

Dated 27 June 2013

THE SECRETARY OF STATE FOR TRANSPORT

SIEMENS PLC

FIRST CAPITAL CONNECT LIMITED

DEED OF UNDERTAKING

relating to

**THE HORNSEY
LIGHT MAINTENANCE DEPOT**



Freshfields Bruckhaus Deringer

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65 Fleet Street
London EC4Y 1HS

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THIS DEED (this *Deed*) is made on 27 June 2013

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR TRANSPORT**, whose principal place of business is at 33 Horseferry Road, London SW1P 4DR (the *Secretary of State*);
- (2) **SIEMENS PLC**, a company incorporated in England and Wales (Registered Number 727817) whose registered office is at Faraday House, Sir William Siemens Square, Frimley, Camberley, Surrey GU16 8QD (the *Depot SPC*); and
- (3) **FIRST CAPITAL CONNECT LIMITED**, (Registered Number 05281077), a company incorporated in England and Wales whose registered office is 50 Eastbourne Terrace, Paddington, London W2 6LG and whose address for correspondence is Hertford House, 1 Cranwood Street, London EC1V 9QS (*FCC*).

Background

- (a) Network Rail has agreed to permit the construction of a new maintenance depot at Hornsey by the Depot SPC in accordance with the Agreement for Leases.
- (b) Pursuant to the Agreement for Leases, on the Lease Completion Date, Network Rail will grant a lease of the New Depot to the Depot SPC upon the terms of the Head Lease and the Depot SPC will grant a lease of the New Depot to the Operator upon the terms of the Underlease.
- (c) The Secretary of State has agreed to give an undertaking under section 54 of the Act in the form set out in this Deed and in consideration of the undertakings given by the other parties hereto.

NOW IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Deed:

Act means the Railways Act 1993 (as amended from time to time, including pursuant to the Transport Act 2000 and the Railways Act 2005);

Actual Lease Completion Date has the meaning given to it in the Agreement for Leases;

Agreement for Leases means the agreement for asset protection, works and grant of leases in relation to the maintenance depot at Hornsey dated on or about the date hereof between, amongst others, the Secretary of State, Network Rail, the Depot SPC and FCC;

Ancillary Documents means the Building Contract, [●]¹⁵, the Collateral Warranties, [●]¹⁶ and any other document relating to the New Depot which may be designated from time to time by the Depot SPC or the Operator (as the case may be) and the Secretary of State as an

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Ancillary Document (provided that the consent of either the Depot SPC or the Operator shall not be required with respect to any such designation to the extent it is not a party to the relevant document which is the subject of the designation but such party shall be notified of any such designation);

[●]¹⁷

Building Contract has the meaning given to it in the Agreement for Leases;

Building Contractor has the meaning given to it in the Agreement for Leases;

Certificate of Practical Completion has the meaning given to it in the Agreement for Leases;

Collateral Warranties has the meaning given to it in the Agreement for Leases;

Commercially Sensitive Information means the sub-set of Confidential Information listed in Schedule 10 (Commercially Sensitive Information) which is provided by any of the Depot SPC or the Operator (as applicable) to the Secretary of State;

Confidential Information means:

- (a) any information or data related to the Project and/or furnished by or on behalf of a party to any other party or parties in relation to the Project, which has, in each case, been designated as confidential in writing by the party disclosing it or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored), including information which relates to the commercial or financial arrangements or affairs, operations, properties, assets, trading practices, designs, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of the Depot SPC, the Operator and the Secretary of State; and
- (b) the Commercially Sensitive Information.

Connection Agreement means any connection agreement entered into pursuant to the Agreement for Leases;

Consent means prior written consent not to be unreasonably withheld or delayed and where that consent is required under the Underlicence, the Depot Documents or the Ancillary Documents (the **Underlying Documents**) the party giving the consent shall have due regard to the rights and obligations of the party seeking consent under the terms of the Underlying Document;

Depot Access Conditions has the meaning given to it in the Agreement for Leases;

Depot Documents means, subject to Clause 2.9, the Agreement for Leases, the Head Lease, the Underlease, the Connection Agreement, this Deed, the Payment Deed, the Licence to Underlet, any Replacement Depot Documents to which any Lessee is a party and any other document which may be designated from time to time by the Depot SPC or the Operator (as the case may be) and the Secretary of State as a Depot Document (provided that the consent of the Depot SPC or the Operator is not required with respect to any such designation to the extent that it is not a party to the relevant document which is the subject of the designation but such party shall be notified of any such designation);

¹⁷ Redaction.

Depot Equipment means has the meaning given to it in the Agreement for Leases;

[●]¹⁸

Depot Works has the meaning given to it in the Agreement for Leases;

Existing Depot has the meaning ascribed to it in the Agreement for Leases;

Environmental Information Regulations means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;

FOIA means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such act;

[●]¹⁹

[●]²⁰;

Force Majeure Termination Notice means any notice to terminate the Head Lease served pursuant to clauses 12, 17, 18 or 19 of the Head Lease;

Franchise Agreement means at any time the franchise agreement under which the then existing Lessee is the franchise operator or franchisee (as the same are respectively defined in section 23(3) of the Act) or any other agreement under which such Lessee operates passenger railway services for or on behalf of the Secretary of State;

Franchise Termination means in respect of any Franchise Agreement the date of expiry or early termination (for any reason whatsoever) of such Franchise Agreement including, but not limited to an early termination following an event of default;

Franchising Functions has the meaning given to such term in section 54 of the Act;

Head Lease means the lease in respect of the New Depot and the Existing Depot to be granted by Network Rail to the Depot SPC on the Lease Completion Date pursuant to the Agreement for Leases;

[●]²¹

[●]²²

Information has the meaning given under section 84 of the FOIA;

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Lease Completion Date has the meaning given to it in the Agreement for Leases;

Lease Pre-Conditions has the meaning given to it in the Agreement for Leases;

Leased Assets means all land, buildings, equipment and other infrastructure comprising the New Depot which is leased or will be leased to the Lessee by the Depot SPC under the Underlease;

Lessee means:

- (a) at any time prior to the completion of the first Underlease, the entity that is obliged under the Agreement for Leases to enter into an Underlease with the Depot SPC; and
- (b) at any time after the completion of the first Underlease, the entity that is the tenant under the then existing Underlease;

