Dated 23 July 1995

THE OPERATORS NAMED IN SCHEDULE 1

- and -

RAIL SETTLEMENT PLAN LIMITED

TICKETING AND SETTLEMENT AGREEMENT

VOLUME 1

THE MAIN AGREEMENT
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THIS AGREEMENT is entered into on 23 July 1995 BETWEEN:-

(1) **THE OPERATORS** listed in Schedule 1 to this Agreement; and

(2) **RAIL SETTLEMENT PLAN LIMITED** whose registered office is at 2nd Floor, 200 Aldersgate Street, London, EC1A 4HD

RECITALS:-

(A) Each of the Operators has been granted a licence under the Railways Act 1993 to carry passengers on trains on the railway network.

(B) This Agreement is being entered into to set out various arrangements between the Operators relating to the carriage of passengers and the retailing of tickets.

(C) The RSP is entering into this Agreement to provide various services to the Operators, including the clearance and settlement of revenues resulting from the Sale of Rail Products and the carriage of passengers.

(D) This Agreement is divided into various Chapters, each dealing with a separate aspect of retailing, carriage and settlement, as follows:-

| Chapter 1: | Status of this Agreement: this Agreement is a contract between each of the Operators and the RSP. |
| Chapter 2: | Definitions: a large number of defined terms are used in this Agreement. When a word has a special definition it appears with a capital letter and in bold print. All the definitions used in this Agreement are collected together in Chapter 2. |
| Chapter 3: | General provisions: this Chapter includes provisions of general application relating to matters such as confidentiality and service of documents on the parties. |
| Chapter 4: | Introduction of Rail Products and Non-Rail Products: the Operators have freedom to design their products, although in some cases one Operator is |
able to set a **Through Fare** and/or **Inter-available Fare** which must be honoured by other carriers.

**Chapter 5:** **Ownership of product brands and software licensing:** the **RSP** owns the rights to use certain names, computer software and copyright works and in this Chapter licenses them to the **Operators**.

**Chapter 6:** **Retailing:** amongst other things, this Chapter gives each **Operator** the right to **Sell** any **Permanent Fare**. There are also obligations on **Lead Retailers** at **Regulated Stations** to offer certain **Fares** for **Sale**.

**Chapter 7:** **Methods of payment:** this Chapter imposes obligations on **Operators** to accept certain methods of payment together with provisions relating to the treatment of **Credit Cards** and **Warrants**.

**Chapter 8:** **The contract with the passenger:** this Chapter creates an agency relationship between the **Operators**, enabling any **Operator** to commit another **Operator** to a contract of carriage.

**Chapter 9:** **Retailing by third parties:** this sets out the ability of travel agents and other third parties to **Sell Fares** and other products.

**Chapter 10:** **Carriage of passengers:** this Chapter sets out the obligations that **Operators** have to honour **Fares**.

**Chapter 11:** **Revenue allocation:** the principles of revenue allocation between **Operators** are set out in this Chapter.

**Chapter 12:** **Settlement:** this Chapter sets out the procedures for the settlement of revenue between the **RSP** and the **Operators**.

**Chapter 13:** **Review of the operation of this Agreement:** a two-year review is to be carried out

**Chapter 14:** **Breaches of this Agreement:** enforcement of the rights and obligations of the parties is subject to consideration by the **ATOC Schemes Committee**, followed (if necessary) by arbitration or expert determination.
Chapter 15: The decision-making process: this Chapter establishes the ATOC Ticketing and Settlement Scheme Council, the Retail Agents Scheme Council, the Ticketing and Settlement Steering Group, the Retail Agents Scheme Management Group and the Ticketing and Settlement Scheme Groups. It also explains how they operate and contains provisions which protect an Operator from unfairly prejudicial conduct by the other Operators.

THE OPERATORS AND THE RSP AGREE AS FOLLOWS:-
CHAPTER 1: STATUS OF THIS AGREEMENT

1-1 BINDING NATURE OF THIS AGREEMENT

This Agreement is a contract entered into as a principal by each of the Operators with the RSP and with each other. The RSP is not, however, a party to Chapter 15.

1-2 APPROVAL OF THIS AGREEMENT

(1) By the Regulator or the Authority

Prior to 1 February 2001 the Regulator has approved the parts of this Agreement which constitute arrangements requiring his approval under Condition 7 of the Licence granted to each of the Operators and on or after 1 February 2001 the Authority has approved the parts of this Agreement which constitute arrangements requiring its approval under Condition 4 of the Licence granted to each of the Operators.

(2) By the Authority

Each of the Franchise Operators is required by the Authority to enter into this Agreement pursuant to the Franchise Agreement entered into by it or by a holding company of it.
CHAPTER 2: DEFINITIONS

2-1 DEFINED TERMS

Unless the context otherwise requires, in this Agreement the words and expressions defined in Clause 2-2 below have the meanings given to them in that Clause.

2-2 THE DEFINITIONS

“Accepted for Clearing” means:-

(a) in relation to an RSP-settled Product or an RSP-settled Refund, subject to Clause 12-32(1) below, that:-

   (i) the information referred to in Clauses 12-3, 12-4, 12-5, 12-6, 12-7 or, as the case may be, 12-8 below has been received by the RSP in respect of that RSP-settled Product or RSP-settled Refund in accordance with Clause 12-9 below (or the terms of the Clearance Agreement or ATP Agreement entered into by the ATOC Travel Agent, ITX Travel Agent or Approved Third Party which Sold it or, as the case may be, the ATOC Self-ticketing Licensee to which it was Sold); or

   (ii) the RSP has decided to accept that RSP-settled Product or RSP-settled Refund for clearing pursuant to Clause 12-11 below (or pursuant to such a Clearance Agreement or ATP Agreement); or

   (iii) the RSP has re-created the information pursuant to Clause 12-13 below (or pursuant to such a Clearance Agreement or ATP Agreement); and

(b) in relation to an Inter-User Payment which the RSP has agreed to clear, that :-

   (i) the information specified by it from time to time, generally or in any particular case, has been received by it in respect of that Inter-User Payment in the format and in accordance with the procedures specified by it from time to time, generally or in any particular case; or
(ii) the RSP has decided to accept the Inter-User Payment for clearing pursuant to Clause 12-16 below (or, if it is payable by Rail Staff Travel Limited, pursuant to the ATP Agreement entered into by it).

“Accept for Clearing”, “Acceptance for Clearing” and “Accepting for Clearing” are to be construed accordingly.

“Accession Agreement” means an agreement substantially in the form of Part I of Schedule 2 (other than any provisions which may be deleted in accordance with Part I of that Schedule).

“Accreditation” means that the Internet Site, Telephone Sales Office or Site has been approved by the Ticketing and Settlement Scheme Council as meeting or capable of meeting the appropriate ATOC Standard.

“Act” means the Railways Act 1993 as amended by the Transport Act and any regulations or orders made under it, including any modification, re-enactment or re-making thereof or supplement thereto.

“Adjustment Amount” has the meaning given to it in Clause 11-14(3)(b) below.

“Advance Purchase Train-specific Fare” means a fare which:

(a) requires the Purchaser to travel on a particular train for the outward journey or, where relevant, a particular train for the return journey; and

(b) may only be Purchased before the departure of the train for which the Fare is valid, or where the Fare includes travel on more than one train, the first train for which the Fare is valid.

“Advice Date” means, with respect to a Settlement Period, the ninth Business Day after the last day of that Settlement Period.

“Agent’s Fee” means the fee payable to the ATOC Retail Agent as provided from time to time under the New ATOC Licence.

“Agent’s Fee Voting Percentage” in respect of each Operator means for the purposes of Clause 15-58(4) the total income (exclusive of VAT) excluding Sales of Season Ticket Fares received by
that **Operator** in respect of the final thirteen complete **Settlement Periods** in the most recent complete financial year of the **RSP**, divided by the total income (exclusive of **VAT**) excluding **Sales of Season Ticket Fares** received by all the **Operators** in respect of the final thirteen complete **Settlement Periods** in the most recent financial year of the **RSP**, expressed as a percentage.

“**Annual Letter of Assurance**” has the meaning given to it in paragraph 4.1 of Schedule 38 below.

“**Annual Survey**” means the survey commissioned annually by the **Ticketing and Settlement Scheme Council** under Clause 6-42 and Clause 2 of Schedule 44 to determine whether **Operators** are complying with their obligations under Clause 6-30 and Schedule 44.

“**Approved Information System**” means a computer system on which train times and/or the **Fares** that may be **Sold**, together with the **Prices** and other **Rights and Restrictions** applicable to them, are recorded and which complies with the criteria for such systems specified from time to time by the **RSP**, either generally or in any particular case.

“**Approved Reservation System**” means a computer system on which the availability of, requirements for and/or issue of **Reservations** and/or **Upgrades** is recorded and which complies with the criteria for such systems specified from time to time by the **RSP**, either generally or in any particular case.

“**Approved Third Party**” means a person (other than the **RSP**) who is a party to an **ATP Agreement**.

“**Approved TIM**” means a **TIM** (including a **Self-service TIM**) which complies with the criteria for approved **TIMs** specified from time to time by the **RSP**, either generally or in any particular case.

“**APTIS Machine**” means the **TIM** known as “**APTIS**”.

“**Associate**” has the meaning given to it in the Articles of Association of the **RSP** as at the date of this Agreement.

“**ATOC**” means the Association of Train Operating Companies formed under the constitution signed by the **Operators** and others and dated 23 July 1995.

“**ATOC Accreditation Mark**” means the mark that indicates the **Internet Site, Telephone Sales Office** or **Site** has been accredited by the **Ticketing and Settlement Scheme Council**.
“ATOC Dispute Resolution Rules” means the rules of that name dated 23 July 1995 agreed to by the Operators, including any modification or replacement of them or supplement to them from time to time.

“ATOC Licence” means an agreement substantially in one of the forms set out in Parts II, III and IV of Schedule 27 which authorises a person to Sell Rail Products and/or make Refunds on behalf of the Operators or in the case of an ATOC Self-ticketing Licensee, to Purchase Rail Products and which, in each case, requires the settlement of revenues arising from the Sale of those Rail Products to take place through the RSP.

“ATOC Retail Agent” means an agent authorised to Sell Rail Products and/or make Refunds and/or provide train service information under the terms of a New ATOC Licence.

“ATOC Scheme” means an agreement entered into by some or all of the members of ATOC in relation to a particular matter as contemplated by the constitution of ATOC.

“ATOC Schemes Committee” means the committee of that name established pursuant to the ATOC Dispute Resolution Rules.

“ATOC Secretariat” means the secretariat established pursuant to the constitution of ATOC.

