

~~[Note: as issued for industry consultation on 11 July 2008—therefore subject to further change following consideration of consultation responses.]~~

DEFINITIONS

In this Part G, unless the context otherwise requires:

- “authorised variation” means a variation to an established Network Change, where:
- (a) the terms and conditions on which the Network Change in question was established contain a variation procedure;
 - (b) that variation procedure has been followed in accordance with its terms; and
 - (c) the result of the operation of that variation procedure is that the established Network Change has been varied;
- “change” includes:
- (a) improvement or deterioration, enlargement or reduction; and
 - (b) for the purposes of paragraph (b) of the definition of Network Change, a series of changes;
- “Complex Projects Procedure” means the procedure set out in Conditions G5 to G7;
- “Effective Date” means the date specified in a notice of proposal of a Short Term Network Change upon which the Short Term Network Change is proposed to become effective;
- “Established Date” means the first date upon which a Short Term Network Change can be implemented in accordance with Condition G10, whether or not the change is implemented on that day;
- “established Network Change” means a change falling within the definition of “Network Change” and which:
- (a) in the case of a Network Change proposed by Network Rail, Network Rail is entitled to carry out

having complied with the procedural and other requirements of this Part G; and

- (b) in the case of a Network Change proposed by an Access Beneficiary, Network Rail is required by this Part G to carry out,

and “establish” and “establishment” of a Network Change shall be construed accordingly;

“Expiry Date” means the date specified in a notice of proposal in relation to a Short Term Network Change which shall not be more than two years, or such longer period as is agreed between Network Rail and each Access Beneficiary that may be affected by the implementation of the proposed Short Term Network Change or determined in accordance with Condition G11, from the later of the Effective Date and the Established Date;

“Governmental Body” means any local, national or supra-national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether autonomous or not and including the Office of Rail Regulation);

“method of delivery” includes the means of securing access to an operational document and the ability to make use of the data contained in an operational document;

“modification” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

“Network Change” means, in relation to an Access Beneficiary:

(a) any change in or to any part of the Network (including its layout, configuration or condition) which is likely materially to affect the operation of:

(i) the Network; or

(ii) trains operated by, or anticipated as being operated in accordance with the terms of any access option, by or on behalf of that Access Beneficiary on the Network; or

- (b) any change to the operation of the Network (being a change which does not fall within paragraph (a) above) which:
 - (i) is likely materially to affect the operation of trains operated by, or anticipated as being operated in accordance with the terms of any access option, by or on behalf of that Access Beneficiary on the Network; and
 - (ii) has lasted or is likely to last for more than six months,

~~Including~~including

- (x) a temporary speed restriction;
 - (y) a material change to the location of any of the specified points referred to in Condition B1.1 (a); or
 - (z) a change to the method of delivery of any operational documentation (other than Railway Group Standards) owned or used by an Access Party; or
- (c) any material variation to an established Network Change, other than an authorised variation,

but does not include a closure (as defined in the Railways Act 2005) or a change made under the Systems Code;

“Preparatory Works” means testing, trials, pilot activities, surveys and all other activities reasonably necessary to develop the proposed Network Change;

“Relevant Costs” means, in respect of any Network Change implemented in accordance with Condition G9:

- (a) in respect of Network Rail, all costs, direct losses and expenses (including loss of revenue and liabilities to other train operators but excluding liabilities under any Train Operator’s Access Agreement as a consequence of any Restriction of Use in connection with the implementation of that Network Change) incurred by Network Rail as a

consequence of the implementation of that Network Change;

- (b) in respect of any Train Operator, the amounts which would otherwise be due under that Train Operator's Access Agreement as a consequence of any Restriction of Use in connection with the implementation of that Network Change;

"relevant response date" means:

- (a) in relation to a proposal for a Network Change under Condition G1, the later of such dates as are reasonably specified by Network Rail under Condition G1.2(a) and Condition G1.3.2 as the date on or before which an Access Beneficiary is to give notice of its response to that proposal under Condition G2.1, having regard to:

- (i) the size and complexity of the change; and
- (ii) the likely impact of the change on the Access Beneficiary,

and which shall not be less than 30 days from the date on which the notice of the proposal for change is given; and

- (b) in relation to a proposal for a Network Change under Condition G3, the later of such dates as are reasonably specified by Network Rail under Condition G3.3.1(c)(i) and Condition G3.4.3 as the date on or before which it is to give notice of its response to that proposal under Condition G4.1, having regard to:

- (i) the size and complexity of the change; and
- (ii) the likely impact of the change on Access Beneficiaries,

and which shall not be:

- (A) less than 60 days; or

(B) unless Network Rail and the Sponsor agree otherwise in writing, more than 90 days,

from the date on which Network Rail's notice under Condition G3.3.1(c) is given;

“Scope” means those elements of the scope of a proposed Network Change that are set out in a notice issued by Network Rail under Condition G5.4;

“Short Term Network Change” means a Network Change which Network Rail specifies as such in any proposal made under Condition G1, being a Network Change which involves only a temporary reduction in the capability of the Network for a defined period of time during which there is no reasonable expectation of a requirement for the capability being temporarily withdrawn;

“Sponsor” means, in relation to a proposal for a Network Change under Condition G3.1, the Access Beneficiary which has made the proposal;

“variation” means any modification to the terms or conditions (including as to the specification of the works to be done, their timing, the manner of their implementation, the costs to be incurred and their sharing, and the division of risk) on which an established Network Change is to be carried out, and “varied” and any other cognate words shall be construed accordingly; and

“variation procedure” means, in relation to an established Network Change, a procedure which:

- (a) forms part of the terms and conditions on which the Network Change is established; and
- (b) provides for the established Network Change itself to be varied after it has been first established.

CONDITION GA - FACILITATION OF NETWORK CHANGE

A1 *Obligation to facilitate Network Change*

Network Rail shall take all reasonable steps to facilitate the development, establishment and implementation of any proposal for Network Change.

A2 *Limit of obligation*

Condition GA1 does not oblige Network Rail to do anything which it is not required to do under its network licence.