Licence to Underlet has the meaning given to it in the Agreement for Leases;

Master Definitions Agreement means the agreement entered into between (1) the Secretary of State (2) Cross Trains Limited (3) the Depot SPC and (4) the Operator dated the same date hereof;

MSA means the manufacture and supply agreement for the design, construction, acceptance, sale and purchase of new rolling stock and associated equipment dated on or about the date hereof between the TMM, the Owner and the Operator (as such terms are defined therein);

Network Rail means Network Rail Infrastructure Limited, a company incorporated under the laws of England and Wales (registered number 2904587), whose registered office is at Kings Place, 90 York Way, London N1 9AG and any successor to all or any of its functions;

Network Rail Termination Option Notice means a notice served by Network Rail on the Depot SPC pursuant to clause 20 of the Head Lease;

New Depot has the meaning given to it in the Agreement for Leases;

Operator means FCC or any Successor Operator;

ORR means the Office of Rail Regulation established by s.15 of the Railways and Transport Safety Act 2003 and having duties and obligations as set out in the Act and includes any person or authority to whom the powers and functions of the Office of Rail Regulation may be transferred;

Other Agreement for Leases means the agreement for asset protection, works and grant of leases in relation to the Other Depot dated on or about the date hereof between Network Rail (1) The Depot SPC (2) the Operator (3) Siemens plc (as TMM) (4) and The Secretary of State (5);

Other Ancillary Documents means the Ancillary Documents as such term is defined in the Other Deed of Undertaking;

Other Building Contract means the agreement to be entered into on or about the date of this Deed between the Depot SPC and the Building Contractor in relation to the Other Depot;

Other Deed of Undertaking means the deed of undertaking dated on or about the date hereof

relating to the Other Depot between the Depot SPC, FCC and the Secretary of State;

Other Depot means the maintenance depot at Three Bridges as more particularly described in the Other Agreement for Leases;

Other Depot Documents means the Depot Documents as such term is defined in the Other Deed of Undertaking;

[●]²³

Project has the meaning given to it in the Agreement for Leases;

[●]²⁴

[●]²⁵

[●]²⁶

[●]²⁷

[●]²⁸

Requests for Information shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term “request” shall apply);

Replacement Depot Documents means, subject to Clause 2.9, agreements entered or to be entered into by the parties hereto and a Successor Operator in substantially the same terms as the Depot Documents (and in respect of any Connection Agreement subject to obtaining the approval of the ORR to the extent required) and which shall be deemed to expire by effluxion of time on the Replacement Depot Documents Expiry Date relating thereto;

Replacement Depot Documents Expiry Date means in respect of a Replacement Depot Document being entered into at any time, a date on or prior to [●]²⁹ specified by the Secretary of State in respect of such Replacement Depot Document by prior notice in writing to the relevant parties thereto;

Rolling Stock Agreements has the meaning given to it under the Agreement for Leases;

Security Interest shall be construed as a reference to:

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- (a) any right of ownership, lien, mortgage, charge, pledge, hypothecation, attachment, security interest, assignment by way of security, right of possession, right of detention, right of set-off or other encumbrance;
- (b) any other preferential arrangement resulting in a secured transaction or having the same economic or legal effect as any of the foregoing;
- (c) any agreement to give any of the foregoing;
- (d) any arrangement to prefer one creditor over another creditor;
- (e) the interest of the vendor or Depot SPC under a conditional sale agreement, lease, hire purchase agreement or other title retention arrangement; or
- (f) any interest described in paragraphs (a) to (e) inclusive created or existing over any interest described in paragraphs (a) to (e) inclusive;

[●]³⁰

[●]³¹

Successor Operator means:

- (a) the Secretary of State;
- (b) a wholly owned subsidiary of the Secretary of State or the Department for Transport; or
- (c) an operator of passenger railway services under a franchise agreement or other agreement (including an agreement entered into in relation to section 30 of the Act) for the carriage of passengers by railway;

Tax means all present and future taxes, charges, imposts, duties or levies of any kind whatsoever, payable at the instance of or imposed by any Government Authority, together with any penalties, additions, fines, surcharges or interest if and to the extent that any of the said penalties, additions, fines, surcharges or interest arises as a consequence of the act or omission of the party who indemnifies another party under this Deed in respect of the Tax to which such penalty, addition, fine, surcharge or interest relates;

Termination Date has the meaning given to it in the Agreement for Leases;

Third Party Financier has the meaning given to it in the Payment Deed;

[●]³²

TRSP Contract has the meaning given to it in the Agreement for Lease;

TSA means the train services agreement dated on or about the date hereof between, amongst

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others, the Operator and the TMM (as such terms are defined therein);

TSA Licence means the licence granted by the Operator to the TMM under the TSA (as such terms are defined therein) to occupy the maintenance sheds situated within the New Depot;

TSSSA means the technical support and spares supply agreement in relation to the provision of technical support, advice and spares, dated on or about the date hereof, to be between the Operator and the TMM;

TSSSA Licence means the licence granted by the Operator to the TMM under the TSSSA (as such terms are defined therein) to occupy the maintenance sheds within the New Depot;

Underlease means the lease to be granted by the Depot SPC to the Operator on the Lease Completion Date pursuant to the Agreement for Leases or any subsequent underlease entered into pursuant to this Deed which is a Replacement Depot Document;

Underlease Termination Entitlement shall have the meaning given to it under Clause 2.1(a);

Underlease Termination Date means with respect to any Underlease Termination Entitlement, the date falling ten (10) Working Days after receipt by the Secretary of State of notice thereof pursuant to Clause 2.1(a);

Underlicence means a licence to occupy and use the New Depot to be granted by the Depot SPC to the Operator pursuant to Clause 20.3 of the Agreement for Leases;

[●]³³

Unit has the meaning given to it in the MSA and the Master Definitions Agreement;

VAT means Value Added Tax as provided for in the Value Added Tax Act 1994 and any similar tax replacing or introduced in addition to the same;

Warranting Party has the meaning given to it in the Agreement for Leases; and

Working Day means any week day (other than a Saturday or a Sunday) when banks are open for business in London, England.

