursuant to this Clause 16, such works to be completed in a timely manner and to the satisfaction of the Operator;
    - (B) CRL shall be responsible for the rectification of any defects in the Element identified within the defects liability period agreed with the relevant delivery contractor (and notified to the relevant Operator) in respect of such Element; and

- (C) CRL shall be responsible for any damage done by its employees, agents and contractors to such Elements of the Railway as have been handed over pursuant to this Clause 16.2; and
- (ii) the control and management of that Element, provided that CRL shall be responsible for procuring access from the relevant Operator to obtain access to the Railway as necessary for the carrying out of any works required pursuant to Clause 16.2(d)(i).
- (e) CRL may commence Trial Running pre or post Handover. CRL shall reimburse any reasonable incremental costs of staff, vehicles, energy and other consumables incurred by the Operators in assisting CRL to perform the Trial Running.

### **16.3 Substantial Completion**

- (a) Substantial Completion in respect of an Element, or group of Elements of the Crossrail Project, shall occur once the Sponsors have endorsed CRL's certification that the following criteria (the "**Substantial Completion Criteria**") have been met:
  - (i) CRL has provided to the Sponsors the relevant certificates of Handover (and associated snagging lists) jointly signed by CRL and the relevant Operators evidencing that CRL has handed over each such Element in full to the relevant Operators (in accordance with Clause 16.2) for use in Trial Operations;
  - (ii) CRL has complied in full with the Assurance Process, including satisfactory completion of Trial Running, and has provided to the Sponsors all relevant certificates of assurance and the associated snagging lists in relation to each such Element;
  - (iii) CRL has provided the Sponsors with sufficient evidence of confirmation from each relevant Operator that:
    - (A) CRL has provided such Operator with sufficient documentation to enable it to develop its Safety Management System to enable the operation and maintenance of the Element or group of Elements;
    - (B) CRL has complied, to the extent relevant to such Operator, with Clause 19 in respect of that Element or group of Elements;
    - (C) CRL has procured adequate specialist equipment, tools and plant (including specialist on-track plant), to the extent that it is particular to the Crossrail Project and not otherwise available to such Operator, as specified in the operations and maintenance manuals in respect of the Crossrail Project and has transferred to such Operator the benefit of any ongoing supply, support or maintenance arrangements provided by the supplier of the specialist equipment, tools or plant (including specialist on-track plant);
    - (D) such Operator has developed maintenance strategies and plans as required for the relevant Element consistent with the overall programme for the development and opening of the Railway;

- (E) provided that such Operator has advised CRL of its requirements for Maintenance & Support Services and Spares in relation to the Element in sufficient time for CRL to include those requirements in its planned procurement activities, then CRL has procured such Maintenance & Support Services and Spares necessary to support the Operators' operational activities; and
  - (F) provided that such Operator has advised CRL of its requirements for future provision of Maintenance & Support Services and Spares in relation to the Element in sufficient time for CRL to include those requirements in its planned procurement activities, then CRL has procured those commercial arrangements with CRL's Delivery Contractors and subcontractors (provided that it is acknowledged that the Operators are ultimately responsible for determining the appropriate type, quantity and availability of Maintenance & Support Services and Spares for their respective operations);
- (iv) CRL has complied, to the extent relevant to each Sponsor, with Clause 19 in respect of that Element or group of Elements.
- (b) Without prejudice to the requirements of the Assurance Process from time to time CRL shall issue a certificate to the Sponsors when it considers that it has achieved Substantial Completion in respect of an Element or group of Elements (a "**Substantial Completion Certificate**") together with all required supporting evidence. The Sponsors shall review such evidence and shall only be permitted to refuse to endorse a Substantial Completion Certificate if they consider, acting reasonably, that there is insufficient evidence of confirmation from each relevant Operator and CRL that the Substantial Completion Criteria have been satisfied in respect of the relevant Elements.
- (c) The date of Substantial Completion of an Element shall be the date stated as such in the Substantial Completion Certificate in respect of that Element, and that certificate shall become effective when endorsed by the Sponsors. The date of Substantial Completion for the final Element of the complete Railway shall be deemed to be the final delivery date (the "**Final Delivery Date**").

#### **16.4 Trial Operations**

- (a) CRL shall not be responsible for conducting or managing Trial Operations which shall be the responsibility of the relevant Operators. Trial Operations shall not commence before Handover but may commence prior to the completion of Trial Running and/or Substantial Completion.
- (b) Up to the Final Completion Date, CRL shall provide overall co-ordination, programming and liaison between the Operators for Trial Operations.
- (c) Notwithstanding Clause 16.4(a), CRL shall continue to co-operate with the Operators and provide such assistance as the Operators may reasonably require with regard to the carrying out of Trial Operations until the Final Completion Date.
- (d) CRL shall liaise as necessary with the relevant Operators to enable CRL, or its appointed contractors, to obtain such access to relevant Elements of the Railway to enable CRL to discharge its obligations pursuant to Clause 16.2(d).



## 16.5 Final Completion

- (a) Final Completion in respect of the Railway, shall occur once the following criteria (the "**Final Completion Criteria**") have been met:
  - (i) all then current manufacturer or design/construction warranties in respect of the Railway have been novated or assigned to the relevant Operator; and
  - (ii) all obligations of CRL pursuant to this Agreement have been fully and finally discharged.
- (b) Without prejudice to the requirements of the Assurance Process from time to time:
  - (i) CRL shall issue a certificate to the Sponsors specifying the date upon which it achieved Final Completion (the "**Final Completion Certificate**") no later than five Working Days after achievement of Final Completion;
  - (ii) within 30 days of receipt of the Final Completion Certificate, the Sponsors shall endorse CRL's Final Completion Certificate and shall only be permitted to withhold such endorsement to the extent that CRL has not satisfied the criteria in Clause 16.5(a) (and, in respect of any Final Completion Certificate after the first Final Completion Certificate, only to the extent that CRL has not reasonably taken account of any comments or issues previously properly raised by the Sponsors as grounds for withholding such endorsement). If the Sponsors do withhold endorsement of any Final Completion Certificate, CRL shall re-submit a Final Completion Certificate once it has addressed the Sponsors' comments or issues and the provisions of this Clause 16.5(b)(ii) shall apply to the re-submitted certificate; and
  - (iii) following endorsement by the Sponsors pursuant to Clause 16.5(b)(ii), the date referred to in CRL's latest Final Completion Certificate shall be deemed to be the Final Completion Date.
- (c) The Parties acknowledge and agree that, subject to agreement between the Sponsors and the relevant Operators at the time, passenger revenue earning services:
  - (i) may be commenced on the Railway on a phased basis (subject always to compliance with the Sponsors Requirements); and
  - (ii) shall not be commenced on any Element prior to Substantial Completion of that Element, but may be commenced prior to Substantial Completion, or completion of Trial Operations on other Elements or groups of Elements.

## 17. CROSSRAIL PROJECT FUNDING

### 17.1 Cost and Value

CRL shall manage the delivery of the Crossrail Project (including, without limitation, the performance by; (i) Network Rail of the On-Network Works; (ii) BH of the BH Works; (iii) the CWG SPV of the CWG Works; (iv) LUL of the LUL Interface Works; and (v) the Depot Contractor of the Depot Works) so as to:

- (a) minimise the Anticipated Final Cost in accordance with best value; and

- (b) ensure that Anticipated Final CRL Direct Costs do not exceed the Total Sponsor Committed Funding.

### **17.2 Mitigation of Costs**

CRL shall, at all times, perform its obligations and exercise its rights under this Agreement in such a manner as to mitigate, to the fullest extent possible:

- (a) any costs, expenses and/or other liabilities that would otherwise accrue to the account of either or both Sponsors; and/or
- (b) the funding commitment of the Sponsors under this Agreement.

### **17.3 Sponsor Funding**

- (a) SoS undertakes to TfL and CRL to make available the SoS Funding Amount for the purposes in Clause 17.4, subject to and in accordance with the terms of this Agreement (including, without limitation, Clause 17.3(f) below).
- (b) From the Effective Date, SoS shall:
  - (i) on each Funding Date, deposit into the Sponsor Funding Account that part of the SoS Funding Amount specified in the Funding Schedule for that Funding Date; and
  - (ii) deposit any City of London Corporation Additional Contribution into the Sponsor Funding Account promptly after it is received.
- (c) TfL undertakes to SoS and CRL to make available the TfL Funding Amount for the purposes set out in Clause 17.4 below subject to and in accordance with the terms of this Agreement (including, without limitation, Clause 17.3(f) below).
- (d) From the Effective Date, TfL shall, on each Funding Date, deposit into the Sponsor Funding Account:
  - (i) that part of the TfL Base Funding Amount specified in the Funding Schedule for that Funding Date;
  - (ii) if the Anticipated Final CRL Direct Costs (as set out in the then current Financial Model agreed or determined pursuant to paragraph 4 of Schedule 7) exceed the TfL Contingency Trigger, an amount equal to the lesser of:
    - (A) such excess less any TfL Contingency deposited on any previous Funding Date; and
    - (B) the aggregate of that part of the TfL Contingency specified in the Funding Schedule for that Funding Date and any undrawn TfL Contingency attributable to any previous Funding Date; and
  - (iii) the Cash Management Funding Amount payable by TfL to CRL from time to time pursuant to clause 13.8 of the TfL Shareholder Agreement.
- (e) Amounts standing to the credit of the Sponsor Funding Account shall be made available to CRL in accordance with the provisions of clause 14 of the TfL Shareholder Agreement.

- (f) If the balance in the Sponsor Funding Account exceeds the forecast expenditure of CRL (excluding recoverable VAT) for the following 12 month period, as set out in the then current Financial Models and other relevant information, the Sponsors may, acting jointly, elect to reduce the amounts specified in the Funding Schedule for the next Funding Date provided that:
  - (i) such reductions shall not reduce the balance in the Sponsor Funding Account on such Funding Date to below the forecast expenditure of CRL for the 12 month period commencing on such Funding Date, as set out in the then current Financial Models and other relevant information; and
  - (ii) the Sponsors shall adjust the amounts specified in the Funding Schedule for the remaining Funding Dates (provided that no such amount may be decreased) to ensure that the Total Sponsor Committed Funding remains the same as it was prior to any reduction pursuant to this Clause 17.3(f).
- (g) TfL shall not be required to deposit into the Sponsor Funding Account pursuant to Clause 17.3(d)(iii) any Cash Management Funding Amount that would have accrued on the monies in the Sponsor Funding Account had the Sponsors not adjusted the payment profile pursuant to Clause 17.3(f).
- (h) At any time following the adjustment of the payment profile pursuant to Clause 17.3(f), if there are changes in CRL's forecast expenditure such that funds are required in advance of the adjusted payment profile, then CRL may notify the Sponsors and the Sponsors will further adjust the payment profile to address the change, provided that the payment profile shall not (unless otherwise agreed by the Sponsors) be adjusted to require funding in advance of the requirements of the Funding Schedule that would have applied if the Sponsors had not made the adjustments pursuant to Clause 17.3(f).
- (i) The Parties will amend the Funding Schedule as necessary to reflect any adjustment to the payment profile under Clause 17.3(f) or 17.3(h).
- (j) CRL shall provide the Sponsors with four-weekly statements showing cash flows in respect of the CRL Bank Account.
- (k) The Sponsors acknowledge and agree that their obligations to commit, provide and make funding available referred to in this Clause 17.3 are not in any way conditional or contingent upon achievement of the Project Milestones or any other timing milestone.
- (l) CRL acknowledges and agrees that the SoS Funding Amount and the TfL Funding Amount may be adjusted pursuant to the Sponsor Documents and the Sponsors shall notify CRL of any such adjustment. Other than pursuant to Clause 17.3(f), Clause 17.6 or as a consequence of a Change in accordance with Schedule 4, the Sponsors shall not reduce the Total Sponsor Committed Funding or the aggregate amount payable by the Sponsors on any Funding Date.
- (m) If any VAT is payable on amounts paid under the Sponsor Documents out of committed Crossrail Project funding and is recovered by SoS or TfL, then to the extent that this Agreement does not otherwise provide for the application of such recovered VAT, an equivalent amount shall be transferred into the Sponsor Funding Account upon receipt by SoS or TfL of such recovered VAT.

- (n) CRL shall, as soon as practicable, notify both Sponsors in the event of any failure by either of them to provide funding in accordance with this Clause 17.3.

#### **17.4 Permitted Funding Purposes**

- (a) CRL may use the Sponsor Committed Funding from time to time for the following purposes:
  - (i) in connection with CRL's delivery of the Crossrail Project (other than the carrying out of the On-Network Works by Network Rail) including, without limitation, carrying out its obligations, discharging its liabilities and exercising its rights under this Agreement, the other Principal Project Documents and the Delivery Contracts;
  - (ii) for maintaining CRL as a corporate, operational and business entity with the purpose of delivering the Crossrail Project, including staff and human resource Costs, accommodation, information technology infrastructure, Consents, corporate Costs, directors' remuneration and other Costs typically incurred by a public sector organisation of CRL's nature;
  - (iii) for purposes reasonably ancillary and/or related to the purposes in Clauses 17.4(a)(i) and (ii); and
  - (iv) for any other purposes expressly agreed by the Sponsors in writing.
- (b) CRL may not use the Sponsor Committed Funding for any purpose other than those specified in Clause 17.4(a).

#### **17.5 Clause not used**

- (c)

#### **17.6 CWG Works**

- (a) If and to the extent that TfL becomes a funder of the CWG Works pursuant to a funding agreement entered into with CWG or with the CWG SPV (the "**TfL-CWG Funding Agreement**") then this Clause 17.6 shall apply and the amount to be deposited by TfL in the Sponsor Funding Account pursuant to Clause 17.3(d)(i) on a Funding Date shall be the Revised TfL Base Funding Amount in respect of that Funding Date calculated as follows:

$$RTBFA = TBFA - UA + TFR - RFE$$

where

"**RTBFA**" means the Revised TfL Base Funding Amount for that Funding Date;

"**TBFA**" means the TfL Base Funding Amount specified in the Funding Schedule for that Funding Date;

"**UA**" means the aggregate of all Utilised Amounts advanced by TfL since the previous Funding Date;

"**TFR**" means the aggregate of all TfL-CWG Funding Receipts actually received by TfL since the previous Funding Date other than any amounts which have been paid to CRL pursuant to Clause 17.6(e); and

"**RFE**" means the Rolled Forward Excess relating to the previous Funding Date calculated in accordance with Clause 17.6(b).

- (b) If the calculation of the Revised TfL Base Funding Amount in respect of a Funding Date results in a negative number, the Revised TfL Base Funding Amount shall be deemed to be zero in respect of that Funding Date and the negative portion of the calculation (the "**Rolled Forward Excess**") shall be deducted from the Revised TfL Base Funding Amount at the next Funding Date.
- (c) In respect of any Funding Date to which this Clause 17.6 applies, the TfL Base Funding Amount for that Funding Date shall be deemed to be amended to equal the Revised TfL Base Funding Amount calculated pursuant to Clause 17.6(a).
- (d) TfL shall notify SoS and CRL as soon as reasonably practicable following receipt of a utilisation request under the TfL-CWG Funding Agreement including details of the quantum and timing of the advance requested.
- (e) Where the Asset Price Payment Date falls on a date other than a Funding Date and the TfL-CWG Funding Receipts are the consequence of the payment by CRL of the Asset Price, TfL will pay the TfL-CWG Funding Receipts to CRL as soon as practicable after receipt of such TfL-CWG Funding Receipts.

#### **17.7 On-Network Works**

If any element of the Access Charge paid by CRL incorporates an adjustment in respect of the financeability of the financing of the On-Network Works then an amount equal to that adjustment shall be paid by SoS to CRL within 30 days of CRL's request.