A3 *Facilitation*

The obligation of Network Rail under Condition GA1 includes:

- (a) the provision to an Access Beneficiary of such information concerning the condition, capacity and/or capability of the Network as:
 - (i) Network Rail is required at any time to hold or have appropriate access to under its network licence; and
 - (ii) that Access Beneficiary may reasonably request in connection with the development of a proposal for Network Change (whether the proposal is made by that Access Beneficiary or another person);
- (b) the publication on its website (subject to Condition A3 of the Network Code) of:
 - (i) every proposal for Network Change made by Network Rail under Condition G1.1 or by an Access Beneficiary under Condition G3.1;
 - (ii) every response to a proposal for Network Change made by an Access Beneficiary under Condition G2.1 or by Network Rail under Condition G4.1;
 - (iii) every determination of matters which have been referred to the relevant ADRR Panel or the Office of Rail Regulation under Condition G11.1 or G11.2;
 - (iv) every authorised variation;
 - (v) standard forms, produced after consultation with every other Access Party and approved by the Office of Rail Regulation, for the notification under this Part G of proposals for Network Change, and of responses to such proposals, which:

- (A) may include different forms for different types of Network Change having regard to the size, complexity and value of the change in question; and
 - (B) shall be used by any person notifying or responding to a proposal for Network Change under this Part G, unless it is not reasonably practicable for it to do so; and
- (vi) model terms and conditions, produced after consultation with every other Access Party and approved by the Office of Rail Regulation, by way of supplement to the terms of this Part G and on which Network Rail is prepared to contract for or in connection with the implementation of a Network Change which:
 - (A) shall provide appropriate and proportionate forms of contract for different types of Network Change having regard to the size, complexity and value of the change in question;
 - (B) may include variation procedures; and
 - (C) shall, so far as reasonably practicable, form the basis of any terms and conditions relating to the implementation of a Network Change which are proposed by Network Rail under Condition G1 or by a Access Beneficiary under Condition G3;
- (c) the provision of a preliminary response to a proposal for Network Change by an Access Beneficiary under Condition G3.4;
- (d) such consultation before a notice of a proposal for a Network Change is submitted by an Access Beneficiary as may reasonably be expected to enable that Access Beneficiary to assess the feasibility and affordability of the proposed change; and
- (e) such consultation with the persons specified in Condition G1.1(a) and G3.1(b) before a notice of a proposal for a Network Change is given by Network Rail or submitted by an Access Beneficiary as:
 - (i) Network Rail considers reasonably necessary; and
 - (ii) any person specified in Condition G1.1(a) and G3.1(b) may reasonably request,

to enable the proposal to be developed in an efficient and economical manner.

CONDITION G1 - NETWORK CHANGE PROPOSAL BY NETWORK RAIL

1.1 *Notice of proposal*

Subject to Conditions G1.9 and G1.10, if Network Rail wishes to make a Network Change, it shall:

- (a) give notice of its proposal for Network Change to:
 - (i) each Access Beneficiary that may be affected by the implementation of the proposed Network Change;
 - (ii) the Secretary of State, and Scottish Ministers if they may be affected by the implementation of the proposed Network Change;
 - (iii) the Office of Rail Regulation; and
 - (iv) each Passenger Transport Executive that may be affected, Transport for London if it may be affected and the Welsh Assembly Government if it may be affected, by the implementation of the proposed Network Change; and
- (b) without delay publish on its website a summary of its proposal for Network Change.

1.2 *Content of notice of proposed Network Change*

A notice of a proposed Network Change given by Network Rail under Condition G1.1 shall:

- (a) state the relevant response date and the obligations of Access Parties under Conditions G1 and G2;
- (b) indicate whether and to what extent the proposed Network Change has been progressed using the Complex Projects Procedure;
- (c) indicate whether the proposed Network Change is a Short Term Network Change;
- (d) invite the persons specified in Condition G1.1(a)(ii)-(iv) to submit comments by the relevant response date;
- (e) contain:
 - (i) the reasons why it is proposed to make the change, including the effects it is intended or may reasonably be expected to have on the operation of the Network or on trains operated on the Network;

- (ii) a specification of the works to be done (including a plan showing where the work is to be done and the parts of the Network and associated railway assets likely to be affected);
 - (iii) the proposed times within which the works are to be done and when they are intended or may reasonably be expected to be begun and completed;
 - (iv) Network Rail's proposals (if any) for the division of the costs of carrying out the change, including any proposals in relation to the calculation or payment of compensation to Access Beneficiaries in respect of the change;
 - (v) in the case of a Short Term Network Change:
 - (A) Network Rail's proposals as to the Effective Date;
 - (B) Network Rail's proposals as to the Expiry Date;
 - (C) the estimated timescale in which the change could reasonably be reversed if so requested by an Access Beneficiary based on its reasonable expectations as to future use of the Network; and
 - (D) the capability of the relevant section of the Network before the proposed Short Term Network Change (and any Short Term Network Change which it succeeds) and the proposed reduction to that capability;
 - (vi) any additional terms and conditions which Network Rail proposes should apply to the change, including any proposed variation procedure;
 - (vii) the results of any consultation undertaken in accordance with Condition G5; and
 - (viii) the results of any Preparatory Works undertaken in accordance with Condition G6; and
- (f) be prepared to a standard, and in such detail, as is reasonably necessary, having due regard to the level of knowledge and expertise reasonably to be expected of the persons specified in Condition G1.1(a), to enable any such person to assess the likely effect of the proposed change on its business and its performance of any obligations or the exercise of any discretions which it has in relation to railway services.

1.3 Consultation

- 1.3.1 Network Rail shall, after giving notice of any proposal for Network Change under Condition G1.1, consult with each operator of railway assets likely to be materially affected by the proposed change to the extent reasonably necessary so as properly to inform that operator of the change and to enable that operator to assess the consequences for it of the proposed change.
- 1.3.2 After consultation under this Condition G1.3, Network Rail may notify a later relevant response date to the persons to whom the notice of proposal for Network Change was given.

