

DATED

6TH OCTOBER

1998

**INTERNATIONAL MAJOR STATION ACCESS AGREEMENT
(Access by Passenger Operators)**

between

UNION RAILWAYS (NORTH) LIMITED
as Station Facility Owner

- and -

EUROSTAR (U.K.) LIMITED
as Beneficiary

re

EBBSFLEET INTERNATIONAL MAJOR STATION

SIMMONS & SIMMONS

21 WILSON STREET, LONDON EC2M 2TX
6B//PM11/R23732 D6-426525-2

LONDON

NEW YORK

PARIS

LISBON

BRUSSELS

MILAN

HONG KONG

CONTENTS

1. Interpretation	1
2. Condition Precedent	4
3. Permission to use the Station	5
4. Station Access Conditions	5
5. Amendments to this Agreement and the Station Access Conditions	5
6. Term and Termination	7
7. Charges for Permission to use the Station	13
8. Whole Agreement and Variation	14
9. Notices and Communications	14
10. Governing Law and Submission to Jurisdiction	15
11. Railways Regulations	15
12. Assignment	16
13. RTPA	17
14. Safety Case	17
 SCHEDULE 1: CONTRACT PARTICULARS	 18
1. Station Facility Owner	18
2. Beneficiary	18
3. Commencement Date	18
4. Expiry Date	18
5. Station	18
6. Track Access Agreement	18
 SCHEDULE 2: ADDRESSES FOR SERVICE	 19
1. Address for service on the Station Facility Owner	19
2. Address for service on the Beneficiary	19
 SCHEDULE 3: ADDITIONAL CHARGE	 22
Part 1: Definitions and Interpretations	22
Part 2: Additional Charges	24
Part 3: Invoicing and Payment	28
Part 4: Overall Adjustment to the Additional Charge	29

SCHEDULE 4: AGREED PRINCIPLES	41
1. Definitions	41
2. Qualifying Expenditure	41
3. Change Procedure	42
4. Compensation for non-provision of services and amenities	43
5. Preparation of the Plan	44
6. Costs of Policing the Station	45

THIS AGREEMENT is dated the 6th day of **OCTOBER** 1998 and made

BETWEEN:

- (1) The party specified in Paragraph 1 of Schedule 1 (the "**Station Facility Owner**" which expression shall include permitted successors and assigns); and
- (2) The party whose name and address and other particulars are specified in Paragraph 2 of Schedule 1 (the "**Beneficiary**" which expression shall include permitted successors and assigns).

WHEREAS:

- (A) Subject to the construction thereof the Station Facility Owner will be the facility owner of the Station.
- (B) The Beneficiary is a passenger service operator who wishes to obtain permission to use the Station from the Commencement Date.
- (C) The Station Facility Owner has agreed to grant the Beneficiary and its Associates such permission on the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. Interpretation

1.1 **Definitions:** In this Agreement, where the context admits:

"**Access Charge**" has the meaning set out in Clause 7.1;

"**Additional Charge**" means the charge calculated pursuant to Schedule 3;

"**Annexes**" means the annexes to the International Major Station Access Conditions relating to the Station;

"**Beneficiary Events of Default**" has the meaning attributed to it in Clause 6.2(A) and "**Beneficiary Event of Default**" shall be construed accordingly;

"**Commencement Date**" means the date set out in Paragraph 3 of Schedule 1;

"**CTRL Date**" means the date upon which the Station Facility Owner reasonably anticipates that the Final Permit to Use will be issued;

"**Ebbsfleet Development Documents**" means:

- (A) the Master Agreement dated 08 December 1994 and made between (1) the Secretary of State and (2) Blue Circle Properties Limited;
- (B) the Ebbsfleet Development Agreement dated 08 December 1994 and made between (1) the Secretary of State, (2) Blue Circle Properties Limited and (3)

Blue Circle Industries PLC; and

- (C) the Property Management Agreement to be entered into between (1) Blue Circle Properties Limited and (2) Union Railways (North) Limited (or RTV or any affiliate of Railtrack) the form of which is set out or referred to in the Master Agreement

as varied or supplemented from time to time and any documents entered into pursuant to the terms of and in accordance with any of the above documents;

"Event of Default" means a Beneficiary Event of Default or a Station Facility Owner Event of Default, as the context requires;

"Expiry Date" means the date specified in Paragraph 4 of Schedule 1;

"Final Permit to Use" has the meaning given to that term in the Development Agreement;

"ICI" means Union Railways (South) Limited a company limited by shares registered in England and Wales under number 3540185;

"Insolvency Event" means, in relation to either of the parties, where:

- (A) it stops or suspends payment of all or a material part of its debts;
- (B) it makes any agreement for the deferral, rescheduling or other readjustment (or it makes a general assignment or an arrangement or composition with or for the benefit of the relevant creditors) of all or a material part of its debts, or a moratorium is agreed or declared in respect of or affecting all or a material part of its debts;
- (C) a receiver, administrative receiver, manager, administrator or similar person is appointed to enforce security over or otherwise administer the whole or a substantial part of its assets or undertaking which appointment is not disputed in good faith or discharged within 14 days;
- (D) any step is taken by any person with a view to its winding up which is not disputed in good faith or any person presents a winding-up petition which is not dismissed within 14 days, or it ceases or threatens to cease to carry on all or a material part of its business, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation on terms approved by the other party before that step is taken (which approval shall not be unreasonably withheld or delayed); and/or
- (E) any event occurs which, under the law of any relevant jurisdiction, has an analogous or equivalent effect to any of the events listed above;

"International Rail Regulator" has the meaning given to that term in the Railways Regulations;

"International Major Station Access Conditions" means the International Major Station Access Conditions dated the same date as this Agreement;

"Passenger Services" means those railway passenger services provided by or on behalf of the Beneficiary pursuant to the permission to use track granted in accordance with the Track Access Agreement;

"Permit to Use" has the meaning given to that term in the Development Agreement;

"Railways Regulations" means the Railways Regulations 1998 (as modified from time to time);

"Safety Case" has the meaning given to that term in the Railways (Safety Case) Regulations 1994;

"Secretary of State Guarantee" means a station access charge guarantee entered or to be entered into by the Secretary of State in favour of Railtrack (UK) Limited or RTV (if applicable);

"Section 1 TAA" means an agreement of even date herewith between IC1, the Beneficiary and Railtrack (UK) Limited granting the Beneficiary track access rights to that part of CTRL between Cheriton and Fawkham Junction;

"Station" means the station described in Paragraph 5 of Schedule 1;

"Station Access Conditions" means:

- (a) the International Major Station Access Conditions; and
- (b) the Annexes

as each is modified in respect of the Station from time to time:

- (i) by the Secretary of State pursuant to the Development Agreement;
- (ii) by the International Rail Regulator pursuant to the Railways Regulations (and in the event of any conflict between any modifications directed by the Secretary of State and the International Rail Regulator the latter shall prevail); and
- (iii) pursuant to the Station Access Conditions;

"Station Facility Owner Events of Default" has the meaning attributed to it in Clause 6.2(C) and "Station Facility Owner Event of Default" shall be construed accordingly;

"Suspension Notice" means a notice served by one party on the other pursuant to Clause 6.3;

"Termination Notice" means a notice served by one party on the other pursuant to Clauses 6.4(A) or 6.4(B), as the case may be; and

"Track Access Agreement" means the agreement for use of track, referred to in Paragraph 6 of Schedule 1.

- 1.2 References: References to this Agreement include its schedules and, unless otherwise indicated, references to recitals, Clauses, Schedules and Paragraphs are to recitals, clauses of, and schedules to, this Agreement and paragraphs of such schedules. References to this Agreement include, unless otherwise indicated, the Station Access Conditions. References to any Condition shall be construed as a reference to the relevant Station Access Condition. References in the Station Access Conditions to Annexes to them are to the Annexes relating to the Station.
- 1.3 Sub-contractors: Where a party has sub-contracted its rights or obligations under this Agreement to any third party in accordance with Clause 8.4, references to that party in this Agreement shall, with the exception of Clause 7 and without prejudice to Clause 8.4, include references to any sub-contractor so appointed.
- 1.4 Station Access Conditions: Where the context admits, words and expressions defined in the Station Access Conditions or which fall to be construed in accordance with such Conditions shall bear the same meanings and constructions in this Agreement and the rules of interpretation set out in the Station Access Conditions shall apply throughout this Agreement.