“ATOC Self-ticketing Licensee” means a person with whom an ATOC Licence substantially in the form of Part III of Schedule 27 and pursuant to which that person Purchases Fares and Reservations solely for use by its employees and/or employees of other companies within the same group of companies has been entered into and not terminated.

“ATOC Standard” means the ATOC Standards shown from time to time in Schedule 44.

“ATOC Ticketing and Settlement Scheme” has the meaning given to it in Clause 15-1 below.

“ATOC Travel Agent” means a person with whom an ATOC Licence substantially in the form of Part II of Schedule 27 has been entered into and not terminated.

“ATOC Travel Agent Credit” has the meaning given to it in Clause 12-50(1) below.
“ATP Agreement” means an agreement which, amongst other things:-

(a) authorises a person who is not an Operator to Sell Rail Products that entitle the Purchasers of them to use the Operators’ trains, requires the settlement of revenues arising from the Sales of such Rail Products to take place through the RSP and permits payments due from that person to any of the Operators to be settled through the RSP; and

(b) authorises the Operators to enter into agreements on behalf of that person which entitle the other parties to them to obtain goods or services from that person.

“Audit Committee” means the RSP Board Risk and Audit Committee.

“Audit Sub-Committee” means the Risk and Audit Sub-Committees established by the RSP Board to review the audit activities of the RSP. The three Ticketing and Settlement Scheme Groups are constituted as an Audit-Sub-Committee at each of their meetings.

“Authority” means the Strategic Rail Authority established by Section 201 of the Transport Act.

“Basic Product” means a Rail Product which is defined as such in Clause 6-13 below.

“BRIL” means British Rail International Ltd.

“Business Day” means a day (other than a Saturday or a Sunday) on which banks are open for business in London.

“CAPRI / Lennon” means the family of computer programs known as such (including the systems known as “APOLS” and “APCAP”), all rights in respect of which are owned by the RSP, as modified, supplemented or replaced from time to time.

“Cessation Agreement” means an agreement substantially in the form of Schedule 3.

“Chargeback” means a claim by a Credit Card Company that a sum (other than Credit Card Commission) is due to it from an Operator under a Credit Card Agreement with that Operator,
whether or not the Credit Card Company also claims to be entitled to set that sum off against the amount due from it under that agreement.

“Child” means an individual who has not attained the age of sixteen.

“CIV Rules” means the Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail as set out in the Convention concerning International Carriage by Rail (also known as COTIF).

“Claims Handling Agreement” means the Claims Handling and Allocation Agreement dated 1 April 1994 and made between the British Railways Board, Railtrack PLC, Gatwick Express Railway Company Limited, EPS and Railway Claims Limited and any other agreement which replaces it.

“Clearance Agreement” means an agreement or part of an agreement relating to the clearance of sums (whether or not relating to Rail Products or Non-Rail Products) through the RSP in such form as the RSP may approve from time to time, either generally or in any particular case, or, in the case of an ATOC Licence or an ATP Agreement, the part of that document which relates to those matters.

“Commencement Date” means, with respect to an Operator, the date referred to in Clause 3-1(1) below.

“Companies Act” means the Companies Act 1985 and any regulation or order made under it, including any modification, re-enactment or re-making thereof or supplement thereto.

“Compulsory Inter-available Flow” means any Flow other than those:-

(a) referred to in Schedule 8; or

(b) specified by the Authority in an Inter-availability Direction.

“Compulsory Settlement Amount” has the meaning given to it in Clause 12-33 below.

“Copyright Works” means the copyright works listed in Part II of Schedule 15.

“Creating”, in relation to a Fare, a Non-Rail Product or a Discount Card, has the meaning given to it in Clauses 4-3, 4-37 and 4-40 below respectively. “Create”, “Created” and “Creation” are to be construed accordingly.
“Creating Operator” has the meaning given to it in paragraph 1.1 of Part II, III, IV or, as the case may be, V of Schedule 4.

“Credit” has the meaning given to it in Clause 11-1(2)(b) below.

“Credit Card” means a card (including a debit card), coupon or other document or thing (other than a Warrant, a Voucher, a Permit to Travel or a National Transport Token) which is issued by a person who undertakes that where, on its production to a third party, the third party supplies goods or services, he will pay the third party for them (whether or not after deducting any discount, commission or other amount).

“Credit Card Agreement” means an agreement entered into between a Credit Card Company and an Operator which sets out the terms on which that Operator will accept a Nominated Credit Card and on which the Credit Card Company will make payments to the Operator.

“Credit Card Commission” means the charge (including any applicable VAT), whether expressed as a discount, commission or another amount, payable by an Operator to a Credit Card Company in return for it providing services to that Operator under a Credit Card Agreement.

“Credit Card Company” means, in relation to a Nominated Credit Card, the company specified as such in Schedule 20 in relation to that Nominated Credit Card and, in relation to any other Nominated Credit Card, the person which, in respect of that Credit Card, performs functions which are equivalent to those performed by the companies specified in Schedule 20.

“Credit Card Refund” means a Refund which involves the person making it agreeing to arrange for an account held with a Credit Card Company to be credited with the amount of the Refund.

“Credit Criteria” has the meaning given to it in Clause 9-3(2) below.

“Criteria” means the criteria for the application of the Reserve Powers set out in Schedule 43.

“Current Credit” has the meaning given to it in Clause 11-14(2)(b) below.

“Current Settlement Period” has the meaning given to it in Clause 11-14(3)(a) below.
“Custodian” means the person appointed from time to time by the RSP for the purpose of holding a copy of CAPRI / Lennon and ORCATS pursuant to Clause 11-29(3) below.

“Custodian Agreement” means the agreement under which the Custodian is appointed.

“Debit” has the meaning given to it in Clause 11-1(2)(c) below.

“Decision” has the meaning given to it in Clause 15-66(2).

“Dedicated Fare” means a Fare which entitles the Purchaser to use the trains of a single Operator only.

“Dedicated Information Centre” means an Information Centre in relation to which the Operator responsible for it makes it clear to persons who visit the Information Centre that it does not give impartial advice about Rail Products there.

“Dedicated Point of Sales” means a point of sale (otherwise than on a train), a Telephone Sales Office, an Internet Site or a Site at which (in any case) Rail Products are Sold in person or by electronic means and that is designated in such a way that it is clear to potential Purchasers that the Operator which is responsible for it does not give impartial advice about Rail Products, or Sell Rail Products on an impartial basis, at that point of sale.

“Dedicated Ticket” means a Ticket which evidences a Dedicated Fare.

“Default Allocation” has the meaning given to it in Clause 11-31(2) below.

“Default Rate” means the rate of four per cent. per annum above the base rate from time to time published by the RSP’s sole or main bankers or, if higher, in relation to any overdue amount, a rate per annum equal to the cost to the RSP of funding that amount.

“Defaulting Operator” has the meaning given to it in Clause 12-43(1) below.

“Directors’ Control Statement” means a statement to be produced annually by an Operator outlining how the directors’ have achieved compliance with the Agreement and the Operator Control Objectives.
“Disabled Railcard” means the Discount Card known as the “Disabled Persons’ Railcard”, or any Discount Card which replaces it from time to time.

“Discount Card” means a document (other than a Warrant, a Voucher, a Permit to Travel or a National Transport Token) which entitles the Purchaser of it to Purchase a Fare at a lower price than would otherwise apply.

“Discount Card Agreements” means:-

(a) the agreements known as the “National Railcard Schemes”, listed in Schedule 39 and entered into between each of the persons who are Operators at the date of this Agreement;

(b) the agreement known as the “Network Card Scheme” dated 23 July 1995 and entered into between the Operators named in that agreement; and

(c) any other agreement(s) entered into between the relevant Operators modifying, supplementing or replacing them or otherwise relating to the Sale of Discount Cards at the date of this Agreement and/or the sharing of revenues deriving from such Sales.

“Discount Card Scheme Council” means, in respect of any Discount Card, the group of Operators referred to as such in the agreements known as the “National Railcard Schemes” or as the “Network Card Scheme” and referred to in the definition of Discount Card Agreements.

“Discount Scheme” means an arrangement whereby, upon presentation of a document (other than a Warrant, a Voucher, a Permit to Travel, a Ticket or a National Transport token) the holder of the document is entitled to Purchase a Fare at a lower price than would otherwise apply.

“Disputes Secretary” has the meaning given to it in Clause 15-67(2) below.

“Duplicate Discount Card” means a Discount Card issued by or on behalf of an Operator, an ATOC Travel Agent or an Approved Third Party to replace a Discount Card which has been, or is alleged to have been, lost, stolen or defaced.

“Duplicate Ticket” means a Ticket issued by or on behalf of an Operator, an ATOC Travel Agent, an ITX Travel Agent, an ATOC Self-ticketing Licensee or an Approved Third Party to replace a Ticket which has been, or is alleged to have been, lost, stolen, defaced or malfunctioning.
“**Electronic Ticket**” means a Ticket stored on a:

(i) smartcard (including an Oyster or ITSO card);
(ii) payment card or identity card;
(iii) mobile telephone or tablet device;
(iv) personal organiser;
(v) other mobile electronic device; or
(vi) database, in conjunction with an authorised Contactless Bank Card

“**Electronic Warrant**” means the use of an account number provided by the **Warrants Administrator** which authorises the **Warrant Account Holder** to purchase **Rail Products** or other goods and services in accordance with a **Warrant Agreement**.

“**Electronic Warrant Data**” means information specified by **RSP** relating to an **Electronic Warrant** transaction capable of transmission in a format specified by or acceptable to **RSP**.

“**EPS**” means European Passenger Services Limited.

“**EPS Partners**” means SNCF, SNCB and Eurotunnel plc.

“**e-Ticket Fare**” means a **Fare** that may only be evidenced by an **Electronic Ticket**.

“**European Operator**” means a person (other than an **Operator**) which provides passenger train services on an **International Journey**.

“**Excess Fare**” means a variation in the **Rights and Restrictions** applicable to a **Fare** which has the effect of converting that **Fare** into another **Fare**.

“**Exchange Order**” means a **Warrant**, issued by agreement with an **Operator**, which may only be exchanged for a **Discount Card** and for which the relevant **Warrant Account Holder** is invoiced at a discount.

“**Experimental Change**” in respect of a **Ticket Office** means a change by the **Operator** which is responsible for that **Ticket Office** to:-

(a) the range of **Rail Products Sold** at that **Ticket Office**;
(b) the ability of that Ticket Office to Sell Reservations; or

(c) the opening hours of that Ticket Office,

which represents an enhancement to that Operator’s obligations under Clause 6-14 below.