#### **17.8 Sponsor Funding Profile**

CRL shall prepare and submit to the Sponsors a revised Sponsor Funding Profile, as soon as is reasonably practicable and in any event within 30 days of the occurrence of any of the following circumstances:

- (a) where a change to the Sponsor Funding Profile is required in accordance with any Sponsor Document; or
- (b) where a revised Sponsor Funding Profile is included as part of a Change Confirmation Notice.

### **18. INSURANCE**

**18.1** CRL shall develop an insurance strategy that identifies and details CRL's insurance proposals for the Crossrail Project, on a basis that is consistent with this Agreement and the Delivery Strategy, and delivers value for money and is consistent with prudent market practice for undertakings of the nature of the Crossrail Project (the "**Insurance Strategy**").

**18.2** The Insurance Strategy shall provide for each Sponsor to be named as a co-insured on each third party liability policy and each physical damage policy to be taken out by CRL.

**18.3** CRL shall submit the Insurance Strategy to the Sponsors for review and approval before Review Point 3.

- 18.4** Following approval by the Sponsors of the Insurance Strategy, CRL shall request the Sponsors' approval prior to making any amendment to the Insurance Strategy.
- 18.5** CRL shall at all times comply with the Insurance Strategy approved by the Sponsors, including by ensuring that insurances are obtained and maintained in accordance with the Insurance Strategy, and CRL shall provide to the Sponsors copies of all proposed insurance policies and renewal certificates prior to placing or renewing such policies.

## **19. INTELLECTUAL PROPERTY**

### **19.1 Crossrail Intellectual Property**

- (a) Subject to Clause 19.2, unless the Sponsors otherwise agree, CRL shall procure that it:
- (i) owns (whether by assignment or otherwise), free from all third party rights, all Intellectual Property created or developed exclusively in connection with the Crossrail Project (including all design drawings and plans) (the "**Developed Crossrail IP**");
  - (ii) owns, or is granted a perpetual, irrevocable, transferable, sub-licensable (including the right to grant further subordinate licences to any third party), royalty-free licence of all other Intellectual Property necessary for the Crossrail Project (the "**Background Crossrail IP**") for use in connection with the Crossrail Project, provided that:
    - (A) CRL shall obtain ownership of Background Crossrail IP to the extent ownership is available on commercially reasonable terms (taking into account best value principles); and
    - (B) in relation to software for which a Standard Software Licence is obtainable, CRL may accept such Standard Software Licence provided its terms are reasonable and at least as favourable to CRL as those generally available; and
  - (iii) is able to comply with its obligations under Clauses 19.1(b), (c), (d) and (e) below.
- (b) CRL grants separately to each of the Sponsors, the Operators and their respective Affiliates and any other person involved in the Crossrail Project (the "**IP Licensees**") a perpetual, irrevocable, transferable, sub-licensable (including the right to grant further subordinate licences to any third party), royalty-free, non-exclusive licence (or, as the case may be, sub-licence) to use the Crossrail Intellectual Property (other than in respect of any non-sub-licensable Standard Software Licences) in connection with the Crossrail Project.
- (c) Other than in respect of Standard Software Licences, CRL shall procure that each IP Licensee is promptly provided with copies of the latest versions of all documentation (including training manuals and technical information (including in any electronic format)) and software (in executable object code) used in connection with the Crossrail Project, as that IP Licensee may from time to time reasonably request.

- (d) CRL shall notify the Sponsors, on request, of details (including the owner, scope, type of Intellectual Property and any registration number) of material Crossrail Intellectual Property in existence from time to time.
- (e) Notwithstanding the foregoing:
  - (i) CRL shall, promptly following the Effective Date, transfer to TfL (by way of transfer scheme) all its registered trade marks (including trade mark applications), rights in unregistered trade marks, service marks, rights in logos and get-up (including copyright and design right), trade names, domain names and rights in e-mail addresses, subject to a perpetual, irrevocable, non-transferable, sub-licensable, royalty-free, non-exclusive licence to CRL to use such Crossrail Intellectual Property to carry out its obligations under this Agreement and/or any of the Project Documents;
  - (ii) subject to Clause 19.1(e)(i), to the extent:
    - (A) requested by the Sponsors, within 90 days of that request; and
    - (B) not so requested, no later than 30 days prior to Substantial Completion,

CRL shall transfer to the Relevant Operator (by way of transfer scheme) the Crossrail Intellectual Property that is owned by CRL in relation to the relevant assets being handed over, and the Sponsors shall procure that, to the extent necessary or desirable for CRL to have the right to use such Crossrail Intellectual Property, the Relevant Operator grants back to CRL a perpetual, irrevocable, non-transferable, sub-licensable, royalty-free, non-exclusive licence to use such Crossrail Intellectual Property to carry out its obligations under this Agreement and/or any of the Project Documents; and
  - (iii) to the extent that CRL negotiates and enters into any agreement relating to design of Development Opportunities, CRL shall ensure that ownership of all Intellectual Property in the designs, drawings and any other documentation (including in any electronic format) created or developed pursuant to such agreement shall vest (by way of transfer scheme) in TfL or its nominee.
- (f) CRL shall indemnify the IP Licensees against all actions, claims, demands, Costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any of the Crossrail Intellectual Property, the use by CRL of the Crossrail Intellectual Property, or the use by any IP Licensee of the Crossrail Intellectual Property in accordance with this Clause 19 (other than, in each case, in respect of any non-sub-licensable Standard Software Licences). To the extent permitted by law, CRL shall take all such action as the Sponsors may reasonably request in relation to the handling of any such actions or claims, and shall not take any action in relation to them without the prior written consent of the Sponsors.

## **19.2 Licence to CRL**

- (a) Subject to Clauses 19.1(e)(i) and (ii), CRL shall be entitled to request a licence to use any Intellectual Property owned by or licensed to either of the Sponsors or any of their respective Affiliates, to the extent that that person is entitled to license that Intellectual Property and that that licence is necessary or desirable for CRL to carry out its obligations under this Agreement and/or any of the Project Documents.

- (b) In respect of any licence of Intellectual Property requested by CRL pursuant to Clause 19.2(a), where that Sponsor or its Affiliate agrees to grant to CRL a licence to use such Intellectual Property, that Sponsor shall, or shall procure that its relevant Affiliate shall, grant to CRL a royalty-free licence (subject to such reasonable conditions as may be determined by the grantor) to use such Intellectual Property to carry out its obligations under this Agreement or any of the Project Documents.

### **19.3 Software Escrow**

CRL shall procure that the Escrow Materials, to the extent such Escrow Materials are material to the construction and operation of the Crossrail Project and taking into account best value principles, are deposited with a reputable, independent third party on terms whereby CRL, the Sponsors and anyone authorised by any of them will be provided with the Escrow Materials in respect of which their owner and/or licensor:

- (a) refuses to, or is in material breach of its obligations to, maintain and/or develop the Escrow Materials (including in accordance with the provisions of any relevant maintenance and/or development agreement); and/or
- (b) is subject to an insolvency event.

## **20. PUBLICITY**

### **20.1 Public Affairs**

- (a) CRL shall use reasonable endeavours to develop a protocol (which shall be approved by the Sponsors) for external communications by CRL and the Sponsors in relation to the Crossrail Project within 120 days of the date of this Agreement (the "**Communications Strategy**").
- (b) As far as is practical and, in respect of SoS, subject to SoS's accountability to Parliament and to the public and, in respect of TfL, the Mayor of London's accountability to the London Assembly, the Parties shall each comply with the Communications Strategy in relation to any announcement or external communication in relation to the Crossrail Project.

### **20.2 City of London Corporation**

CRL shall:

- (a) consult the City of London Corporation in relation to any announcement to be made as part of the Crossrail Project in relation to the contribution from the City of London Corporation of any amounts to be paid under the City of London Corporation Agreement;
- (b) procure the installation of a plaque in the entrances to each of Farringdon and Liverpool Street stations when the Railway is operational with the City of London Corporation's logo and the words: "The construction of Crossrail was part-funded by the City of London [www.cityoflondon.gov.uk](http://www.cityoflondon.gov.uk)"; and
- (c) ensure that the City of London Corporation's logo appears on the CRL website with the wording "The construction of Crossrail is part-funded by the City of London [www.cityoflondon.gov.uk](http://www.cityoflondon.gov.uk)", together with a click-through from the web address to the City of London Corporation's web address.



## 21. FINANCIAL MODELS

### 21.1 Financial Model Custody Arrangements

- (a) CRL will be responsible for appointing an appropriate party (the "**Model Custodian**") to maintain a copy of the current Financial Models, the Baseline Crossrail Investment Model and the Baseline Project Financial Model on a secure basis. The terms of such custody arrangements shall provide for the Financial Models to be released to either of the Sponsors or any other party that the Sponsors may nominate following a request from such Sponsor.
- (b) CRL will be responsible for the lodging of a copy of the Financial Models every six months with the Model Custodian following agreement of the Financial Models in accordance with Schedule 7.
- (c) CRL shall provide a copy of the then current Financial Model to either of the Sponsors or any other party that the Sponsors may nominate on request.

### 21.2 Adjustments to Financial Model

CRL shall update and amend the Financial Models in accordance with the provisions of Part 1 of Schedule 7.

## 22. ADVERSE EVENTS

### 22.1 If any:

- (a) risk;
- (b) event or series of events; or
- (c) behaviour by an Industry Partner,

(each an "**Adverse Event**") has, or is likely to have, a material adverse impact on the Crossrail Project (and/or its implementation), then without prejudice to:

- (a) CRL's obligation to implement the Crossrail Project in accordance with Clause 3.2; and
- (d) CRL's reporting obligations in any other provision of this Agreement,

CRL shall promptly notify the Sponsors of the Adverse Event (an "**Adverse Event Notice**") giving full details of the nature of the event and its potential consequences and impact on the Crossrail Project.

### 22.2 Following provision of an Adverse Event Notice:

- (a) CRL may notify the Sponsors that it intends to develop a Remedial Action Plan for the Adverse Event; and
- (b) regardless of whether CRL has provided such notification, the Sponsors may notify CRL that they require CRL to develop a Remedial Action Plan for the Adverse Event.

If either CRL provides notification under Clause 22.2(a) or the Sponsors provide notification under Clause 22.2(b), CRL will promptly prepare a Remedial Action Plan (as defined in Clause 22.3) in consultation with the Sponsors and each Party will

ensure that appropriate representatives consult and collaborate in the development of the Remedial Action Plan. The Sponsors shall specify a deadline for CRL to produce the Remedial Action Plan, such deadline being reasonable, taking account of the circumstances of the Adverse Event and the other information provided by CRL in the Adverse Event Notice.

**22.3** The "**Remedial Action Plan**" will be a document that sets out in reasonable detail a proposal, or a range of proposals, to address the impact of the Adverse Event. It may include any proposals reasonably considered by CRL to be appropriate and viable having regard to the nature and circumstances of the Adverse Event and shall specify details for implementing such proposals and CRL's forecast of the impact of such proposals on the cost and timing of the Crossrail Project.

**22.4** The Sponsors shall notify CRL of any action they propose to take with respect to the Adverse Event. This notification may be given by the Sponsors at any time following receipt of an Adverse Event Notice (whether before, during or after receipt of any Remedial Action Plan required pursuant to Clause 22.2) but shall, in any event, be given by the later of:

- (a) the date falling 90 days after receipt by the Sponsors of the Adverse Event Notice; and
- (b) the date falling 70 days after receipt of any Remedial Action Plan required by the Sponsors.

**22.5** The Sponsors' response to the impact of the Adverse Event may be to:

- (a) agree to part or all of the proposals set out in the Remedial Action Plan, in which case CRL (and, to the extent specified in the Remedial Action Plan the Sponsors) shall implement the Remedial Action Plan in accordance with its terms including making such amendments to this Agreement as the Sponsors may agree;
- (b) without prejudice to Clause 14 and Schedule 4, request that CRL revise the Remedial Action Plan to take into account any alternative proposals suggested by the Sponsors, in which case CRL shall, acting reasonably, revise the Remedial Action Plan and Clause 22.4 shall apply; or
- (c) take any other action, or no action, as the Sponsors see fit in the circumstances,

and any such response shall be without prejudice to the other rights that are available to the Sponsors under the terms of this Agreement and the other Principal Project Documents.

## **23. TRIGGER EVENTS AND CONSEQUENCES**

### **23.1 Determination of Trigger Events**

The Sponsors shall jointly notify CRL in the event that a TfL Remedy Trigger Event or a TfL Significant Remedy Trigger Event has occurred (such determination being at the absolute discretion of the Sponsors).

### **23.2 TfL Remedy Trigger Event**

- (a) At any time after Review Point 4 while a TfL Remedy Trigger Event subsists, TfL may serve notice on CRL (copied to SoS) requiring CRL to do one or more of the following:

- (i) to provide (within 30 days) to TfL a plan (a "**TfL Remedial Action Plan**") which shall (A) set out how it proposes that the TfL Remedy Trigger Event be addressed and remedied and (B) reflect and address TfL's guidance and approval criteria for such plan;
  - (ii) promptly to provide to the Sponsor Board a report on the events giving rise to the TfL Remedy Trigger Event and how the TfL Remedy Trigger Event will or could have an impact on the Project Delivery Schedule (including the achievement of the target milestones), the Sponsors Requirements, the Crossrail Programme Functional Requirements and the Adjusted Anticipated Final Cost (including the Anticipated Final CRL Direct Costs) and to prepare and provide to the Sponsor Board a revised Semi-Annual Construction Report and Project Delivery Schedule to reflect the impact of the TfL Remedy Trigger Event; and/or
  - (iii) promptly to provide to the Sponsors such additional financial and/or operational information relating to the business, finance and operations of CRL, in form and substance satisfactory to TfL, as TfL may from time to time request.
- (b) A TfL Remedial Action Plan required pursuant to Clause 23.2(a)(i) shall be a document setting out the following information:
- (i) a description of the reasons for the occurrence of the TfL Remedy Trigger Event;
  - (ii) details of the circumstances giving rise to the TfL Remedy Trigger Event;
  - (iii) a reasonably detailed proposal to address the TfL Remedy Trigger Event so as to reduce the Anticipated Final CRL Direct Costs below Intervention Point 0, which proposal shall reflect and address TfL's guidance and approval criteria for such plan; and
  - (iv) any other information reasonably requested by TfL in relation to the TfL Remedy Trigger Event.
- (c) CRL shall use all reasonable endeavours to implement its proposals in any TfL Remedial Action Plan to reduce the Anticipated Final CRL Direct Costs below Intervention Point 0 provided that CRL shall neither propose nor implement any aspect of a TfL Remedial Action Plan that would put CRL in breach of any provision of this Agreement.

### **23.3 TfL Significant Remedy Trigger Event**

- (a) At any time after Review Point 4 while a TfL Significant Remedy Trigger Event subsists, TfL may take such action and require CRL to take such action in respect of the implementation and management of the Crossrail Project and the governance of CRL as TfL, in its discretion, determines necessary or advisable in order to remedy the TfL Significant Remedy Trigger Event.
- (b) TfL may elect to commit in writing (according to a profile) to make available TfL Additional Funding to CRL for the purposes of remedying a TfL Significant Remedy Trigger Event.

- (c) If TfL requires CRL to take action pursuant to Clause 23.3(a), CRL shall comply with TfL's instructions in respect of such action until such time as TfL notifies CRL otherwise.
- (d) If TfL notifies CRL following the occurrence of a TfL Significant Remedy Trigger Event that TfL is preparing a plan setting out TfL's proposed strategy for completing the Crossrail Project, then CRL will provide such reasonable assistance and such information to enable TfL to prepare such plan as TfL reasonably requires.