1.4 Obligations on Access Beneficiaries to facilitate Network Change

- 1.4.1 Except in the circumstances and to the extent specified in Condition G1.4.2, an Access Beneficiary shall, when consulted by Network Rail under Condition G1.3, take all reasonable steps to comply with any written request of Network Rail to provide Network Rail, within a reasonable period of time and at no cost to Network Rail, with:
- (a) a preliminary estimate of those costs, losses and expenses referred to in Condition G2.2; or
 - (b) a preliminary written response in respect of the proposed Network Change, which shall:
 - (i) be binding on the Access Beneficiary, unless the Access Beneficiary indicates otherwise; and
 - (ii) if it is negative, include reasons.
- 1.4.2 An Access Beneficiary shall not be obliged to comply with a request from Network Rail under Condition G1.4.1:
- (a) unless:
 - (i) the relevant response date is 60 or more days after the date on which the proposal for Network Change was given; and
 - (ii) the request is made at the same time as Network Rail gives its notice under Condition G1.1; or
 - (b) to the extent that the Access Beneficiary is unable to comply with such a request, having regard to the information reasonably available to it.

1.5 Reimbursement of costs

Subject to Conditions G1.4 and G2, each Access Beneficiary shall be entitled to reimbursement by Network Rail of 75% of all costs incurred by that Access Beneficiary in assessing any Network Change proposed by Network Rail. Those costs shall be the minimum reasonably necessary for that Access Beneficiary to carry out that assessment.

1.6 Further information regarding costs

Each Access Beneficiary shall, upon request from Network Rail from time to time, provide Network Rail with written estimates of the costs of assessing a proposal for Network Change proposed by Network Rail (as referred to in Condition G1.5) including estimated costings of the work to be carried out and shall:

- (a) be entitled to require reasonable assurances of payment in respect of any material work to be carried out for the purposes of that evaluation before commencing such work; and
- (b) ~~(a)~~ upon request from Network Rail from time to time, provide Network Rail with such information as may be reasonably necessary to enable Network Rail to assess the reasonableness of any estimate.

1.7 Accuracy of estimates

Each Access Beneficiary shall ensure that any estimates given by it are, so far as reasonably practicable, accurate on the basis of the information reasonably available to it.

1.8 Obligation to incur no further costs

An Access Beneficiary shall, if requested by Network Rail at any time, incur no further costs (except any costs which cannot reasonably be avoided) in respect of any proposal for Network Change made by Network Rail.

1.9 Changes to the operation of the Network

In the case of a Network Change within the meaning of paragraph (b) of that term's definition, Network Rail may commence implementing the procedure set out in this Part G and shall, upon notice being given by the relevant Access Beneficiary to Network Rail at any time after the expiry of the relevant period, promptly commence implementing and thereafter comply with that procedure as if that change were a Network Change proposed by Network Rail.

1.10 Network Change for safety reasons

To the extent that a Network Change within the meaning of paragraph (a) of that term's definition is required to be made by Network Rail for safety reasons, Network Rail shall not be obliged to implement the procedure set out in this Part G in relation to that change until the change has lasted for three months. Upon expiry of the relevant period, Network Rail shall promptly commence implementing and thereafter comply with the procedure set out in this Part G as if the relevant Network Change were a Network Change proposed by Network Rail.

CONDITION G2 - RESPONSE BY ACCESS BENEFICIARY TO NETWORK CHANGE PROPOSAL

2.1 *Obligation to give notice of response*

2.1.1 The Access Beneficiary shall give notice to Network Rail if it considers that:

- (a) one or more of the following conditions has been satisfied:
 - (i) the implementation of the proposed change would necessarily result in Network Rail breaching an access contract to which that Access Beneficiary is a party;
 - (ii) Network Rail has failed, in respect of the proposed change, to provide sufficient particulars to that Access Beneficiary under Condition G1.2;
 - (iii) the implementation of the proposed change would result in a material deterioration in the performance of that Access Beneficiary's trains which cannot adequately be compensated under this Condition G2 or in respect of a Restriction of Use [in connection with the implementation of the proposed change](#) under that Train Operator's Access Agreement; or
 - (iv) the proposed change does not adequately take account of the reasonable expectations of the Access Beneficiary as to the future use of the relevant part of the Network; and/or
- (b) one or more of the conditions set out in Condition G2.1.1(a) has been satisfied but it is prevented by Condition G5.7 from objecting to the proposed Network Change and the proposed Network Change is not, on the basis of the available evidence and taking account of the alternative solutions available and the progress made with the proposed Network Change, to the benefit of the industry as a whole; and/or

- (c) it should be entitled to compensation from Network Rail for the consequences of the implementation of the change either:
 - (i) in accordance with compensation terms proposed under Condition G1; or
 - (ii) on terms other than those proposed (if any) under Condition G1.

2.1.2 Any notice of the kind referred to in Condition G2.1.1 (a) above shall include the reasons for the Access Beneficiary's opinion. Any notice of the kind mentioned in Condition G2.1.1 (c) (ii) above shall include the reasons why the Access Beneficiary considers that any compensation terms proposed under Condition G1 are inappropriate and shall detail:

- (a) the amount of compensation required and the methodology used to calculate the amount of compensation required; or
- (b) if the Access Beneficiary is not reasonably able to provide details of the amount of compensation required, the methodology to be used to calculate the amount of compensation required; and in either case
- (c) the means by which the compensation should be paid, including any security or other assurances of payment which Network Rail should provide.

The notice referred to above shall contain such detail as is reasonable to enable Network Rail to assess the merits of the Access Beneficiary's decision.

2.2 Amount of compensation

Subject to Condition G2.3 and Condition ~~G2.4(a)~~2.4.1, the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by the Access Beneficiary as a consequence of the implementation of the proposed change.

2.3 Benefits to be taken into account

There shall be taken into account in determining the amount of compensation referred to in Condition G2.2:

- (a) subject to Condition G ~~2.4(b)~~2.4.2, the benefit (if any) to be obtained or likely in the future to be obtained by the Access Beneficiary as a consequence of the proposed Network Change; and

- (b) the ability or likely future ability of the Access Beneficiary to recoup any costs, losses and expenses from third parties including passengers and customers.