“Fare” means the right, exercisable against one or more Operators (and, where applicable, another person or persons), subject to the Rights and Restrictions applicable to it and the payment of the relevant Price (less any applicable discounts):-

(a) to make one or more journeys on the Network (whether or not together with other rights); or

(b) to carry on such a journey an item of luggage or an animal, where this right does not arise (except on the payment of a fee) under the National Rail Conditions of Travel or, as the case may be, the CIV Rules or any additional conditions that are applicable,

and, where applicable, to obtain other goods or services from an Operator or another person or persons. However, it does not include an Excess Fare or any rights that are evidenced by a London Concessionary Travel Permit that is issued under the London Concessionary Travel Scheme.

“Fares Manual” has the meaning given to it in Clause 4-58(1).

“Fares Setting Round” has the meaning given to it in Clause 4-1(1) below.

“Fare Type” means the name used to describe a particular type of Fare, for example, “ordinary”, “super-saver”, “APEX”, “cheap-day return” and “open”.

“Final Payment” has the meaning given to it in Clause 12-35(1) below.

“Final Permanent Fares” has the meaning given to it in paragraph 16.1 of Part I of Schedule 4.

“First Class Fare” means a Fare which has been designated pursuant to Clause 4-6(1) below as having “first class” as its National Class of Accommodation.

“Flow” means the Permitted Route or group of Permitted Routes from one Station to another and, where relevant, via any other Station(s) and/or within a particular geographical area or areas, as
specified in the Fares manuals used by the Operators at the date of this Agreement or, as the case may be, as introduced pursuant to Clause 4-7 below. Where the Permitted Route(s) between two Stations require(s) a passenger to travel via somewhere, such Permitted Route(s) constitute a different Flow from the Permitted Route(s) between the same Stations which require a passenger to travel via somewhere else or which do not require him to travel via any particular place.

“Force Majeure Event” has the meaning given to it in Clause 3-19(2) below.

“Foreign Railways” means a European Operator which does not account for revenue in respect of Sales of Rail Products to ISSP by means of the Bureau Central de Compensation.

“Franchise Agreement” means:-

(a) an agreement entered into with the Franchising Director pursuant to Section 23 of the Act; or
(b) an agreement entered into with the Franchising Director in the exercise by the Franchising Director of his duty under Section 30(1) of the Act;

“Franchise Operator” means:-

(a) a person providing railway passenger services under a franchise agreement made pursuant to Section 23 of the Act; or
(b) a person providing railway passenger services which the Authority is under a duty to secure the provision of pursuant to section 211 of the Transport Act or is the Authority itself or a company formed by the Authority under section 222 of the Transport Act.

“Franchising Director” means the Director of Passenger Rail Franchising where this term is included for historical purposes only and any reference to the Franchising Director from 1 February 2001 refers to the Authority in terms of Section 215 and Schedule 16 of the Transport Act.

“Full Fare” means, except when used in the National Rail Conditions of Travel:-

(a) a Fare which is a Permanent Fare at the date of this Agreement and which is classified by the RSP as a full fare on that date; and
(b) any other Fare which the RSP classifies as a full fare, having regard to the way in which other Fares are classified.

“Historical Settlement Amount” means, with respect to an Operator and for a particular Settlement Period, an amount equal to that Operator’s Compulsory Settlement Amount for the equivalent Settlement Period in the preceding year, but disregarding any Credits or Debits in respect of:

(a) TTL;

(b) BRIL;

(c) the ATOC Travel Agents, the ITX Travel Agents, the Approved Third Parties, the European Operators and ATOC Self-ticketing Licensees; and

(d) Travel and Rail Marketing Company, a division of the British Railways Board (or any company to which all or substantially all of its business is transferred) pursuant to a transfer scheme made under Section 85 of the Act.

For the purposes of this definition:

(i) the Compulsory Settlement Amount will be calculated by disregarding paragraphs (b) and (c) of Clause 12-33 below and any Private Settlement Credits or Credits in respect of Non-Rail Products that were received by that Operator in the relevant Settlement Period;

(ii) the Compulsory Settlement Amount of an Operator in relation to any Settlement Period(s) before its Commencement Date will be estimated by the RSP, having regard to:

(1) any information about the Flow(s) on which that Operator runs trains (whether supplied by it or by any other person); and/or

(2) that Operator’s Compulsory Settlement Amount in relation to any Settlement Periods after its Commencement Date; and/or
(3) the Compulsory Settlement Amounts or Historical Settlement Amounts of any other Operator(s) which provide passenger rail services on the same Flow(s) or any comparable Flow(s).

“Impartial Information Centre” means an Information Centre which is not a Dedicated Information Centre.

“Impartial Point of Sales” means a point of sale (otherwise than on a train) a Telephone Sales Office, an Internet Site or a Site at which (in any case) Rail Products are Sold in person or by electronic means which is not a Dedicated Point of Sale.

“Improvement Action” means the work that the Operator must carry out pursuant to the Plan to improve performance of its obligations under Clause 6-30 and Schedule 44; or which an Operator may be required to carry out pursuant to the exercise by the Ticketing and Settlement Scheme Council of its Reserve Powers.

“Improvement Milestones” means the dates set out in the Plan by which an Operator must complete specified Improvement Action activities.

“Income Allocation Dispute Rules” means the Rules established by the ATOC Schemes Committee for the resolution of disputes as to Percentage Allocations pursuant to Clause 11-16(1).

“Information Centre” means a place, including an Internet Site or a Site operated by or on behalf of an Operator at which information about Rail Products is given in person but at which Rail Products are not Sold.

“Initial Permanent Fares” has the meaning given to it in paragraph 7.1 of Part I of Schedule 4.

“Inter-availability Direction” means a direction made by the Authority as referred to in Clause 4-26(1) below.

“Inter-available Fare” means a Fare which entitles the Purchaser of it, in making a journey, to choose between the trains of more than one Operator.

“Inter-User Payment” means any of the sums referred to in Clauses 12-15(1) and 12-29 below.
“Interim Payments” means, in respect of an Operator, the amounts due on the Interim Payment Dates to or from that Operator pursuant to Clause 12-31 below.

“Interim Payment Date” means each of the dates specified as such in Part I of Schedule 34 or, as the case may be, by the RSP pursuant to Clause 12-30(2) below.

“International Journey” means a journey which starts or finishes on the Network in Great Britain but includes rail travel outside Great Britain in a country which is a member of the Convention concerning International Carriage by Rail (also known as COTIF).

“International Marketing Agents” means the person or persons, appointed by the Operators from time to time to Sell Rail Products:

(i) outside the United Kingdom; and/or

(ii) within the United Kingdom which have been created under the auspices of the UIC; and which

(iii) in each case, the Operators are bound to honour.

“Internet Site” means a site on the World Wide Web operated by or on behalf of an Operator or an Approved Third Party where information about Rail Products can be obtained and through which Rail Products may be offered for Sale.

“ISSP” means the person (if any) appointed as international settlement service provider by the RSP from time to time.

“ITX Fare” has the meaning given to it in Clause 9-14 below.

“ITX Travel Agent” means a person with whom an ATOC Licence substantially in the form of Part IV of Schedule 27 for the Sales of ITX Fares as part of its own rail inclusive leisure packages, has been entered into and not terminated.

“Last Vesting Date” means the date specified by the Franchising Director as the date on which, in his opinion, the transfer of the British Railway Board’s passenger railway business to companies owned by the British Railways Board or other persons has been substantially completed.
“**Lead Operator**” means, subject to Clause 4-55 below, in respect of a **Compulsory Inter-available Flow**, the **Operator** determined as such in accordance with Clauses 4-19 and 4-28 below.

“**Lead Retailer**” has the meaning given to it in Clause 6-1 below, subject to Clause 6-3 below.

“**Licence**” means a licence granted under Section 8 of the **Act** to have the management of trains which are used on the **Network** in Great Britain for the purpose of carrying passengers by rail.

“**Licence Matters**” means any matter, other than in respect of the **Agent’s Fee**, on which a resolution needs to be passed or a decision taken relating to the management and administration of licences issued by the **Retail Agents Scheme**, approval of the annual budget associated with the management and administration of licences issued by the **Retail Agents Scheme** and changes to licences (and any schedules thereto including as to standards and their monitoring) issued by the **Retail Agents Scheme**.

“**Licence Voting Percentages**” in respect of each **Operator** means for the purposes of Part XV of Chapter 15, the total income (exclusive of **VAT**) received by that **Operator** from **Sales** made under the relevant category of **ATOC Licence** or **New ATOC Licence** in respect of the final thirteen complete **Settlement Periods** in the most recent complete financial year of the **RSP**, divided by the total income (exclusive of **VAT**) received from such **Sales** in respect of the final thirteen complete **Settlement Periods** in the most recent financial year of the **RSP** from the relevant category of **ATOC Licence** or **New ATOC Licence** by all the **Operators**, expressed as a percentage.

“**Local Authority**” means a county council, a district council or a London borough council.

“**LRT Scheme**” means the agreement of that name dated 23 July 1995 between each of the persons who are **Operators** at the date of this Agreement.

“**Major Flow Operator**” has the meaning given to it in Clause 4-32 below.

“**Manual Allocation**” means an agreed **Percentage Allocation** for a **Rail Product**, determined in accordance with Part III of Chapter 11.

“**Manual Allocation Files**” means any of the computer files contained on the floppy disks marked as such and deposited with the **Custodian** for safekeeping.

“**Manual Warrant**” means a document:-
(a) which is not a Voucher, a National Transport Token or a Permit to Travel; and

(b) which entitles the holder to Purchase a Rail Product or any other goods or services in exchange for the surrender of the document; and

(c) which is issued in a form specified by the RSP from time to time and in accordance with a Warrant Agreement.

“Marketing and Promotion Plan” means a plan substantially in the form (as amended from time to time) set out in Part VI of Schedule 27 / required by a New ATOC Licence.

“Marks” has the meaning given to it in Clause 5-3(1) below.

“Material Breach” means a breach by an Operator of its obligations under the Ticketing and Settlement Scheme or, as the case may be, the Retail Agents Scheme which is reasonably likely to result in

(a) the Ticketing and Settlement Scheme or, as the case may be, the Retail Agents Scheme being unable to fulfil, to a material extent, the objectives for which it has been established; or

(b) material loss to one or more of the Operators or the Approved Third Parties.

“Maximum Amount” means an amount equal to 1% of the total commission earned pursuant to Clause 6-21 below in the most recent completed financial year of the RSP by an Operator from Sales of Rail Products at Regulated Stations.

“Monitoring Arrangements” has the meaning given to it in Clause 14-1 below.

“National Classes of Accommodation” means:-

(a) “first class”; and

(b) “standard class” (which is the class with the less favourable amenities).
“National Rail” means the national network of passenger train services provided by the Operators.