#### **23.4 TfL Put Option and SoS Call Option**

The Sponsors shall notify CRL if either the TfL Put Option or the SoS Call Option is exercised and the parties shall work together in good faith and shall not unreasonably withhold or delay consent to any amendment to this Agreement to reflect the consequences of that exercise.

#### **23.5 CRL Default**

- (a) A "**CRL Default**" occurs if CRL fails to comply with a material undertaking of CRL under any Principal Project Document.
- (b) Following the occurrence of a CRL Default, the Sponsors shall consider the impact of such CRL Default and, without prejudice to any other express rights or remedies of the Sponsors pursuant to this Agreement or any other Principal Project Document, may require CRL to provide to the Sponsors a remedial action plan setting out how it is proposed that the CRL Default be addressed and remedied and/or take such other actions as the Sponsors may determine in consultation with CRL to rectify the CRL Default.

### **24. MATERIAL EVENTS**

#### **24.1 Acknowledgement**

It is acknowledged that there is no provision within the Sponsor Committed Funding for Material Events.

#### **24.2 Material Events – Identification**

Each of the following shall be a "**Material Event**":

- (a) any Change in Law; or
- (b) if, at the time of any Financial Models update, the Anticipated Final CRL Direct Cost resulting from the application of the latest available Mid Case Indices to the real Costs included in the Baseline Crossrail Investment Model and the Baseline Project Financial Model is greater than the Anticipated Final CRL Direct Cost that would have resulted from the application of the Baseline Indices to such real Costs.

#### **24.3 Material Event Notification**

- (a) CRL shall use all reasonable endeavours to mitigate the effects of any Material Event.
- (b) CRL shall provide notice to each of the other Parties and to the Project Representative as soon as practicable after it considers that a Material Event has

occurred (a "**Material Event Notice**"). The notice shall include a short description of the Material Event.

- (c) Following receipt of a Material Event Notice, the Parties shall consult with each other regarding the Material Event, its impact and any means by which its effects can be mitigated or avoided. In addition, each Party shall provide the other Parties with such information and analysis as is reasonably requested regarding the Material Event (having regard to the Parties' respective responsibilities in relation to the Crossrail Project).
- (d) Without limit to Clause 24.3(c), within 30 Working Days of the issue of a Material Event Notice (or such longer time as the Sponsors consider is reasonable having regard to the nature of the Material Event), CRL shall provide the Sponsors with a report (a "**Material Event Report**") that includes:
  - (i) a more comprehensive description of the Material Event and its general nature and seriousness and (where relevant) the date of its occurrence and its anticipated duration;
  - (ii) CRL's best estimate of the effect that the Material Event will have on the Anticipated Final CRL Direct Costs, including when CRL expects that any additional Costs will be incurred;
  - (iii) CRL's best estimate of any delay that the Material Event will cause to the achievement of the Project Delivery Schedule (including to the Final Delivery Date) or to the commencement of the Railway's commercial operations;
  - (iv) CRL's opinion of any other adverse effects the Material Event will have on the Crossrail Project or on CRL's ability to discharge its obligations under this Agreement;
  - (v) details of the action that CRL proposes to take to mitigate the time and Costs impacts of the Material Event;
  - (vi) the steps that CRL suggests that the Sponsors should take under Clause 24.4 to address the impacts of the Material Event (for the avoidance of doubt, the Sponsors shall not be obliged to accept CRL's suggestion);
  - (vii) CRL's opinion of the effects that a deferral of the Sponsors' decision under Clause 24.4 would have on the ability of the Sponsors to mitigate the Material Event's costs and time impacts through instructing a Change at a later date; and
  - (viii) any other information reasonably requested by the Sponsors in relation to the Material Event.

The Parties shall meet as soon as reasonably practicable following the issue of the Material Event Report with a view to discussing and agreeing the likely consequences of the Material Event.

#### **24.4 Sponsor Election**

- (a) As soon as reasonably practicable following the meeting and discussions referred to in Clause 24.3(d), the Sponsors shall notify CRL how they intend to take account of the Material Event (a "**Sponsors Material Event Response Notice**").

- (b) A Sponsors Material Event Response Notice shall include the following statements:
  - (i) either:
    - (A) that the Sponsors shall provide additional funding to CRL (in which case the Sponsors shall notify CRL of the consequential amendments to the Funding Schedule and the Intervention Points); or
    - (B) that the Sponsors wish CRL to manage the consequences of the Material Event without the provision of additional funding; and
  - (ii) either:
    - (A) that the Sponsors shall extend the Target Final Delivery Date and/or Longstop Date; or
    - (B) that the Sponsors wish CRL to manage the consequences of the Material Event without an extension to the Target Final Delivery Date and/or Longstop Date.
- (c) In addition to the statements pursuant to Clause 24.4(b), a Sponsors Material Event Response Notice may also include an election by the Sponsors to instruct a Change to rescope the Sponsors Requirements and effect a reduction in the Anticipated Final CRL Direct Costs.
- (d) The Parties shall promptly take such action, if any, as is necessary to give effect to the Sponsors Material Event Response Notice.

## 25. SPONSORS INTERFACE

### 25.1 Joint Sponsor Team

- (a) The Sponsors shall establish a team comprising members appointed from among the staff allocated by each Sponsor to the Crossrail Project (the "**Joint Sponsor Team**").
- (b) The Sponsors shall appoint a single functional lead representative who shall be a member of the Joint Sponsor Team with responsibility for interfacing with CRL on behalf of the Sponsors for all purposes related to this Agreement (the "**Joint Sponsor Team Lead**"), subject to the provisions of Clause 25.1(d) and any other restrictions notified to CRL by the Sponsors.
- (c) The Sponsors shall jointly notify CRL in writing of the identity of the Joint Sponsor Team Lead.
- (d) Either Sponsor may, by notice in writing to CRL, withdraw the authority of the Joint Sponsor Team Lead to act on its behalf pursuant to Clause 25.1(b).
- (e) The Sponsors shall jointly notify CRL of any change to the identity of the Joint Sponsor Team Lead or any change to the scope or limits of his authority pursuant to Clause 25.1(b).
- (f) CRL shall not be entitled to treat as given by or binding upon the Sponsors, any statement made by any individual other than the Joint Sponsor Team Lead except for a joint statement made by the Sponsor Board constituted under the Sponsors Agreement.

## **25.2 Joint Project Representative**

- (a) The Sponsors may, by providing 10 Working Days notice to CRL, jointly appoint a project representative (the "**Project Representative**") for the purposes of carrying out the functions referred to in Clause 25.3 for the benefit of the Sponsors.
- (b) The Sponsors may change the identity of the Project Representative by jointly providing 10 Working Days' notice to CRL advising the identity of the new Project Representative and the date of the change.

## **25.3 Project Representative's Functions**

- (a) The Project Representative's functions shall include, without limitation:
  - (i) advising the Sponsors on any increase in the risk of triggering the Intervention Points;
  - (ii) providing independent, informed advice to the Sponsors on progress of the Crossrail Project in respect of time, Costs and quality;
  - (iii) providing the Sponsors with oversight and analysis of any changes in scope, including any Change;
  - (iv) monitoring CRL's compliance with Clause 4.2;
  - (v) reviewing CRL reporting output and carrying out additional audits or reviews to satisfy the Sponsors of the adequacy and completeness of the same; and
  - (vi) advising the Sponsors with regard to the capability and resources deployed by CRL and its contractors.
- (b) In exercising its functions pursuant to Clause 25.3(a), the Project Representative shall be afforded full audit rights over the performance by CRL, including pursuant to any Delivery Contract and the Industry Partner Agreements.
- (c) The Project Representative shall not have the authority to bind the Sponsors or to exercise any of the Sponsors' powers under this Agreement, unless specifically authorised by the Sponsors.
- (d) The Project Representative is not responsible for the Sponsors' compliance with their obligations under this Agreement and the other Principal Project Documents.

## **25.4 CRL Assistance**

- (a) CRL shall (and shall procure that each of its agents, subcontractors and consultants shall) provide the Project Representative with such information (including all CRL correspondence, files, records and documents), assistance and access (including all physical space) as the Project Representative may reasonably require to enable the Project Representative to carry out the functions specified in Clause 25.3(a).
- (b) The Project Representative shall be provided with an office and such other facilities as the Project Representative may reasonably require at CRL's main project offices.

## 25.5 Individual Project Representatives

- (a) The Sponsors have agreed that SoS shall have the right to require that the Project Representative ceases to owe a duty of care to TfL and, accordingly, becomes an appointee of SoS only. SoS shall provide CRL with 10 Working Days' notice (copied to TfL) of the exercise of this right.
- (b) In the event that SoS exercises the right referred to in Clause 25.5(a), TfL shall be entitled to appoint its own project representative with the same functions and powers as set out in Clause 25.2 above but reporting solely to TfL. TfL shall provide CRL with 10 Working Days' notice (copied to SoS) of any such appointment.

## 26. CRL REPORTING OBLIGATIONS

### 26.1 Regular Construction Report

CRL shall provide each of the Sponsors with a 28 day periodic construction report ("a **Regular Construction Report**") in the form set out in Schedule 10, such report to relate to such 28 day period and to be provided within 22 Working Days after the end of each such period commencing after the Effective Date. CRL shall notify the Sponsors if it anticipates any difficulty in complying with such time limit when programming meetings of the CRL Board, in which case the Parties shall seek to agree by exception modified arrangements which would be compatible with the programme for meetings of the Sponsor Board.

### 26.2 Semi-Annual Construction Report

Within 45 days of the end of each Semi-Annual Reporting Period, CRL shall provide each of the Sponsors with a report (a "**Semi-Annual Construction Report**") and updated Financial Models (in accordance with Clause 21.2 and Schedule 7). The report shall set out for that Semi-Annual Reporting Period:

- (a) the status of the Crossrail Project Works, including:
  - (i) a detailed report on the construction activities undertaken during the Semi-Annual Reporting Period and the proposed activities for the next Semi-Annual Reporting Period (including breakdown of activities);
  - (ii) the actual and projected progress of the key design, construction and commissioning activities of each element of the Crossrail Project, referenced against the Delivery Strategy, the target dates for each of these activities shown in the Project Delivery Schedule and against the Project Milestones broken down for the Sponsors, Industry Partners and other stakeholders; and
  - (iii) a comparison of the progress on the activities referred to in Clauses 26.2(a)(i) and 26.2(a)(ii) against the Project Delivery Schedule;
- (b) the Project Delivery Schedule updated in accordance with Clause 6.1 together with an explanation of any material changes from the previous version and including the Forecast Final Delivery Date;
- (c) a general summary of any Changes proposed and implemented during the Semi-Annual Reporting Period;



- (d) an explanation of the update methodology and of any significant revisions to the Financial Models;
- (e) the aggregate Costs incurred by CRL (together with a reasonably detailed breakdown and an explanation of any material variances relative to the previous Semi-Annual Construction Report);
- (f) the Actual Final CRL Direct Costs and the Anticipated Final CRL Direct Costs and a statement as to whether this exceeds IP 0, IP 1 or IP 2;
- (g) the aggregate of the Costs incurred and forecast to be incurred by Network Rail in delivering the On-Network Works and a forecast of any On-Network Works Cost Overrun (including an explanation for such forecast overrun);
- (h) the aggregate of the Costs incurred and forecast to be incurred in delivering the LUL Related Works (including an explanation for such forecast over-run);
- (i) a summary of the progress of the Rolling Stock and Depot procurements against the RS Procurement Programme and Depot Procurement Programme and estimated Rolling Stock and Depot costs;
- (j) an update of the land acquisition programme;
- (k) a summary of progress of CWG Works against programme, actual and forecast Costs of agreed and planned variations, and forecast asset price;
- (l) a summary outlining the amount of contingency used by the end of the Semi-Annual Reporting Period and available for use;
- (m) the Anticipated Final Costs and Adjusted Anticipated Final Costs;
- (n) an update regarding the Annual Business Plan and Annual Budget;
- (o) updated forecast operating and maintenance Costs including estimated Costs and Costs profiles of equipment, supplies, parts, utilities and power, cleaning, employees, insurance, technology and systems and related supporting information;
- (p) a health and safety report, including a statement from the Health and Safety committee chair, a summary of any significant safety or environmental incidents occurring during the Semi-Annual Reporting Period, a report of incident trends and identification of accident free man-hours;
- (q) any credit support or guarantees requested or anticipated from either of the Sponsors;
- (r) details of any material amendment or proposed amendment to any Key Delivery Contract;
- (s) details of any material failures by CRL to comply with its obligations under this Agreement or any other Principal Project Documents;
- (t) details of all material claims or disputes made by or against CRL during the Semi-Annual Reporting Period and an update of all other material claims and disputes involving CRL;

- (u) details of any Material Events or anticipated Material Events, and an update of all previously notified Material Events;
- (v) a summary of all assurance activities conducted during the Semi-Annual Reporting Period and planned for the next Semi-Annual Reporting Period, including all assurance certificates and third party certificates obtained or to be obtained;
- (w) an updated register of all Consents obtained by CRL pursuant to its obligations under this Agreement;
- (x) detail of all inspections and audits completed during the Semi-Annual Reporting Period which result in a "poorly controlled" or similar audit report;
- (y) an updated copy of the Crossrail Programme Functional Requirements identifying all changes from the previous version provided to the Sponsors and including an explanation for all material changes;
- (z) a summary of any significant dealings with the public, media organisations or any public authorities, other than those occurring in the ordinary course of events; and
- (aa) such other information as the Sponsors may reasonably request.

### **26.3 Sponsor Remedies**

- (a) If SoS becomes solely responsible pursuant to clause 19.21(a) of the Sponsors Agreement for funding the On-Network Works Cost Overrun, then SoS shall be entitled to direct CRL to make changes to the scope and programme of the On-Network Works or to other aspects of the Crossrail Project (including rolling stock and interfaces with third parties) to the extent necessary to minimise any such Costs overrun provided that SoS shall not be entitled to issue any such Change which would affect either the infrastructure of the Central Core Area or operations in the Central Operating Section.
- (b) To the extent any part of such On-Network Works Cost Overrun results directly from an action or decision taken by CRL which is inconsistent with the exercise of its rights and the performance of its obligations under the Principal Project Documents to which it is a party (including the obligation to promote the efficient, timely and cost-effective delivery of the Crossrail Project pursuant to Clause 6.2), CRL shall be responsible for such On-Network Works Cost Overrun.
- (c) If any Regular Construction Report or Semi-Annual Construction Report delivered by CRL in accordance with Clause 26.1 or 26.2 identifies that:
  - (i) the Project Milestones relating to the Development Opportunities, the HAL Contribution Agreement or the City of London Corporation Agreement are forecast not to be achieved; or
  - (ii) the Final Delivery Date is forecast not to be achieved within six months of the Target Final Delivery Date,

the Sponsors may require CRL to take all such steps as are practicable to reprogramme the Crossrail Project Works so as to minimise the extent of any such delay on a basis consistent with the Sponsor Committed Funding and to issue a revised Project Delivery Schedule identifying the time savings that will be achieved.

## **26.4 Financial reporting obligations**

- (a) CRL shall provide each of the Sponsors with the audited financial statements of CRL as soon as they are prepared together with such other information regarding CRL's financial condition as either of the Sponsors may reasonably require.
- (b) CRL shall provide the information required by Clause 26.4(a) in any form reasonably required and agreed by the Sponsors and, without limit, that allows consolidation for public sector accounting purposes (where applicable).