2.4 Restrictions of Use

~~(a)~~ 2.4.1 The amount of the compensation referred to in Condition G-~~2.1~~2.2 shall exclude the amount of the costs, direct losses and expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by ~~a~~the Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change.

~~(b)~~ 2.4.2 The benefits taken into account in determining the amount of the compensation for the proposed change under Condition G2.3 shall exclude the benefit (if any) to be obtained or likely in the future to be obtained by the Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change (with that exclusion including any compensation payable to that Train Operator in respect of that Restriction of Use under its Access Agreement).

CONDITION G3 - NETWORK CHANGE PROPOSAL BY ~~TRAIN OPERATOR~~ACCESS BENEFICIARY

3.1 Notice of proposal

An Access Beneficiary shall, if it wishes Network Rail to make a Network Change:

- (a) submit to Network Rail a proposal for such change; and
- (b) permit Network Rail to consult with:
 - (i) each Access Beneficiary that may be affected by the implementation of the proposed Network Change;
 - (ii) the Secretary of State, and Scottish Ministers if they may be affected by the implementation of the proposed Network Change;
 - (iii) the Office of Rail Regulation; and
 - (iv) each Passenger Transport Executive that may be affected, Transport for London if it may be affected and the Welsh Assembly Government if it may be affected, by the implementation of the proposed Network Change,

to the extent provided for under Condition G3.3.1(b), subject to such requirements as to confidentiality as are reasonable.

3.2 Content of Sponsor's notice of proposal

A notice of a proposed Network Change given by the Sponsor under Condition G3.1 shall:

- (a) contain:
 - (i) the reasons why it is proposed to make the change, including the effects it is intended or expected to have on the operation of the Network or on trains operated on the Network;
 - (ii) a specification of the works to be done (including a plan or plans showing where the work is to be done and the parts of the Network and associated railway assets likely to be affected);
 - (iii) the proposed times within which the works are to be done and when they are intended or expected to be begun and completed;
 - (iv) the Sponsor's proposals (if any) for the division of the costs of carrying out the change including any proposals in relation to the calculation or payment of compensation to Network Rail or any Access Beneficiary in respect of the change; and
 - (v) the additional terms and conditions (if any) which the Sponsor proposes should apply to the change, including any variation procedure; and
- (b) be prepared to a standard, and in such detail, as is reasonably necessary, having due regard to the level of knowledge and expertise reasonably to be expected of the persons specified in Condition G3.1(b), to enable:
 - (i) Network Rail; and
 - (ii) any person specified in Condition G3.1(b),

to assess the likely effect of the proposed change on its business and its performance of any obligations or exercise of any discretions which it has in relation to railway services.

3.3 Evaluation of proposal and consultation

3.3.1 If Network Rail receives a proposal for Network Change under Condition G3.1, it shall:

- (a) evaluate and discuss the proposal for change with the Sponsor for such period as is reasonable having due regard to the likely impact of the proposed Network Change on either or both of Network Rail and other operators of trains;
- (b) consult with each person specified in Condition G3.1(b) likely to be materially affected by the proposed change to the extent reasonably necessary so as properly to inform them of the change and to enable them to assess the consequences for them of the change; and
- (c) for the purpose of the consultation under Condition G3.3.1(b), within 30 days of the date on which the Sponsor's notice under Condition G3.1 was given, give a notice to the persons specified in Condition G3.1(b), with a copy to the Sponsor, inviting them to submit comments by the relevant response date and stating:
 - (i) the relevant response date and the obligations of Access Parties under Conditions G3 and G4;
 - (ii) the reasons given by the Sponsor under Condition G3.2(a)(i) for proposing to make the change;
 - (iii) Network Rail's estimate of the likely impact of the change on the operation and performance of the Network; and
 - (iv) Network Rail's own proposals as to:
 - (A) the arrangements for, and any proposed terms applicable to, the implementation of the change;
 - (B) the specification of the works to be done (including a plan or plans showing where the work is to be done and the parts of the Network and associated railway assets likely to be affected);
 - (C) the times within which the works are to be done and when they are intended or expected to be begun and completed;
 - (D) the division of the costs of carrying out the change, including any proposals in relation to the calculation or payment of compensation to Access Beneficiaries in respect of the change; and
 - (E) any additional terms and conditions which should apply to the change, including any proposed variation procedure.

3.3.2 In preparing a notice under Condition G3.3.1(c), Network Rail:

- (a) shall comply with the standard specified in Condition G3.2(b); and
- (b) in respect of each of the matters specified in Condition G3.3.1(c)(iv):
 - (i) shall have regard to any relevant statements and proposals contained in the Sponsor's notice under Condition G3.1;
 - (ii) shall give reasons for any differences between those statements and proposals and its own proposals under Condition G3.3.1(c)(iv); and
 - (iii) may annex to its notice any proposal contained in the Sponsor's notice under Condition G3.1 with which it agrees, stating its agreement, and, where appropriate, that it has no proposals of its own on the matter concerned.

3.4 *Facilitation of Network Change by Network Rail*

3.4.1 Except in the circumstances and to the extent specified in Condition G3.4.2, Network Rail shall, when consulted by the Sponsor, take all reasonable steps to comply with any written request of the Sponsor to provide the Sponsor, within a reasonable period of time, and at no cost to the Sponsor, with:

- (a) a preliminary estimate of those costs, losses and expenses referred to in Condition G4.2 which may be incurred by Network Rail; and/or
- (b) a preliminary written response in respect of the proposed Network Change, which shall:
 - (i) be binding on Network Rail, unless Network Rail indicates otherwise; and
 - (ii) if it is negative, include reasons.

3.4.2 Network Rail shall not be obliged to comply with a request from the Sponsor under Condition G3.4.1:

- (a) unless:
 - (i) the relevant response date is 90 or more days after the date on which Network Rail's notice under Condition G3.3.1(c) was given; and
 - (ii) the request is made within 7 days of the Sponsor receiving Network Rail's notice under Condition G3.3.1(c); or

- (b) to the extent that Network Rail is unable to comply with such a request, having regard to the information reasonably available to it.