“National Rail Conditions of Travel” means the conditions of carriage set out in Schedule 24, including any supplement to them and any modification or replacement of them.

“National Standard Rates of Commission” has the meaning given to it in Clause 6-22(1) below.

“National Timetable” means the information about publicly advertised passenger train services (as ultimately derived from the Train Services Database operated by Railtrack PLC) that is supplied to the RSP by Railtrack PLC pursuant to the Train Services Data Agreement.

“National Transport Token” means a token issued by National Transport Tokens Limited which may be exchanged by the bearer of that token as payment or part payment for a journey on the Network.

“Network” means the part of the network (as defined in Section 83(1) of the Act) that is situated in Great Britain and on which the Operators run trains from time to time.

“New ATOC Licence” means an agreement substantially in the form set out in Part VI of Schedule 27 which authorises an ATOC Retail Agent to Sell Rail Products and/or make Refunds and/or provide train services information and which requires the settlement of revenues arising from the Sale of those Rail Products to take place through the RSP.

“New Credit” has the meaning given to it in Clause 11-14(3)(b) below.

“Nominating Operator” has the meaning given to it in Clause 7-4(1) below.

“Nominated Credit Card” means a Credit Card that is designated as such by the RSP from time to time pursuant to Clauses 7-4 to 7-6 below.

“Non-Defaulting Operators” has the meaning given to it in Clause 12-43(2) below.

“Non-Rail Product” means rights to goods or services (other than a journey on the Network using the Operators’ trains) which are not included within a Fare but which the person against whom they are exercisable has agreed may be sold by the Operators (or some of them), whether or not at the same time as the Sale of a Fare.
“Number of Payments” has the meaning given to it in Clause 12-31(1)(a)(ii) below.

“Open-Access Operator” means an Operator which is not a Franchise Operator but which has agreed to be bound by the provisions of this Agreement that are specified in the Accession Agreement (and, where relevant, the Supplemental Accession Agreement) it has signed, other than any provisions referred to in a Cessation Agreement signed by it.

“Operator” means any person, other than the RSP, which is bound by this Agreement, or part of it.

“Operator Control Objectives” has the meaning give to it in paragraph 1.1 of Schedule 38 below.

“Operator Management Audit” has the meaning given to it in paragraph 5.1 of Schedule 38 below.

“Operator TSA Audit Procedures” means a set of audit procedures provided to RSP annually by each Operator that sets out how the Operator will provide objective verification of the assurances provided in the Directors’ Control Statement and the Annual Letter of Assurance.

“Oppressed Operators” has the meaning given to it in Clause 15-67(1) below.

“ORCATS” means the suite of computer programs known as such, all rights in respect of which are owned by the RSP, as modified, supplemented or replaced from time to time in accordance with this Agreement. For record purposes a copy of the programs is held by the Custodian.

“ORCATS Allocation” has the meaning given to it in Clause 11-28 below.

“ORCATS Run” means the procedure described in Clause 11-26(2) below.

“Original Credit” has the meaning given to it in Clause 11-14(3)(b) below.

“Overdue Amount” has the meaning given to it in Clause 12-43(1) below.

“Owning Group” means for the purposes of Part XIII of Chapter 15 the holding company of any Operator together with the Operator, and any other holding company, subsidiary or associated company of the Operator and/or its holding company, and “holding” “subsidiary” and “associated” company shall have the meanings provided in the Companies Act 1985.
“Participating Operators” has the meaning given to it in Clause 4-17(2) below.

“Passenger’s Charter” in relation to an Operator means any document(s) of that name (or any name which replaces it) issued from time to time by that Operator, setting out the standards for its passenger train services that it proposes to follow.

“Passenger Miles” in respect of a particular journey (or part of it) means the distance (expressed in miles) travelled by the relevant train on that journey (or part of it) multiplied by the number of passengers carried by the train on the journey (or part of it).

“Passenger Transport Executive” means a statutory body subject to local authority control that is responsible for the planning and funding of passenger rail services in a metropolitan area, as described in Section 9 of the Transport Act 1968.

“Paying Operator” has the meaning given to it in Clause 12-17(1) below.

“Penalty Fare” means an amount charged (including any applicable VAT) in accordance with any regulations made under Sections 130, 143(3) and 143(4) of the Act.

“Percentage Allocation” means, with respect to an Operator, the percentage, determined in accordance with Part III of Chapter 11, which is used to calculate the Credits and Debits which are to be received by that Operator.

“Permanent Fare” has the meaning given to it in Clause 4-2(a) below.

“Permit to Travel” means a document (other than a Ticket, a Warrant or a Voucher) issued by a machine operated by an Operator which evidences that the holder of the document has paid the sum of money stated on it to enable him to make a journey on the Network in Great Britain.

“Permitted Routes” in respect of a Flow has the meaning set out in Clause 10-5 below.

“Plan” means the analysis and improvement plan which an Operator must produce pursuant to Clause 6-43 and Schedule 44.

“PMMMD” means the performance monitoring methodology document agreed from time to time by the Ticketing and Settlement Scheme Council pursuant to Clause 6-42 and Schedule 44.
“Post-liquidation Payment” means an Inter-User Payment which is Accepted for Clearing after the commencement of the winding-up (whether under the Insolvency Act 1986 or otherwise) of the person to whom it is to be paid.

“Price” means the price (including any applicable VAT) of a Rail Product or Non-Rail Product before the deduction of any applicable discount to which a Purchaser may be entitled, as determined in a Fares Setting Round, as specified on the relevant Product Implementation Form or, in the case of a Reservation or an Upgrade, as notified to the Operators pursuant to Clauses 4-47 or 4-49 below.

“Private Settlement Credit” has the meaning given to it in Clause 11-2(1) below.

“Product Implementation Form” means the notice in the form specified by the RSP from time to time to be submitted to the RSP pursuant to Schedule 4 by an Operator that wishes to Create or alter a Temporary Fare, a Special Fare, a Discount Card, a Non-Rail Product, a Reservation or an Upgrade.

“Product Deletion Form” means the notice in the form specified by the RSP from time to time to be submitted to the RSP pursuant to Schedule 4 by an Operator that wishes to discontinue a Temporary Fare, a Special Fare, a Discount Card, a Non-Rail Product, a Reservation or an Upgrade.

“Products and Distribution Group” means the Ticketing and Settlement Scheme Group referred to in Clause 15-2(1)(c)(ii) below.

“Purchase” means:

(a)  in respect of a Rail Product or a Non-Rail Product, the acquisition of that Rail Product or Non-Rail Product (and, in the case of Rail Product, for payment or otherwise); and

(b)  in respect of an Excess Fare, effecting the variation in the Rights and Restrictions that constitutes that Excess Fare.

“Purchased” is to be construed accordingly.
“Purchaser” means, in respect of a Rail Product or Non-Rail Product, the person who Purchased that Rail Product or Non-Rail Product or, in the case of a Rail Product which he Purchased for somebody else to use, that other person.

“Rail Product” means a Fare, an Excess Fare, a Discount Card, a Reservation or an Upgrade.

“Railtrack Software” means the computer software licensed to the RSP under the Train Services Data Agreement in executable form only and all documentation that currently exists in relation to such software.

“Recipient” has the meaning given to it in Clause 12-17(1)(b) below.

“Refund” means a reimbursement of the whole or any part of the amount (inclusive of any VAT) paid for a Rail Product in accordance with the National Rail Conditions of Travel, or for a Non-Rail Product.

“Regulated” means, in respect of a Fare, that its Price is regulated by the Authority pursuant to a Franchise Agreement.

“Regulated Station” means each of the Stations listed in Schedule 17 and any Station which becomes a Regulated Station in accordance with Chapter 6 below.

“Regulation”, in respect of a Fare, is to be construed accordingly.

“Regulator” means the Rail Regulator, appointed pursuant to Section 1 of the Act.

“Relevant Fares” has the meaning given to it in Clause 11-31(3) below.

“Remaining Validity” has the meaning given to it in Clause 11-14(3)(b) below.

“Reservation” means the right to a place, seat, a sleeper or the carriage of an item of luggage, an animal or (in the case of a train which involves the transport of vehicles) a vehicle on a particular train if the person with that right Purchases a Fare for the journey to which that Reservation relates.

“Reservation Voucher” means a document which evidences the Purchase of a Reservation.

“Reserve Powers” means those powers set out in sub-Clause 6-44(2) and Clause 4 of Schedule 44.
“Retail Agents Scheme” has the meaning given to it in Clause 15-1(2) below.

“Retail Agents Scheme Council” means the group of Operators referred to in Clause 15-50 below.

“Retail Agents Scheme Management Group” means the group of individuals appointed from time to time in accordance with Clause 15-51 below.

“Retail Prices Index” means the general index of retail prices published by the Central Statistical Office of the Chancellor of the Exchequer or, in respect of any month in which that index is not published, any substituted index reasonably selected by the RSP, whether published by that office or by any other person.

“Retail Group” means the Ticketing and Settlement Scheme Group referred to in Clause 15-2(1)(c)(iii) below.

“Return Date” has the meaning given to it in Clause 15-35(2) below.

“Revised Permanent Fares” has the meaning given to it in paragraph 12.1 of Schedule 4.

“Rights and Restrictions” means the rights, restrictions and conditions to which a Fare is subject (in other words, the defining characteristics of a Fare), for example:-

(a) the times of day during which a Purchaser of the Fare may travel;

(b) the period of validity;

(c) the route(s) on which a Purchaser of the Fare may travel;

(d) the Operator(s) whose trains a Purchaser of the Fare may use;

(e) any requirement to Purchase a Reservation before that Fare can be used;

(f) the National Class of Accommodation with which the Fare is designated; and
(g) in addition to the National Rail Conditions of Travel or, as the case may be, the CIV Rules, any other conditions to which it is subject specified by an Operator on whose trains a Purchaser of the Fare may travel.

“Risk Management Policy” means the RSP policy on corporate governance and risk management as approved from time to time by the RSP Board.

“RJIS” means the Rail Journey Information Service.

“Route” means a description of the journey from the origin station to the destination station including stations passed through during the journey.

“Route Code” means the code for a particular passenger train service which identifies the route and stopping pattern for that passenger train service.

“Routeing Guide” means the document(s) published by the RSP from time to time pursuant to Clause 4-53(1) below which describes the Permitted Route(s) between any two Stations.

“RPC” means a Rail Passengers’ Committee, established pursuant to the Act.

“RSP” means Rail Settlement Plan Limited.

“RSP Audit Strategy” means the RSP Integrated Audit Strategy, developed using current risk management principles, designed to provide a focussed audit.

“RSP Auditors” means the firm of auditors appointed from time to time to carry out the audit of the RSP’s accounts required by the Companies Act.