## **26.5 Records**

CRL shall:

- (a) at all times maintain all records relating to the performance of its obligations and exercise of its rights under this Agreement and the other Principal Project Documents, including particulars of the Adjusted Anticipated Final Cost, Anticipated Final CRL Direct Costs, Anticipated Final Cost, tax payments, administrative overheads, design, construction and engineering information (including drawings) and other matters relevant to CRL's reporting requirements;
- (b) with respect to the maintenance of records referred to in Clause 25.3(a) comply with best accountancy practice, Applicable Law and the TfL Records Management Policy from time to time;
- (c) make available the books of account evidencing CRL's maintenance of such records for inspection by either of the Sponsors and their representatives (including the Project Representative) upon reasonable notice, and report on these in accordance with Clause 25.3(a); and
- (d) provide such facilities as either of the Sponsors reasonably require for their respective representatives (including the Project Representative) to visit any place where the records are held and examine and copy the records maintained under this Clause 26.5.

## **27. REVIEW POINTS**

### **27.1 Project Review**

The Parties shall implement a process to review the initial development of the Crossrail Project (the "**Project Review**") which shall consist of two formal reviews to be completed by the following dates respectively:

- (a) 30 September 2009 or such later date as the Sponsors advise to CRL ("**Review Point 3**"); and
- (b) 30 December 2010 or such later date as the Sponsors advise CRL ("**Review Point 4**").

### **27.2 Project Review Purpose**

The purpose of the Project Review shall be to provide a high-level forum for the Crossrail Project's key stakeholders to:

- (a) discuss and review the Crossrail Project's progress including the forecast Costs of the Crossrail Project;

- (b) consider the implementation of any significant changes to the Crossrail Project that may be necessary or appropriate; and
- (c) discuss whether the Sponsors will continue or cease their commitment to the Crossrail Project, with a view to either confirming the Sponsors' continued commitment to the Crossrail Project, or alternatively providing either Sponsor with an opportunity to cease its commitment to the Crossrail Project.

Without prejudice to the Sponsors' rights under Clause 27.4(b), Schedule 5 contains the list of the requirements in respect of which the Sponsors will need to be satisfied at each of Review Point 3 and Review Point 4 respectively. The Sponsors may add to, amend or waive the list of requirements set out in Schedule 5 at any time and such list from time to time shall be the "**Sponsors Review Point Requirements**".

### **27.3 Project Review Process**

- (a) By each of the dates that is eight weeks before Review Point 3 and the date that is eight weeks before Review Point 4, CRL will provide to the Sponsors all such information as the Sponsors may reasonably require so as to satisfy themselves in relation to the relevant Sponsors Review Point Requirements.
- (b) As part of the Project Review process at Review Point 4, the Sponsors shall review whether the cap of [£ redacted] applied to Cash Management Funding Amounts pursuant to paragraph (c) of the definitions of IP 0 and IP 1 remains appropriate having regard to the then current Financial Models and, in the event that the Sponsors issue a Positive Project Review Notice pursuant to Clause 27.4(b), they may also notify CRL in writing that such caps shall be amended and the definitions of IP 0 and IP 1 shall be construed accordingly.
- (c) Subject to receiving the information specified in Clause 27.3(a) in the timeframe required by that Clause, the Sponsors will complete their review processes so as to be in a position to make the decision contemplated by Clause 27.4 on or before Review Point 3 or Review Point 4 (as applicable).
- (d) CRL will be entitled to proceed with the Crossrail Project during the Project Review provided that:
  - (i) CRL will not be entitled to issue tender documents in relation to any Delivery Contract prior to receipt of a Positive Project Review Notice at Review Point 3; and
  - (ii) CRL will not be entitled to award any Delivery Contract prior to receipt of a Positive Project Review Notice at Review Point 4,

other than:

- (A) the Industry Partner Agreements;
- (B) any agreement for design services or the appointment of a designer;
- (C) any agreement for the carrying out of site investigations or surveys;
- (D) any pre-qualification notices or documents;
- (E) any agreement that was entered into prior to the date of this Agreement; or

(F) with the prior written consent of the Sponsors.

#### **27.4 Project Continuation**

- (a) During the Project Review, the Sponsors shall discuss the Crossrail Project, their respective roles in it and any concerns that either of them have with regard to continuing their commitment to the Crossrail Project. Each Sponsor shall provide the other Sponsor and CRL with a reasonable opportunity to respond to any such concerns.
- (b) At each of Review Point 3 and Review Point 4, each Sponsor shall be entitled to decide at its own discretion whether or not the Crossrail Project should proceed. If both Sponsors wish to continue with the Crossrail Project, they will issue a notice to CRL to that effect (a "**Positive Project Review Notice**") and this Agreement shall continue. If either or both of the Sponsors do not wish the Crossrail Project to proceed further, they will issue a notice to CRL to this effect (a "**Negative Project Review Notice**") and Clause 28 shall apply.

### **28. TERMINATION**

If, pursuant to the Project Review or otherwise, the Sponsors elect (in their absolute discretion) to discontinue the Crossrail Project, the Sponsors shall give notice to CRL that this Agreement will terminate and, upon issue of such a notice:

- (a) the Parties shall co-operate with each other and act reasonably in order to implement an orderly cessation to the activities contemplated by this Agreement and the Project Documents;
- (b) CRL shall immediately commence to demobilise and wind down its activities so as to cease its activities and operations in a prompt, orderly and costs-efficient manner;
- (c) CRL shall deliver to the Sponsors all information, materials, documents and records that it holds in relation to the Crossrail Project;
- (d) the Sponsors shall be released from all obligations to provide further funding to CRL; and
- (e) CRL shall, within 40 Working Days, provide the Sponsors with notice identifying:
  - (i) its outstanding liabilities and the estimated Costs of completing the demobilisation and other activities contemplated by this Clause 28; and
  - (ii) any cash or other resources that CRL has available to meet such Costs and liabilities.

### **29. DISPUTE RESOLUTION**

#### **29.1 Disputes Mechanisms**

- (a) CRL shall ensure that each of the Delivery Contracts includes appropriate provisions to govern the resolution of disputes. These provisions may include reference to the Disputes Panel established under Clause 29.1(b).
- (b) On or prior to Review Point 4, CRL shall establish the Disputes Panel.

- (c) CRL shall ensure that, if requested by either Sponsor, appropriate members of the Disputes Panel shall be available for consultation by, and to provide an opinion or recommendations to, the Sponsors with respect to any Dispute.
- (d) Notwithstanding any other provision of this Agreement, while CRL is an Affiliate of TfL, any Dispute arising between CRL and any Affiliate of TfL or between CRL and TfL arising in respect of the TfL Shareholder Agreement or relating specifically to the implementation of a Development Opportunity Change shall be resolved by the TfL Commissioner (where applicable, on the basis of the terms of any agreement between CRL and the relevant member of the TfL Group). Each of CRL and TfL agrees that SoS shall be entitled (through the Project Representative) to have access to all information which CRL has or is entitled to receive in connection with such Disputes.

## **29.2 Disputes Notification**

Any Party may refer any Dispute arising out of this Agreement for resolution in accordance with this Clause 29 by written notice setting out the nature of the Dispute to the other Parties.

## **29.3 Process for Resolution**

- (a) Where any Party raises a Dispute by notice to the other Parties in accordance with Clause 29.2 such Dispute shall be resolved between the Sponsors in accordance with clause 32 of the Sponsors Agreement before the matter is resolved under this Agreement provided that, while the matter is being resolved between the Sponsors in accordance with the Sponsors Agreement:
  - (i) the Sponsors shall ensure that CRL is informed of the progress of discussions between the Sponsors in a timely manner and is afforded an opportunity to discuss such Dispute with the participants in the dispute resolution process described in clause 32 of the Sponsors Agreement;
  - (ii) CRL shall provide, and subject to privilege and to any applicable confidentiality restrictions, shall ensure that the Delivery Contractors shall provide, such information as the Sponsors reasonably request in connection with resolving any Dispute between the Sponsors;
  - (iii) any of CRL, SoS or TfL shall be entitled to consult with, and seek recommendations with respect to the resolution of the Dispute from, the Disputes Panel or any other appropriate expert or consultant and may present such recommendations to the other Parties at any time during any resolution of the Dispute, provided that the Sponsors shall not be bound by any decision, opinion or recommendation of the Disputes Panel or any other person (including CRL) with respect of any Dispute unless the Sponsors expressly agree to be so bound; and
  - (iv) where any Party requests the opinion or recommendations of the Disputes Panel or any other appropriate expert or consultant with respect to any Dispute, it shall notify the other Parties of such request and direct the Disputes Panel or other expert to provide its opinion or recommendations in writing to each Party at the same time.
- (b) Promptly following the resolution of any Dispute between the Sponsors under the Sponsors Agreement, the Sponsors shall notify CRL in writing of such decision and

the agreement of the Sponsors with respect to any Dispute shall be final and binding on CRL; provided that any agreement of the Sponsors which constitutes a Change shall be subject to Schedule 4 provided that any dispute arising from a dispute under Schedule 4 shall not be a further Change.

- (c) If a Dispute is raised by any Party in connection with this Agreement and the Sponsors agree a joint position with respect to the resolution of such Dispute without referring such Dispute to the process set out in clause 32 of the Sponsors Agreement, the Sponsors shall allow CRL the opportunity to submit in writing within five Working Days (or such longer period as the Sponsors may agree) its opinion on such matter to the Sponsors. Notwithstanding any submission made by CRL, the Sponsors shall not be bound by the opinion of CRL in any way and the agreement of the Sponsors with respect to any Dispute shall be final and binding on CRL; provided that any agreement of the Sponsors which constitutes a Change shall be subject to Schedule 4 provided that any dispute arising from a dispute under Schedule 4 shall not be a further Change.

#### **29.4 Status of Dispute Pending Resolution**

The Parties shall continue to comply with their respective obligations under this Agreement notwithstanding the existence of any Dispute.

#### **29.5 No Proceedings**

Each of the Parties agrees and undertakes that it shall not take any formal proceedings or action of any kind (whether through the courts or arbitration) against any other Party to this Agreement or its Affiliates in respect of any claim it might have in relation to this Agreement.

### **29A TAXATION**

#### **29A.1 Payment of VAT**

Where any taxable supply for VAT purposes is made under or in connection with this Agreement by one Party (the "**VAT Supplier**") to another Party (the "**VAT Recipient**"), the VAT Recipient shall, on receipt of a valid VAT invoice, in addition to any payment required for that supply, pay such VAT as is chargeable in respect of it.

#### **29A.2 Reimbursement of VAT**

Where under this Agreement one Party is to reimburse or indemnify another Party in respect of any payment made or Costs incurred by the other Party, the first Party shall also reimburse any VAT paid by the other Party which forms part of its payment made or Costs incurred to the extent such VAT is not available for credit for the other Party (or for any person with whom the other Party is treated as a member of a group for VAT purposes) under Sections 25 and 26 of the Value Added Tax Act 1994 and is not refundable to it under Sections 33 or 41 of the Value Added Tax Act 1994.

#### **29A.3 VAT Credit Note to be Issued on Repayment**

Where under this Agreement any rebate or repayment of any amount is payable by one Party to another Party, and the first Party is entitled as a matter of law or of HM Revenue & Customs practice to issue a valid VAT credit note, such rebate or repayment shall be paid together with an amount representing the VAT paid on that part of the consideration

in respect of which the rebate or repayment is made, and the first Party shall issue an appropriate VAT credit note to the other Party.

#### **29A.4 Repayment**

If any amount paid by the VAT Recipient to the VAT Supplier in respect of VAT pursuant to this Agreement is subsequently found to have been paid in error, the VAT Supplier shall:

- (a) if the VAT Supplier has not yet accounted for such VAT to HM Revenue & Customs, repay such amount forthwith to the VAT Recipient; or
- (b) if it has already accounted for such VAT to HM Revenue & Customs use all reasonable endeavours to obtain repayment thereof as soon as possible and forthwith on receiving any repayment thereof shall pay to the VAT Recipient the amount received.

### **30. CONFIDENTIALITY**

#### **30.1 Confidentiality Obligation**

Each Party shall during the term of this Agreement and thereafter keep confidential, and procure that its officers, employees and representatives keep secret and treat as confidential, any and all Confidential Information which has been disclosed to it by or on behalf of any party during the term of this Agreement or which it has received during the course of preparation and negotiation of this Agreement.

#### **30.2 Exceptions from Confidentiality Obligation**

The obligation of confidentiality under Clause 30.1 does not apply to the disclosure of information:

- (a) which shall after the date of this Agreement become published or otherwise generally available to the public, except in consequence of a wilful or negligent act or omission by the recipient party in contravention of the obligations in Clause 30.1;
- (b) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- (c) to the extent required to be disclosed by any Applicable Law (including FOI Legislation) or by any governmental or other regulatory or supervisory body or authority of competent jurisdiction to whose rules the party making the disclosure is subject, whether or not having the force of law, provided that the party disclosing the information shall notify the other party of the information to be disclosed (and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before such disclosure must be made and shall take all reasonable action to avoid and limit such disclosure (and, where the information is to be disclosed pursuant to FOI Legislation, Clause 31 will apply);
- (d) reasonably required by any Party for the performance of its obligations under this Agreement or any other Principal Project Document, provided that the relevant Party procures that any party to whom it discloses is subject to the same confidentiality obligations contained in this Clause 30 in all material respects;



- (e) reasonably made by any Party to those of its directors, members or employees for any purpose related to or ancillary to this Agreement or any other Principal Project Document, and who have a need to know such information for the purposes of this Agreement or any other Principal Project Document or otherwise for the proper performance of their duties provided that the relevant Party shall ensure that such parties are made aware of the confidential nature of such information;
- (f) made by any Party to any Government Authority, Parliament or any officer of Parliament;
- (g) made by TfL to any member of the TfL Group or the Mayor provided that TfL shall ensure that such parties are made aware of the confidential nature of such information;
- (h) reasonably made by any Party to those of its contractors, consultants, advisers and agents or any person engaged in providing services to it for any purpose related to or ancillary to this Agreement or any other Principal Project Document, and who have a need to know such information for the purposes of this Agreement or any other Principal Project Document or otherwise for the proper performance of their duties provided that the relevant Party procures that any party to whom it discloses is subject to the same confidentiality obligations contained in this Clause 30 in all material respects;
- (i) made by any Party for the purpose of any registration or recording of any Consents and property registration required; and
- (j) made by any Party for the purpose of any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which each of SoS, TfL or CRL has used its resources.

### **30.3 Official Secrets Acts**

The provisions of this Clause 30 are without prejudice to the application of the Official Secrets Acts 1911 to 1989.

## **31. FREEDOM OF INFORMATION**

### **31.1 FOIA and Environmental Information Regulations**

Each Party acknowledges and agrees that:

- (a) each Party is subject to the FOI Legislation and agrees to assist and co-operate with the others to enable that Party to comply with its obligations under the FOI Legislation, including providing to the other Parties such information in its possession which is the subject of a valid and enforceable Information Request (where possible within a timeframe that enables compliance with the FOI Legislation);
- (b) where a Party receives an Information Request in relation to the Principal Project Documents, it shall consult with the other Parties where it is reasonably able to do so in the context of the time for compliance set out in FOI Legislation before disclosing Information pursuant to such Information Request and shall take due account of all reasonable representations made by the other Parties;

- (c) either Party may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the other Parties; and
- (d) the provision of Information in compliance with this Clause 31 will be deemed not to have been in breach of Clause 30.