3.4.3 After consultation with the Sponsor and under Condition G3.3.1(b), Network Rail may notify a later relevant response date to the Sponsor and the persons to whom it gave its notice under Condition G3.3.1(c).

3.5 *Reimbursement of costs*

Subject to Conditions G3.4 and G4, Network Rail shall be entitled to reimbursement by the Sponsor of 75% of all costs incurred by Network Rail in assessing any Network Change proposed by the Sponsor. Those costs shall be the minimum reasonably necessary for Network Rail to carry out that assessment.

3.6 *Provision of estimate of costs by Network Rail*

Network Rail shall, upon request from the Sponsor from time to time, provide the Sponsor with written estimates of the costs of assessing a proposal for Network Change submitted by the Sponsor (as referred to in Condition G3.5) including estimated costings of the work to be carried out and shall:

- (a) be entitled to require reasonable assurances of payment in respect of any material work to be carried out for the purposes of that assessment before commencing such work; and
- (b) upon request from the Sponsor from time to time provide the Sponsor or its agents with such information as may be reasonably necessary to enable the Sponsor to assess the reasonableness of any estimate.

3.7 *Accuracy of estimates*

Network Rail shall ensure that any estimates given by it are, so far as reasonably practicable, accurate on the basis of the information reasonably available to it.

3.8 *Obligation to incur no further costs*

Network Rail shall, if requested by the Sponsor at any time, incur no further costs (except any costs that cannot reasonably be avoided) in respect of any proposal for Network Change made by the Sponsor.

3.9 Relationship with Vehicle Change

If the implementation of a Network Change proposed by the Sponsor also requires the implementation of a Vehicle Change in respect of the trains operated by the Sponsor, the Sponsor shall follow the procedures and satisfy the requirements of both this Part G and Part F and the requirement for a Vehicle Change shall not preclude the right of the Sponsor to follow the procedure in this Part G for a Network Change or vice versa.

CONDITION G4 - RESPONSE BY NETWORK RAIL TO NETWORK CHANGE PROPOSAL

4.1 Obligation to give notice of response

4.1.1 Network Rail shall give notice to the Sponsor if:

- (a) it considers that one or more of the following conditions has been satisfied:
 - (i) the implementation of the proposed change would necessarily result in Network Rail breaching any access contract (other than an access contract to which the Sponsor is a party);
 - (ii) the Sponsor has failed in a material respect to comply with its obligations under Condition G3.2 provided that Network Rail shall first have given the Sponsor a reasonable opportunity to remedy that failure;
 - (iii) the implementation of the proposed change would result in a material adverse effect on the maintenance or operation of the Network or the operation of any train on the Network which in any such case cannot adequately be compensated under this Condition G4 or in respect of a Restriction of Use [in connection with the implementation of the proposed change](#) under the relevant Train Operator's Access Agreement; or
 - (iv) the proposed change does not adequately take account of the reasonable expectations of an Access Party (other than the Sponsor) as to the future use of the relevant part of the Network;
- (b) any Access Beneficiary shall have given notice to Network Rail that it considers that any of the conditions specified in paragraph (a) above has been satisfied;

- (c) it considers that it should be entitled to compensation from the Sponsor for the consequences of the implementation of the change either:
 - (i) in accordance with compensation terms proposed under Condition G3; or
 - (ii) on terms other than those proposed (if any) under Condition G3; and/or
- (d) any Access Beneficiary shall have given notice to Network Rail that it considers that it should be entitled to compensation from the Sponsor for the consequences of the implementation of the change either:
 - (i) in accordance with compensation terms proposed under Condition G3; or
 - (ii) on terms other than those proposed (if any) under Condition G3.

4.1.2 Any notice of the kind referred to in Conditions G4.1.1 (a) and (b) above shall include the reasons for the opinion in question. Any notice of the kind mentioned in Conditions G4.1.1 (c) (ii) and (d) (ii) above shall include the reasons why Network Rail or the relevant Access Beneficiary considers that any compensation terms proposed under Condition G3 are inappropriate and shall detail:

- (a) the amount of compensation required and the methodology used to calculate the amount of compensation required; or
- (b) if Network Rail or the relevant Access Beneficiary is not reasonably able to provide details of the amount of compensation required, the methodology to be used to calculate the amount of compensation required; and in either case
- (c) the means by which the compensation should be paid, including any security or other assurances of payment which the Sponsor should provide.

The notice referred to above shall contain such detail as is reasonable to enable the Sponsor to assess the merits of Network Rail or the relevant Access Beneficiary's decision.

4.2 Amount of compensation

Subject to Condition G4.3, the aggregate of the amount of the compensation referred to in Condition G4.1 shall be:

- (a) subject to Condition G~~4.4(a)~~4.4.1 an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by Network Rail or the relevant Access Beneficiary in question as a consequence of the implementation of the proposed change other than any such costs, losses or expenses which are attributable to the Sponsor improving its ability to compete with other operators of railway assets; and
- (b) an amount equal to the amount of costs, direct losses or expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by Network Rail as consequence of implementing a Network Change including the recovery of any payments made by Network Rail to the relevant Train Operator under ~~the relevant~~that Train Operator's Access Agreement for the relevant Restriction(s) of Use.

4.3 Benefits to be taken into account

There shall be taken into account in determining the amount of compensation referred to in Condition G4.2~~(a)~~:

- (a) subject to Condition G~~4.4(b)~~4.4.2 the benefit (if any) to be obtained or likely in the future to be obtained by Network Rail or the relevant Access Beneficiary as a consequence of the implementation of the proposed change ; and
- (b) the ability or likely future ability of Network Rail or the relevant Access Beneficiary to recoup any costs, losses and expenses from third parties including passengers and customers.

4.4 Restrictions of Use

~~(a)~~ 4.4.1 The amount of the compensation referred to in Condition G~~4.4.2~~ shall in respect of any Train Operator exclude the amount of the costs, direct losses and expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by that Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change.

~~(b)~~ 4.4.2 The benefits taken into account in determining the amount of the compensation for the proposed change under Condition ~~G2.3~~4.3 shall in respect of any Train Operator exclude the benefit (if any) to be obtained or likely in the future to be obtained by that Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change (with that exclusion including any compensation payable to that Train Operator in respect of that Restriction of Use under its Access Agreement).