1.2 Construction

In this Deed:

- (a) a reference to any document includes, subject to Clause 4, that document as amended, assigned, novated, transferred and supplemented from time to time;
- (b) terms defined in the Act have the same meaning when used herein;
- (c) references to rights include claims, defences and remedies;
- (d) a reference to a provision of any law shall be construed at any particular time, as including a reference to any modification, extension or re-enactment thereof then in

³³ Redaction.

force and all instruments, orders and regulations then in force and made under, or deriving validity from, the relevant provision;

- (e) a reference to a “Clause” or “Schedule” is a reference to a Clause of or Schedule in this Deed;
- (f) a reference to the “parties to this Deed” means each of the Secretary of State, the Depot SPC and the Operator and “party” shall be construed accordingly;
- (g) a reference to “Network Rail” shall include its successor in title to the freehold interest in the Depot;
- (h) a reference to “Depot SPC” shall include its successor in title to the Head Lease;
- (i) a reference to Operator shall include its successor in title to the Underlease;
- (j) a reference to a person includes its successors in title, its permitted assignees and transferees;
- (k) the words “include”, “including” and “in particular” shall be construed as being by way of illustration and shall not limit or prejudice the generality of any foregoing words; and
- (l) the provisions of the Schedules shall have effect.

2. UNDERTAKINGS

2.1 Franchise Termination, Underlease Termination or Underlicence Termination

- (a) Each of the Depot SPC and the Operator undertakes to the Secretary of State that if (but for the application of Clause 2.1(b)):
 - (i) it is entitled to repudiate, terminate or forfeit the Underlease and it intends to exercise such right; or
 - (ii) during the period of the Underlicence, it would have been entitled to repudiate, terminate or forfeit the Underlease if the Underlease had been granted,

(the occurrence of any of the events in (i) and (ii) above, an ***Underlease Termination Entitlement***), it will send written notice thereof to the Secretary of State promptly upon becoming aware of the circumstances giving rise to such entitlement.
- (b) For so long as the Secretary of State is obliged to comply with any obligation under Clauses 2.1(d) and/or 2.2, each of the Depot SPC and the Operator undertakes to the Secretary of State that notwithstanding the provisions of any other agreement (but subject to the terms of this Deed) it will not repudiate, terminate or forfeit the Underlicence, the TSA Licence, any Depot Document or any Ancillary Document to which it is a party including pursuant to an Underlease Termination Entitlement without the Consent of the Secretary of State.
- (c) For so long as the Secretary of State is obliged to comply with any obligation under Clauses 2.1(d) and/or 2.2, the Operator undertakes to the Secretary of State that it will, to the extent that the Operator is able to do so under the relevant document,

exercise any right to repudiate, terminate or forfeit the Underlicence, the TSSSA Licence and the TSA Licence, any other Depot Document or any Ancillary Document if requested by the Secretary of State to do so.

- (d) The Secretary of State undertakes that (subject to Clauses 2.2 to 2.12 and Clause 4) on or before the occurrence of any Franchise Termination or Underlease Termination Date prior to [●]³⁴, the Secretary of State shall exercise its Franchising Functions so as to procure:
 - (i) in circumstances where the Underlease has not been completed on or prior to such date, the transfer to a Successor Operator of the rights and obligations of the Lessee under the Agreement for Leases, the Connection Agreement, the Deed of Surrender as defined in the Agreement for Leases, the Payment Deed and this Deed; and
 - (ii) in circumstances where the Underlease has been completed on or prior to such date:
 - (A) the transfer to a Successor Operator of the rights and obligations of the then existing Lessee under all Depot Documents and Ancillary Documents to which that Lessee is a party; or
 - (B) the execution by a Successor Operator of Replacement Depot Documents.
- (e) The Operator undertakes to the Secretary of State that:
 - (A) if it:
 - (I) receives notice from the Depot SPC under the Underlicence or the Underlease that the Depot SPC intends to terminate the Underlicence or the Underlease; or
 - (II) has the right (but for any restriction contained in this Deed) to terminate the Underlicence or the Underlease,

then it shall immediately notify the Secretary of State of such occurrence; and
 - (B) except where the Operator has terminated the TSA in accordance with the terms therein, it shall not exercise any right to repudiate or terminate the TSA Licence without the Consent of the Secretary of State.

2.2 Replacement Depot Documents Expiry Date

- (a) If any Replacement Depot Documents have a Replacement Depot Documents Expiry Date falling prior to [●]³⁵, then the Secretary of State irrevocably undertakes to exercise its Franchising Functions so as to procure the execution on or before such

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Replacement Depot Documents Expiry Date further Replacement Depot Documents by a Successor Operator.

- (b) For the avoidance of doubt, Clause 2.2(a) will apply on more than one occasion if any further Replacement Depot Documents have a Replacement Depot Documents Expiry Date falling prior to [●]³⁶.

2.3 Parties

Each of the Depot SPC and the Operator undertakes to each of the other parties hereto that (subject to Clauses 2.4 to 2.12) upon any Franchise Termination, Underlease Termination Date or Replacement Depot Documents Expiry Date occurring prior to [●]³⁷ (as the case may be) it shall:

- (a) enter into with the relevant person specified under Clauses 2.1, 2.2 or 2.8 the relevant documents required to give effect to the transfer or replacements referred to therein on and with effect from the relevant Underlease Termination Date, date of Franchise Termination or Replacement Depot Documents Expiry Date (as the case may be); and
- (b) in circumstances where the Secretary of State is required to comply with Clause 2.1(d)(i) or 2.1(d)(ii) or Clause 2.2, not exercise any termination rights under the relevant Depot Documents, Ancillary Documents, Other Depot Documents or Other Ancillary Documents so as to frustrate the transfer(s) referred to therein.

2.4 Deed of Covenant

- (a) The Secretary of State undertakes to procure that (subject to Clause 2.4(b)) contemporaneously with the completion of any transfer referred to in Clauses 2.1(d)(i) or 2.1(d)(ii)(A) or any Replacement Depot Documents under Clause 2.2, a duly executed and completed deed of covenant is entered into by the relevant Successor Operator.
- (b) Any deed of covenant entered into pursuant to Clause 2.4(a) shall be on terms such that the relevant Successor Operator covenants (subject to Clauses 2.5 to 2.12) to observe and perform from and including the date of the relevant transfer or Replacement Depot Documents referred to in Clause 2.4(a), the obligations expressed to be performed by the Operator under, and the terms and conditions contained in, this Deed, the Depot Documents to which the Operator is party and/or in any relevant Replacement Depot Document.
- (c) Contemporaneously with the completion of any deed of covenant entered into pursuant to Clause 2.4(a), the parties agree that the Operator or (if applicable) any prior Successor Operator will be released from all of the obligations to be performed by the Operator under, and the terms and conditions contained in this Deed and in the relevant Depot Documents, save for:
 - (i) those statutory obligations which are expressed by statute to survive; and

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- (ii) subject to Clause 2.5(b), obligations which relate to any breach or liability which has arisen prior to the date of the relevant transfer or date of completion of any Replacement Depot Documents.