### **31.2 FOIA Obligations**

Subject to Clause 31.1(b), the recipient of an Information Request (the "**FOIA Recipient**") shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation, save that, where any Information Request relates to Confidential Information disclosed by any other Party (the "**FOIA Discloser**") in connection with this Agreement or the Principal Project Documents or otherwise in connection with the Crossrail Project, the FOIA Recipient shall, where practicable, in advance of making any disclosure under the FOI Legislation:

- (a) notify the other Parties of the content of any Information Request received which will or may require the disclosure of any Confidential Information as soon as reasonably practicable following receipt;
- (b) use its reasonable endeavours to consult with the other Parties in respect of such Information Request;
- (c) acting reasonably, take due account of all reasonable representations by the FOIA Discloser that such Confidential Information is exempt information; and
- (d) notify the other Parties if and when it discloses any Confidential Information pursuant to an Information Request with a copy of the Information disclosed.

## **32. NOTICES**

**32.1** Any notice to be given by one Party to another Party under, or in connection with, this Agreement shall be in writing and signed by or on behalf of the Party giving it. It shall be served by sending it by fax to the number set out in Clause 32.3, or delivering it by hand, or sending it by pre paid recorded delivery, special delivery or registered post, to the address set out in Clause 32.3 and in each case marked for the attention of the relevant party (or as otherwise notified from time to time in accordance with the provisions of this Clause 32). Any notice so served by hand, fax or post shall be deemed to have been duly given:

- (a) in the case of delivery by hand, when delivered;
- (b) in the case of fax, when received in legible form; and
- (c) in the case of prepaid recorded delivery, special delivery or registered post, at 10 a.m. on the second Working Day following the date of posting,

provided that in each case where delivery by hand or by fax occurs after 6 p.m. on a Working Day or on a day which is not a Working Day, service shall be deemed to occur at 9 a.m. on the next following Working Day.

**32.2** In proving service in the case of a facsimile transmission it will be sufficient that a printed record is given of all pages of the transmission having been received at the correct number.

**32.3** The addresses and fax numbers of the Parties for the purpose of Clause 32.1 are as follows:

**SoS**

Address: Great Minster House  
76 Marsham Street  
London  
SW1P 4DR

Fax: 020 7944 2158

Attention: Director of Rail Projects, Rail and National Networks Group

**TfL**

Address: Windsor House  
42-50 Victoria Street  
London  
SW1H 0TL

Fax: 020 7126 4598

Attention: General Counsel

**CRL**

Address: Portland House  
Bressenden Place  
London  
SW1E 5BH

Fax: 020 3229 9884

Attention: Company Secretary

**32.4** A Party may notify the other Parties of a change to its name, relevant addressee, address or fax number for the purposes of this Clause 32, provided that, such notice shall only be effective on:

- (a) the date specified in the notice as the date on which the change is to take place; or
- (b) if no date is specified or the date specified is less than five Working Days after the date on which notice is given, the date following five Working Days after notice of any change has been given.

**33. NO PARTNERSHIP OR AGENCY**

**33.1** Nothing in this Agreement or any other Principal Project Document (or any of the arrangements contemplated by any of them) is or shall be deemed to constitute a partnership or any other similar type of association between the Parties and nothing in this Agreement or any other Principal Project Document (or any of the arrangements contemplated by any of them) shall make any Party the agent of any other Party for any purpose save as expressly contemplated in this Agreement.

**33.2** Unless the Parties agree otherwise in writing, no Party shall:

- (a) enter into any contracts or commitments as agent for another Party; or
- (b) describe itself as such an agent or in any way hold itself out as being such an agent,

save as expressly contemplated in this Agreement.

**34. ASSIGNMENT**

No Party shall nor shall it purport to assign, transfer, charge or otherwise deal with all or any of its rights and/or obligations under this Agreement nor grant, declare, create or dispose of any right or interest in it, without the prior written consent of the other Parties.

**35. VARIATION**

**35.1** No amendment, modification or variation of, or waiver in respect of, this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties.

**35.2** Unless expressly agreed, no variation shall constitute a general waiver of any provisions of this Agreement, nor shall it affect any rights, obligations or liabilities under or pursuant to this Agreement which have already accrued up to the date of variation, and the rights and obligations of the parties under or pursuant to this Agreement shall remain in full force and effect, except and only to the extent that they are so varied.

**35.3** No failure or delay by any Party in exercising any right, power or remedy provided by law under or pursuant to this Agreement shall impair such right, power or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right, power or remedy shall preclude any other or further exercise of it or the exercise of any other right, power or remedy.

**36. INVALIDITY**

If any provision of this Agreement is or becomes (whether or not pursuant to any judgment or otherwise) invalid, illegal or unenforceable in any respect under the law of any jurisdiction, the validity, legality and enforceability under the law of that jurisdiction of any other provision shall not be affected or impaired in any way thereby.

**37. SEVERABILITY**

If and to the extent that any provision of this Agreement is held to be, or becomes (whether or not pursuant to any judgment or otherwise), illegal, void or unenforceable in any respect under any law of any jurisdiction, under the law of such jurisdiction such provision shall 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, and such provision's validity, legality and enforceability shall not be affected or impaired in any way under the law of any other jurisdiction. The Parties shall meet to negotiate in good faith to agree a valid, binding and enforceable substitute provision or provisions, (if necessary with reconsideration of other terms of this Agreement not so affected) so as to re-establish an appropriate balance of the commercial interests of the Parties.

**38. FURTHER ASSURANCE**

- 38.1** Each of the Parties agrees to perform (or use all reasonable endeavours to procure the performance of) all further acts and things, and execute and deliver (or use all reasonable endeavours to procure the execution and delivery of) such further documents, as may be required by law or as may be necessary or reasonably desirable to implement and/or give full effect to this Agreement and the transaction contemplated by it.
- 38.2** Each of the Parties shall ensure that its internal governance arrangements are such as to enable it to comply with its obligations under this Agreement and the other Project Documents.

**39. COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

**40. THIRD PARTY RIGHTS**

A person who is not a Party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

**41. GOVERNING LAW**

This Agreement and the relationship between the Parties shall be governed by, and interpreted in accordance with, English law.

**This Agreement** has been executed by the parties hereto on the date first above written.

**SIGNED** )  
by )  
for and on behalf of )  
**THE SECRETARY OF STATE FOR TRANSPORT** )

**SIGNED** )  
by )  
for and on behalf of )  
**TRANSPORT FOR LONDON** )

**SIGNED** )  
by **CROSS LONDON RAIL LINKS** )  
acting by ..... )  
and )  
..... )

Director

Director/Secretary

## **SCHEDULE 1**

### **Principal Project Documents**

#### Part 1 – Project Documents

1. This Agreement
2. The Sponsors Agreement
3. The TfL Shareholder Agreement
4. The CRL Articles
5. The NR Delivery Agreements
6. The LUL Agreement
7. The CWG Documents
8. The Woolwich Documents
9. The DLR Documents
10. The BAA Documents
11. The TfL Group Protective Provisions Agreements
12. The BWB Documents

#### Part 2 – Oversight Development Collaboration Agreements

1. OSD Deed dated 22 November 1996 between SoS and the landowner (being Cardinal Group Limited, Cardinal House Limited and Acezest Limited);
2. OSD Deed dated 8 December 2006 between SoS and the landowner (being Grosvenor (Mayfair) Estate and Grosvenor Properties);
3. OSD Deed dated 14 November 2006 between SoS and the landowner (being JLP Investment Company Limited, 18/19 Hanover Square (No. 1) Limited and 18/19 Hanover Square (No. 2) Limited));
4. OSD Deed dated 19 December 2006 between SoS and the landowner (being Norwich Union Life & Pensions Limited); and
5. OSD Deed dated 19 January 2007 between SoS and the landowner (being Derwent Valley Central Limited).

**SCHEDULE 2**

**See CMS - Sponsors' Requirements vs 4.1.0 dated 10 March 2010**



### SCHEDULE 3

#### Project Milestones

	Milestone	Description	Date
1	Royal Assent	Bill Enacted	22/07/2008
2	Appointment of nominated undertakers	Statutory Instrument in force	24/07/2008
3	Appointment of Qualifying Authorities	Statutory Instrument in force	24/07/2008
4	City of London Corporation Agreement (i): the completion of the civils construction of the Lindsey Street box for Farringdon Station	Diaphragm walling installed and all permanent slabs cast for station shaft from sub-platform level (approximately 79.8 OD) up to base of ticket hall, "Intermediate Level 3" (approximately 105.4m OD).	16/02/2015
5	City of London Corporation Agreement (ii): the completion of the civils construction of the Moorgate shaft	Casting of all permanent slabs within shaft complete.	25/10/2011
6	City of London Corporation Agreement (iii): the completion of the civils construction of the Broadgate ticket hall box at Liverpool Street Station	Casting of roof slab to ticket hall box complete.	14/02/2015
7	City of London Corporation Agreement (iv): the commencement of the construction of the Stockley Viaduct structures included within the works referenced in Schedule 1 of the Crossrail Bill as Work 3/11 and necessary for Crossrail trains to access Heathrow Airport	First section of retaining wall or viaduct support structure cast.	21/02/2011
8	HAL Contribution Agreement (i): Completion of 50% of the Stockley Works by value	Includes the works referenced in Schedule 1 of the Crossrail Bill as Work 3/11 and necessary for Crossrail trains to access Heathrow Airport.	In advance of 01/04/2013
9	HAL Contribution Agreement (ii): Completion and local testing of the Stockley works, but excluding Crossrail system wide testing and commissioning	Includes the works referenced in Schedule 1 of the Crossrail Bill as Work 3/11 and necessary for Crossrail trains to access Heathrow Airport.	10/09/2016
10	OSD (i): site available for the commencement of Bond Street Station Western Ticket Hall	Principal property: 65	04/10/2014

	<b>Milestone</b>	<b>Description</b>	<b>Date</b>
	OSD	Davies Street.	
11	OSD (ii): site available for the commencement of Bond Street Station Eastern Ticket Hall OSD	Principal property: 18/19 Hanover Square.	08/10/2014
12	OSD (iii): site available for the commencement of Tottenham Court Road Station Eastern Ticket Hall OSD	Principal properties: Astoria Theatre & 135-155 Charing Cross Road.	08/11/2016
13	OSD (iv): site available for the commencement of Farringdon Station Western Ticket Hall OSD	Principal property: Cardinal House.	19/06/2015
14	OSD (v): site available for the commencement of Liverpool Street Station Western Ticket Hall OSD, Moorfields	Principal property: 21 Moorfields.	11/05/2015
15	OSD (vi): site available for the commencement of Tottenham Court Road Station Western Ticket Hall & Fareham Street Vent Shaft OSD	Principal properties: in Oxford Street, Dean Street, Fareham Street & Diadem Court.	19/11/2016
16	OSD (vii): site available for the commencement of Farringdon Station Eastern Ticket Hall OSD	Principal property: 2-5 Lindsey Street.	01/06/2017
17	OSD (viii): site available for the commencement of Paddington Station Red Star Deck Work Site OSD	Principal property: "The Triangle Site"	20/09/2011
18	OSD (ix): site available for the commencement of Blomfield Street Shaft OSD	Principal property: 11-12 Blomfield Street.	18/02/2015
19	OSD (x): site available for the commencement of Liverpool Street Station Western Ticket Hall OSD, Moorgate	Principal property: 101 Moorgate	11/05/2015
20	OSD (xi): site available for the commencement of Paddington Station Platform 1A Work Site OSD	Principal property: 4-18 Bishops Bridge Road.	13/07/2016
21	OSD (xii): minor sites available for the commencement of OSDs	Sites/properties: Barbers Road, Limmo Shaft work site, Woolwich Station work site (East of Arsenal Way), 33-37 Charterhouse Square, 8-10 Southampton Row, Hanbury Street, Lowell Street Shaft work site, airspace over Custom House Station and Barge Public House work site.	12/05/2017 (last site)

## SCHEDULE 4

### Change Procedure

#### 1. CHANGE NOTICE

- 1.1 If the Sponsors wish to propose a Change, they shall jointly serve a notice on CRL. Such notice shall set out details of the proposed Change in sufficient detail to enable CRL to provide the Initial Change Appraisal in accordance with paragraph 2.
- 1.2 If CRL wishes to propose a Change, it shall serve a notice on the Sponsors. Such notice shall set out details of the proposed Change and shall include the Initial Change Appraisal in accordance with paragraph 2.
- 1.3 In the event that CRL proposes a Change pursuant to paragraph 1.2, the Sponsors shall evaluate such Change in good faith, taking into account all issues and circumstances relevant at the time.

#### 2. INITIAL CHANGE APPRAISAL

- 2.1 CRL shall deliver to the Sponsors a written report (an "**Initial Change Appraisal**") which shall set out:
  - (a) whether, in the reasonable opinion of CRL, the proposed Change would:
    - (i) be technically unfeasible;
    - (ii) be unsafe or contrary to any Applicable Law;
    - (iii) cause any necessary Consent to be revoked or require any additional Consent to be obtained;
    - (iv) materially and adversely change the nature of the Crossrail Project (other than a reduction of scope); or
    - (v) have any material and adverse consequences on the Railway's future operations,accompanied by an explanation of CRL's reasons for this opinion;
  - (b) in the case of a Change proposed by CRL pursuant to paragraph 1.2, CRL's reasons for requesting the proposed Change;
  - (c) CRL's initial assessment of any impact of the proposed Change on any of the dates or activities referred to in the Project Delivery Schedule (including the Target Final Delivery Date and the Longstop Date);
  - (d) CRL's initial assessment of any impact of the proposed Change on the scope of the Crossrail Project, including any changed or altered works required to implement the proposed Change and any related temporary works or railway possession requirements necessary to give effect to the proposed Change;

- (e) CRL's initial assessment of the impact of the proposed Change on the operation and maintenance regime for the Railway;
- (f) CRL's initial assessment of the impact of the proposed Change on the Railway's operations, including Train Services;
- (g) CRL's initial assessment of any additional or changed risks that are introduced as a consequence of the proposed Change;
- (h) CRL's estimate of the cost (or saving) of implementing the proposed Change, including its best estimate of any amount required for risk and contingency, and broken down in reasonable detail to identify the various elements of the cost (or saving) including the impact on future operating expenditure; and
- (i) CRL's reasonable estimate of the cost and time required to prepare a Change Appraisal in respect of the proposed Change in accordance with paragraph 4 (including details of any surveys, investigatory or design works, or any preliminary or advance works, that would have to be commenced in advance of preparing or finalising a Change Appraisal in respect of the proposed Change),

provided that, in the event that a Change proposed by the Sponsors is, in the reasonable opinion of CRL, technically unfeasible, unsafe or contrary to any Applicable Law (pursuant to paragraph 2.1(a)(i) or 2.1(a)(ii)) and CRL intends to object to such Change accordingly, CRL shall not be required to provide the information referred to in paragraphs 2.1(c) to 2.1(h) as part of the Initial Change Appraisal.

2.2 The Initial Change Appraisal shall:

- (a) in the event that the Change is proposed by the Sponsors pursuant to paragraph 1.1, be delivered by CRL to the Sponsors as soon as reasonably practicable and in any event within 20 Working Days after receipt of the Change Notice; or
- (b) in the event that the Change is proposed by CRL pursuant to paragraph 1.2, be delivered by CRL to the Sponsors simultaneously with the Change Notice.

### 3. **PROCEDURE FOLLOWING SUBMISSION OF AN INITIAL CHANGE APPRAISAL**

3.1 If the Initial Change Appraisal states that, in the reasonable opinion of CRL, a Change proposed by the Sponsors is either technically unfeasible, unsafe or contrary to any Applicable Law, then CRL shall be entitled to object to the implementation of the proposed Change. If the Sponsors disagree with CRL's opinion, then all of the Parties shall seek to agree the matter(s) in dispute and the Sponsors may refer the matter(s) for resolution under the Dispute Resolution Procedure. CRL shall not be obliged to take any further action in relation to the Change pending the resolution of such dispute. If it is agreed or determined that CRL's objection is valid, the proposed Change shall be withdrawn.