2. Condition Precedent

- 2.1 Condition Precedent: Subject to Clause 2.2, the provisions of this Agreement shall not have effect until
- (A) the Section 1 TAA is in full force and effect in accordance with its terms (save only for the fulfilment of any condition relating to the Track Access Agreement becoming unconditional); and
 - (B) the transfer of legal and beneficial ownership of the ordinary share capital of IC1 and the Station Facility Owner (here meaning Union Railways (North) Limited) to a party other than an employee or partner of Herbert Smith, and the ratification by the transferee or transferees of such shares, and the approval by the directors of IC1 and the Station Facility Owner (here meaning Union Railways (North) Limited), of the entering into of this Agreement, the Track Access Agreement and the Section 1 TAA (as applicable) and all ancillary and related documentation at a time when neither the shareholders nor the directors of IC1 and the Station Facility Owner (here meaning Union Railways (North) Limited) comprise any employee or partner of Herbert Smith or any company controlled by one or more employees or partners of Herbert Smith provided always that if by 31 December 1998 (or such other date as the parties may agree and as may be approved by the Secretary of State, such approval not to be unreasonably withheld or delayed) such transfer has not been completed and such ratification and approval have not been given, this Agreement shall cease to have any effect and no party shall have any liability in relation hereto or in relation to any antecedent negotiations to this Agreement.

2.2 Entry into effect:

- (A) Clauses 1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 13 and 14, Schedules 1, 2 and 4 and Conditions 1, 47, 61, 94 and 96 shall come into effect and be binding on the parties immediately upon satisfaction in full or waiver of the condition precedent referred to in Clause 2.1(B).
- (B) All other Clauses and Conditions shall come into effect and be binding on the parties on the Commencement Date provided that the conditions precedent referred to in Clause 2.1 shall by then have been satisfied in full or waived.

3. Permission to use the Station

- 3.1 The Station Facility Owner hereby grants the Beneficiary and its Associates permission to use the Station in accordance with the Station Access Conditions and this Agreement.
- 3.2 In consideration of the permission granted to the Beneficiary and its Associates by the Station Facility Owner in Clause 3.1 and the performance by the Station Facility Owner of its other obligations under this Agreement, the Beneficiary shall pay the Access Charge in accordance with Clause 7 and Part 6 of the Station Access Conditions.

4. Station Access Conditions

- 4.1 The Station Access Conditions are incorporated in and shall form part of this Agreement.
- 4.2 Except where the International Rail Regulator (under the Railways Regulations) or the Secretary of State (under the Development Agreement) shall have directed otherwise, the Station Facility Owner shall ensure that all operators of trains having permission to use the Station agree to comply with the Station Access Conditions.
- 4.3 During the term of this Agreement, each of the parties shall duly and punctually perform, observe and comply with its obligations set out in the Station Access Conditions as incorporated in this Agreement pursuant to Clause 4.1.

5. Amendments to this Agreement and the Station Access Conditions

- 5.1 The Station Facility Owner and the Beneficiary shall negotiate with each other in good faith with effect from the date 18 months before the CTRL Date (or such earlier date where required by either party and notified to the other) to agree by no later than the date 12 months before the CTRL Date:
 - (A) amendments to this Agreement to document any services to be provided by the Station Facility Owner exclusively for the benefit of the Beneficiary (and which will therefore not be Common Station Services) and the charges to be paid by the Beneficiary in respect of the same; and
 - (B) proposed amendments to the Station Access Conditions:

- (1) to document the principles set out in Schedule 4; and
- (2) to reflect the form, layout and extent of the Station as actually constructed (such proposed amendments to be to the Annexes only and to be in accordance with the guidance given (if any) in Schedule 4); and
- (3) (notwithstanding the terms of paragraphs 1 to 4 inclusive of Annex 1) to reflect the Common Station Services or Common Station Amenities to be provided or to include any other information or detail anticipated in the Annexes (as at the date hereof) (such proposed amendments to be to the Annexes only and to be in accordance with the guidance given (if any) in Schedule 4); and
- (4) to provide for the Development Agreement to be treated as an Existing Agreement and the lease (pursuant to which the Station Facility Owner occupies the Station (once granted)) to be treated as a Superior Estate Grant; and
- (5) which are necessary or (in the reasonable opinion of either party) desirable to reflect the terms of the Development Agreement (including, without limitation, schedule 19); and
- (6) which are necessary or (in the reasonable opinion of either party) desirable as a consequence of the terms of the Ebbsfleet Development Documents to enable the Station Facility Owner to comply with and discharge all of its obligations thereunder; and
- (7) to document any amendments which are consequential to the above

PROVIDED THAT this Clause 5 shall not apply to any other amendments sought by either party and in particular (but without limitation) shall not entitle the Beneficiary to seek amendment to any provision concerning the calculation or payment of the Additional Charge and PROVIDED FURTHER THAT the Station Facility Owner shall not be in breach of Clause 5.1(B) if it is required pursuant to the Development Agreement to conduct the negotiations referred to with additional or other parties and for the avoidance of doubt amendments approved or determined by the Secretary of State (pursuant to the Development Agreement) as a result of such other negotiations shall be binding on the Beneficiary.

- 5.2 If the parties shall from time to time fail to agree any matter or amendment pursuant to Clause 5.1 the dispute shall be referred for determination pursuant to the Disputes Resolution Procedure on the application of either party PROVIDED THAT the parties agree that such application shall be made in respect of all such outstanding disputes by no later than the date 12 months before the CTRL Date.
- 5.3 Subject to Clause 5.4, the Disputes Resolution Procedure shall be used to determine any dispute between the parties pursuant to this Clause 5 and the form of any amendments to this Agreement and the form of any proposed amendments to the Station Access Conditions relating to the subject matter of that dispute.

- 5.4 The proposed amendments to the Station Access Conditions agreed or determined pursuant to this Clause 5 shall be submitted by the Station Facility Owner to the Secretary of State for approval pursuant to schedule 19 of the Development Agreement as soon as reasonably practicable following their agreement or determination.
- 5.5 The Beneficiary shall enter into such further documentation as the Station Facility Owner reasonably considers necessary or desirable to document any amendments to this Agreement which take effect pursuant to this Clause 5.
- 5.6 The Station Facility Owner shall from time to time (and promptly upon any written request by the Beneficiary), confirm the CTRL Date and shall act reasonably in determining such date.

6. Term and Termination

- 6.1 Term: Subject to Clause 2, this Agreement shall come into effect on the Commencement Date and continue in force until the earlier of

- (A) termination pursuant to this Clause 6; and
- (B) 23.59 hours on the Expiry Date.

6.2 Events of Default

- (A) Beneficiary Events of Default : The following shall be Beneficiary Events of Default
- (1) the Beneficiary ceases to be authorised to be the operator of trains by a licence granted under the Railways Regulations;
 - (2) an Insolvency Event occurs in relation to the Beneficiary;
 - (3) any breach by the Beneficiary of this Agreement or of the Safety Obligations which, by itself or taken together with any other such breach by the Beneficiary, the Station Facility Owner reasonably considers constitutes a serious threat to the safe operation of the Station;
 - (4) any amount due from the Beneficiary to the Station Facility Owner pursuant to this Agreement (including by way of Access Charge) remains unpaid for more than 10 Business Days after its due date (except where liability to pay any such sum shall be contested by the Beneficiary in good faith and with timely recourse to appropriate means of redress);
 - (5) any breach of this Agreement by the Beneficiary (other than of the kind referred to in (4) above) which, by itself or taken together with any other such breach, results, or will or is likely to result, in serious financial loss to the Station Facility Owner; and
 - (6) any breach of this Agreement by the Beneficiary which, by itself or taken together with any other such breach, has resulted or will result in frequent

and material disruption to the operation of the Station.

- (B) The Beneficiary shall notify the Station Facility Owner promptly on becoming aware of the occurrence of a Beneficiary Event of Default.
- (C) The Station Facility Owner Events of Default : The following shall be the Station Facility Owner Events of Default
 - (1) the Station Facility Owner ceases to be authorised (if any such authorisation is required) to be the operator of the Station;
 - (2) an Insolvency Event occurs in relation to the Station Facility Owner;
 - (3) any breach by the Station Facility Owner of this Agreement or of the Safety Obligations which, by itself or taken together with any other such breach by the Station Facility Owner, the Beneficiary reasonably considers constitutes a serious threat to the safe operation of the Station;
 - (4) any amount due from the Station Facility Owner to the Beneficiary remains unpaid for more than 10 Business Days after its due date except where liability to pay any such sum shall be contested by the Station Facility Owner in good faith and with timely recourse to appropriate means of redress; and
 - (5) any breach of this Agreement by the Station Facility Owner (other than of the kind referred to in (4) above) which, by itself or taken together with any other such breach, results, or will or is likely to result, in serious financial loss to the Beneficiary.
- (D) The Station Facility Owner shall notify the Beneficiary promptly on becoming aware of the occurrence of a Station Facility Owner Event of Default.