2.5 Liability

- (a) For the avoidance of doubt:
 - (i) in circumstances where the Successor Operator referred to in Clause 2.1(d) is the Lessee under the Agreement for Leases or the Underlease (as the case may be) and a party to other Depot Documents relating thereto existing at such time, such person will continue to be the Lessee under such Agreement for Leases or such Underlease and a party to the other Depot Documents relating thereto without the need for:
 - (A) any transfer or completion of any Replacement Depot Documents in accordance with Clause 2.1(d); and
 - (B) completion of any deed of covenant in accordance with Clause 2.4; and
 - (ii) without prejudice to Clause 2.4(c) nothing in this Clause 2 will limit any person's liability to any other party under the Agreement for Leases, any Depot Document or this Deed in respect of any period prior to the date of transfer or completion of any Replacement Depot Documents in accordance with Clauses 2.1(d) or 2.2.
- (b) Any Successor Operator that receives a transfer in accordance with Clauses 2.1(d) or 2.7 or enters into any Depot Documents pursuant to Clauses 2.1(d)(ii)(B) or 2.2 shall (subject to Clause 2.5(c)):
 - (i) not be liable for any accrued but unperformed obligations of any person under the Depot Documents or this Deed (and which shall include for these purposes any obligation to make a payment in respect of a period ending prior to the date of the relevant transfer or the date of the Replacement Depot Documents (as the case may be), notwithstanding that the obligation to pay arises after such date) to the extent that the same relates to, or is in respect of, any period prior to the date of the relevant transfer or the date of the Replacement Depot Documents (as the case may be);
 - (ii) not be liable for the consequences of any breach prior to the date of the relevant transfer or the date of the Replacement Depot Documents, as the case may be;
 - (iii) not be liable for any liability of any person in respect of any act or omission under or in relation to the Depot Documents or this Deed which occurred prior to the date of the relevant transfer or the date of the Replacement Depot Documents, as the case may be; and
 - (iv) not be obliged, in connection with the relevant transfer or the execution of any Replacement Depot Documents as the case may be, to agree to assume and be responsible for any unperformed obligation, liability or consequences of a breach referred to in this Clause 2.5.

- (c) For the avoidance of doubt, the provisions of Clause 2.5(b) shall not operate so as to relieve a Successor Operator from the obligations under the Agreement for Leases to which it becomes a party to enter into the Underlease in accordance with the terms therein.

2.6 Limitation

If notified in writing by the Secretary of State to the relevant party, the undertakings provided by the Secretary of State in Clauses 2.1(d), 2.2 and 2.4:

- (a) shall cease to apply for the benefit of a party if any Depot Document or any Ancillary Document has been terminated or forfeited by such party in breach of Clause 2.1(b);
- (b) shall cease to apply for the benefit of any party:
- (i) [●]³⁸
- (ii) [●]³⁹
- (c) in respect of any obligations owed to the Operator or any prior Successor Operator (as the case may be) under this Deed, any Depot Documents or any Replacement Depot Documents shall cease to apply for the benefit of the Operator or any prior Successor Operator where the Operator or such Successor Operator ceases to be the Lessee.

2.7 Government as Successor Operator

- (a) If at any time the Secretary of State or any wholly owned subsidiary of the Secretary of State takes a transfer of, or enters into, any Depot Documents in accordance with the provisions of this Deed, then notwithstanding the terms thereof, each of the Depot SPC and the Operator:
- (i) consents to the Secretary of State or such wholly owned subsidiary of the Secretary of State later transferring to a Successor Operator all of its rights and obligations under any Depot Documents (with the exception of the Secretary of State's rights and obligations under this Deed) and under any Ancillary Documents;
- (ii) agrees that the Secretary of State or such wholly owned subsidiary of the Secretary of State will be able to act as self insurer for any insurance which it is under an obligation to procure under any such Depot Documents; and
- (iii) agrees that nothing in such Depot Documents shall be deemed to prohibit, prevent or hinder or render either of them or the Secretary of State liable for the disclosure of any information by the Secretary of State to the ORR, the Parliamentary Commissioner for Administration, a Minister of the Crown or any department of the government of the United Kingdom or of information which is otherwise disclosed for the purpose of facilitating the carrying out of its functions under the Act, the Transport Act 2000, or the Railways Act 2005 or the FOIA.

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- (b) Each of the Depot SPC and the Operator agrees that:
- (i) the provisions of Clauses 2.4 and 2.6 shall apply in respect of any transfer permitted under Clause 2.7(a)(i) as if references in Clauses 2.4 to “transfer” were to the transfer permitted under Clause 2.7(a)(i) and references to “Replacement Depot Documents” were deleted; and
 - (ii) it will use reasonable endeavours to assist the Secretary of State or such wholly owned subsidiary in completing any such relevant transfer permitted under Clause 2.7(a)(i).

2.8 Transfer Scheme

Notwithstanding any other provision of this Deed, the parties agree that the Secretary of State may fulfil its obligations under the foregoing provisions of this Clause 2 by transferring the rights and obligations of the Lessee under the then existing Depot Documents to the Secretary of State, any wholly owned subsidiary of the Secretary of State or any Franchise Operator (as the same is defined in section 83(1) of the Act) who in each case agrees or is required to be bound by the existing Depot Documents, by way of a transfer scheme under section 12 of the Railways Act 2005.

2.9 Depot Documents

The parties agree that upon completion of the Head Lease and the Underlease, the Agreement for Leases shall cease to be a “Depot Document” for the purposes of this Deed.