3.2 Save to the extent that paragraph 3.1 applies, following receipt of the Initial Change Appraisal, the Sponsors may:

- (a) issue a Change Confirmation Notice instructing CRL to proceed with the implementation of the Change in accordance with paragraph 7; or
- (b) issue a Change Appraisal Instruction instructing CRL to prepare a Change Appraisal in respect of the proposed Change and notifying CRL of the due date for delivery of the Change Appraisal; or

- (c) issue an instruction not to proceed with the proposed Change in accordance with paragraph 7.3.
- 3.3 A Change Appraisal Instruction provided by the Sponsors under paragraph 3.2(b) shall:
- (a) include any additional information in respect of the proposed Change which the Sponsors require CRL to consider when preparing the Change Appraisal; and
  - (b) specify any reporting format, breakdown of cost estimates or any other matters specifically required to be included in the Change Appraisal Instruction.

#### 4. **CHANGE APPRAISAL**

4.1 Following the issue of a Change Appraisal Instruction, CRL shall deliver a written report (a "**Change Appraisal**") to the Sponsors as soon as reasonably practicable (and in any event by the date specified in the Change Appraisal Instruction) after receipt of the Change Appraisal Instruction.

4.2 The Change Appraisal shall set out:

- (a) CRL's detailed assessment of the matters referred to in paragraphs 2.1(b) to 2.1(f) and any other impact of the proposed Change on the performance of CRL's obligations under this Agreement;
- (b) whether relief from compliance with obligations is required as a consequence of the proposed Change;
- (c) any amendments required to this Agreement or any other Principal Project Document as a result of the proposed Change;
- (d) any new or amended Consents which are required in order to implement the proposed Change and any assistance which CRL anticipates it will require from either of the Sponsors in order to obtain such Consents; and
- (e) CRL's proposed Changes to the funding commitments (timing and amount) and the IP 0, IP 1 and IP 2 under the Funding Schedule to take account of the aggregate costs (or saving) of implementing the proposed Change. CRL's proposal under this provision shall be prepared on the basis that the changes to the funding commitments shall be such as to place CRL financially in a position that is no better and no worse after tax than if the proposed Sponsor Change were not implemented (with due regard to the increased or reduced risks associated with the Change and the reasonable contingency that is required to address that risk). CRL's proposal shall include a breakdown of such proposal identifying separately (without double counting):
  - (i) any increase or decrease in capital expenditure;
  - (ii) third party Costs (including contractors);
  - (iii) CRL's own internal management and overhead Costs;
  - (iv) any costs, fees and expenses in respect of external advisers engaged in connection with the proposed Change;

- (v) any amount included in such estimate to take account of contingencies and risk associated with the Change; and
- (vi) any increase or decrease in the costs of the Operators that are reimbursable by CRL.

## 5. **PROCEDURE FOLLOWING SUBMISSION OF A CHANGE APPRAISAL**

5.1 As soon as practicable after the Sponsors receive the Change Appraisal, the Parties shall discuss and endeavour to agree, acting reasonably, the matters set out in the Change Appraisal. During such discussions, the Sponsors may:

- (a) request that CRL:
  - (i) provide any further breakdown or details in respect of any price or time estimate as the Sponsors may reasonably require;
  - (ii) procure that the Delivery Contractors shall minimise any increase in Costs and maximise any reduction in Costs;
  - (iii) demonstrate how any expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at that time have been taken into account by CRL; and/or
- (b) notify CRL that it wishes to amend the proposed Change providing full details of any proposed amendment in which case CRL shall submit an amended Change Appraisal within 30 Working Days of such notification or such longer period as is reasonably agreed between the Parties.

5.2 All evidence and information provided by CRL in response to a request under paragraph 5.1 shall be provided on an open book basis.

5.3 Once the contents of the Change Appraisal have been agreed in accordance with paragraph 5.1, the Sponsors may within 10 Working Days (or such longer period as the Sponsors may agree) issue a Change Confirmation Notice instructing CRL to proceed with the implementation of the Change in accordance with paragraph 7. In addition, the Sponsors may, in the Change Confirmation Notice, notify CRL that it wishes CRL to fund the Change out of its existing funding resources, until such time as that funding is exhausted.

## 6. **CHANGE APPRAISAL COSTS**

6.1 The Sponsors shall jointly be responsible for payment to CRL of the costs, fees and expenses reasonably and properly incurred by CRL in preparing and amending a Change Appraisal to the extent that such Change Appraisal relates to a Change that was requested by the Sponsors pursuant to paragraph 1.1.

6.2 Whilst preparing and amending a Change Appraisal which relates to a Change that was requested by the Sponsors pursuant to paragraph 1.1, CRL shall provide a report to the Sponsors on a monthly basis showing:

- (a) the Costs, fees and expenses reasonably and properly incurred pursuant to paragraph 6.1 up to the date of the report; and

- (b) CRL's estimate of the Costs, fees and expenses which it anticipates it will incur in total.

7. **IMPLEMENTATION OF SPONSOR CHANGE**

- 7.1 If the Sponsors would like CRL to proceed with the proposed Change, the Sponsors shall notify CRL of the same (a "**Change Confirmation Notice**") and such notice shall include the Sponsors determination (acting in their absolute discretion) as to whether the Sponsors will provide additional funding and/or any extension of time to CRL for the implementation of such Change (in which case the Sponsors shall include details of the consequential amendments to the Funding Schedule).
- 7.2 Following issue of a Change Confirmation Notice, the Parties shall promptly take such action, if any, as is necessary to facilitate the Change (including making amendments to this Agreement) and CRL shall exercise its rights under the Delivery Contracts to procure the implementation of the Change.
- 7.3 If the Sponsors do not want CRL to proceed with the proposed Change, they shall jointly notify CRL of the same (a "**Change Rejection Notice**").
- 7.4 The Sponsors acknowledge and agree that they shall not be permitted to issue a Change Rejection Notice in respect of a Change which is required in order to conform with a Change in Law.

8. **DEVELOPMENT OPPORTUNITY CHANGES**

If TfL requires CRL to scope and implement a Development Opportunity Change pursuant to Clause 11.7(i), then references in this Schedule 4 to "the Sponsors" shall be construed as references to "TfL".

## SCHEDULE 5

### Sponsors Review Point Requirements

This Schedule sets out the list of the requirements in respect of which the Sponsors will need to be satisfied at each of Review Point 3 and Review Point 4 respectively. The Sponsors retain the right to add to, amend or waive the requirements at any time.

#### Part 1 – Review Point 3

##### 1. Management Incentives

A remuneration and management incentive package for each of the members of the CRL Board has been completed in accordance with the Principal Project Documents and is in sufficient detail to enable the Sponsors to evaluate whether it is appropriate and the maximum payments which could be made to each member of the CRL Board and at what times.

##### 2. Delivery Strategy

- (i) The Delivery Strategy finalised with input from the Industry Partners with a sufficient level of detailed content to demonstrate to the Sponsors that CRL has in place (A) the organisation, strategy and resources required to complete the Crossrail Project through procurement and construction phases and (B) a clear and effective method for controlling the project and supply chain.
- (ii) The Delivery Strategy incorporates a detailed procurement strategy which demonstrates how supply capacity will be secured, the nature of risk transfer and how modern practices of partnership-based working will be implemented.
- (iii) The Delivery Strategy contains a sufficient level of detail to demonstrate how changes in the supply chain (and flow-down of Sponsor Changes through the Delivery Contract chain) shall be effectively managed.
- (iv) The Delivery Strategy includes a plan for implementation of the organisational plan controls and governance structures.
- (v) The Insurance Strategy finalised and compliant with Clause 18 of this Agreement.

##### 3. Industry Partners

- (i) The NR Regulatory Protocol has been agreed by the Sponsors, CRL and Network Rail and the ORR has issued a letter confirming its obligation to monitor and enforce the NR Regulatory Protocol.
- (ii) The NR Implementation Agreement for interface works has been signed.
- (iii) The DLR Documents have been signed.
- (iv) The scope and phasing of On-Network Works at a sufficient level of development ("GRIP3+") to enable CRL and Network Rail to reach costs certainty for the purposes of the NR Regulatory Protocol specifically the triggering of the pain/gain incentive mechanism as such term is defined in the NR Regulatory Protocol.
- (v) NR detailed designs for critical advanced interface works have been prepared.
- (vi) LUL principle work packages defined.
- (vii) The RS Procurement Strategy and Depot Procurement Strategy prepared by CRL.
- (viii) Agreements with NR for operation and maintenance have been approved by the ORR.
- (ix) Detailed design for DLR Works prepared and approved in form equivalent to GRIP4.



- (x) Design and Costs for Central Core Area updated following site surveys in form equivalent to GRIP4.
- (xi) The Affirmation Process is complete.
- (xii) The Assurance Process is fully developed.
- (xiii) Initial assurance has been evidenced to the Sponsors, pursuant to the Assurance Process, that CRL's proposals for the Crossrail Project, as set out in the Crossrail Programme Functional Requirements, will satisfy the Sponsors Requirements.
- (xiv) The Sponsors are satisfied with the status and progress of all Industry Partner Agreements not otherwise referred to above.

#### **4. Scope and Programme**

The scope and programme for the Crossrail Project have been determined by the Sponsors as being affordable and deliverable as at Review Point 3.

#### **5. Certainty around Costs**

The Sponsors will need to have been assured that their decisions at Review Point 3 are informed decisions based on all available and relevant information relating to Costs and costs estimates. Increased certainty around Costs will be evidenced by:

- (i) pre-tender estimates will be established and project contingency calculated reflecting the status of the project's development (i.e., 60%/70% of contract ITTs ready to be issued);
- (ii) CRL has provided confirmation that it has sufficient sources of projected revenue to fund P95;
- (iii) plans in place to allow the Sponsors to mitigate material risks;
- (iv) NR Regulatory Protocol fully agreed and approved by ORR;
- (v) NR detailed estimate for critical advanced interface works;
- (vi) NR quantified estimate for majority of On-Network Works to +/- 30% confidence;
- (vii) NR definitive estimate for first phase of works to +/- 20% confidence and agreed with ORR (GRIP4);
- (viii) point estimate and risks provision for those packages to be procured through LUL agreed between CRL and LUL for planning purposes and preliminary estimates from supply chain;
- (ix) detailed design Costs estimate for DLRL (+/- 20% equivalent to GRIP4); and
- (x) options for the financing structure for Rolling Stock and Depot have been developed.

#### **6. Project Delivery Schedule**

The Project Delivery Schedule has been developed from Review Point 2 to incorporate a greater level of detail that is commensurate with the progress of the programme.

#### **7. Risk Management**

The Sponsors shall have sufficient information to assess all material risks associated with the Crossrail Project (in terms of construction risks, funding risks and operating risks) based on information available at the time of Review Point 3. As part of this process, CRL shall provide the Sponsors with:

- (i) an updated QRA for Sponsors' approval;

- (ii) confirmation from CRL that a strategic risk management plan and appropriate supporting risk processes are in place; and
- (iii) confirmation that CRL has implemented appropriate internal Assurance Processes for risk management.

## **8. Expected Completed Activities**

The following activities are expected to have taken place by Review Point 3 (but without prejudice to a discussion at Review Point 3):

- (i) NR work packages and phases defined;
- (ii) mobilisation of delivery organisation complete;
- (iii) contracts awarded for enabling works at all central stations and portals;
- (iv) approximately 50% of project design complete. It will be agreed prior to the Review Point whether the design will be entirely the responsibility of CRL or whether there will be input from the contractor;
- (v) 60%/70% of tender documents by value for all tunnels and central stations are complete;
- (vi) a mature form of CRL Lease has been developed;
- (vii) key systems and long lead items specified;
- (viii) approximately 50% of major compulsory purchase notices served;
- (ix) first major site secured in Central Operating Section;
- (x) NR advanced works and design development proceeding to agreed programme;
- (xi) NR first phase of works baselined and possessions booked;
- (xii) outline On-Network Works programme available;
- (xiii) baseline integrated programme for DLR Works agreed reflecting design proposals and possessions identified;
- (xiv) Updated integrated programme of CRL and LUL Related Works incorporating synergies and access and closures booked for first tranche;
- (xv) CWG detailed design for station completed and dock pumped dry;
- (xvi) Woolwich station fit out to be resolved; and
- (xvii) detailed RS Technical Specification is approved by the Sponsors.

## **9. Sponsor Committed Funding**

Availability and sustainability of Sponsor Committed Funding needs to be demonstrated (not a CRL obligation).

## Part 2 – Review Point 4

### 1. Delivery Strategy

The Sponsors are to be satisfied that the Delivery Strategy is being effectively implemented and that it is working effectively to support letting and management of major contracts through to Final Completion.

The plan in the Delivery Strategy for organisational controls and governance structures has been implemented in full.

### 2. Scope and Programme

- (i) All NR Delivery Agreements are signed and in effect (unless the Sponsors accept that an agreed form is sufficient).
- (ii) Detailed designs prepared for phase 1 of On-Network Works. On-Network Works phase 1 baseline scope book to GRIP5; On-Network Works phase 2 baseline scope book to GRIP4.
- (viii) The RS Procurement Strategy and Depot Procurement Strategy have been approved by the Sponsors.
- (iv) Baseline scope for DLR Works in form equivalent to GRIP3.
- (v) Detailed design being prepared for critical interface works and Infracore asset conditions surveys completed and in the possession of CRL (with other relevant information required to evaluate risk profile).
- (vi) The scope and programme for the Crossrail Project has been determined by the Sponsors as being affordable and deliverable as at Review Point 4.

### 4. Certainty around Costs

The Sponsors will need to have been assured that their decisions at Review Point 4 are informed decisions based on all available and relevant information relating to Costs and Costs estimates. Increased certainty around Costs will be evidenced as follows:

- (i) CRL has provided confirmation that it has sufficient sources of projected revenue to fund P95;
- (ii) CRL has put appropriate plans in place to mitigate material risks;
- (iii) 60%/70% of Delivery Contracts by value ready to award;
- (iv) actual Costs for early advanced On-Network Works are within parameters of estimates previously made;
- (v) 70% of On-Network Works to +/-20% confidence (GRIP4);
- (vi) NR 30% works to +/-15% confidence (GRIP5);
- (vii) tender prices for material works packages and assets are consistent with expectations;
- (viii) LUL costs certainty improved in line with development of scope and timing of work packages; and
- (ix) tender price for DLR Works plus update of DLR costs (equivalent to GRIP5).

### 5. Project Delivery Schedule

The Project Delivery Schedule has been developed from Review Point 3 to incorporate a greater level of detail commensurate with progress of programme.

## **6. Risk Management**

The Sponsors shall have sufficient information to assess all material risks associated with the Crossrail Project (in terms of construction risks, funding risks and operating risks) based on information available at the time of Review Point 4. As part of this process, CRL shall provide the Sponsors with: (i) an updated QRA for Sponsors' approval and (ii) confirmation from CRL that a strategic risk management plan and appropriate supporting risk processes are in place and (iii) confirmation that CRL has implemented appropriate internal Assurance Processes for risk management.

## **7. Expected Completed Activities**

The following activities shall have taken place by Review Point 4:

- (i) significant progress (in comparison to Review Point 3) on reference design for On-Network Works Phase 2;
- (ii) critical enabling works progressing on site;
- (iii) project design has progressed in accordance with the Delivery Strategy;
- (iv) major Delivery Contract tenders have been received and evaluated;
- (v) 100% of total compulsory purchase notices served;
- (vi) CRL and TfL have entered into an agreement for lease in accordance with Clause 11.4
- (vii) all major sites secured in Central Core Area;
- (viii) second phase of NR works baselined with possessions booked;
- (ix) update of On-Network Works programme integrated with the Project Delivery Schedule prepared by CRL;
- (x) baseline integrated programme for DLR Works updated to reflect contract. Possessions booked;
- (xi) updated integrated programme of CRL and LUL Related Works and access closures for subsequent work packages booked; and
- (xii) CWG station box walls complete.