6.3 Suspension:

- (A) Right to suspend:
 - (1) The Station Facility Owner may serve a Suspension Notice where a Beneficiary Event of Default has occurred and is continuing. A copy of the Suspension Notice shall also be sent to the Secretary of State.
 - (2) The Beneficiary may serve a Suspension Notice where a Station Facility Owner Event of Default has occurred and is continuing. A copy of the Suspension Notice shall also be sent to the Secretary of State.
- (B) Contents of Suspension Notice: A Suspension Notice shall specify
 - (1) the nature of the relevant Event of Default;
 - (2) the date and time at which suspension is to take effect;

- (3) in the case of a Suspension Notice served on the Beneficiary reasonable restrictions imposed on the grant to the Beneficiary and its Associates of permission to use the Station while the Suspension Notice is in force;
 - (4) in the case of a Suspension Notice served on the Station Facility Owner details of any reasonable suspension on the grant to the Beneficiary of the permission to use the Station while the Suspension Notice is in force; and
 - (5) where the Event of Default is capable of remedy
 - (a) the steps reasonably required to remedy the Event of Default; and
 - (b) a reasonable grace period for the defaulting party to remedy it (where the Event of Default which has occurred is a failure of either party to pay any amount due to the other, 5 Business Days from the service of the Suspension Notice shall be a reasonable grace period).
- (C) Effect of Suspension Notice served by the Station Facility Owner: Where the Station Facility Owner has served a Suspension Notice on the Beneficiary
- (1) the Beneficiary shall comply with any reasonable restriction thereby imposed on it;
 - (2) the Suspension Notice shall remain in full force and effect in accordance with its terms until it has been revoked either in whole or in part by notice from the Station Facility Owner to the Beneficiary pursuant to Clause 6.3(E)(5); and
 - (3) service of a Suspension Notice shall not affect the Beneficiary's continuing obligation to pay the Access Charge or the operation of Condition 61 (Performance Monitoring).
- (D) Effect of a Suspension Notice served by the Beneficiary: Where the Beneficiary has served a Suspension Notice on the Station Facility Owner
- (1) it shall have the effect of suspending the Beneficiary's permission to use the Station to the extent specified in such Suspension Notice;
 - (2) the amount of the Access Charge payable shall be abated to the extent that it corresponds to the suspended part of the Beneficiary's permission to use the Station (and for the avoidance of doubt this shall not affect the operation of Condition 61 (Performance Monitoring)); and
 - (3) the Suspension Notice shall remain in full force and effect in accordance with its terms until it has been revoked either in whole or in part by notice from the Beneficiary to the Station Facility Owner pursuant to Clause 6.3(E)(5);

(E) Suspension to be proportionate to breach:

- (1) A Suspension Notice served pursuant to Clause 6.3(C) in respect of any Beneficiary Event of Default which relates only to particular Common Station Services or particular Common Station Amenities shall be proportionate to the breach and, so far as reasonably practicable, apply only to:
 - (a) those Common Station Services; and
 - (b) those Common Station Amenities,(or (as the case may be) parts or part of them) and the remainder of the rights and obligations of the parties shall remain in full force and effect.
- (2) A Suspension Notice served pursuant to Clause 6.3(D) in respect of any Station Facility Owner Event of Default which relates only to particular Common Station Services or particular Common Station Amenities shall be proportionate to the breach and, so far as reasonably practicable, apply only to:
 - (a) those Common Station Services; and
 - (b) those Common Station Amenities,(or (as the case may be) parts or part of them) and the remainder of the rights and obligations of the parties shall remain in full force and effect.
- (3) The party served with a Suspension Notice which specifies an Event of Default which is capable of remedy shall:
 - (a) with all reasonable diligence, take such steps as shall be reasonable and necessary to remedy the Event of Default; and
 - (b) keep the party serving the Suspension Notice fully informed of the progress which is being made in remedying the Event of Default.
- (4) The party ("recipient") served with a Suspension Notice which specifies an Event of Default which is not capable of remedy may nevertheless require that the suspension effected by that Suspension Notice is revoked (pursuant to Clause 6.3(E)(5)) if, within 5 Business Days of service of the Suspension Notice (or such longer period as the party which served the Suspension Notice (the "non-defaulting party") may (in its absolute discretion) allow), the recipient puts the non-defaulting party (and to the non-defaulting party's satisfaction, acting in a proper (and not a frivolous or vexatious) manner) in the position it would have been in had the Event of Default, the subject of the Suspension Notice, not occurred.

- (5) Where a party served with a Suspension Notice has complied with its obligations under Clause 6.3(E)(3)(a) (whether in whole or in part) or, as the case may be, Clause 6.3(E)(4) and it is reasonable for the suspension effected by the Suspension Notice to be revoked ((in the case of Clause 6.3(E)(3)(a)) whether in whole or in part), the party which shall have served the Suspension Notice shall revoke the suspension to that extent. Such revocation shall be effected as soon as practicable after the remedy in question by notice to the other party specifying the extent of the revocation.

6.4 Termination:

- (A) Station Facility Owner's Right to Terminate: The Station Facility Owner may serve a Termination Notice on the Beneficiary (which shall be copied to the Secretary of State)

- (1) where the Beneficiary fails to comply with any material restriction in a Suspension Notice;
- (2) where the Beneficiary fails to comply with its obligations under Clause 6.3(E)(3)(a) within the grace period referred to in Clause 6.3(B)(5);
- (3) where the Beneficiary Event of Default described in Clause 6.2(A)(1) has occurred and has continued for more than 20 Business Days; or
- (4) where the Beneficiary Event of Default specified in a Suspension Notice served by the Station Facility Owner is not capable of being remedied, is not rectified in accordance with Clause 6.3(E)(4) and three months have elapsed from the service of the said Suspension Notice

provided always that, until the date falling 50 years after the Commencement Date the Station Facility Owner may only serve a Termination Notice on the Beneficiary if an Insolvency Event has occurred and is continuing in relation to the Beneficiary or the Beneficiary Event of Default described in Clause 6.2(A)(4) has occurred and is continuing.

- (B) Beneficiary's Right to Terminate: The Beneficiary may serve a Termination Notice on the Station Facility Owner (which shall be copied to the Secretary of State)

- (1) where the Station Facility Owner fails to comply with any material restriction in a Suspension Notice;
- (2) where the Station Facility Owner fails to comply with its obligations under Clause 6.3(E)(3)(a) within the grace period referred to in Clause 6.3(B)(5);

- (3) where the Station Facility Owner Event of Default described in Clause 6.2(C)(1) has occurred and has continued for more than 20 Business Days; or
- (4) where the Station Facility Owner Event of Default specified in a Suspension Notice served by the Beneficiary is not capable of being remedied, is not rectified in accordance with Clause 6.3(E)(4) and three months have elapsed from the service of the said Suspension Notice

provided always that, until the date falling 50 years after the Commencement Date the Beneficiary may only serve a Termination Notice on the Station Facility Owner if an Insolvency Event has occurred and is continuing in relation to the Station Facility Owner or the Station Facility Owner Event of Default described in Clause 6.2(C)(4) has occurred and is continuing.

(C) Contents of Termination Notice: A Termination Notice shall specify

- (1) the nature of the relevant Event of Default;
- (2) a date and time, which shall be reasonable in the circumstances, on which termination is to take effect;
- (3) where the relevant Event of Default is capable of remedy
 - (a) the steps reasonably required to remedy the Event of Default; and
 - (b) a reasonable grace period within which such steps may be taken (where the Event of Default is a failure of either party to pay any amount due to the other, 5 Business Days from the service of the Termination Notice shall be a reasonable grace period).