2.10 Exclusion of sections 24 to 28 of the Landlord and Tenant Act 1954

To the extent not already undertaken pursuant to Clause 38 of the Agreement for Leases, the parties to the Underlease confirm that sections 24 to 28 inclusive of the Landlord and Tenant Act 1954 shall not apply to any Underlease or any replacement underlease granted in accordance with the terms of this Deed and shall serve such notices, counter-notices, and statutory declarations as may be necessary to exclude the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 in respect of the tenancies granted by such documents.

2.11 Collateral Warranty

Upon a termination of the Underlease or on assignment of the Underlease to a Successor Operator the Operator undertakes to assign to the Secretary of State or a Successor Operator any Collateral Warranty of which it has the benefit and in respect of which it has no outstanding claims.

2.12 Tax efficient transfer

- (a) Each of the parties agrees that it will act in good faith, and use all reasonable endeavours, to effect any transfer or replacement of the Depot Documents and the Ancillary Documents required under the provisions of this Deed in a tax efficient manner.
- (b) The parties agree that the operation of Clause 2.12(a) shall not oblige any party to assume a greater tax liability than it would otherwise have had but for the terms of this Clause 2.12.

3. TRANSFER

3.1 Consent

Each of the parties to this Deed hereby irrevocably and unconditionally consents to any transfer, assignment or transfer scheme made in accordance with Clause 2.

3.2 Waiver

If the Secretary of State's obligations under Clause 2.1(d) and/or Clause 2.2 have arisen (and subject to the performance by the Secretary of State of those obligations) each of the parties to this Deed unconditionally waives any right it may have to terminate, repudiate or forfeit (as appropriate) any Depot Documents which arises as a result of any breach (or any other act or omission by any person) occurring prior to the relevant date of any transfer or assignment or inclusion in a transfer scheme of such Depot Documents or, in circumstances where such Depot Documents are Replacement Depot Documents, prior to the relevant date thereof.

4. AMENDMENT

4.1 Consent Required

Each of the Depot SPC and the Operator agrees for the benefit of the Secretary of State and any Successor Operator that:

- (a) it will not amend, vary, supplement or grant a waiver (or agree to any of the same) in respect of any Depot Document or Ancillary Document without the Consent of the Secretary of State; and
- (b) Clause 2 shall have effect so that (subject to Clause 4.2) the relevant Successor Operator is not required to observe and perform any terms of any Depot Document or Ancillary Document to the extent that such document has been so amended, varied, supplemented or waived without the aforementioned Consent of the Secretary of State.

4.2 Deemed Consent

The Secretary of State confirms for the benefit of the other parties that for the purpose of Clause 4.1 it shall be deemed to have consented to changes to the Depot Access Conditions to the extent such changes are required by the ORR.

5. [●]⁴⁰

6. FURTHER COVENANTS AND AGREEMENTS

6.1 Depot SPC Covenants

The Depot SPC undertakes:

- (a) to the Secretary of State:

⁴⁰ Redaction.

- (i) not to waive or fail to enforce in any material respect any rights it may have under the Depot Documents or Ancillary Documents to which it is a party; and
- (ii) not to waive, or permit to be waived, any Lease Pre-Condition, without the Consent of the Secretary of State;
- (b) to the Secretary of State and the Operator to the extent reasonably required, to procure the delivery to the Secretary of State and the Operator of originals or certified copies of all material documentation relating to the design, construction, operation, maintenance and (to the Secretary of State only) financing of the New Depot held by it subject always to the Secretary of State and the Operator complying with clause 18 (*Confidentiality*);
- (c) to the Secretary of State and the Operator to notify the Secretary of State and the Operator of any material breaches by the Building Contractor, [●]⁴¹ or Network Rail under any of the Building Contract, [●]⁴², the Agreement for Leases, Head Lease or the Collateral Warranties and to consult in good faith with the Secretary of State and the Operator about what action (if any) should be taken in respect thereof;
- (d) to the Secretary of State to comply with its obligations under the Depot Documents to which it is a party and Ancillary Documents to which it is a party and, where any counterparty to any of the aforementioned documents is reliant upon any act or response by it, to use reasonable endeavours to perform such act or give such response promptly;
- (e) to the Secretary of State and the Operator to procure that the Secretary of State is copied in on any notices sent to it under any Depot Document to which it is a party or Ancillary Document to which it is a party promptly after receipt by it of the same;
- (f) [●]⁴³;
- (g) to the Secretary of State and the Operator to procure that a copy of each Depot Document and Ancillary Document to which it is a party (or of which it has a copy) is sent to the Secretary of State and the Operator promptly after receipt by it of the same;
- (h) to the Secretary of State and the Operator to use all reasonable endeavours to exercise rights at law or in contract available to it so as to procure performance of the obligations of any counterparty to the Building Contract, [●]⁴⁴ and any Collateral Warranty (as applicable);
- (i) to the Secretary of State and the Operator to indemnify each of the Secretary of State, the Operator and any Successor Operator against any liability, claim, cost or expense incurred or suffered by it as a result of the Depot SPC's wilful misconduct, negligence or fraud in the certification and/or approval of amounts to be paid under or

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⁴² Redaction.

⁴³ Redaction.

⁴⁴ Redaction.

in respect of the Building Contract and [●]⁴⁵ or which are incurred or suffered by it as a result of the Depot SPC's failure to obtain any Consent of the Secretary of State which it is required to obtain under this Deed;

- (j) to the Secretary of State that it will not certify or consent to any amendment to the Depot Document to which it is a party or Ancillary Document to which it is a party unless the Consent of the Secretary of State has been obtained;
- (k) to the Secretary of State and the Operator it will not certify or consent to any cost which the Secretary of State is entitled to approve under this Deed or the Payment Deed (whether directly or indirectly by way of an amendment or variation to any document) and for which Consent from the Secretary of State has not been obtained;
- (l) to the Secretary of State to notify the Secretary of State of any changes to the rent payable by it to Network Rail under the Head Lease;
- (m) to the Secretary of State at any time prior to [●]⁴⁶ not to terminate or surrender the Head Lease without the Consent of the Secretary of State;
- (n) to the Secretary of State to use all reasonable endeavours to exercise rights at law or in contract available to it so as to procure performance of the obligations of Network Rail under the Head Lease;
- (o) to the Secretary of State to notify the Secretary of State of any rights to terminate the Head Lease;
- (p) [●]⁴⁷

6.2 Underlease and other subordinate interests

- (a) Subject to Clause 6.2(b), the Depot SPC undertakes not to grant or enter into any underlease or licence with respect to the New Depot prior to [●]⁴⁸ without the Consent of the Secretary of State.
- (b) The Secretary of State's Consent under Clause 6.2(a) shall not be required in respect of any Underlease or Underlicence to be granted in accordance with the Agreement for Leases or the terms of this Deed.
- (c) Subject to Clause 6.2(d), the Operator undertakes not to grant or enter into any sub-underlease or licence with respect to the New Depot prior to [●]⁴⁹ without the Consent of the Secretary of State.
- (d) The Secretary of State's Consent under Clause 6.2(c) shall not be required in respect of the TSA Licence or the TSSSA Licence.