## SCHEDULE 6

### Delegated Obligations

#### Part 1 – Industry Partner Agreements

The following obligations of SoS pursuant to certain Industry Partner Agreements shall be discharged by CRL. Terms used below are as defined in the relevant Industry Partner Agreement.

Agreement	Clause	Obligation
BAA Deed of Undertaking	7	<p>7.1 Following a written request from the Promoter, the Network Owner and the Promoter and, at the option of the Promoter, the rolling stock manufacturer and/or any other person (which may or may not be a Crossrail TOC), shall meet, co-operate in full and use reasonable endeavours to agree the terms of a Crossrail Testing Access Agreement or any amendment to any existing access agreement to the Heathrow Spur (as applicable) under which such new rolling stock may be tested and brought into reliable and lawful commercial service on the Heathrow Spur in advance of the date specified in the written request from the Promoter (which shall allow a reasonable period of time for the completion of the relevant negotiations).</p> <p>7.2 Where Clause 7.1 applies and the Promoter determines that the rolling stock manufacturer and/or any other person should be involved in the process contemplated by Clause 7.1, the Promoter shall use reasonable endeavours to procure that such rolling stock manufacturer and/or such other person complies with the requirements of Clause 7.1.</p> <p>7.3 The Parties agree that any Crossrail Testing Access Agreement shall include the following principles:</p> <p style="padding-left: 20px;">7.3.1 the Network Owner will be compensated for any loss, cost or expenses attributable to the exercise of any rights under any Crossrail Testing Access Agreement; and</p> <p style="padding-left: 20px;">7.3.2 the operator of the rolling stock is properly licensed to operate the rolling stock on the Heathrow Spur.</p>
	9.1	<p>On each Principal Change Date after 30 November 2008 up to, but excluding, the Required Date, the Promoter shall provide the Network Owner with a written non-binding statement (with reasonable supporting detail and including a master project programme) of whether the Promoter anticipates that the Western Services Commencement Date will occur on the Western Reservation Date and, if not, the Passenger Change Date on which the Promoter anticipates the Western Services Commencement Date will occur.</p>
BAA Deed of Waiver and Amendment	6	<p>SoS hereby undertakes to pay to HAL an amount equal to the Other User Payment (as defined in the JOA) arising from clauses 5.2(B) to (E) inclusive (Electrification Works) of the JOA 30 days after it is agreed or determined that the obligation to do so arises in connection with the operation of any Crossrail trains.</p>

## Part 2 – Oversight Development Collaboration Agreements

The following obligations of SoS pursuant to the Oversight Development Collaboration Agreements will be discharged by CRL. Terms used below are as defined in the Oversight Development Collaboration Agreements.

Clause	Summary of Obligation
2.2A, 2.5 to 2.7	Landowner and SoS to be responsible for the timetable and strategy for obtaining planning permission.
2.3 and 2.4	Landowner and SoS to establish a Joint Working Group
2.8 and 2.9	Landowner to supply SoS with schedule of costs
2.10.1 and 2.10.2	Landowner to submit to SoS a draft proposal for the OSD
2.10.3 and 2.10.4	Landowner to submit a draft planning application to SoS for approval and to keep SoS fully informed of application, negotiation and appeals in relation to the planning application.
2.11	SoS to advance the design of the relevant Crossrail railway works and to carry out the works in accordance with design and construction proposals. SoS to provide the Landowner with rights and protections (including warranties) in respect of the Crossrail railway works.
2A	SoS has Step-In Right if Landowner fails to exercise its obligations. Landowner to pay SoS the reasonable costs and expenses incurred by SoS in carrying out the services following execution of the Step-In Right
7	SoS to pay the additional consideration (in addition to the compulsory acquisition) to the Landowner.
11	SoS to consult the Landowner in relation to any press announcements. Joint or separate press announcements to be agreed between SoS and Landowner.
16	Confidentiality: each party to keep the OSD Deed confidential unless it obtains the other party's consent. SoS permitted to disclose the contents of the OSD Deed to any statutory body, government department, other public body or where otherwise required by law.

## SCHEDULE 7

### Financial Model

#### Part 1 – Updates and Adjustments to the Financial Models

1. CRL will review and update the Financial Models as at 31 March and 30 September in each calendar year following the Effective Date on the following basis:
  - (a) historic cash-flows will be taken from audited accounts where possible and otherwise from management accounts;
  - (b) forecast funding will reflect the Sponsor Committed Funding and any other funding expected to be received by CRL (including, amongst others, the forecast Cash Management Funding Amount, any City of London Corporation Additional Contribution, Interim Property Income, the TfL Contingency (if required), , and any TfL Additional Funding or SoS Additional Funding);
  - (c) forecast Cash Management Funding Amount in respect of the Project Period will be calculated by taking the forecast Net Crossrail Cash Balance (as defined in the TfL Shareholder Agreement) and applying an interest rate equal to long-term swap rates less 15 basis points or such other margin that TfL shall confirm; and
  - (d) forecast Costs will be calculated following good industry practice and based upon:
    - (i) the point estimate of expenditure in accordance with CRL's then current programme;
    - (ii) risk contingency in accordance with a reasonable assessment of the amounts likely to be actually incurred directly by CRL;
    - (iii) expenditure in respect of TfL Intra-group Claims (as defined in the Sponsors Agreement) and other claims (including both expenses and settlement of liabilities), based on a reasonable assessment of the amount likely to be actually incurred directly by CRL; and
    - (iv) inflation in accordance with the then current Mid Case Indices,

in each case as approved by the CRL Board. Where the CRL Board approves forecasts which are different to those suggested in the QRA or other analytical tool, the reason for the difference in view should also be provided. If requested by the Sponsors, CRL will also provide the Sponsors with copies of the Financial Models which are based on P80 and/or P95 forecast Costs assumptions.

2. The Financial Models will be required to show the sources and uses of CRL funding, the then current profile of CRL's funding against actual and forecast expenditure, the Anticipated Final CRL Direct Cost (including breakdown of expenditure by category and cumulative profile over time), the Adjusted Anticipated Final Cost (including breakdown of expenditure by category and cumulative profile over time), the Anticipated Final Cost (including breakdown of expenditure over time and cumulative profile over time), , and any other metrics which the Sponsors may reasonably require.
3. CRL will provide the Sponsors with the proposed updated Financial Models (including all assumptions included in the Financial Models and highlighting where assumptions have changed from the preceding Financial Models) within 45 days of each date referred to in paragraph 1 together with a written confirmation from the CRL Board that the

requirements of paragraph 1 have been followed and confirming the basis for the assumptions used.

4. The Sponsors will notify CRL in writing within 21 days of receipt of the updated Financial Models pursuant to paragraph 2 whether they (i) disagree with the updated Financial Models (either input assumptions or calculations) and/or (ii) request such further information from CRL as they require in order to make such determination. If the Sponsors request additional information, CRL shall endeavour to provide such information as soon as reasonably practicable and the Sponsors shall then have a further 21 days from receipt of such information to notify CRL if they disagree with the updated Financial Models. If the Sponsors do not notify CRL within the above timescales that they disagree with the updated Financial Models, such updated Financial Models shall be deemed to be accepted by the Sponsors. Where the Sponsors disagree with the updated Financial Models they will notify CRL of the matters giving rise to such disagreement accompanied by reasonable details of the grounds for such disagreement. The Sponsors shall also be entitled (whether they agree or disagree with the updated Financial Models) to require CRL to provide further information relating to the inputs and assumptions in the Financial Models which CRL will endeavour to provide as soon as reasonably practicable. If the Sponsors and CRL are unable to agree the Financial Models, any matters in dispute may be referred by any Party for determination in accordance with the Dispute Resolution Procedure.
5. The latest updated Financial Models agreed or determined in accordance with paragraph 4 shall constitute the Financial Models for the purposes of this Agreement.
6. CRL shall be entitled to alter the structure or internal logic of the Financial Models only with the prior written consent of the Sponsors. The Sponsors may jointly direct CRL to alter the structure and/or internal logic of the Financial Models. The Financial Models will not be adjusted or altered except in accordance with this Agreement.
7. If the Sponsors agree to pay for a Change in accordance with Schedule 4, the Baseline Crossrail Investment Model and the Baseline Project Financial Model will be reset as follows: the forecast Costs and funding assumed in the Baseline Crossrail Investment Model and the Baseline Project Financial Model will be amended solely to take account of the change in Costs and funding (if any) resulting from the Change and not to take account of any other changes such as actual cashflows or updated forecasts.



## Part 2 – Effect of Inflation

1. CRL will provide actual inflation indices, and will procure that the Inflation Expert provides it with updated inflation indices forecasts, in October of each calendar year unless CRL and/or the Sponsors are of the opinion that market conditions require an interim update.
2. CRL will base its cash forecasts in the updated Financial Models on the latest Mid Case Indices available at the time of updating. CRL will not change the basis of the indices used in the Financial Models in any instance without the approval of both Sponsors. If a change occurs in the market in relation to the calculation of the indices, CRL will notify the Sponsors and any proposed changes will require their approval.
3. CRL will compare the updated Mid Case Indices following each inflation indices update with the Mid Case Indices contained in the Baseline Project Financial Model (the "**Baseline Indices**"). If at the time of any Financial Models update the Anticipated Final CRL Direct Cost resulting from the application of the latest available Mid Case Indices to the real Costs included in the Baseline Crossrail Investment Model and the Baseline Project Financial Model is greater than the Anticipated Final CRL Direct Cost that would have resulted from the application of the Baseline Indices to such real Costs, this shall be a Material Event and Clause 24 shall apply. In any event, the Sponsors are not obliged to make any payment or increase the Sponsor Committed Funding in respect of any Material Event.

A simplified example of the calculation of the Material Event resulting from increases in inflation is set out below:

		Year 1	Year 2	Year 3	Year 4
<b><u>Original Real Cost</u></b>					
Category 1		100	100	100	100
Category 2		20	40	60	80
Category 3		80	60	40	20
<b>Total</b>	800	200	200	200	200

<b><u>Baseline Indices</u></b>					
Category 1		5%	5%	5%	5%
Category 2		3%	2%	2%	2%
Category 3		4%	6%	6%	6%

<b><u>Original Nominal Cost</u></b>					
Category 1		105.0	110.3	115.8	121.6
Category 2		20.6	42.0	64.3	87.4
Category 3		83.2	66.1	46.7	24.8
<b>Total</b>	887.8	208.8	218.4	226.8	233.8

### **Current Real Cost**

Category 1		90	110	120	80
Category 2		10	30	50	70
Category 3		90	70	50	40
<b>Total</b>	810	190	210	220	190

**Current Mid Case Indices**

Category 1		5%	6%	4%	5%
Category 2		2%	3%	2%	4%
Category 3		5%	7%	5%	8%

**Current Nominal Cost**

Category 1		94.5	122.4	138.9	97.2
Category 2		10.2	31.5	53.6	78.0
Category 3		94.5	78.6	59.0	51.0
<b>Total</b>	909.5	199.2	232.6	251.5	226.2

**Current Mid Case Indices applied to Original Real Cost**

Category 1		105.0	111.3	115.8	121.5
Category 2		20.4	42.0	64.3	89.2
Category 3		84.0	67.4	47.2	25.5
<b>Total</b>	893.5	209.4	220.7	227.2	236.2

Current Anticipated CRL Direct Costs	909.5
Original Anticipated CRL Direct Costs	887.8
Cost Overrun	21.7
Material Event	5.8

CLRL Outputs for Six Monthly Reporting to Sponsors

Central Tunnels	
Central Systems	
Isle of Dogs Station	
Woolwich	
Residual	
<b>Total</b>	
Less LUL interface savings <sup>1</sup>	
<b>Total CLRL Direct Capex</b>	
<small>1. As outlined by CLRL in the RAB during const</small>	
CWG Payment for IOD	
NR return on RAB during const	
Working Capital	
Tax	
VAT Payable / (Receivable)	
<b>Total Other CLRL Direct Costs</b>	
<b>Anticipated Final CLRL Direct Costs</b>	

Part 3 – Project Financial Model

Anticipated Final CLRL Direct Costs	
On Network Works	
Deport	
LUL interface savings	
Rolling Stock	
<b>Total Project Cost</b>	
<b>Total project Cost</b>	
Less	
Tax - CLRL	
VAT Payable / (Receivable) - CLRL	
NR return on RAB during const	
Rolling Stock	
<b>Anticipated Final Cost</b>	
<b>Other Contributions</b>	
Interest on Cash Balances	
Add Sponsor Funding / (Surplus Cash)	
<b>TOTAL SOURCES</b>	
<b>CLRL Construction Costs</b>	
CWG Payment for IOD	
NR return on RAB during const	
Working Capital	
Tax	
VAT Payable / (Receivable)	
<b>TOTAL USES</b>	

Notes: Project Financial Model has been redacted as a result of commercial sensitivity

Annual	01-Apr-06	01-Apr-07	01-Apr-08	01-Apr-09	01-Apr-10	01-Apr-11	01-Apr-12	01-Apr-13	01-Apr-14	01-Apr-15	01-Apr-17
Start Date	01-Apr-06	01-Apr-07	01-Apr-08	01-Apr-09	01-Apr-10	01-Apr-11	01-Apr-12	01-Apr-13	01-Apr-14	01-Apr-15	01-Apr-17
End Date	31-Mar-07	31-Mar-08	31-Mar-09	31-Mar-10	31-Mar-11	31-Mar-12	31-Mar-13	31-Mar-14	31-Mar-15	31-Mar-16	31-Mar-18
Model Year	0	1	2	3	4	5	6	7	8	9	11

Income	
DFI Grant	
TIL Grant	
Other Contributions	
TAC from DPCCO - Capital	
TAC from DPCCO - OMR	
<b>Total Income</b>	
<b>Costs</b>	
NR return on RAB during const	
IOD Station Payment	
OMR	
<b>Total Costs</b>	
<b>Operating Cashflow</b>	
<b>CLRL Capex</b>	
<b>Working Capital Movement</b>	
<b>VAT</b>	
<b>Financing</b>	
Blank	
Blank	
Interest income on cash balances	
<b>Total Financing Costs</b>	
<b>Tax</b>	
<b>Net Cashflow in Period</b>	
Cash Brought Forward	
Cash Carried Forward	

Notes: Project Financial Model has been redacted as a result of commercial sensitivity

**SCHEDULE 8**  
**Funding Schedule**  
**REDACTED**

## SCHEDULE 9

### Delivery Contract Requirements

#### 1. DEFECTS PERIODS

In entering into the Delivery Contracts, CRL shall ensure that:

- (a) each Delivery Contract includes a defect rectification completion guarantee and/or warranty (as appropriate) obligations that are reasonably consistent with market practice for contracts of the nature of the relevant Delivery Contract;
- (b) the defect rectification and/or warranty period in each Delivery Contract is the longest that is reasonably practicable having regard to value for money considerations and is at least:
  - (i) consistent with those market conditions; and
  - (ii) a minimum of 12 months from the date of practical completion of the relevant contract; and
  - (iii) each Delivery Contract includes provisions allowing CRL to novate (or transfer by transfer scheme) the defects rectification and/or warranty provisions to the Relevant Operator or to either of the Sponsors.

#### 2. CHANGE IN LAW PROVISIONS

In entering into the Delivery Contracts, CRL shall seek to pass to the Delivery Contractors risks arising from a Change in Law to the extent consistent with Best Current Practice and the achievement of best value for money.