“RSP Compliance Guide” has the meaning given to it in paragraph 1.4 of Schedule 38 below.

“RSP-settled Discount Card” means a Discount Card Sold by an Operator which is required by Clause 12-1 below to be settled in accordance with Chapter 12.

“RSP-settled Fare” means a Fare or an Excess Fare Sold by an Operator which is required by Clause 12-1 below to be settled in accordance with Chapter 12.
“RSP-settled Non-Rail Product” means a Non-Rail Product Sold by an Operator which is required by Clause 12-1 below to be settled in accordance with Chapter 12.

“RSP-settled Product” means an RSP-settled Fare, an RSP-settled Discount Card, an RSP-settled Reservation, an RSP-settled Upgrade or an RSP-settled Non-Rail Product.

“RSP-settled Rail Product” means an RSP-settled Fare, an RSP-settled Discount Card, an RSP-settled Reservation or an RSP-settled Upgrade.

“RSP-settled Refund” means a Refund made by an Operator in respect of an RSP-settled Product and which the Operator has requested under Clause 11-10(1)(b)(iii) be settled in accordance with Chapter 12.

“RSP-settled Reservation” means a Reservation Sold by an Operator which is required by Clause 12-1 below to be settled in accordance with Chapter 12.

“RSP-settled Upgrade” means an Upgrade Sold by an Operator which is required by Clause 12-1 below to be settled in accordance with Chapter 12.

“Sales” means:-

(a) in respect of a Rail Product or a Non-Rail Product, the conclusion of a valid contract for the supply and acceptance of that Rail Product or Non-Rail Product (and, in the case of a Rail Product, for payment or otherwise); and

(b) in respect of an Excess Fare, the variation in the Rights and Restrictions that constitutes that Excess Fare.

“Sell”, “Selling” and “Sold” are to be construed accordingly.

“Scheme Decision” has the meaning given to it in Clause 15-66(3) below.

“Scheme Matters” means a matter concerning the Retail Agents Scheme other than a Licence Matter on which a resolution needs to be made or a decision taken in relation to elections to the Retail Agents Scheme Management Group changes to the general rules and provisions of the Retail Agents Scheme, Retail Agents Scheme membership matters and changes to the decision making processes of the Retail Agents Scheme.
“Scheme Voting Percentages” in respect of each Operator means for the purposes of Part XV of Chapter 15, the total income (exclusive of VAT) received by that Operator from Sales made under the ATOC Licences and/or New ATOC Licences in respect of the final thirteen complete Settlement Periods in the most recent complete financial year of the RSP, divided by the total income (exclusive of VAT) received by all the Operators from Sales made under the ATOC Licences and/or New ATOC Licences in respect of the final thirteen complete Settlement Periods in the most recent financial year of the RSP, expressed as a percentage.

“Season Ticket Fare” means a Fare which entitles the holder to make an unlimited number of journeys on the Network during a specified period, whether or not the entitlement is subject to restrictions.

“Season Ticket Percentages” in respect of each Operator means for the purposes of Part XV of Chapter 15, the total income (exclusive of VAT) received by that Operator from Sales of Season Ticket Fares in respect of the final thirteen complete Settlement Periods in the most recent complete financial year of the RSP, divided by the total income (exclusive of VAT) received by all the Operators from Sales of Season Ticket Fares in respect of the final thirteen complete Settlement Periods in the most recent financial year of the RSP, expressed as a percentage.

“Season Ticket Suspense Account” has the meaning given to it in Clause 11-14(1) below.

“Self-service TIM” means a TIM at which a person wishing to travel on the Network can Purchase a Fare, a Discount Card, a Reservation and/or an Upgrade by inserting money or a Credit Card.

“Senior Railcard” means the Discount Card known as such, or any Discount Card which replaces it from time to time.

“Service Code” means any group of train services nominated by an Operator.

“Service Level Agreements” means the document(s) setting out performance criteria for services being provided under an agreement referred to in Clause 5-20 below.

“Settlement Date” means, in respect of a Settlement Period, the 14th Business Day after the last day of that Settlement Period.
“Settlement Group” means the Ticketing and Settlement Scheme Group referred to in Clause 15-2(1)(c)(i) below.

“Settlement Period Validity” has the meaning given to it in Clause 11-14(2)(b) below.

“Settlement Periods” means such consecutive periods of four weeks (or otherwise) as are specified in Part I of Schedule 34 or, as the case may be, as the RSP may determine and notify to the Operators from time to time under Clause 12-30(2) below.

“Shared Loss” has the meaning given to it in Clause 12-43(1) below.

“Site” means an electronic means of accessing and displaying information about Rail Products and through which Rail Products may be offered for Sale other than the Internet.

“Software” means the computer software listed in Part I of Schedule 15, in source and object code form, and all documentation that has been prepared in relation to it which belongs to the RSP.

“Special Fare” has the meaning given to it in Clause 4-2(c) below.

“Sponsoring Operator” has the meaning given to it in Clause 4-11(2) below, subject to Clause 4-59(4) below.

“SPORTIS Machine” means the TIM known as “SPORTIS”.

“Staff Travel Scheme” means the agreement dated 23 July 1995 between each of the persons who are Operators at the date of this Agreement which relates to the provision of staff travel facilities by them and by certain third parties.

“Standard Class Fare” means a Fare which has been designated pursuant to Clause 4-6(1) below as having “standard class” as its National Class of Accommodation.

“Standard Rate” means the rate of three per cent. per annum below the base rate from time to time published by the RSP’s sole or main bankers.

“Station” means a place on the Network where any Operator’s trains stop and passengers customarily get on or off them.
“Suitability Criteria” has the meaning given to it in Clause 9-3(1) below.

“Supplemental Accession Agreement” means an agreement substantially in the form of Part II of Schedule 2.

“Supplementary Settlement Amount” has the meaning given to it in Clause 12-34 below.

“Suspense Amount” has the meaning given to it in Clause 11-14(2)(b) below.

“Systems Administrator Agreement” has the meaning given to it in Clause 3-9 below.

“Target” means the level set out in a Plan to which an Operator aims to improve performance of its obligations under Clause 6-30 and Schedule 44.

“Telephone Sales Office” means a place operated by or on behalf of an Operator or an Approved Third Party through which Purchasers can obtain information about train services and Rail Products and purchase Rail Products by telephone.

“Temporary Fare” has the meaning given to it in Clause 4-2(b) below.

“Threshold” means the level of performance which Operators shall be required to meet if they are to be deemed to have satisfied their obligations under Clause 6-30 and Schedule 44.

“Through Fare” means:-

(a) a Fare which is valid for a journey that must involve the use of the trains of more than one Operator; or

(b) a combination of two or more Fares in respect of the whole journey and which are together valid for such a journey.

“Through Ticketing (Non-Travelcard) Agreement” means the agreement entered into between TTL and each of the Operators relating to Fares other than Travelcards.

“Ticket” means a document which evidences the Purchase of a Fare, an Excess Fare or an Upgrade or certain types of Reservation.
“Ticket Office” means a place within a Station or a TTL Station at which Fares are generally Sold in person by or on behalf of an Operator.

“Ticket on Departure Fee” means the amount of an Operator’s commission, or the reduction in the amount of an Operator’s commission, due when Fares are Sold and Tickets issued in accordance with Clause 6-26(3) below.

“Ticket on Departure Voting Percentage” in respect of each Operator means, for the purposes of Clause 15-37 below, the sum of the number of Fares Sold and Tickets issued by an Operator, in accordance with Clause 6-26(3) below, divided by the sum of the number of Fares Sold and Tickets issued by all the Operators, in accordance with Clause 6-26(3) below, in the most recent financial year of the RSP expressed as a percentage.

“Ticketing and Settlement Scheme” has the meaning given to it in Clause 15-1(1) below.

“Ticketing and Settlement Scheme Council” means the group of Operators referred to in Clause 15-3 below.

“Ticketing and Settlement Steering Group” means the group of individuals appointed from time to time in accordance with Clauses 15-5 and 15-16 below.

“Ticketing and Settlement Scheme Groups” means the groups of individuals appointed from time to time in accordance with Clauses 15-15 and 15-16 below.

“TIM” means a rail ticket issuing machine for the issue of Tickets, Discount Cards and/or Reservation Vouchers and/or the recording of Refunds.

“Timetabling Agreement” means the agreement between the RSP and Railtrack PLC relating to the publication of the Great Britain Passenger Rail Timetable, as modified, supplemented or replaced from time to time.

“Timetable Change Date” means each of the dates, determined at a European Passenger Timetable Conference and notified to each of the Operators from time to time, on which a change to all or substantially all the National Timetable is to come into force.

“Total Retail Agents Income” has the meaning given to it in Clause 15-52(1)(b) below.
“Total Validity” has the meaning given to it in Clause 11-14(2)(b) and (3)(b) below.

“Trade Marks Licence” has the meaning given to it in Clause 5-3(1) below.

“Train Services Data Agreement” means the agreement dated 23 July 1995 between the RSP and Railtrack PLC relating to access to data held on computer systems that are owned by Railtrack PLC.

“Transport Act” means the Transport Act 2000 and any regulations or orders made under it, including any modification, re-enactment or re-making thereof or supplement thereto.

“Travelcard” means a Ticket which evidences the entitlement of the holder to make one or more journeys on the Network using the services of TTL, any of its subsidiaries or third parties as notified from time to time in accordance with the Travelcard Agreement, or any of the Operators (or a combination of them) between any Stations and/or TTL Stations in one or more of the Zones specified in the Travelcard Agreement, subject to any applicable Rights and Restrictions.

“Travelcard Agreement” means the agreement entered into between TTL and each of the Operators relating to Travelcards.

“Travelcard Scheme Management Group” means the scheme management group of that name established pursuant to the LRT Scheme.

“TTL” means Transport Trading Limited. For the purposes of this Agreement, London Underground Limited shall be deemed to be a subsidiary of TTL.

“TTL Station” means a place where trains operated by TTL or its subsidiaries or a TTL Third Party stop and passengers customarily get on or off them.

“TTL Third Party” means any person operating public passenger transport services within London under contract to, or authorised by TTL to, issue and accept any of the Tickets governed by the Travelcard Agreement or the Through Ticketing (Non-Travelcard) Agreement for use on such services.

“TTWS Agreement” means the agreement for the supply of a Travel Trade and Warrants Service dated 20th July 1998 between the Warrants Administrator and RSP.