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6.3 Depot Access

Save to the extent any such agreement is required to be granted by the ORR, no party shall grant any access contract to any third party (an *Access Beneficiary*) without the Consent of the Depot SPC which may only withhold its consent where the granting of the proposed access contract will materially interfere with the TMM's ability to perform its obligations under the TSA and in the event that the Depot SPC withholds its consent and consequently such proposed Access Beneficiary applies to the ORR for an access contract, the Depot SPC shall reimburse the Operator for its proper costs incurred in dealing with the ORR in relation to such access contract.

7. RESTRICTION ON DISPOSALS

7.1 The Depot SPC and the Secretary of State agree (subject to Clause 12) that the Depot SPC may not assign the Head Lease prior to [●]⁵⁰ without the Consent of the Secretary of State, which shall be granted to any assignment which complies with the terms of this Deed.

7.2 The Depot SPC and the Secretary of State agree to apply to the Land Registry for entry of a restriction on the Depot SPC's title to the Head Lease preventing any disposition without the Consent of the Secretary of State prior to [●]⁵¹ (such restriction to make no reference to this Deed).

7.3 Any assignee of the Depot SPC's interest in the Head Lease shall covenant to comply with the terms of the Payment Deed and of this Deed.

7.4 The Operator and the Secretary of State agree (subject to Clause 12) that the Operator may not assign the Underlease prior to [●]⁵² without the Consent of the Secretary of State, which shall be granted to any assignment which complies with the terms of this Deed.

7.5 The Operator and the Secretary of State agree to apply to the Land Registry for entry of a restriction on the Operator's title to the Underlease preventing any disposition without the Consent of the Secretary of State prior to [●]⁵³ (such restriction to make no reference to this Deed).

7.6 Any assignee of the Operator's interest in the Underlease shall covenant to comply with the terms of the Payment Deed and of this Deed.

8. [●]⁵⁴

9. THIRD PARTIES

9.1 The Contracts (Right of Third Parties) Act

Save as provided in Clause 9.2 below, this Deed does not create any right under the Contracts (Rights of Third Parties) Act 1999, which is enforceable by any person who is not a party to

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it.

9.2 Successor Operator

A Successor Operator which receives an assignment, transfer or a transfer scheme or enters into Replacement Depot Documents in accordance with Clause 2, shall have the right to enforce and be subject to all the relevant terms of this Deed.

9.3 Amendment

Notwithstanding Clause 9.2 this Deed may be terminated and any term may be amended or waived without the Consent of any Successor Operator referred to in Clause 9.2.

10. REPRESENTATIONS AND WARRANTIES

10.1 Secretary of State

The Secretary of State represents and warrants to the Depot SPC and the Operator that as at the date of this Deed, this Deed constitutes its legal, valid and binding obligations, has been duly authorised and is intra vires.

10.2 Depot SPC and Operator

Each of the Depot SPC and the Operator represents and warrants to the Secretary of State that in respect of itself as at the date hereof:

- (a) it is a company properly organised and validly existing under the laws of England and Wales as a limited liability company;
- (b) it has the power to carry on its business as it is now being conducted and has all the licences, consents approvals, permits, authorisations, exemptions and certificates required for that purpose;
- (c) it has the power and capacity to enter into and perform its obligations under this Deed and this Deed constitutes its legal, valid and binding obligations;
- (d) all necessary corporate, shareholder and other action has been taken to authorise its entry into, performance and delivery of this Deed;
- (e) entering into this Deed and performing its obligations under this Deed will not:
 - (i) conflict with its Memorandum and Articles of Association; or
 - (ii) conflict with or result in a breach of any existing contract or in the creation of any security interest over it or any of its property or assets; and
- (f) except as disclosed in writing to the Secretary of State on or before this statement of fact is made, no legal proceedings are pending or to its knowledge threatened against it which if decided against it would have a material effect upon its financial condition or business or its ability to perform its obligations under this Deed.

11. [●]⁵⁵

12. ALIENATION

12.1 Deed of Undertaking

Neither the Depot SPC nor the Operator may assign, transfer or grant any Security Interest over any of its rights and/or obligations under this Deed without the Consent of the Secretary of State, [●]⁵⁶

12.2 Depot Documents

Each of the Depot SPC and the Operator undertakes to the Secretary of State not to assign and/or transfer or grant any Security Interest over any of its rights and/or obligations under any Depot Document or Ancillary Document without the Consent of the Secretary of State, [●]⁵⁷

12.3 [●]⁵⁸

13. NOTICES

Any notice or other communication under or in connection with this Deed will be in writing and will be delivered by hand or recorded delivery or sent by pre-paid first class post or by electronic data transfer (subject to notification by the recipient of any facility it may operate for receipt of such data transfers) to the party on whom the notice is to be served at the relevant address for service set out below, or to such other address in the United Kingdom that one party may specify by notice in writing to the other party to this Deed.

Name: The Secretary of State

Address: 33 Horseferry Road
London
SW1P 4DR

Attention: [●]⁵⁹

Name: The Depot SPC

Address: Faraday House
Sir William Siemens Square
Frimley, Camberley
Surrey GU16 8QD

Attention: Group Company Secretary

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⁵⁹ Redaction.

Name: The Operator

Address: Hertford House
1 Cranwood Street
London
EC1V 9QS

Attention: [●]⁶⁰

14. AMENDMENTS

14.1 All party consent

Subject to Clause 14.2, this Deed may, but not otherwise, be amended by a written instrument signed by each of the parties.

14.2 Exceptions

This Deed may be amended without the consent of any person in respect of whom the Secretary of State has served a written notice under Clause 2.6, provided that any such amendment does not impose any additional liability on, or increase any existing liability of, such person.