(D) Effect of Termination Notice : Where the Station Facility Owner or the Beneficiary has served a Termination Notice on the other

- (1) the service of such Termination Notice shall not affect the parties' continuing rights and obligations under this Agreement up to the date of termination as specified in the Termination Notice or such later date as the party which has served the Termination Notice may notify to the other following the service of the Termination Notice but prior to the date upon which it shall have been specified to have effect;
- (2) the party which has served the Termination Notice shall withdraw it by notice to the other party, upon being reasonably satisfied that the relevant Event of Default has been remedied or is deemed remedied; and
- (3) this Agreement shall terminate on the date and time specified in the Termination Notice or such later date and time as the party which has served the Termination Notice may notify to the other prior to the date and time upon which it shall have been specified to have effect.

6.5 Exclusion of common law termination rights: Save where otherwise agreed between the parties in writing, the suspension and termination rights set out in this Clause 6 shall be the parties' only rights to suspend or terminate this Agreement, whether pursuant to its terms, at law or otherwise.

6.6 Non-operation of trains:

(A) The Beneficiary shall notify the Station Facility Owner whenever it reasonably expects a material interruption to, or material change in, the Passenger Services (by reference to the then current published timetable for provision of such services). Any such notice shall, to the extent reasonably practicable, state the details of any such interruption or change.

(B) Subject to the Station Access Conditions, no interruption to the Passenger Services shall affect the Beneficiary's obligation to pay the Access Charge.

7. Charges for Permission to use the Station

7.1 The Access Charge shall, in respect of each Accounting Year, be the sum of the following in respect of that Accounting Year:

(A) the Common Charges; and

(B) the Additional Charge.

7.2 All invoices, other than VAT invoices which shall be supplied in accordance with Condition 95.3(A) of the Station Access Conditions, shall be sent by electronic or facsimile transmission (with confirmation copy by prepaid first class post) to the address for service of the recipient set out in Schedule 2 with a copy to the bank or other financial institution providing the payment facility referred to in Clause 7.3 and all invoices shall be paid within 28 days of their receipt.

7.3 All amounts payable under this Clause 7 shall, except as may otherwise be agreed by the parties from time to time, be paid by direct debit mandate or standing order mandate to such bank account in the United Kingdom as may be nominated by the Station Facility Owner from time to time.

7.4 Further detailed provisions relating to the Common Charges are set out in Part 6 of the Station Access Conditions.

7.5 The Additional Charge shall be calculated and paid in accordance with Schedule 3.

7.6 Without prejudice to the specific provisions of Clause 6 and Condition 95.2(A), either party may set-off, counterclaim and/or abate from sums due and payable by it under this Agreement to the other party (including to any assignee, transferee, chargee, disposee, beneficiary of security, participant or sub-participant of that other party) any amount due and payable to it under this Agreement by the other party (including by any assignee, transferee, chargee, disposee, beneficiary of security, participant or sub-participant of that other party). Notwithstanding the foregoing provisions of this Clause 7.6 (and without prejudice to the provisions of Condition 95.2(A)) if the parties shall agree that

any payment or payments shall expressly be made in full without set-off, counterclaim or abatement then the payment or payments in question shall be paid in full without set-off, counterclaim or abatement.

- 7.7 Where either party wishes to contest any amount payable under an invoice issued to it by the other party, the first mentioned party shall, within 7 days of receipt of the invoice, notify the other party in writing of the amount which is in dispute and shall pay the undisputed amount in accordance with the terms of the invoice (subject to Clause 7.6), unless the parties shall have otherwise agreed that the full amount under any such invoice is to be paid, in which case the full amount thereof shall be paid in accordance with the terms of the invoice.

8. Whole Agreement and Variation

- 8.1 **Whole agreement:** This Agreement contains the entire agreement between the parties in relation to the subject matter of this Agreement and supersedes all prior agreements and arrangements.
- 8.2 **Counterparts:** This Agreement may be executed in counterparts, each of which will constitute one and the same document.
- 8.3 **Variation:** No variation of this Agreement (including, without limitation, any variation made pursuant to any provision of this Agreement (whether as a result of the exercise of a party's discretion or otherwise howsoever)) shall be effective unless it is in writing and signed by the parties unless the variation is made pursuant to the Station Access Conditions.
- 8.4 **Sub-contractors:**
- (A) Subject to Clause 8.4(C), the Station Facility Owner may subcontract the performance of any of its obligations under this Agreement.
 - (B) Subject to Clause 8.4(C) the Beneficiary shall not, without the prior written consent of the Station Facility Owner (such consent not to be unreasonably withheld or delayed), sub-contract the performance of any of its obligations under this Agreement.
 - (C) Nothing in this Clause 8.4 shall operate so as to relieve the Station Facility Owner or the Beneficiary of its obligations under this Agreement and each party shall remain responsible for the acts and omissions of any sub-contractor as if they were the acts and omissions of that party.

9. Notices and Communications

9.1 Method of Sending Written Notices:

- (A) Any notice given under or pursuant to this Agreement shall, unless otherwise provided in this Agreement, be in writing and shall be sent to the party on whom the notice is to be served at the address for service of that party specified in

Schedule 2 or to such other address as that party may from time to time have notified to the other in accordance with this Clause 9.1

- (1) by prepaid first class post when sent from and to any place within the United Kingdom;
- (2) by hand or by recorded delivery;
- (3) by facsimile; or
- (4) by electronic data transfer.

(B) If there shall be specified in Schedule 2 any person to whom copies of notices shall also be sent, the party serving a notice in the manner required by this Clause 9.1 shall send a copy of the notice in question to such person at the address for serving copies as specified in Schedule 2, or to such other person or address as may, from time to time, have been notified by the party to be notified to the notifying party in accordance with this Clause 9.1. Such copy notice shall be sent immediately after the original notice.

9.2 Deemed Receipt : Notices required to be in writing and served in accordance with Clause 9.1 shall be deemed to have been received by the party to be notified

- (A) if by prepaid first class post, from and to any place within the United Kingdom, three days after posting unless otherwise proven;
- (B) if by hand or by recorded delivery, when delivered;
- (C) if by facsimile (subject to confirmation of uninterrupted transmission by a transmission report) or by electronic data transfer, upon sending where such transmission occurs before 17:00 hours on the day of transmission and, in any other case, at 09.00 hours on the day following the day of transmission unless otherwise proven.

10. Governing Law and Submission to Jurisdiction

10.1 Governing law: This Agreement shall be governed by and construed in accordance with English law.

10.2 Jurisdiction: Subject to the Station Access Conditions, the parties irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with, this Agreement.

11. Railways Regulations

11.1 If the International Rail Regulator gives directions to the parties pursuant to Regulation 14 of the Railways Regulations, requiring any modification to this Agreement or any part of this Agreement, the parties shall make such modifications.

12. Assignment

- 12.1 Save as provided in Clauses 12.2, 12.3 and 12.5, neither party may assign or otherwise transfer its rights and obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- 12.2 If the Option is exercised, the Beneficiary agrees, as and when required by the Station Facility Owner, to join in a novation of all of the rights and obligations of the Station Facility Owner under this Agreement to RTV, or such other Affiliate of Railtrack as RTV shall designate, in accordance with and in the terms of the Section 2 Option Agreement. If the novation is to be in favour of RTV, it shall be a condition of the novation that the guarantee ("Railtrack Guarantee") entered into or to be entered into by Railtrack Group PLC in favour of, inter alia, London & Continental Railways Limited of the obligations of RTV is in full force and effect. If the novation is to be made in favour of any company (other than RTV) pursuant to the Section 2 Option Agreement, the Beneficiary shall be given (on or prior to the date of the novation) a guarantee of all of the novatee's obligations under this Agreement in favour of the Beneficiary (and any of its Affiliates which are beneficiaries of the Railtrack Guarantee) in terms which are the same or substantially the same as the Railtrack Guarantee.
- 12.3 The Station Facility Owner may at any time and from time to time without the consent of any other party to this Agreement assign, transfer, charge or otherwise dispose of, or create security over, or grant sub-participations in respect of, all or any part of its rights and benefits under this Agreement provided that no such assignment, transfer, charge, disposal, creation of security or grant shall in any way affect the obligations of the Station Facility Owner under this Agreement (which obligations shall remain in full force and effect) or the rights or benefits of the Beneficiary under this Agreement including, without prejudice to the generality of the foregoing
- (A) its ability to set-off, counterclaim or abate any sums due and payable to it under this Agreement from any sums due and payable by it under this Agreement; and
 - (B) its rights under Clause 7.7.
- 12.4 The Beneficiary may assign by way of security, or otherwise create security over, all or any part of its rights under this Agreement in favour of the Secretary of State as security for obligations and liabilities incurred by it in connection with the design, construction and operation of the CTRL and/or in connection with any finance raised for the purpose of or in connection with the design, construction and operation of the CTRL.
- 12.5 It is acknowledged by the Station Facility Owner that the Beneficiary may wish to charge or assign by way of security the whole of its rights hereunder to a bank or other financial institution providing financial facilities to the Beneficiary or any of its Affiliates (other than pursuant to Clause 12.4). Accordingly, the Beneficiary may create a charge over or assign (by way of security) the whole (but not part) of its rights under this Agreement (other than pursuant to Clause 12.4) in favour of one bank or other financial institution which may be acting as an agent or trustee (the "Bank") provided that