CONDITION G5 - SCOPE OF COMPLEX PROJECTS

5.1 *Consultation prior to making a proposal for Network Change using the Complex Projects Procedure*

Before submitting a proposal for Network Change which Network Rail intends to establish using the Complex Projects Procedure, Network Rail shall provide the following information to each Access Beneficiary which it considers may be affected by the implementation of the proposed Network Change:

- (a) that Network Rail intends to initiate the Complex Projects Procedure in respect of the proposed Network Change;
- (b) the details of the proposed Network Change which Network Rail can reasonably make available;
- (c) the reasons why Network Rail believes that the proposed Network Change is required including the effects it is intended or may reasonably be expected to have on the operation of the Network or on trains operated on the Network;
- (d) the reasons why Network Rail believes that the proposed Network Change should be established in accordance with the Complex Projects Procedure;
- (e) any other information Network Rail reasonably believes an affected Access Beneficiary may reasonably require to understand the proposed Network Change;
- (f) a draft plan setting out the intended stages and timetable for the Complex Projects Procedure; and
- (g) the Scope that Network Rail intends to propose under Condition G5.4.

5.2 *Consultation with affected Access Beneficiaries*

Network Rail shall, having provided the information set out in Condition G5.1, consult with each Access Beneficiary which it considers may be affected by the

proposed change. During the consultation process Network Rail shall give due consideration to the views of each Access Beneficiary and, where Network Rail disagrees with the views of an Access Beneficiary, shall provide that Access Beneficiary with a written response setting out the reasons why Network Rail disagrees with the views of that Access Beneficiary.

5.3 *Facilitation by Access Beneficiaries*

Access Beneficiaries consulted under Condition G5.2 shall take all reasonable steps to make the consultation process effective, including:

- (a) the taking of all reasonable steps to provide Network Rail with such information as Network Rail reasonably requests in connection with the development of the proposal for Network Change under Condition G5.1; and
- (b) the provision to Network Rail of a response to Network Rail's consultation under Condition G5.2 in relation to the proposed Network Change within 30 days of being consulted by Network Rail, or such longer period as Network Rail may specify.

5.4 *Notice of intended Scope*

Once the consultation procedure set out in Conditions G5.2 and G5.3 has concluded, Network Rail may, if it wishes to proceed with the proposed Network Change using the Complex Projects Procedure, issue a notice of intended Scope to each Access Beneficiary which it considers may be affected.

5.5 *Response to notice of intended Scope*

Each Access Beneficiary that receives a notice of intended Scope from Network Rail under Condition G5.4 shall, within 30 days, or such longer period as Network Rail specifies, of the receipt of such notice, respond to Network Rail in writing stating either that it:

- (a) agrees to the Scope set out in the notice; or
- (b) does not agree to the Scope set out in the notice and it considers that there is a reasonable likelihood that, if the Scope were to be proposed as part of a Network Change under Condition G1, the Access Beneficiary would be likely to succeed in preventing the Network Change being established solely due to it being entitled to give notice under Condition G2.1.1 (a).

Any notice under (b) above that an affected Access Beneficiary does not agree to the Scope set out by Network Rail in the notice of intended Scope shall include the reasons why the affected Access Beneficiary does not so agree.

If an Access Beneficiary receives a notice of intended Scope from Network Rail under Condition G5.4 and fails to respond to Network Rail in writing within 30 days, or such longer period as Network Rail specifies, of the receipt of such notice, the affected Access Beneficiary shall be deemed to have agreed to the Scope as if the affected ~~Train Operator~~ [Access Beneficiary](#) had given notice to Network Rail under Condition G5.5(a).

5.6 *Failure to agree Scope*

If an Access Beneficiary does not agree to the Scope under Condition G5.5(b), then Network Rail and the Access Beneficiary may enter into discussions with a view to agreeing the Scope, including any changes to the Scope which may be appropriate. At any time after an Access Beneficiary serves a notice under Condition G5.5(b) any Access Party may refer the issue to the relevant ADRR Panel for determination in accordance with Condition G11.

5.7 *Effect of agreement of Scope*

Once the relevant Scope of the proposed Network Change has been agreed under Conditions G5.5 or G5.6 or determined under Condition G5.6 with an Access Beneficiary, that Access Beneficiary shall not be entitled to give notice to Network Rail subsequently under Condition G2.1.1(a) to challenge any elements of the Network Change to the extent included in the Scope except where there is a change to the Scope which is likely materially to affect the Access Beneficiary since the Scope was agreed under Conditions G5.5 or G5.6 or determined under Condition G5.6.

5.8 *Costs incurred by Access Beneficiaries due to the consultation process*

An Access Beneficiary shall be entitled to reimbursement by Network Rail of 100% of all costs reasonably incurred by that Access Beneficiary in complying with its obligations under Conditions G5.3 and G5.5. The costs shall be the minimum reasonably necessary for that Access Beneficiary to carry out the assessment.

5.9 *Further information regarding costs*

Each Access Beneficiary shall, upon request from Network Rail from time to time, provide Network Rail with written estimates of the costs of complying with its obligations under Conditions G5.3 and G5.5 including estimated costings of the work to be carried out and shall:

- (a) be entitled to require reasonable assurances of payment in respect of any material work to be carried out for the purposes of that evaluation before commencing such work; and
- (b) upon request from Network Rail from time to time, provide Network Rail with such information as may be reasonably necessary to enable Network Rail to assess the reasonableness of any estimate.

5.10 Accuracy of estimates

Each Access Beneficiary shall ensure that any estimates given by it are, so far as reasonably practicable, accurate on the basis of the information reasonably available to it.

5.11 Obligation to incur no further costs

An Access Beneficiary shall, if requested by Network Rail at any time, incur no further costs (except any costs which cannot reasonably be avoided) in respect of any consultation in respect of a proposed Network Change to which this Condition G5 applies.