15. AUTHORITY

The signature or sealing of this Deed by or on behalf of a party will constitute an authority to the solicitors, or an agent or employee of the solicitors acting for that party in connection with this Deed to date it and deliver it as a deed on behalf of that party.

16. INVALIDITY

If any provision in this Agreement is held to be void, illegal, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part will to that extent be deemed not to form part of this Agreement but the legality, validity and enforceability of the remainder of this Agreement will not be affected.

17. COUNTERPARTS

This Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

18. CONFIDENTIALITY

18.1 Other than the Secretary of State, no party shall without the other parties' prior consent in writing, such consent not to be unreasonably withheld, advertise, announce or otherwise publish the fact of the existence of this Deed or that it is a party to, and is carrying out, this Deed for the other parties.

18.2 The parties agree that the provisions of this Agreement and each TRSP Contract shall, subject to clause 18.3, not be treated as Confidential Information and may be disclosed without restriction.

⁶⁰ Redaction.

18.3 Clause 18.2 shall not apply to provisions of this Deed or any TRSP Contract that is designated as Commercially Sensitive Information and listed in Schedule 10 (Commercially Sensitive Information) which shall be kept confidential in accordance with clauses 18.1 and 18.5 for the periods specified in that schedule.

18.4 Each of the parties agrees that it shall keep confidential the Confidential Information of each of the other parties supplied to it in connection with this Deed and save as provided in Clauses 18.5 and 18.6, a party receiving Confidential Information shall not:

- (a) reveal that Confidential Information to any third party save with the prior written Consent of the party who owns the Confidential Information; or
- (b) use any Confidential Information that it receives from another party otherwise than for the performance of the Project or other activities expressly contemplated or permitted by the provisions of the TRSP Contracts.

18.5 Each of the parties agrees that it shall require its employees who have access to the Confidential Information to be subject to appropriate confidentiality undertakings. The disclosing party shall be responsible to the party that owns the Confidential Information for any abuse by the recipient employee of such Confidential Information.

18.6 The restrictions in Clause 18.4 shall not apply in respect of the disclosure of an item of Confidential Information referred to above:

- (a) to the ORR, the Bank of England or the Financial Conduct Authority or as required by law or any written requirements of any Government Authority;
- (b) to any member of the group of companies of which the disclosing party is a member or any financier or lawyers, accountants and others providing professional services to the Operator or the Depot SPC or any permitted subcontractor, in each case;
 - (i) only to the extent that such disclosure is necessary for the performance of the relevant recipient's role in relation to the Project; and
 - (ii) provided that (save with respect to lawyers or accountants) the party disclosing such information has obtained an undertaking of confidentiality from the relevant recipient;
- (c) in connection with obtaining or renewing any insurance required under this Deed;
- (d) which is in the public domain other than as a result of the breach of any obligation of confidentiality;
- (e) which is required in connection with any litigation;
- (f) which is required in connection with an assignment, transfer or other disposition of rights permitted hereunder where prior to any disclosure the proposed assignee or transferee has provided a confidentiality undertaking to the Secretary of State in the form of this Clause 18;
- (g) which is required in connection with a sale or other disposition of shares in the Depot SPC, the Operator or any parent company of any party provided always that prior to any disclosure any recipient of such information has provided an undertaking of

confidentiality in substantially the same form as set out in this Clause 18 to the Secretary of State;

- (h) which was made available to the disclosing party on a non confidential basis;
- (i) as permitted or required by any Legal Requirement or Standard, the rules of any recognised stock exchange or regulatory body or any written requirements of any taxation authority or as expressly permitted by this Deed; or
- (j) to any Financier.

18.7 In fulfilling its obligations under this Clause 18, each party shall be required to use a proper standard of care, which shall in no event be less than the same degree of care to prevent unauthorised disclosure of the Confidential Information as it would use to prevent the disclosure of its own commercial and financial information of the same or similar nature and which it considers proprietary or confidential.

18.8 The obligations of the parties under this Clause 18 shall survive the expiry or the termination of this Deed for whatever reason.

Franchise Bidding Procedure

18.9 The Depot SPC and the Operator shall, if and to the extent so reasonably requested by the Secretary of State, at his own cost provide the Secretary of State and his representatives and advisers with information extracted from the Depot Documents to which the Operator is party and other information which the parties (as applicable) are required to provide under the Rolling Stock Agreements and which those representatives and advisers reasonably believe that a potential Successor Operator would require in order to tender for the right and obligation to provide or operate all or any services under the then applicable Franchise Agreement, for the purpose of such representatives and advisers preparing any reports or other documents in connection with any invitation to potential Successor Operators to tender for such right and obligation. Each of the parties will permit such information to be included in documents relating to the invitation to tender for the relevant franchise agreement including any pre-qualifying document and any associated information memorandum (whether preliminary or final).

18.10 Any information provided to the Secretary of State and his representatives and advisers pursuant to clause 18.9 may be disclosed by the Secretary of State to persons who have expressed an interest in becoming the relevant franchisee, provided that such persons have provided an undertaking regarding the confidentiality and use of such information for the benefit of the Secretary of State and the party who provided such information to the Secretary of State, in substantially the same form as this clause 18. Such disclosure of any such information by the Secretary of State will be limited to the extent the Secretary of State considers reasonably necessary for the relevant stage of the tender process and full disclosure of the terms of any Depot Document, including detailed financial information, will, subject to any legal requirement to which the Secretary of State is or may become subject, only be made available to the successful Successor Operator.

19. FREEDOM OF INFORMATION

19.1 The Depot SPC and the Operator acknowledges that the Secretary of State is subject to the requirements of the FOIA and the Environmental Information Regulations and shall facilitate the Secretary of State's compliance with its Information disclosure requirements pursuant to the same in the manner provided for in Clauses 19.1 to 19.7 inclusive.