“Turnover” means:-
(a) with respect to an Operator and any financial year of the RSP:-

(i) revenue accruing to that Operator from the Sale of RSP-settled Rail Products which have been Accepted for Clearing in that financial year (excluding any VAT payable in respect of them); less

(ii) any RSP-settled Refunds made by that Operator which have been Accepted for Clearing in that financial year (excluding any VAT that is credited in respect of them); plus

(iii) all franchise payments due to that Operator (or a holding company of it) under a Franchise Agreement in that financial year, excluding any VAT payable in respect of them; plus

(iv) all payments due to that Operator (or a holding company of it) from any Passenger Transport Executive in that financial year under an agreement entered into pursuant to Section 20(4) of the Transport Act 1968 (as modified, supplemented or replaced from time to time) or a Franchise Agreement entered into by that Operator or a holding company of it (excluding any VAT payable in respect of them), as disclosed in the audited financial statements of that Operator for that financial year; plus

(b) in relation to any Settlement Period(s) in that financial year falling before that Operator’s Commencement Date, any sum estimated by the RSP, having regard to any information about the Flow(s) on which that Operator runs trains (whether supplied by it or by any other person) and/or the Turnover of any other Operators which run trains on the same Flow(s) or any comparable Flow(s).

“UIC” means the International Union of Railways (Union Internationale des Chemins de Fer), an international non-governmental organisation.

“Unpaid Amounts” owing by a person at any time means the aggregate of the amounts that have become payable by that person under Chapter 12 at that time and which remain unpaid.
“Upgrade” means the right, if the person with that right Purchases a Fare, to use a National Class of Accommodation or an Operator’s service which is different from the one that the Fare would otherwise entitle him to use but which is not an Excess Fare.

“User Rules” has the meaning given to it in Clause 5-3(3) below.

“VAT” means VAT as provided for in the VAT Act, or any other tax calculated by reference to turnover or value added in effect in the United Kingdom from time to time.

“VAT Act” means the Value Added Tax Act 1994 and any regulation or order made under it, including any modification, re-enactment or re-making thereof or supplement thereto.

“Voting Card” has the meaning given to it in Clause 15-29(2)(b) below.

“Voting Operator” has the meaning given to it in Clause 15-16(2)(a)(ii) below.

“Voting Percentage” in respect of each Operator means:-

(a) for the purposes of Parts X, XII and XIII of Chapter 15, the total income (exclusive of VAT) received by that Operator from Sales made under the ATOC Licences divided by the total income (exclusive of VAT) received from such Sales by all the Operators, expressed as a percentage and determined in accordance with sub-Clause 15-52(1); and

(b) for the purposes of Part XV of Chapter 15, the total income (exclusive of VAT) received by that Operator from Sales made under the ATOC Licences and the New ATOC Licence divided by the total income (exclusive of VAT) received from such Sales by all the Operators, expressed as a percentage and determined in accordance with sub-Clause 15-52(1); and

(c) for all other purposes, the aggregate of the Credits (exclusive of VAT) received by that Operator divided by the aggregate of the Credits (exclusive of VAT) received by all of the Operators expressed as a percentage and determined in accordance with Clause 15-36.

“Voucher” means a document which evidences the holder’s entitlement to a discount from the price of a Fare as compensation for a claim made under an Operator’s Passenger’s Charter or conditions of carriage (including the National Rail Conditions of Travel and the CIV Rules).
“Warrant” or “Warrants” means together an Electronic Warrant and a Manual Warrant.

“Warrant Account” means an account opened and operated by the Warrants Administrator for the purposes of accounting for Warrants which have been exchanged for goods or services (including Rail Products) in accordance with a Warrant Agreement.

“Warrant Account Holder” means a person who has entered into a Warrant Agreement with the Operators.

“Warrant Agreement” means an agreement substantially in one of the forms set out in Schedule 23, or any other form as the Retail Agents Scheme Management Group may decide from time to time, generally or in any particular case.

“Warrants Administrator” means the person appointed as such by the Ticketing and Settlement Scheme Council pursuant to Clause 7-24.

“Warrants Administrator Agreement” means the TTWS Agreement.

“Young Person’s Railcard” means the Discount Card known as such, or any Discount Card which replaces it from time to time.

“Zone” means area in which a Zone Fare is valid.

“Zone Fare” means a Fare which is valid for one or more journeys between any Stations in a particular geographical area or areas, subject to any applicable Rights and Restrictions.
CHAPTER 3: GENERAL PROVISIONS

3-1  COMMENCEMENT

(1)   The time at which this Agreement becomes binding

The rights and obligations of an Operator under this Agreement begin on the later of:-

(a)   the date on which that Operator signs this Agreement or, as the case may be, an Accession Agreement; and

(b)   the date on which that Operator is granted a Licence.

(2)   The effect of entering into an Accession Agreement

(a)   Any person who has been or is to be granted a Licence, and any person appointed by the Authority pursuant to Sections 30 or 136(6) of the Act to operate passenger services, may sign an Accession Agreement.

(b)   On the delivery of the signed Accession Agreement to the RSP, that person will become a party to this Agreement as if an agreement containing those provisions of this Agreement specified in the Accession Agreement had been signed by him, each of the other Operators and the RSP on the date of the Accession Agreement or, if later, the Operative Date (as defined in the Accession Agreement).

(3)   The effect of entering into a Supplemental Accession Agreement

(a)   An Operator which is a party to this Agreement by virtue of having signed an Accession Agreement under which it has agreed to be bound by only some of the provisions of this Agreement may sign a Supplemental Accession Agreement under which it agrees to be bound by some or all of the remaining provisions.

(b)   On the delivery of the signed Supplemental Accession Agreement to the RSP, that agreement will take effect in accordance with its terms and will be binding on the Operators and the RSP as if it had been signed by each of them.
3-2 TERMINATION

(1) Conditions for signing a Cessation Agreement

Any Operator may sign a Cessation Agreement at any time. However, each Operator acknowledges that the signing of a Cessation Agreement may be prohibited by its Licence and/or Franchise Agreement.

(2) The effect of signing a Cessation Agreement

Subject to sub-Clause (4) below, on the delivery to the RSP of a Cessation Agreement which has been signed by an Operator in accordance with sub-Clause (1) above, this Agreement or, as the case may be, the provisions of this Agreement specified in the Cessation Agreement, will cease to be binding on it or enforceable by it from the date specified in the Cessation Agreement.

(3) The effect of ceasing to be an Operator

(a) Subject to paragraph (b) and sub-Clause (4) below, if an Operator ceases to hold a Licence this Agreement will immediately cease to be binding on it or enforceable by it.

(b) An Operator must notify the RSP immediately if it ceases to hold a Licence or it becomes aware that it will cease to do so.

(4) Accrued rights and obligations

Any rights or obligations which have accrued under this Agreement at the time a Cessation Agreement is signed or an Operator ceases to hold a Licence or which subsequently arise pursuant to Clause 11-20(2) or (3) below will continue to be enforceable on the terms of this Agreement.

3-3 NOTIFICATION TO THE OPERATORS

(1) Requirement to notify
As soon as reasonably practicable after the RSP receives a signed Accession Agreement, Supplemental Accession Agreement or Cessation Agreement pursuant to Clauses 3-1 or 3-2 above, or is notified pursuant to Clause 3-2(3) above or becomes aware that an Operator has ceased to hold a Licence or will cease to do so, it will give written notice of this fact to each of the Operators.

(2) Exception

This notice does not have to be given, following the receipt of a Supplemental Accession Agreement or a Cessation Agreement, to the Operator which signed that agreement. Nor does it have to be given, following receipt of a notification made under Clause 3-2(3) above, to the Operator which made the notification.

3-4 CONFIDENTIALITY

(1) Requirement to keep information confidential

Except as otherwise contemplated by this Agreement, the RSP and each Operator must treat any information that it or any of its employees, delegates or agents receives under, as a result of or in the course of performing the activities contemplated by this Agreement as confidential. Accordingly, subject to sub-Clause (2) below, neither the RSP nor any Operator may, and they must ensure that their employees, delegates and agents do not, disclose such information to any other person. An Operator may, however, disclose any such information to its employees, delegates, agents and professional advisers.

(2) Exception

The information referred to in sub-Clause (1) above may be disclosed by the RSP, an Operator or a person acting on behalf of either of them:-

(a) to the extent contemplated by this Agreement;

(b) where the disclosure is required by any applicable law, any stock exchange or other regulatory body to whose rules the person making the disclosure is subject or any taxation authority;

(c) to the Authority or its employees, delegates, agents or professional advisers;
(d) to the **RSP** or any person(s) to whom any of its powers, discretions or obligations under this Agreement have been delegated;

(e) to any professional advisers of the **RSP** or of such delegate(s) who are obliged to keep the information confidential on the same basis as described in this Clause 3-4;

(f) (in the case of a disclosure by the **RSP**) to the extent necessary for the performance by the **RSP** of its rights or obligations under this Agreement;

(g) (in the case of a disclosure by the **RSP**) for the purpose of enabling the **RSP** to institute, carry on or defend any legal proceedings;

(h) to the extent that such information is in the public domain at the time of the disclosure otherwise than as a result of a breach of this Agreement;

(i) (in the case of information about the proposed **Prices of Fares**) to any **Operator** in the course of a **Fares Setting Round**;

(j) to a **Passenger Transport Executive** or its professional advisers;

(k) to Railtrack plc, to the extent that it needs the information to enable it to compile any statistics about passenger safety that it is required to prepare;

(l) to Transport for London to the extent that it needs the information for the purposes of the London Rail Concession;

(m) to Transport for London to the extent contemplated by an **Operator’s Franchise Agreement**, and

(n) to any bank who provides banking services to the **RSP** or any bank who is being asked to provide banking services to the **RSP** in the future and whose employees or delegates are also obliged to keep the information confidential on the same basis as described in this Clause 3-4.
(3) **Conflicts of Interest**

Subject to the provisions of Clause 15-67 below in the event that any of the bodies listed in Clause 15-66 reasonably believe that an Operator has a relationship with a Third Party which has a vested interest in any matter to be discussed at a meeting of that body, or which places the Operator in a position of conflict of interest in either case such that that Operator’s involvement in that matter would be materially prejudicial to that body, then the Operator shall not disclose or circulate any information relating to such matter to that Third Party and shall not be entitled to participate in discussions at meetings of that body concerning such matter or vote in respect thereof.

3-5 **ACTION BY THE AUTHORITY**

(1) **Effect of decisions and discretions**

Any decision taken by, and the exercise of any discretion reserved to the Authority under this Agreement will be final and binding on the Operators even if the Authority does not follow the procedure set out in this Agreement in relation to that decision or discretion.

(2) **Exception**

Sub-Clause (1) above does not apply if:-

(a) the failure of the Authority to follow the procedure set out in this Agreement has prejudiced or is likely to prejudice an Operator in a material respect; and

(b) that Operator notifies the Authority accordingly within three months of the taking of the relevant decision or the exercise of the relevant discretion.