- (A) unless and until the Bank enforces the charge or security the Station Facility Owner shall be required to deal only with the Beneficiary and not with the Bank; and
- (B) prior to the creation of the charge or entry into of the assignment, the Bank has entered into a direct agreement with the Station Facility Owner, on terms reasonably acceptable to the Station Facility Owner, to the intent that following enforcement of the charge or security the Station Facility Owner is to be satisfied on a number of prescribed issues, including that any new operator proposed by the Bank in substitution for the Beneficiary is able fully to perform, and comply with, this Agreement.

12.6 Save in respect of the novation referred to in Clause 12.2 and the assignment by way of security referred to in Clause 12.3, (and in relation to Clause 12.3 unless the parties and the Secretary of State otherwise agree) no assignment, disposal or transfer of this Agreement (or the creation of security in respect thereof) shall be made without the approval of the Secretary of State such approval not to be unreasonably withheld or delayed.

13. RTPA

Except to the extent that this Agreement, or any agreement or arrangement of which it forms part, is a non-notifiable agreement pursuant to Section 27A of the Restrictive Trade Practices Act 1976 ("the RTP Act"), no provision of this Agreement, or of any agreement or arrangement of which it forms part, by virtue of which such agreement or arrangement is subject to registration under the RTP Act shall take effect until the day after particulars of such agreement or arrangement have been duly furnished to the Director General of Fair Trading pursuant to Section 24 of the RTP Act.

14. Safety Case

Each party shall use all reasonable endeavours to facilitate the obtaining by the other party of a Safety Case provided always that neither party shall have any liability to the other by reason of, or as a consequence of, a failure by the other to obtain a Safety Case.

IN WITNESS of which this Agreement has been duly executed.

SCHEDULE 1: CONTRACT PARTICULARS

1. Station Facility Owner

Name: Union Railways (North) Limited

Registered office: Level 1, Exchange House, Primrose Street, London EC2A 2HS

Registered Number: 3539665

2. Beneficiary

Name: Eurostar (U.K.) Limited

Registered office: Eurostar House, Waterloo Station, London SE1 8SE

Registered Number: 2462001

3. Commencement Date

The day which is the Commencement Date (as defined in the Track Access Agreement) of the Track Access Agreement

4. Expiry Date

29 July 2086

5. Station

The station known as Ebbsfleet International Station, as more particularly defined in the Station Access Conditions

6. Track Access Agreement

Access contract of even date herewith between the Station Facility Owner and the Beneficiary providing permission for the Beneficiary to use track in order to operate trains to and from the Station for the purpose of operating railway passenger services.

SCHEDULE 2: ADDRESSES FOR SERVICE

1. Address for service on the Station Facility Owner

Union Railways (North) Limited
106 Tottenham Court Road
London
W1P 9HF

Tel: 0171 681 5000
Fax: 0171 681 5685

All written notices to be marked
"URGENT: ATTENTION THE COMPANY SECRETARY"

and copied to:

- (1) If the Option has been exercised:

The Head of Major Stations
Railtrack House
Euston Square
London
NW1 2EE

Tel: 0171 557 8000
Fax: 0171 557 9000

- (2) whilst the Station Facility Owner is an Affiliate of London & Continental Railways Limited

London & Continental Railways Limited
106 Tottenham Court Road
London
W1P 9HF

Tel: 0171 681 5000
Fax: 0171 681 5685

All written notices to be marked
"URGENT: ATTENTION MANAGING DIRECTOR"

2. Address for service on the Beneficiary

Eurostar (U.K.) Limited
Eurostar House
Suite 1
3rd Floor
Waterloo Station

London SE1 8SE

Tel: 0171 922 6021

Fax: 0171 922 9804

All written notices to be marked

“URGENT: ATTENTION THE COMPANY SECRETARY”

and copied to

- (1) The Secretary of State for the Environment
Transport and the Regions
Great Minster House
76 Marsham Street
London
SW1P 4DR

Marked “For the attention of The Director of Railways”

Tel: 0171 890 6869

Fax: 0171 676 2160

- (2) whilst the Beneficiary is an Affiliate of London & Continental Railways Limited

London & Continental Railways Limited
106 Tottenham Court Road
London
W1P 9HF

Tel: 0171 681 5000

Fax: 0171 681 5685

All written notices to be marked

“URGENT: ATTENTION THE MANAGING DIRECTOR”

- (3) whilst it is the manager of the Beneficiary’s train services

InterCapital & Regional Rail Limited
Worthy Park House
Abbotts Worthy
Winchester
SO21 1AN

Tel: 01962 888 888

Fax: 01962 888 898

All written notices to be marked

“URGENT: ATTENTION THE COMPANY SECRETARY”

and thereafter to such successor manager as London & Continental Railways Limited or the Beneficiary may appoint and of which details have been given to the Station Facility Owner

SCHEDULE 3: ADDITIONAL CHARGE

PART 1: DEFINITIONS AND INTERPRETATION

1 Definitions

In this Schedule 3, unless the context otherwise requires

“Completion Date” means the date of completion of the purchase by RTV of the Section 2 Works pursuant to the Section 2 Option Agreement;

“LIBOR” means:

- (a) the rate per annum appearing as the Telerate Page 3750 or any equivalent successor to that page as determined by National Westminster Bank (the “Telerate Screen”) at or about 11am London time on the relevant date for the offering of deposits in pounds sterling for the amount due and for a period of one month or (where specified in this Schedule 3) three months;
- (b) if no relevant rate appears on the Telerate Screen for the purposes of paragraph (a) above or National Westminster Bank determines that no rate for a period of one month (or such other period as aforesaid) appears on the Telerate Screen on the relevant date, the rate per annum quoted by National Westminster Bank to prime banks in the London interbank market at or about 11 am London time on the relevant date for offering deposits in pounds sterling for the amount due and for a period of one month or (where specified in this Schedule 3) three months;

“month” means calendar month;

“Quarter” means any of 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December; and similar expressions shall be construed accordingly;

“relevant year” means a year commencing on 1 January and ending on the following 31 December; and similar expressions shall be construed accordingly;

“Retail Price Index” means the general index of retail prices published by the Office of National Statistics each month in respect of all items or

- (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as the parties may agree to be the most nearly equivalent index or, failing such agreement, as may be so determined in accordance with the Disputes Resolution Procedure or
- (b) if there is a material change in the basis of the index, such other index as the parties may agree to be the most nearly equivalent index or, failing such agreement, as may be so determined in accordance with the Disputes Resolution Procedure; and

"Section 2 Works" has the meaning given to that term in the Development Agreement.

2 Interpretation

In this Schedule 3, unless the context otherwise requires

- (A) references to Parts are to Parts of this Schedule; and
- (B) references in Parts of this Schedule to paragraphs are references to paragraphs in the Parts in which they appear.

PART 2: ADDITIONAL CHARGES

1 Principal Obligation

Subject to paragraph 4 of Part 2, with effect from and including the Commencement Date (and prorated for each day of any period of this Agreement comprising less than a full Quarter or relevant year), the Station Facility Owner shall make and the Beneficiary shall pay the Additional Charge Provided that if the Commencement Date occurs before the Completion Date the Beneficiary shall not be required to pay that part of the Additional Charge which would otherwise have fallen due for payment prior to the Completion Date until the end of the Quarter in which the Completion Date occurs, and the provisions of paragraph 2.1(B) of Part 3 shall apply.