#### 3. NOVATION REQUIREMENT

Prior to Final Completion, CRL shall procure the assignment, novation or provision (by means of a transfer scheme if appropriate) to the appropriate Relevant Operators (or, if notified by the Sponsors, to either of the Sponsors or their nominee) of all un-expired defects rectification and/or warranty provisions in each of the Delivery Contracts.

#### 4. UTILITIES

With the exception of the Rolling Stock contract and the Depot Contract, CRL will not enter into any Delivery Contracts involving long-term supply or maintenance arrangements remaining in force beyond the Final Completion Date without the express agreement of the Sponsors.

#### 5. FURTHER PROTECTED PROVISIONS

In addition to the foregoing provisions of this Schedule 9, CRL shall not procure any Key Delivery Contract pursuant to Clause 7.2 unless that Key Delivery Contract addresses the following matters in the manner indicated:

- (a) **Contractor Identity/Credit Standing:** CRL will only contract with reputable, creditworthy entities with the appropriate technical capability;
- (b) **Variations:** the change mechanics will be capable of facilitating the process under Schedule 4 to this Agreement;

- (c) **Project Monitoring:** the Project Representative shall be permitted access to information, records, the relevant works, Testing and commissioning;
- (d) **Collateral Warranties:** as required to facilitate any sale/step-in;
- (e) **Assignability:** (a) by CRL, with Sponsor approval, within the TfL Group; (b) by contractors, not without CRL approval.
- (f) **Termination Rights:** CRL should have the right to terminate voluntarily any contract;
- (g) **Level of Liability/Liquidated Damages:** appropriate liability cap and liquidated damages provisions having regard to market practice and value for money considerations;
- (h) **Safety:** Delivery Contractors shall be responsible for design safety and safety of site operations and methods of construction to the extent required by Clause 12.8 of this Agreement;
- (i) **Laws:** compliance with all laws and regulations;
- (j) **Governing Law:** English unless otherwise agreed by the Sponsors (i.e. parent company guarantees);
- (k) **Consents:** compliance with all applicable consents;
- (l) **Tunnelling Equipment:** (a) specification and equipment requirements to be prescribed; (b) security over key equipment; and
- (m) **Miscellaneous:** Dispute Resolution Procedure, Data protection, FOIA consistent with government policies.

## SCHEDULE 10

### Form of Construction Report

#### CRL 28-day Progress Report

Contents:

1. **Executive Summary**

1.1 Safety

Site Hours, Lost Time Accidents, Accident Frequency Rate

1.2 Programme (high level drop line and progress commentary)

Central Core Area – Key Delivery Contracts

On-Network Works

Rolling Stock and Depot Contracts

Industry Partner Agreements

1.3 Financial

AFC and Contingency

Period Costs Performance

1.4 Key Dates Schedule

1.5 Quality

1.6 Property Report

2. **Key Issues**

Date Raised, Key Issue, Status and Comment

3. **Project Status** (detail to support highlights reported in Executive Summary)

3.1 Safety

3.2 Implementation Report (Design, Procurement, Construction)

**Central Core Area Works** – Key Delivery Contracts

Tunnelling

Signalling

Track

Stations

On-Network Works

East (between Pudding Mill Lane and Shenfield)

South East (Plumstead to Abbey Wood)

West (between Royal Oak and Maidenhead)

Rolling Stock and Depot Contracts

Industry Partner Agreements

LUL, DLR, NR, CWG, BH

Testing and Commissioning

System Integration

Operations

Completion

3.3 Financial

Commercial

Risk report

3.4 Interfaces

External Interface Management

Stakeholder Management

3.5 Quality & Environment

CAG

Audits

Corrective Action Reports

Environmental Report

KPIs

Suggested Distribution:

CRL Board

Joint Sponsors Team (2 copies)

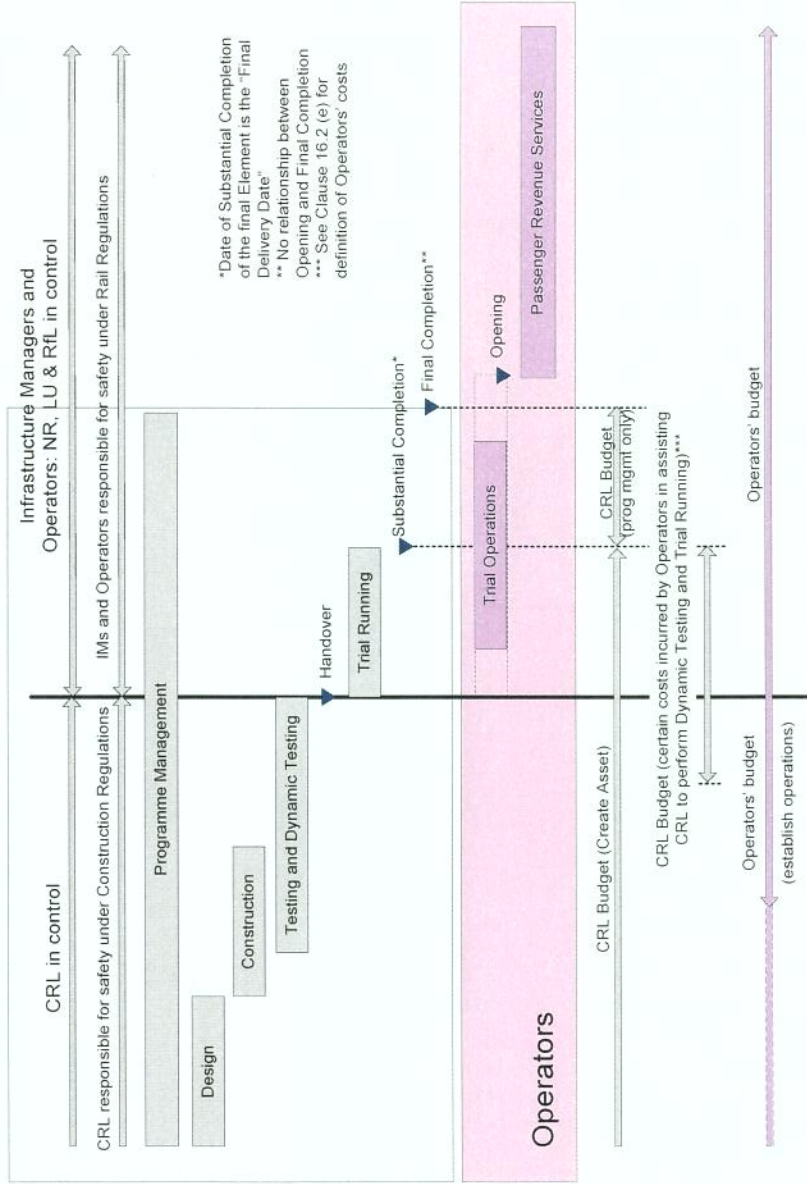
Project Representative (2 copies)





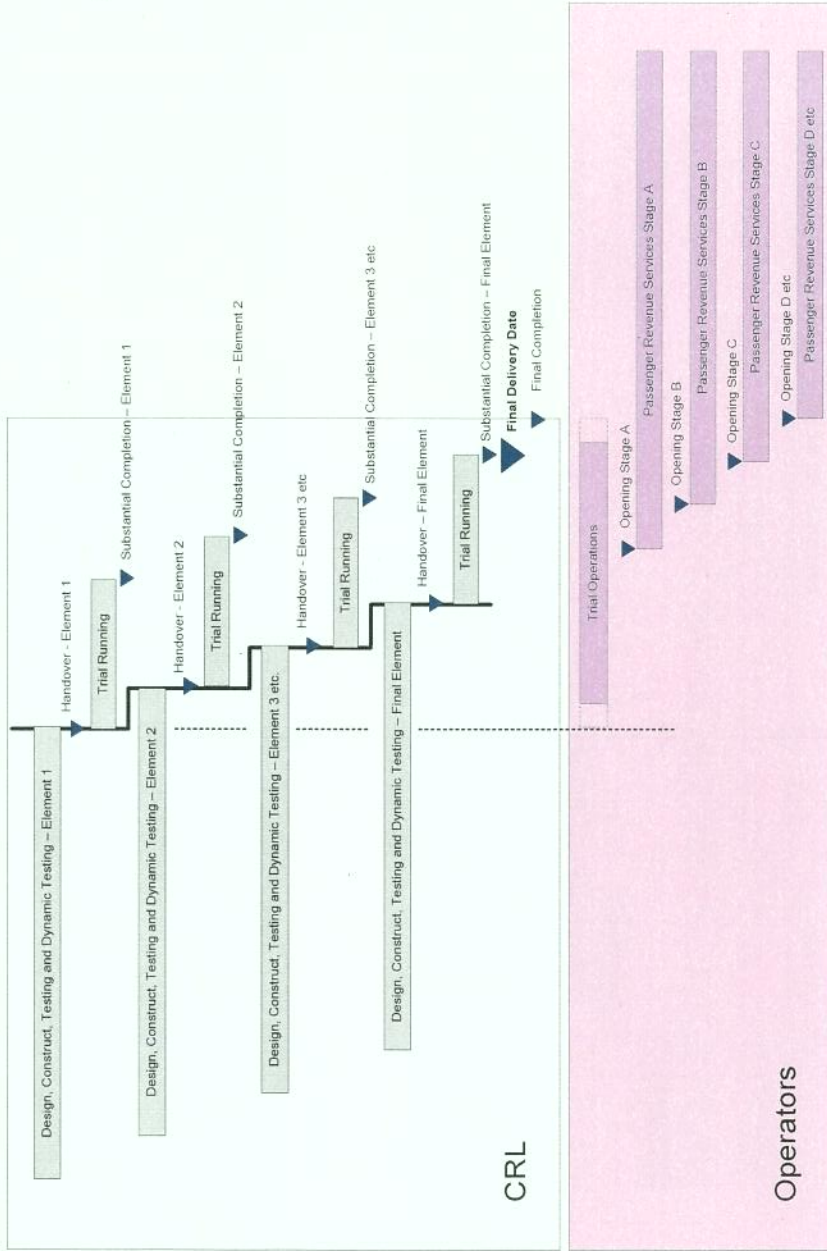
**SCHEDULE 11  
Diagrams**

# Handover, Completion and Opening



File: Completion 20081024

# Handover and completion of elements of the Railway Phased Opening of the Railway



File: Completion 2008 1024

## SCHEDULE 12

### RfL Interface Schedule

#### 1. INTEGRATED PROGRAMME

1.1 CRL and RfL will co-operate in developing prior to Review Point 4 and agree and keep updated an integrated programme for all of the interface activities between CRL and RfL (including the activities specified in this schedule) for the full Development Phase (the "**CRL-RfL Interface Programme**"). The CRL-RfL Interface Programme shall:

- (a) be consistent with the overall programme for delivery of the Crossrail Project;
- (b) incorporate the RS Procurement Programme, the Depot Procurement Programme and the processes and programmes referred to in Clause 16.3(b);
- (c) identify the target and required dates for the interface activities; and
- (d) include activities to be carried out by CRL and RfL as part of the handover, assurance and completion (and time periods for such activities to be performed).

In developing the CRL-RfL Interface Programme, each of CRL and RfL shall act reasonably and have due regard to the overall programme for the delivery of the Crossrail Project established under this Agreement.

Each of CRL and RfL shall carry out the activities contemplated by this Schedule in accordance with the CRL-RfL Interface Programme. Any change to the CRL-RfL Interface Programme shall be only by agreement between CRL and RfL.

1.2 CRL acknowledges that the role of RfL and the activities to be performed by RfL as set out in the CRL-RfL Interface Programme may be performed by the Crossrail TOC appointed by RfL or another nominee of RfL, provided that this shall not limit or relieve RfL from complying with and performing the activities of RfL as set out in the CRL-RfL Interface Programme. Any reference to RfL in this schedule shall include a reference to RfL's nominee in respect of a given activity.

1.3 CRL and RfL shall co-operate and consult with each other throughout the Development Phase. In particular:

- (a) CRL shall keep RfL fully informed of the progress of the Crossrail Project and the status and likely progress of all activities that require RfL input; and
- (b) CRL and RfL shall regularly report to each other on the progress of these interface activities against the target and required dates established by the programme developed under paragraph 1.1, so that each party is kept fully informed as to the status and progress of all interface activities and their respective responsibilities and accountabilities for discharging them.

#### 2. ASSURANCE PROCEDURES

2.1 CRL will ensure that RfL is afforded the opportunity to participate in the Assurance Process, in order that RfL may represent its interests (or those of the Crossrail TOC) as:

- (a) future Infrastructure Manager and Operator of the RfL Stations;
- (b) concessioning authority of the Railway; and
- (c) if applicable, future Infrastructure Manager for the Rolling Stock and Depot.

2.2 RfL shall participate in and provide representation to the Assurance Process (developed in accordance with Clause 15.2) in each of the roles referred to in paragraph 2.1.

### 3. **ROLLING STOCK AND DEPOT PROCUREMENT**

Each of CRL and RfL will carry out the functions and responsibilities allocated to it in Clauses 8 and 9 of this Agreement.

### 4. **HANDOVER AND COMPLETION**

4.1 The handover and completion process for the Crossrail Project is set out in Clauses 15 and 16.

4.2 The CRL-RfL Interface Programme jointly developed and agreed by CRL and RfL shall include:

(a) Testing:

(i) a detailed testing regime for the Crossrail Project (including the RfL Stations, the Rolling Stock and the Depot) according to which each element of the Crossrail Project can be proven and demonstrated as complying with the criteria for Handover and Substantial Completion; and

(ii) the role of and activities to be performed by RfL in the testing regime, including the activities that RfL shall perform;

(b) Dynamic Testing: the processes and programmes for the conduct of Dynamic Testing and the role of and activities to be performed by each of RfL and CRL in respect of Dynamic Testing;

(c) Trial Running: the processes and programmes for the conduct of Trial Running and the roles and activities to be performed by each of RfL and CRL in respect of Trial Running; and

(d) the processes and programmes for the implementation of Trial Operations in accordance with Clause 16.4 and the role of and activities to be performed by RfL, LUL and Network Rail in respect of Trial Operations (and the timing for such activities).

4.3 Where RfL (or the Crossrail TOC) will be the Operator of any Elements of the Railway (which will include the Rolling Stock, the RfL Stations and may include the Depot), RfL will accept Handover of each such Element when, in relation to that Element, the following criteria are satisfied:

(a) the Assurance Process has demonstrated that CRL has satisfactorily completed Dynamic Testing in accordance with that Assurance Process.

(b) CRL has satisfied the deliverables specified in Clauses 16.3(a)(iii) to the extent reasonably required for RfL to accept the care and maintenance of that Element as contemplated by Clause 16.2.

RfL and CRL will co-operate to agree snagging lists for each such Element on Handover.

4.4 RfL will:

(a) work with CRL to ensure the timely development of RfL's maintenance strategies and plans for the Railway, consistent with the overall programme for the development and opening of the Railway;

(b) develop reasonable requirements for specialist plant (including specialist on-track plant), equipment, tools, Maintenance & Support Services and Spares necessary to support RfL's operational activities on the Railway. CRL shall assist with this development;

- (c) co-operate with CRL to procure commercial arrangements for Maintenance & Support Services and Spares;
- (d) advise CRL of its requirements for Maintenance & Support Services and Spares in sufficient time to allow cost effective procurement of them in conjunction with CRL's own works and/or commissioning spares;
- (e) co-operate and accept CRL's support and assistance to develop relationships with relevant suppliers in order to facilitate the economic and efficient ongoing procurement of Maintenance & Support Services and Spares; and
- (f) accept an assignment or novation of all warranties that CRL is required to assign to RfL in accordance with this Agreement.