In this event the decision or exercise of discretion will not be binding on any of the Operators.

3-6 **GENERAL PROVISIONS CONCERNING THE RSP**

(1) **The charges of the RSP**
(a) Each Operator must pay such charges for the RSP’s services under this Agreement that the RSP specifies from time to time, together with any applicable VAT on them.

(b) The charges specified may apply to all the Operators or, where the RSP has provided a service at the request of a particular Operator, to that Operator alone.

(c) The RSP’s charges are payable by the Operators on demand.

(2) **The RSP’s obligations**

The RSP is obliged to carry out its functions referred to in this Agreement only insofar as it has received information which in its reasonable opinion is sufficient to enable it to do so.

(3) **Forms of notification by the RSP**

Unless otherwise expressly specified, any notification by the RSP that is required or permitted by this Agreement may be made in any form that the RSP considers appropriate, either generally or in any particular case.

(4) **Unauthorised instructions**

The RSP may refuse to act on the basis of any instructions which purport to be given on behalf of an Operator or any of the bodies referred to in Clause 15-2 below if it reasonably believes that the person giving them is not authorised to do so.

(5) **RSP to act reasonably**

Where the RSP has a discretion under this Agreement, it will exercise that discretion reasonably and in an even-handed manner between the Operators.

3-7 **NON-ASSIGNABILITY**

(1) **Prohibition on assignment**

(a) The rights and obligations of each Operator and the RSP under this Agreement, including its rights to the payment of any sum due to it, are personal to
that Operator or, as the case may be, the RSP. Accordingly, they are not capable of being assigned, charged or otherwise transferred or encumbered.

(b) The RSP and each Operator must not attempt or purport to assign, charge or otherwise transfer or encumber any of these rights and obligations. If it does so, the other parties to this Agreement will not be obliged to take account of such purported assignment, charge, transfer or encumbrance.

(2) Exceptions

Sub-Clause (1) above does not apply to any Interim Payments or Final Payments (these amounts may be assigned, charged or mortgaged by the Operator to which they are or might become owed or, as the case may be, by the RSP at any time, whether or not they are payable at that time).

3-8 DELEGATION BY THE OPERATORS

(1) Ability to delegate

Each Operator may delegate any of its obligations under this Agreement to another person. However, if it does so it will be liable for the actions of the delegate as if they were its own actions.

(2) Actions of delegates and agents

References in this Agreement to anything done by an Operator also include things done by a delegate of that Operator (other than an ATOC Travel Agent or an ITX Travel Agent acting pursuant to its agreement with the Operators or an Approved Third Party acting pursuant to its ATP Agreement).

(3) Retailing agents

Clause 9-1 below sets out the types of agent that the Operators may use to Sell Rail Products.

3-9 DELEGATION BY THE RSP
(1) **Power to delegate**

Whenever it considers it expedient, the RSP may delegate to any person on any terms (including the power to sub-delegate) any or all of its powers, discretions, duties and/or obligations under this Agreement. The RSP will remain liable for the actions of any such delegate as if they were its own actions.

(2) **Delegation agreements**

At the date of this Agreement, the RSP has appointed as its delegates:-

(a) the British Railways Board, acting through its Business Systems Division, pursuant to an agreement dated 23 July 1995, a copy of which is set out in Part I of Schedule 6 (the “Systems Administrator Agreement”);

(b) the British Railways Board, acting through its Business Systems Division, pursuant to the Warrants Administrator Agreement.

(3) **Compliance with service level specifications**

(a) To the extent that the agreements referred to in sub-Clause (2) above (as modified, supplemented or replaced from time to time) involve the delegation of agreements referred to in sub-Clause (2) above (as modified, supplemented or replaced from time to time) to the extent that it cannot recover compensation in respect of that liability from the RSP’s obligations under this Agreement to a person who has agreed to perform them in accordance with a specified service level, the RSP will perform those obligations in accordance with that service level.

(b) The RSP will not be liable for any breach of this Agreement to which a particular service level applies to the extent that its obligations under this Agreement are performed in accordance with that service level.

(c) The RSP will not be liable for any breach of any of its obligations under this Agreement which have been delegated to another person or persons under the agreements referred to in sub-Clause (2) above (as modified, supplemented or
replaced from time to time) to the extent that it cannot recover compensation in respect of that liability from such person(s) under those agreements.

(d) the **RSP** will not be liable for any breach of any of its obligations under this Agreement which are caused by **TTL** failing to perform any of its obligations under its Clearance Agreement (as modified, supplemented or replaced from time to time).

(e) To the extent that the agreements referred to in sub-Clause (2) above (as modified, supplemented or replaced from time to time) involve the delegation of the **RSP**’s obligations under this Agreement to a person who has agreed to perform them in accordance with a specified service level, and that service level provides for obligations to be performed by the **Operators**, the **Operators** will perform those obligations in accordance with that service level. The obligations to be performed by the **Operators** may, for example, require them to provide estimates of the extent to which they expect to use the **RSP**’s services in the future.

3-10 REVIEW OF THE ACTIVITIES OF THE RSP’S AND THE OPERATORS’ DELEGATES

The **Ticketing and Settlement Scheme Council** will, on behalf of the **Operators**, review at least once a year the manner and the extent to which any delegates of the **Operators** and/or of the **RSP** is fulfilling its functions, as set out in the relevant agreement entered into with it.

3-11 AGREEMENTS ENTERED INTO BY THE RSP

(1) **Obtaining services, other than by delegation**

Whenever it considers it expedient, the **RSP** may enter into agreements to obtain services which enable the **RSP** to discharge its obligations under this Agreement.

(2) **The Operators**

The **Operators** agree with each other and with the **RSP** that they will not act or omit to act so as to put the **RSP** in breach of any of the following agreements:-

(a) the agreements referred to in Clauses 3-9(2) above (as modified, supplemented or replaced from time to time);
(b) the Clearance Agreement entered into with TTL (as modified, supplemented or replaced from time to time);

(c) any other agreement entered into by the RSP pursuant to this Agreement;

(d) the Warrants Administrator Agreement;

(e) the Timetabling Agreement;

(f) the Train Services Data Agreement;

(g) the Custodian Agreement;

(h) any agreement that is entered into with a Credit Card Negotiator;

(i) any agreement that is entered into with a Credit Card Company pursuant to Chapter 7;

(j) the agreements that are entered into by the Operators with the ATOC Travel Agents, the ITX Travel Agents and the ATOC Self-ticketing Licensees; and

(k) any agreement that has been entered into on behalf of some or all of the Operators pursuant to Clauses 15-22, 15-23, 15-54 or 15-55 below.

3-12 ACTIONS OF THE REPRESENTATIVE BODIES

Where:-

(a) this Agreement states that the Ticketing and Settlement Scheme Council, the Retail Agents Scheme Council, the Ticketing and Settlement Steering Group, the RSP, the directors of the RSP, the Retail Agents Scheme Management Group, a Ticketing and Settlement Scheme Group, the ATOC Secretariat or the Disputes Secretary will do something; or
(b) the Ticketing and Settlement Scheme Council, the Retail Agents Scheme Council, the Ticketing and Settlement Steering Group or the Retail Agents Scheme Management Group resolves to do something,

each of the Operators must use its reasonable endeavours to ensure that it does so and exercise any discretion or approval which is reserved to that Operator to give effect to the decision taken or resolution passed by that body or person.

3-13 SERVICE OF DOCUMENTS

(1) Service

Service of notices or other documents referred to in this Agreement may be made by:-

(a) post to the proper address;

(b) leaving the document at the proper address; or

(c) personal service.

(2) Proper address

(a) An Operator’s proper address is the address set out in Schedule 1 or, as the case may be, the Accession Agreement which it signs, or any other address that it notifies in writing from time to time to the other Operators and the RSP as its proper address for the purpose of this Clause.

(b) The RSP’s proper address is the address specified in relation to it on page 1 of this Agreement or any other address that it notifies in writing from time to time to the Operators as its proper address for the purpose of this Clause.

(c) Alternatively, the proper address of any party to this Agreement is the business address of any solicitor who is acting for that person in the matter in connection with which the service of the document in question is to be made.

(3) Date service is effected
Where service is made by post and the document is proved to have been posted (with the correct postage paid), the document in question is deemed to have been delivered in the ordinary course of post and the date of service is to be construed accordingly. Where service is made by leaving the document at the proper address of the person to be served, the document is deemed to have been served on the date on which it was left.

3-14 TIME LIMITS

Where any obligation under this Agreement is required to be performed within a specified time limit that obligation will continue after that time limit if it is not complied with within the time limit.

3-15 INVALIDITY

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

3-16 TIME OF THE ESSENCE

In the performance by the parties to this Agreement of their duties and obligations, time will be of the essence. In other words, the parties are required to perform their duties and obligations strictly in accordance with any time limits specified in this Agreement.

3-17 WAIVERS

(1) Effect of a waiver

No waiver by the RSP and/or any Operator of the performance of any of the provisions of this Agreement is to operate or be construed as a waiver of any other or of any further default, whether of a similar or a different character.

(2) Failure to exercise etc. rights and remedies

A failure to exercise or delay in exercising a right or remedy under this Agreement will not constitute a waiver of the right or remedy or a waiver of any other rights or remedies.
No single or partial exercise of any right or remedy under this Agreement will prevent any further exercise of that right or remedy or the exercise of any other right or remedy.

3-18 LIABILITY OF THE OPERATORS

(1) Several liability

Except where this Agreement provides otherwise, the Operators will be severally liable under this Agreement. In other words, no Operator is liable for a default by another Operator.

(2) Consequential loss

Clause 17 of the Claims Handling Agreement will not prevent the recovery of compensation for loss of revenue, or other consequential loss, that arises as a result of a breach of this Agreement.

3-19 FORCE MAJEURE

(1) Effect of a Force Majeure Event

If any party to this Agreement is prevented, hindered or delayed from or in performing in full any of its obligations under this Agreement by a Force Majeure Event:-

(a) that party’s obligations under this Agreement will be suspended for as long as the Force Majeure Event continues, but only to the extent that the party is so prevented, hindered or delayed;

(b) as soon as reasonably practicable after commencement of the Force Majeure Event, that party must notify the other party or parties to whom the relevant obligation is owed in writing of the occurrence and nature of the Force Majeure Event, the date of the commencement of the Force Majeure Event and the effect of the Force Majeure Event on its ability to perform its obligations under this Agreement;

(c) that party must use all reasonable efforts to mitigate the effects of the Force Majeure Event upon the performance of its obligations under this Agreement; and
(d) as soon as reasonably practicable after the cessation of the **Force Majeure Event** that party must notify the other parties in writing of the cessation of the **Force Majeure Event** and must resume the full performance of its obligations under this Agreement.