19.2 Where the Secretary of State receives a Request for Information in relation to Information that the Depot SPC or the Operator is holding on its behalf the Secretary of State may refer to Depot SPC and/or the Operator such Request for Information that it receives as soon as practicable and in any event within five Working Days of receiving a Request for Information and, if it does so, the Depot SPC and/or the Operator shall:

- (a) provide the Secretary of State with a copy of all such Information in the form that the Secretary of State requires as soon as practicable and in any event within ten Working Days (or such other period as the Secretary of State acting reasonably may specify) of the Secretary of State's request; and
- (b) provide all necessary assistance as reasonably requested by the Secretary of State in connection with any such Information, to enable the Secretary of State to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

19.3 Following notification under Clause 19.2, and up until such time as the Depot SPC and/or the Operator has provided the Secretary of State with all the Information specified in Clause 19.2(a), the Depot SPC and/or the Operator may make representations to the Secretary of State as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the Secretary of State shall be responsible for determining at its absolute discretion:

- (a) whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations; and
- (b) whether Information is to be disclosed in response to a Request for Information,

and in no event shall the Depot SPC and/or the Operator respond directly, or allow its Contractors to respond directly, to a Request for Information unless expressly authorised to do so by the Secretary of State.

19.4 Each of the Depot SPC and the Operator shall ensure that all Information held on behalf of the Secretary of State is retained for disclosure for at least 15 years (from the date it is acquired) and shall permit the Secretary of State to inspect such Information as requested from time to time.

19.5 Each of the Depot SPC and the Operator shall transfer to the Secretary of State any Request for Information received by it as soon as practicable and in any event within 2 Working Days of receiving it.

19.6 Each of the Depot SPC and the Operator acknowledges that any lists provided by him listing or outlining Confidential Information, are of indicative value only and that the Secretary of State may nevertheless be obliged to disclose Confidential Information in accordance with the requirements of the FOIA and the Environmental Information Regulations.

19.7 Each of the Depot SPC and the Operator acknowledges that (notwithstanding the provisions of this Clause 19 the Secretary of State may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000 (the *Code*), be obliged under the FOIA, or the Environmental Information Regulations to disclose Confidential Information concerning the Depot SPC and the Operator or the Project:

- (a) in certain circumstances without consulting with the Depot SPC; or
- (b) following consultation with the Depot SPC and having taken their views into account,

provided always that where Clause 19.7(a) applies the Secretary of State shall, in accordance with the recommendations of the Code, draw this to the attention of the Depot SPC and/or the Operator prior to any disclosure.

19.8 The provisions of this clause 19 are without prejudice to the application of the Official Secrets Act 1911 to 1989 to any Confidential Information.

19.9 The obligations of the parties under this Clause 19 shall survive the expiry or the termination of this Deed for whatever reason.

20. GOVERNING LAW AND JURISDICTION

20.1 This Deed and any non-contractual obligations arising out of or in relation to this Agreement are governed by English law.

20.2 Save as expressly provided otherwise in this Deed, the English courts shall have exclusive jurisdiction in relation to all disputes arising out of or in connection with this Deed (including claims for set-off and counterclaims), including, without limitation, disputes arising out of or in connection with:

- (a) the creation, validity, effect, interpretation, performance or non-performance of, or the legal relationships established by, this Deed; and
- (b) any non-contractual obligations arising out of or in connection with this Deed,

and each party irrevocably submits to the jurisdiction of the English courts and waives any objection to the exercise of such jurisdiction.

21. VALUE ADDED TAX

21.1 All payments made or to be made under this Deed are deemed to be exclusive of any Value Added Tax chargeable thereon or by reference thereto. If any such payment constitutes the whole or part of the consideration for a taxable or deemed taxable supply (whether that supply is taxable pursuant to the exercise of an option or otherwise), the party making the supply shall provide the party which receives it with an appropriate Value Added Tax invoice in respect thereof, and an amount shall be paid on demand by the party which receives the supply to the party making such supply in addition to that payment which is equal to the amount of Value Added Tax which is chargeable in respect of the taxable or deemed taxable supply in question.

21.2 Where under this Deed one party has agreed to reimburse or indemnify another party in respect of any payment made or cost incurred by the other then the first party shall also reimburse the VAT paid by such other party which forms part of its payments made or cost incurred to the extent that such VAT is not available for credit (whether by way of set-off or repayment) by such other party under sections 24 to 26 (inclusive) of the Value Added Tax Act 1994 or any regulations made thereunder or any similar or equivalent legislation replacing or introduced in addition to the same.

IN WITNESS WHEREOF this Deed has been executed and delivered as a deed on the date stated at the beginning.

THE CORPORATE SEAL OF
THE SECRETARY OF STATE
FOR TRANSPORT IS
HEREUNTO AFFIXED



SEAL REF No. 7640

[●]⁶¹

.....
Authenticated by authority of the
Secretary of State for Transport

EXECUTED and DELIVERED
as a deed for and on behalf of
SIEMENS PLC acting by its duly
authorised attorneys:



ATTORNEY:

[●]⁶²

.....

In the presence of:
Witness' Signature: [●]⁶³
Witness' Name: [●]⁶⁴
Witness' Address: [●]⁶⁵

[●]⁷⁰

[●]⁷¹

ATTORNEY:

[●]⁶⁶

.....

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⁶² Redaction.
⁶³ Redaction.
⁶⁴ Redaction.
⁶⁵ Redaction.
⁶⁶ Redaction.

In the presence of:

Witness' Signature: [●]⁶⁷

Witness' Name: [●]⁶⁸

Witness' Address: [●]⁶⁹

Signed by [●]⁷² and by [●]⁷³ and
thereby executed by **FIRST
CAPITAL CONNECT LIMITED**
as its deed (in its capacity as
Operator)

}

[●]⁷⁴

DIRECTOR.....

DIRECTOR

[●]⁷⁵

.....

[●]⁷⁶

.....

[●]⁷⁷

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SCHEDULE 1

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SCHEDULE 2

[•]⁷⁹

⁷⁹ Redaction.

SCHEDULE 3

[•]⁸⁰

⁸⁰ Redaction.

SCHEDULE 4

[•]⁸¹

⁸¹ Redaction.

SCHEDULE 5

[•]⁸²

⁸² Redaction.

SCHEDULE 6

[•]⁸³

⁸³ Redaction.

SCHEDULE 7

[•]⁸⁴

⁸⁴ Redaction.

SCHEDULE 8

[•]⁸⁵

⁸⁵ Redaction.

SCHEDULE 9

SCHEDULE 9.1

[•]⁸⁶

⁸⁶ Redaction.

SCHEDULE 9.2

[●]⁸⁷

⁸⁷ Redaction.

SCHEDULE 10

[•]⁸⁸

⁸⁸ Redaction.