2

2.1 The Additional Charge

- (A) The Additional Charge for the period from the Commencement Date (as described for these purposes in paragraph 2.2) up to and including the 201st Quarter falling after the Commencement Date (where the Quarter within which the Commencement Date falls is the 1st Quarter) shall, subject to paragraphs 2.2 and 3 (Indexation) of this Part 2 and to any adjustment being made in accordance with Part 4, have the value attributed to it in column 2 of Table A to this Schedule 3; and
- (B) The Additional Charge thereafter and during the remaining term of this Agreement shall be such amount as may be agreed between the Station Facility Owner and the Secretary of State (the agreement of the Secretary of State not to be unreasonably withheld or delayed) and notified to the Beneficiary, being an amount reasonably required by the Station Facility Owner (taking into account the rate of return which the Station Facility Owner has received on expenditure of a similar nature) in order to satisfy such obligations as the Station Facility Owner may have at the time in respect of capital renewals of the Station (i) to the Beneficiary under this Agreement and (ii) to the Secretary of State in Clause 14.4 of the Development Agreement (insofar as such obligations apply to the Station) calculated on the basis that up to the 201st Quarter falling after the Commencement Date (as described for these purposes in paragraph 2.2) (where the Quarter within which the Commencement Date falls is the 1st Quarter) the Station has been maintained by the Station Facility Owner in accordance with the terms of this Agreement.

2.2 Adjustment

If the Commencement Date does not occur on the first day of the Quarter in which it falls, then

- (A) the Additional Charge for that Quarter shall be calculated in accordance with the following formula

$$VOP = P \times \frac{A}{B}$$

where

VOP means the value of the Additional Charge for that Quarter;

P means the value attributed to the Additional Charge for that Quarter in Table A to this Schedule 3;

A is the number of days in that Quarter from (and including) the Commencement Date up to (and including) the last day of that Quarter; and

B is the total number of days in that Quarter;

- (B) for each subsequent Quarter up to and including the 200th Quarter after the Commencement Date (where the Quarter within which the Commencement Date falls is the 1st Quarter), the value of the Additional Charge shall be calculated in accordance with the following formula

$$VOP = k(PPQ) + m(PRQ)$$

where

VOP means the value of the Additional Charge for the relevant Quarter;

PPQ means the value attributed to the Additional Charge for the immediately preceding Quarter in Table A to this Schedule 3;

k is the fraction equal to $1 - \frac{A}{B}$ calculated in accordance with sub-paragraph (A) above;

PRQ means the value attributed to the Additional Charge for the relevant Quarter in Table A to this Schedule 3; and

m is the fraction equal to $\frac{A}{B}$ calculated in accordance with sub-paragraph (A) above; and

- (C) for the 201st Quarter falling after the Commencement Date, the value of the Additional Charge shall be calculated in accordance with the following formula:

$$VOP = k(PPQ)$$

where

- VOP means the value of the Additional Charge for the 201st Quarter;
- PPQ means the value attributed to the Additional Charge for the 200th Quarter in Table A to this Schedule 3; and
- k is the fraction equal to $1 - \frac{A}{B}$ as calculated in accordance with sub-paragraph (A) above.

For the purposes of this paragraph 2.2, references to "Commencement Date" shall be references to the later of the Commencement Date and 1 January 2007.

3 Indexation

The value of the Additional Charge shall be adjusted in respect of payments falling due in respect of each Quarter in accordance with the following formula

$$V_{pt} = V_t \frac{(RPI_t)}{RPI_{CD}}$$

where

- V_{pt} is the actual value in the relevant Quarter (after indexation);
- V_t is the value in the relevant Quarter (before indexation);
- RPI_t means the Retail Price Index published (or determined) with respect to the first month of the relevant Quarter; and
- RPI_{CD} means the Retail Price Index published (or determined) with respect to the later of December 2006 and the month immediately preceding the month in which occurs the Commencement Date.

4 Early Commencement Date

If the Commencement Date falls before 1 January 2007, the Additional Charge payable by the Beneficiary for the period from the Commencement Date up to and including 31 December 2006 shall comprise such amount as may be agreed between the Station Facility Owner and the Beneficiary, provided that:

- (A) no such agreement shall have effect unless approved by the Secretary of State (such approval not to be unreasonably withheld or delayed); and
- (B) if the Commencement Date occurs before the Completion Date, the Beneficiary shall not be required to pay that part of the Additional Charge which would otherwise have fallen due for payment prior to the Completion Date until the end

of the Quarter in which the Completion Date occurs and the provisions of paragraph 2.1(B) of Part 3 shall apply.

PART 3: INVOICING AND PAYMENT

1 Itemising

Each invoice issued by the Station Facility Owner to the Beneficiary shall contain details of the Additional Charge.

2 Payment Terms

2.1 Quarterly Charges

- (A) Subject to sub-paragraph (B), the Beneficiary shall pay or procure payment to the Station Facility Owner of the Additional Charge attributable to any Quarter as invoiced by the Station Facility Owner before or after the expiry of the Quarter within 14 days after the date of the invoice or 7 days after the end of the relevant Quarter, whichever is the later.
- (B) If the Commencement Date falls before the Completion Date, the Beneficiary shall pay or procure payment to the Station Facility Owner of the Additional Charge attributable to any Quarter or part of any Quarter prior to the Quarter in which falls the Completion Date (the "ACCD Quarter") as invoiced by the Station Facility Owner before or after the expiry of the ACCD Quarter within 14 days after the date of the invoice or 7 days after the ACCD Quarter, whichever is the later.

PART 4: OVERALL ADJUSTMENT TO THE ADDITIONAL CHARGE

1 Stamp Duty and Change in Circumstances

If

(A) the whole of the stamp duty ("entire duty") incurred or to be incurred by RTV on the completion of its acquisition pursuant to the Section 2 Option Agreement (including on the grant or assignment of any lease or agreement for lease of any asset, including land, provided for under the Section 2 Option Agreement) is not fully reimbursed to RTV or an Affiliate of RTV provided that such reimbursement (if any) is clearly identified as being in respect of such stamp duty (and 3% of the amount by which the reimbursement (if any) falls short of the entire duty is referred to as the "Stamp Duty Shortfall"); and/or

(B) (1) on or after the date of this Agreement (but not later than the Completion Date) an event occurs which gives rise to an increase in the cost of construction of the Station (provided that such increased cost relates exclusively to the construction of the Station) and London & Continental Railways Limited subsequently makes a claim to the Secretary of State under schedule 2 of the Development Agreement for additional financial support to compensate for such increase; and

(2) pursuant to the provisions of schedule 2 of the Development Agreement the Secretary of State agrees to, or it is determined pursuant to dispute resolution that the Secretary of State should, provide additional financial support in respect of the claim referred to in (1) above,

(and the proportion (if any) of the Estimated Cost Effect (as defined in the Development Agreement) that is borne by London & Continental Railways Limited pursuant to section 8.2 of the Development Agreement is referred to as "the Compensation Shortfall"); and/or

(C) on or after the date of this Agreement an agreement is reached between London & Continental Railways Limited, the Station Facility Owner, the Secretary of State and RTV (other than under or pursuant to the provisions of schedule 2 (Change in Circumstances) of the Development Agreement) which gives rise to an increase or decrease in the cost of construction of the Station which it is also agreed between London & Continental Railways Limited, the Station Facility Owner, the Secretary of State and RTV (in their absolute discretion) should give rise to an increase or decrease in the Additional Charge, (and the amount of any such increase or decrease which is agreed (or determined) is referred to as the "RTV Price Adjustment")

(and the sum of the Stamp Duty Shortfall, the Compensation Shortfall and the RTV Price Adjustment under (A), (B) and (C) above is referred to as the "Overall Adjustment")

then the values of the Additional Charge in each Quarter set out in Table A, commencing with the first Quarter, shall be adjusted in accordance with the following formula

$$VOZ = Z \times \left(\frac{W + NPV}{NPV} \right)$$

where

VOZ means the value of the Additional Charge for the relevant Quarter after such adjustment;

Z means the value attributed to the Additional Charge for the relevant Quarter in Table A prior to such adjustment;

W means the aggregate of

- (i) that part of the Overall Adjustment as has been paid or received on or before 1 January 2007;
- (ii) interest on the amount calculated under (i) above at three months LIBOR as at and compounded quarterly from the date on which the relevant adjustment is paid or received to 1 January 2007; and
- (iii) that part of the Overall Adjustment as is paid or received after 1 January 2007 discounted back to 1 January 2007 using an 8.75% real discount rate; and

NPV means the aggregate net present value at 1 January 2007 of all the Additional Charge values set out in Table A before taking into account the proposed adjustment under paragraph 1 of this Part 4 using an 8.75% real discount rate.