5.12 Further agreement of Scope

If, at any time before Network Rail issues a notice of proposed change under Condition G1.1, Network Rail wishes to agree further elements of the proposed Network Change to be included in the Scope, Network Rail may issue further notices of intended Scope in respect of such further elements in accordance with Conditions G5.1 to G5.11 and once agreed or determined in accordance with Conditions G5.5 or G5.6 such further elements will be included in and form part of the Scope.

CONDITION G6 - PREPARATORY WORKS

6.1 Network Rail's obligations in relation to Preparatory Works

Network Rail may, if it wishes to proceed with a proposed Network Change using the Complex Projects Procedure, make proposals for the implementation of Preparatory Works under Condition G1, and except as provided in this Condition G6, Access Beneficiaries shall have the same rights in respect of such proposals as if each proposal of Preparatory Works was a separate Network Change proposal.

6.2 Obligations of Access Beneficiaries in relation to Preparatory Works

Each Access Beneficiary which is likely to be affected by the Preparatory Works shall take all reasonable steps to facilitate the Preparatory Works which are undertaken by Network Rail including by the taking of all reasonable steps to provide Network Rail with such information as Network Rail reasonably requests in connection with the development of the Preparatory Works.

6.3 Further Preparatory Works

If at any time Network Rail is reasonably of the view that further Preparatory Works are required, Network Rail shall propose such further Preparatory Works in accordance with this Condition G6.

CONDITION G7 - COMPLEX PROJECTS NETWORK CHANGE

If, having previously agreed or determined the Scope in accordance with Conditions G5.5 or G5.6, Network Rail wishes to implement a Network Change which it has progressed using the Complex Projects Procedure, it shall propose the Network Change in accordance with Condition G1.

CONDITION G8 - SHORT TERM NETWORK CHANGE

8.1 Reversal of a Short Term Network Change

- 8.1.1 An Access Beneficiary may request in writing that Network Rail reverse the effect of a Short Term Network Change before its Expiry Date if the effect of the Short Term Network Change would prevent the Access Beneficiary using the Network in a manner consistent with the reasonable expectations of that Access Beneficiary as to the future use of the relevant part of the Network.
- 8.1.2 The Access Beneficiary shall include with any notice requesting the reversal of the effect of a Short Term Network Change served under Condition G8.1.1 evidence to support the Access Beneficiary's claim of reasonable expectations as to the future use of the relevant part of the Network which requires that reversal.
- 8.1.3 The Access Beneficiary shall provide Network Rail with such further information as Network Rail may reasonably require to enable Network Rail to assess the reasonableness of the Access Beneficiary's request to reverse the effect of a Short Term Network Change.
- 8.1.4 Upon receipt of a notice to reverse the effect of a Short Term Network Change served under Condition G8.1.1, Network Rail shall:
 - (a) reverse the effect of the Short Term Network Change at its own cost by the later of the following:

- (i) the earlier of:
 - (A) the estimated timescale for reversal set out in the notice of proposed Network Change served under Condition G1.1; and
 - (B) the timescale within which Network Rail can complete the reversal without incurring any greater cost than would have reasonably been incurred by Network Rail had the effect of the Short Term Network Change been reversed in accordance with the estimated timescale for reversal set out in the notice of proposed Network Change served under Condition G1.1; or
- (ii) the earliest use for which the Access Beneficiary can demonstrate a reasonable expectation as to future use; or
- (b) respond to the Access Beneficiary in writing within 30 days stating that Network Rail does not believe that the effect of the Short Term Network Change is preventing the Access Beneficiary using the Network in accordance with the reasonable expectations of that Access Beneficiary as to the future use of the relevant part of the Network and giving reasons for its decision.

Network Rail shall not be liable to any Access Beneficiary if and to the extent that the date of the requested reversal is earlier than the date by which Network Rail must reverse the effect of the Short Term Network Change as calculated under Condition G8.1.4 (a).

8.2 Expiry of a Short Term Network Change

~~8.2.1~~ Network Rail shall restore at its own cost any part of the Network which has been subject to a Short Term Network Change to its original capability as set out in the notice of proposal for the Short Term Network Change by the Expiry Date unless and to the extent that:

- (a) a Network Change has been implemented in place of the Short Term Network Change; or
- (b) a further Short Term Network Change has been implemented.

8.3 Notification of reversal of a Short Term Network Change prior to the Expiry Date

8.3.1 Network Rail shall publish details of each Short Term Network Change which is reversed prior to the Expiry Date.

CONDITION G9 - CHANGES IMPOSED BY COMPETENT AUTHORITIES

Where Network Rail is required (other than at its own request or instigation) to implement a Network Change as a result of any Change of Law or any Direction of any Competent Authority other than the Office of Rail Regulation exercising any of its functions which do not fall within the definition of 'safety functions' as defined in section 4 of the Act:

- (a) Network Rail shall, except to the extent that the relevant Change of Law or Direction otherwise requires, comply with Conditions G1.1 and G1.2 (other than Condition G1.2(e)(iv)) in respect of that Network Change;
- (b) each Access Beneficiary shall make such alterations (if any) to its railway vehicles and its Services as are reasonably necessary to accommodate that Network Change and shall, except to the extent that the relevant Change of Law or Direction otherwise requires, comply with Conditions F2.1, F2.2 and F2.3 (other than Conditions F2.2(a)(vi) and F2.3.1(c)(v)(B) and (D));
- (c) subject to Condition G9(d), each Access Party shall bear its own costs or losses arising out of the implementation of the Network Change or the consequences thereof;
- (d) where Network Rail recovers compensation in respect of that Network Change from a Competent Authority or some other Governmental Body, it shall pay to Train Operators:
 - (i) where any compensation paid to Network Rail in relation to that Network Change is sufficient to cover the Relevant Costs of the Train Operator and of Network Rail, the Relevant Costs of the Train Operator; and
 - (ii) where such compensation is not so sufficient, such proportion of that compensation as the Train Operator's Relevant Costs bears to the sum of Network Rail's Relevant Costs and all the Train Operators' Relevant Costs in respect of that Network Change; and
- (e) Network Rail shall use reasonable endeavours to negotiate with the relevant Competent Authority or Governmental Body (as applicable) a level of compensation in respect of that Network Change which is sufficient to ensure that the Train Operator receives compensation for all of its Relevant Costs. Network Rail shall from time to time consult with the Train Operator and keep the Train Operator informed in reasonable detail of the progress of such negotiations.