2 Initial adjustment

If on or before the Completion Date the total amount of the Overall Adjustment has not been agreed (or determined), then the values of the Additional Charge shall be adjusted for each Quarter (commencing with the first Quarter) in accordance with the formula set out in paragraph 1, such calculation to be made by reference to that part of the Overall Adjustment as has been agreed (or determined) by that date.

3 Statement

On or before the Completion Date the Station Facility Owner shall deliver to the Beneficiary a statement containing

- (A) details of the amount of the Overall Adjustment as has been agreed (or determined) on or before the Completion Date (showing separately that part of the Overall Adjustment attributable to the Stamp Duty Shortfall, that part

attributable to the Compensation Shortfall and that part attributable to the RTV Price Adjustment); and

- (B) a calculation, in accordance with the formula set out in paragraph 1, of the adjustment in values of the Additional Charge for each Quarter (commencing with the first Quarter)

and the values of the Additional Charge in respect of each Quarter as set out in Table A shall be adjusted accordingly.

4 Final adjustment

Subject to paragraph 5, within 28 days of the date on which the total amount of the Overall Adjustment is agreed (or determined) a further adjustment shall be made to the values of the Additional Charge for each Quarter (commencing with the first Quarter) in accordance with the formula set out in paragraph 1, taking into account any previous adjustment to those values under this Part 4. For these purposes, the provisions of paragraph 3 shall apply, *mutatis mutandis*, with regard to the delivery of a statement to the Beneficiary containing details of the total amount of the Overall Adjustment (and the division of the Overall Adjustment between the Stamp Duty Shortfall, the Compensation Shortfall and the RTV Price Adjustment) and the Station Facility Owner's calculation of the adjustment in values of the Additional Charge for each Quarter, and the values of the Additional Charge in respect of each Quarter as set out in Table A shall be adjusted and restated accordingly.

5 Interim adjustment - £25 million

On each occasion that there is agreed (or determined) an amount of Stamp Duty Shortfall, Compensation Shortfall or RTV Price Adjustment of an amount equal to or exceeding £25 million, then, notwithstanding that the total amount of the Overall Adjustment may not, at that time, have been finally agreed (or determined), the values of the Additional Charge in respect of each Quarter as set out in Table A shall be adjusted in accordance with the formula set out in paragraph 1 and the provisions of paragraph 4, *mutatis mutandis*, shall apply.

6 Payment

Within 14 days of the delivery of the statement referred to in paragraph 4 or 5 (as the case may be), the Beneficiary shall pay to the Station Facility Owner or, as the case may be, the Station Facility Owner shall pay to the Beneficiary, in respect of each Quarter prior to (but not including) the Quarter in which such statement is delivered (the "Statement Quarter") the difference between

- (A) the aggregate amount of the Station Facility Owner's entitlement on account of the Additional Charge calculated without taking into account the latest adjustment to have been made to the values of the Additional Charge by virtue of paragraph 4 or 5 (as the case may be); and
- (B) the aggregate amount of the Station Facility Owner's entitlement on account of the Additional Charge taking into account the latest adjustment to have been made to the values of the Additional Charge by virtue of paragraph 4 or 5 (as the case may be)

together with interest at LIBOR (on the date of the statement) on the difference from and including the later of 1 January 2007, the Commencement Date and the date on which the relevant amount of the Additional Charge fell due for payment up to and including the date of the statement (if later).

TABLE A
VALUE OF ADDITIONAL CHARGE

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Quarter in which the later of 1 January 2007 and the Commencement Date falls (Quarter 1)	1.037
Q2	1.033
Q3	1.029
Q4	1.026
Q5	1.022
Q6	1.018
Q7	1.014
Q8	1.011
Q9	1.007
Q10	1.003
Q11	1.000
Q12	0.996
Q13	0.992
Q14	0.989
Q15	0.985
Q16	0.981
Q17	0.978
Q18	0.974
Q19	0.971
Q20	0.967
Q21	0.964
Q22	0.960

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q23	0.957
Q24	0.953
Q25	0.950
Q26	0.946
Q27	0.943
Q28	0.939
Q29	0.936
Q30	0.932
Q31	0.929
Q32	0.925
Q33	0.922
Q34	0.919
Q35	0.915
Q36	0.912
Q37	0.913
Q38	0.914
Q39	0.915
Q40	0.917
Q41	0.918
Q42	0.919
Q43	0.920
Q44	0.921
Q45	0.922
Q46	0.923
Q47	0.925
Q48	0.926
Q49	0.927

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q50	0.928
Q51	0.929
Q52	0.930
Q53	0.931
Q54	0.933
Q55	0.934
Q56	0.935
Q57	0.936
Q58	0.937
Q59	0.938
Q60	0.940
Q61	0.941
Q62	0.942
Q63	0.943
Q64	0.944
Q65	0.945
Q66	0.947
Q67	0.948
Q68	0.949
Q69	0.950
Q70	0.951
Q71	0.953
Q72	0.954
Q73	0.955
Q74	0.956
Q75	0.957
Q76	0.958

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q77	0.960
Q78	0.961
Q79	0.962
Q80	0.963
Q81	0.964
Q82	0.966
Q83	0.967
Q84	0.968
Q85	0.969
Q86	0.970
Q87	0.972
Q88	0.973
Q89	0.974
Q90	0.975
Q91	0.976
Q92	0.978
Q93	0.979
Q94	0.980
Q95	0.981
Q96	0.983
Q97	0.984
Q98	0.985
Q99	0.986
Q100	0.987
Q101	0.989
Q102	0.990
Q103	0.991

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q104	0.992
Q105	0.994
Q106	0.995
Q107	0.996
Q108	0.997
Q109	0.998
Q110	1.000
Q111	1.001
Q112	1.002
Q113	1.003
Q114	1.005
Q115	1.006
Q116	1.007
Q117	1.008
Q118	1.010
Q119	1.011
Q120	1.012
Q121	1.013
Q122	1.015
Q123	1.016
Q124	1.017
Q125	1.019
Q126	1.020
Q127	1.021
Q128	1.022
Q129	1.024
Q130	1.025

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q131	1.026
Q132	1.027
Q133	1.029
Q134	1.030
Q135	1.031
Q136	1.033
Q137	1.034
Q138	1.035
Q139	1.036
Q140	1.038
Q141	1.039
Q142	1.040
Q143	1.042
Q144	1.043
Q145	1.044
Q146	1.045
Q147	1.047
Q148	1.048
Q149	1.049
Q150	1.051
Q151	1.052
Q152	1.053
Q153	1.055
Q154	1.056
Q155	1.057
Q156	1.058
Q157	1.060

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q158	1.061
Q159	1.062
Q160	1.064
Q161	1.065
Q162	1.066
Q163	1.068
Q164	1.069
Q165	1.070
Q166	1.072
Q167	1.073
Q168	1.074
Q169	1.076
Q170	1.077
Q171	1.078
Q172	1.080
Q173	1.081
Q174	1.082
Q175	1.084
Q176	1.085
Q177	1.086
Q178	1.088
Q179	1.089
Q180	1.090
Q181	1.092
Q182	1.093
Q183	1.095
Q184	1.096

Column 1	Column 2
Relevant Quarter	Value (December 2006* prices) (£m)
Q185	1.097
Q186	1.099
Q187	1.100
Q188	1.101
Q189	1.103
Q190	1.104
Q191	1.105
Q192	1.107
Q193	1.108
Q194	1.110
Q195	1.111
Q196	1.112
Q197	1.114
Q198	1.115
Q199	1.116
Q200	1.118

*Indexation will be applied from the later of December 2006 and the Commencement Date, in accordance with paragraph 3 of Part 2 of this Schedule 3.

SCHEDULE 4: AGREED PRINCIPLES

1 Definitions

1.1 In this Schedule references to:

“International Operators” means Users who provide passenger rail services from the Station to destinations outside England, Scotland and Wales (whether or not they also provide such services from the Station to destinations within England, Scotland and Wales);

“Domestic Operators” means Users who provide passenger rail services from the Station to destinations within England, Scotland and Wales only;

“User Group” means either all International Operators or all Domestic Operators as the context requires.

2 Qualifying Expenditure (“Qx”)

2.1 The Station will be divided into three mutually exclusive areas which will be identified on a plan(s) in the Annexes, namely, areas which are used by:

- (A) Domestic Operators exclusively (“Common Domestic Areas”);
- (B) International Operators exclusively (“Common International Areas”); and
- (C) both Domestic Operators and International Operators (“Common to all Areas”).

2.2 The Qx for the entire Station (after the deduction of contributions to Qx actually received from tenants within the Common to all Areas) will be divided between International Operators and Domestic Operators by reference to the floor areas of their respective exclusive areas from time to time, ie the Qx attributable to Domestic Operators will be the proportion that the floor area of the Common Domestic Areas bears to the aggregate of the floor areas of the Common Domestic Areas and the Common International Areas.

2.3 The Qx attributable to International Operators (after the deduction of contributions to Qx actually received from the tenants within the Common International Areas) will be apportioned between and paid by International Operators by reference to available passenger seats on international train departures (ie each International Operator will pay the proportion that the number of available passenger seats on trains departing from the Station run by it bears to the total number of available passenger seats on all trains departing from the Station run by International Operators over a given period).

2.4 The Qx attributable to Domestic Operators (after the deduction of contributions to Qx actually received from tenants within the Common Domestic Areas) will be apportioned between and paid by Domestic Operators by reference to available passenger seats on trains run by Domestic Operators.

- 2.5 To the extent that no area at the Station is to be used by Domestic Operators or International Operators exclusively, the Qx will be apportioned between User Groups on a fair and equitable basis having regard to the other principles set out in this Schedule 4 and the principles in paragraph 3 below shall apply mutatis mutandis.
- 2.6 For the avoidance of doubt the Station Facility Owner shall not be expected to bear or suffer any shortfall in the Qx which will always be borne by the Users although nothing in this paragraph 2.6 is intended to affect the operation of any provisions relating to the abatement of the Access Charge.

3 Change Procedure

- 3.1 Annex 3 will include the following:

- (A) any change to the distribution of Qx as between the Domestic Operators and International Operators (save as set out in this Schedule); and
- (B) any change to the extent of the "Common to all Areas", "Common International Areas" and "Common Domestic Areas"

and Condition 37 (Review of Access Charges) will be subject to Annex 3.

- 3.2 International Operators will not be entitled to make proposals for change (ie any Conditions Change Proposal; Material Change Proposal or Major Change Proposal) under Part 2 and Part 3 of the Station Access Conditions to the extent that the sole or principal physical or operational affect will impact upon Domestic Operators and vice versa.
- 3.3 Material Change Proposals, Major Change Proposals and Development Change Proposals under Part 3 will each be divided into two types of proposal with different approval requirements as follows:
- (A) Proposals affecting either Common Domestic Areas or Common International Areas only. These will be approved if supported by a Requisite Majority of the relevant User Group. Voting power will be directly proportional to a User's liability for the Qx attributable to its User Group. Any increase in the Qx resulting from any such proposal will be borne by the relevant User Group solely.
 - (B) Others - which will be approved if supported by a Requisite Majority of all Users. Voting power will be directly proportional to each User's liability for Qx.
- 3.4 Annex 8 will specify a Requisite Majority for each user Group under (A) and for other proposals under (B). Each Requisite Majority will be agreed or determined by reference to what is fair and reasonable in all the circumstances and having regard to equivalent arrangements at other Stations situated in England and to the extent possible by reference to the following principles, namely:

- (A) that no single User should be able to effectively control whether a change is implemented;
 - (B) that a single User should not be able to effectively block proposed changes; and
 - (C) to reflect the interests of all Users.
- 3.5 For the avoidance of doubt Development Change Proposals shall cease to be Unanimous Proposals but shall be subject to the provisions of Annex 3.
- 3.6 The unfair prejudice provisions in Condition 11 of Part 3 will be extended to permit User Groups to mount proceedings under which their interests will be aggregated, ie the relevant Panel and/or the Arbitrator as the case may be will look to the impact on the entire User Group in determining the question of unfair prejudice.

4 Compensation for non-provision of services and amenities etc

- 4.1 In determining the details to be inserted in Annexes 6 and 7 and the format of those annexes, regard shall be given to annexes 6 and 7 to the station access conditions relating to comparable stations. The level of the abatements at the Station will be of equivalent magnitude to the comparable stations. Annex 6 will specify only key or fundamental Common Station Services or Common Station Amenities (which may differ from those described in the equivalent provisions at any comparable station). However the aggregate of the abatements payable in the event of the failure of each Common Station Amenity and each Common Station Service will be of an equivalent magnitude to such aggregate figure at the comparable stations. For this purpose "equivalent magnitude" will be assessed by reference to the level of the abatement enjoyed by a user as against the level of the access charges payable by it at the comparable station.
- 4.2 Users will only be entitled to abatements pursuant to Condition 62 and Annexes 6 and 7 where the failure or non-provision affects the Common to All Areas or the areas used exclusively by their User Group.
- 4.3 Where on the Commencement Date any part of the Station or any Common Station Service or Common Station Amenity is not available (whether in whole or in part) as a result of any works relating thereto expressly not having to be undertaken pursuant to the Development Agreement prior to the issuance of the Final Permit to Use (the "Delayed Works"), then the Station Facility Owner shall not be liable to pay or bear any compensation or damages (including the abatement of any charges pursuant to Condition 62 and Annexes 6 and 7) in relation to the same and the provisions of Condition 62 concerning abatement shall not operate in relation to any such part of the Station or any such Common Station Service or Common Station Amenity until such date as those Delayed Works should have been carried in accordance with the Development Agreement (the "Delayed Works Date").
- 4.4 The self help remedies (in Conditions 62.3 to 62.7) available shall, in respect of the Common International Areas and Common Domestic Areas, apply mutatis mutandis to each of those areas. Self help remedies will not apply to any work which is required to complete matters subject to which the Final Permit to Use or any Permit to Use the Station was issued or in respect of any defects in construction which arise within 1 year

of the Conditions Efficacy Date (or in relation to defects in construction in the Delayed Works within 1 year of the Delayed Works Date) Provided That, subject to the terms of paragraph 4.3, the provisions of Conditions 62.1 and 62.2 (abatements) shall apply.

- 4.5 (A) Without prejudice to paragraph 4.3, during the first six months following the Conditions Efficacy Date, the Performance Regime (set out in Condition 61 and Annex 12) shall apply only to Common Station Services.
- (B) On each Performance Audit (as defined in Condition 62) during the period from the Conditions Efficacy Date until the first anniversary of that date (or where the Performance Audit relates to any Delayed Works until the first anniversary of the Delayed Works Date), each Audit Question which is not satisfied as a result of
- (1) any works subject to which the Final Permit to Use or the Permit to Use relating to the Station was issued, not having been completed; or
 - (2) the Delayed Works not having been completed prior to the Delayed Works Date; or
 - (3) any defect in any works arising within 12 months of the Conditions Efficacy Date or (where the Audit Question relates to Delayed Works) within 12 months of the Delayed Works Date
- shall nonetheless be deemed to be satisfied.
- (C) Without prejudice to the terms of paragraph 4.5(A) and (B) and paragraph 4.3 the provisions of Conditions 62.1 and 62.2 (abatements) shall apply during the period referred to in this paragraph 4.5.

5 Preparation of the Plan

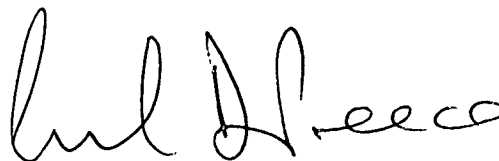
The Plan shall be agreed by the parties and:

- (A) shall show the position and extent of the Station which will not include:
- (1) any land or area not let (or subject to any agreement for lease) to the Station Facility Owner; or
 - (2) any permanent way; and
- (B) shall not be inconsistent with the Development Agreement and any Transport and Works Act Order applicable to the Station; and
- (C) shall show the position and extent of the Common Station Amenities (to the extent reasonably practicable) which will reflect and be consistent with the purpose for which each part of the Station was designed.

6 Costs of Policing the Station

The allocation between the Station Facility Owner and the Users of the costs of policing the Station shall be settled on a fair and reasonable basis in light of any relevant arrangements or agreements between those parties and any Police Authority subsisting at the time of those negotiations.

SIGNED by **ANDREW PRICE**)
on behalf of Union Railways)
(North) Limited)



SIGNED by **ROBERT HOLDEN**)
on behalf of)
Eurostar (U.K.) Limited)