CONDITION G10 - ESTABLISHMENT AND IMPLEMENTATION

10.1 *Implementation of a Network Rail proposed Network Change*

10.1.1 Network Rail shall be entitled to implement a proposed Network Change if:

- (a) it has not received a notice from any Access Beneficiary under Condition G2.1 by the relevant response date; or
- (b) it has received notice by the relevant response date from an Access Beneficiary under Condition G2.1 (c) and either the amount of any compensation referred to in Condition G2.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition G11; and
- (c) there is no other unresolved dispute under this Part G (whether under this Condition G10 or otherwise) as regards the proposed change between Network Rail and any affected Access Beneficiary.

10.1.2 Network Rail may, if it considers it expedient to do so in order to confirm whether or not Condition G10.1.1 has been satisfied, issue a notice to all affected Access Beneficiaries when it reasonably believes it is entitled to implement a proposed Network Change.

10.1.3 Network Rail's entitlement to implement a proposed Network Change shall be treated as confirmed 21 days after it has served a notice in respect of that Network Change in accordance with Condition G10.1.2 unless it receives notice from an Access Beneficiary within those 21 days disputing Network Rail's entitlement to implement that proposed Network Change under Condition G10.1.1 and giving full particulars of its reasons.

10.1.4 If Network Rail does not agree with the contents of a notice served by an affected Train Operator in accordance with Condition G10.1.3, Network Rail may:

- (a) refer the matter for determination pursuant to Part A of the Access Dispute Resolution Rules and Condition G11 shall apply; or
- (b) withdraw the proposed Network Change.

10.2 *Implementation of a Sponsor proposed Network Change*

10.2.1 The Sponsor shall be entitled to instruct Network Rail to implement a proposed Network Change if:

- (a) Network Rail has not given notice under Condition G4.1 by the relevant response date; or
- (b) Network Rail has given notice by the relevant response date under Condition G4.1.1 (c) and either the amount of any compensation referred to in Condition G4.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition G11; or
- (c) Network Rail has received notice from an Access Beneficiary under Condition G4.1.1(d) and either the amount of any compensation referred to in Condition G4.1 has been agreed, or resolved, or the method by which such compensation is to be calculated has been agreed or resolved under Condition G11; and
- (d) there is no other unresolved dispute under this Part G (whether under this Condition G10 or otherwise) as regards the proposed change between the Sponsor and any Access Party.

10.2.2 The Sponsor may, if it considers it expedient to do so in order to confirm whether or not Condition G10.2.1 has been satisfied, instruct Network Rail to issue a notice to all affected Access Beneficiaries when the Sponsor reasonably believes that it is entitled to instruct Network Rail to implement a proposed Network Change and Network Rail shall then serve such a notice within 7 days of the instruction.

10.2.3 The Sponsor's entitlement to instruct Network Rail to implement a proposed Network Change shall be treated as confirmed 35 days after Network Rail has served a notice in respect of that Network Change in accordance with Condition G10.2.2 unless:

- (a) Network Rail gives notice to the Sponsor within 35 days disputing the Sponsor's entitlement to require the implementation of that Network Change under Condition G10.2.1 and giving full particulars of its reasons; or
- (b) Network Rail receives notice from a Access Beneficiary within 21 days of the notice served by Network Rail disputing the Sponsor's entitlement to require the implementation of that Network Change under Condition G10.2.1 and giving full particulars of its reasons.

10.2.4 If the Sponsor does not agree with the contents of a notice served by Network Rail or an affected Access Beneficiary in accordance with Condition G10.2.3, the Sponsor may:

- (a) refer the matter for determination pursuant to Part A of the Access Dispute Resolution Rules and Condition G11 shall apply; or
- (b) withdraw the proposed Network Change.

10.3 *When a Network Change may not be implemented*

10.3.1 Network Rail shall not be entitled, and a Sponsor shall not be entitled to require Network Rail, to implement a proposed Network Change unless it is so entitled to implement, or require the implementation of that Network Change under Condition G10.1.1 or Condition G10.2.1.

10.3.2 For the purposes of the Conditions G10.1.1 and G10.2.1, unresolved disputes shall include:

- (a) a notice has been served under Condition G2.1.1(a) or (b) or Condition G4.1.1(a) or (b) which has not been withdrawn, resolved under Condition G11 or agreed not to apply; and
- (b) a notice has been served under Condition G2.1.1(c) or Condition G4.1.1(c) or (d) which has not been agreed or resolved as referred to in Condition G10.1.1(b) or G10.2.1 (b) or (c) or otherwise agreed, resolved or withdrawn.

CONDITION G11 - APPEAL PROCEDURE

11.1 *Right of referral to relevant ADRR Panel*

If any Access Party is dissatisfied as to:

- (a) any matter concerning the operation of the procedure in this Part G;
- (b) the contents of any notice given under Condition G2.1, G4.1, ~~or (e), G5.5,~~ G8.1.1 or G10 (and, in particular, the amount of any compensation referred to in those Conditions);
- (c) any estimate referred to in Condition G1.6 or ~~G3.6,~~ 3.6;
- (d) the:
 - (i) proposed Expiry Date; or
 - (ii) estimated timescale in which a Short Term Network Change can be reasonably reversed,

in a notice of proposed Network Change given under Condition G1.1; or

- (e) the reasons given by Network Rail as to why it does not believe that the effect of the Short Term Network Change is preventing the Access Beneficiary using the Network in accordance with the reasonable expectations of that Access Beneficiary as to the future use of the relevant part of the Network under Condition G8.1.4 (b).²

that Access Party may refer the matter to the relevant ADRR Panel for determination under Part A of the Access Dispute Resolution Rules.

11.2 *Right of appeal*

If any Access Party or Potential Access Party is dissatisfied with any decision of the relevant ADRR Panel in relation to any matter referred to it under Condition G11.1, that Access Party may refer the matter to the Office of Rail Regulation for determination under Part M.

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