(2) **Meaning of “Force Majeure Event”**

For the purposes of sub-Clause (1) above, “**Force Majeure Event**” means, to the extent beyond the reasonable control of a party, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction (in each case made after the date of this Agreement), or any overriding emergency procedures, accident, fire, flood, storm and strikes or any other industrial action (in each case by employees of any person other than that party).

3-20 **GENERAL VAT INDEMNITY**

(1) **Charging VAT on supplies**

Where anything done under this Agreement represents consideration for a taxable supply, the party making that supply will be entitled in addition to charge any applicable VAT on it in accordance with the relevant regulations in force at the time of making the supply.

(2) **Reimbursing costs**

Where under this Agreement one party has agreed to reimburse another party in respect of a payment made or cost incurred by that other party, the first party must also reimburse any VAT paid by the other party which forms part of its payment or costs incurred to the extent that such VAT is not available for credit for the other party under Sections 25 and 26 of the VAT Act.

(3) **Exception**

Sub-Clauses (1) and (2) above are subject to any other provision in this Agreement which provides expressly for VAT in relation to anything done under this Agreement.
3-21 COMPLIANCE WITH VAT PROCEDURES

(1) Compliance

Each Operator and the RSP must:-

(a) account for any VAT that becomes due under this Agreement as a result of the Acceptance for Clearing of any Rail Products or Non-Rail Products; and

(b) comply with the obligations imposed on it under the VAT Act in respect of these amounts,

in each case in accordance with any VAT compliance procedures agreed with H.M. Customs & Excise on behalf of the RSP.

(2) Procedures

Once agreed, these procedures will be distributed to the Operators by the RSP. However, they may be changed, with the agreement of H.M. Customs & Excise, by a resolution of the Ticketing and Settlement Scheme Council. Notification of any such changes will be distributed to the Operators by the RSP.

3-22 GOVERNING LAW AND DISPUTE RESOLUTION

(1) Governing law

This Agreement is to be governed by and construed in accordance with English law.

(2) Disputes

Disputes or claims between any parties to this Agreement which arise out of or in connection with this Agreement are to be resolved by:-

(a) agreement between those parties; or, failing that

(b) in accordance with Clauses 14-4 to 14-14 below.
CHAPTER 4: THE INTRODUCTION OF RAIL PRODUCTS AND NON-RAIL PRODUCTS

PART I: CREATION OF FARES

4-1 THE FARES SETTING ROUND

(1) Requirements for Fares Setting Rounds

At the times specified by the RSP from time to time, the fares setting procedure set out in Part I of Schedule 4 will take place, each of which is known as a “Fares Setting Round”. There must be at least three Fares Setting Rounds each year.

(2) The current position

The Fares Setting Rounds will end in January, May and September of each year unless the Ticketing and Settlement Scheme Council resolves otherwise. The intervals between the end of each Fares Setting Round must be approximately equal unless the Authority agrees otherwise.

4-2 TYPES OF FARE

There are three types of Fare:-

(a) “Permanent Fares”, whose terms are determined in a Fares Setting Round or outside a Fares Setting Round in accordance with sub-Clause 4-10(4);

(b) “Temporary Fares”, whose terms are not determined in a Fares Setting Round but which have been notified to the RSP in accordance with Part II of Schedule 4; and

(c) “Special Fares”, which are intended to be Sold only to persons who are within one of the categories listed in Schedule 5 and which have been notified to the RSP in accordance with Part III of Schedule 4.

4-3 PROCESS OF CREATING A FARE

A Fare is Created by means of determining the Price and other terms and providing details of those terms to the RSP in accordance with Part I or, as the case may be, Part II of Schedule 4.
4-4 REQUIREMENT TO CREATE FARES PRIOR TO SELLING THEM

An Operator may not offer any Fare for Sale, or authorise another person to do so, unless that Fare has been Created in accordance with this Chapter (and has not been discontinued or replaced).

4-5 THE CREATION OF FARES BY OPERATORS

(1) Circumstances in which Fares may be Created

Subject to sub-Clauses (3) and (4) below, an Operator may (by itself or in conjunction with any other Operator(s)) only Create a Fare if it is allowed to do so pursuant to Clause 4-15, 4-16 or 4-33 below or required to do so pursuant to Clause 4-20 below.

(2) Obligation to Create Fares

Except as provided in Clause 4-20 below, no Operator is required to Create a Fare for any Flow.

(3) Restriction on the Creation of Temporary Fares

(a) An Operator may (by itself or in conjunction with any other Operator(s)) only Create a Temporary Fare if:

(i) the period during which it may be offered for Sale (as specified in the relevant Product Implementation Form) is 34 weeks or less and no other Temporary Fare in respect of the same or substantially the same Flow and with substantially the same Rights and Restrictions and Price, has been offered for Sale at any time during the previous 17 weeks; or

(ii) the Operator has made a written request to the Authority for consent to the Creation of that Temporary Fare and that consent has been granted pursuant to sub-Clauses (c) – (g) below.

(b) Notification by the Authority
Following a request for consent pursuant to paragraph (ii) of sub-Clause (a) above, the Authority will notify any other Operator(s) which he reasonably believes might be affected if he gives his consent.

(c) Contents of Representations to the Authority

Any representations made under this Clause 4-5(3) must be made in such form and contain such details, and within such times, as the Authority specifies from time to time, either generally or in any particular case.

(d) Representations by other Operators

(i) In seeking the views of affected Operator(s) the Authority may give those Operator(s) any information about the request and the representations made by the Operator that the Authority considers appropriate.

(ii) However, the Operator making the request may ask the Authority to keep any representations confidential. The Authority will comply with such a request, but may refuse to consider further the giving of his consent to the Creation of the proposed Temporary Fare if he believes it will not be practicable to seek the views of the other Operators which might be affected if the information is not disclosed.

(e) Further information

The Authority may require any Operator making any representations to provide any further information that he needs, either orally or in writing. Sub-Clause (d) above will also apply to these representations.

(f) Notification of the Authority’s Decision

If the Authority gives his consent to a request under this Clause 4-5(3), he will notify its terms to the RSP and the Operators as soon as reasonably practicable.

(4) Restriction on the Creation of Special Fares
An **Operator** may (by itself or in conjunction with any other **Operator(s)**) only **Create** a **Special Fare** if the **Fare** is only valid for use by a person who falls within one of the categories set out in Schedule 5.

(5) **Requirement to honour Permitted Routes**

The **Rights and Restrictions** applicable to a **Fare** may not prohibit a **Purchaser** of that **Fare** from travelling via a route which is one of the **Permitted Routes** for the **Flow** to which the **Fare** relates.

(6) **Creation of Child Fares and similar Fares**

A **Fare** may be **Created** with **Rights** and **Restrictions** that enable it to be used only by a **Child**, or by any other particular type of person.

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4-6 **NATIONAL CLASSES OF ACCOMMODATION**

(1) **Designation of Fares**

Each **Fare** must be designated with one of the **National Classes of Accommodation**. This designation is one of the **Rights and Restrictions** applicable to the **Fare**.

(2) **Use of carriages**

(a) As a consequence of the designation referred to in sub-Clause (1) above, the **Purchaser** of the **Fare** will be entitled to use the carriages (or parts of carriages) referred to in Clause 10-3 below.

(b) However, this does not prevent an **Operator**, by including an appropriate specification in the **Rights and Restrictions**, from **Creating** a **Fare** which also entitles the **Purchaser** to use carriages on that **Operator’s** trains which are not available to the **Purchasers** of other **Fares**, even if those **Fares** are designated with the same **National Class of Accommodation**.

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4-7 **CREATION OF NEW FLOWS, MODIFICATION AND ABOLITION OF EXISTING FLOWS**
(1) **Fares** to be *Created* only in respect of existing **Flows**

A **Fare** may only be *Created* in respect of an existing **Flow**. If an **Operator** wishes to *Create* a **Fare** for a **Flow** that does not exist that **Flow** must first be *Created* pursuant to this Clause 4-7.

(2) **Refunds**

The **Rights and Restrictions** applicable to a **Fare** may not prohibit the **Purchaser** of that **Fare** from obtaining a **Refund** in respect of the **Fare** unless the prior approval of the **Authority** has been obtained in accordance with Clause 8-13(3).

(3) **Procedure for Creating** a new **Flow**

Subject to sub-Clause (6) below, a new **Flow** may be *Created* by any **Operator** which provides scheduled passenger rail services over all or part of the proposed **Flow** or which has access rights that entitle it to do so. To *Create* the **Flow**, the relevant **Operator** must send a notice substantially in the form set out in Part I of Schedule 9 to the **RSP**.

(4) **Modification of Flows**

Subject to sub-Clause (6) below, an existing **Flow** may be modified subject to the consent, either by agreement, or pursuant to Clauses 4-8(4) or 4-8(5) below, of each **Operator**:

(a) whose **Credits** (exclusive of **VAT**) from **Fares** that were **Sold** in respect of that **Flow** and were **Accepted for Clearing** in the previous financial year of the **RSP** were at least five per cent. of the sum of the **Credits** (exclusive of **VAT**) that were received by all the **Operators** from those **Fares** (excluding, in each case, any **Private Settlement Credits**); or

(b) the **Regulation** of whose **Fares** would be affected by the modification of the **Flow**.

To modify the **Flow**, the **Operators** which have agreed to the modification must send a notice substantially in the form set out in Part III of Schedule 9 to the **RSP**. If the **Flow** subject to modification is a **Compulsory Inter-Available Flow**, the designated **Lead Operator** will be unchanged unless altered pursuant to Clause 4-28.
(5) Abolition of Flows

Subject to sub-Clause (6) below, an existing Flow may be abolished with the agreement by consent or pursuant to Clauses 4-8 (4) or 4-8 (5) below, of each Operator:

a) whose Credits (exclusive of VAT) from Fares that were Sold in respect of that Flow and were Accepted for Clearing in the previous financial year of the RSP were at least five per cent. of the sum of the Credits (exclusive of VAT) that were received by all the Operators from those Fares (excluding, in each case, any Private Settlement Credits).

b) the Regulation of whose Fares would be affected by the abolition of the Flow.

To abolish the Flow, the Operators which have agreed to the abolition must send a notice substantially in the form set out in Part II of Schedule 9 to the RSP.

(6) Requirement for the Authority’s consent

(a) The prior consent of the Authority is required for:-

(i) the Creation of a Flow if any Compulsory Inter-available Flow exists between the origin and destination Stations of the proposed Flow; or

(ii) the modification or abolition of a Compulsory Inter-available Flow; or

(iii) the modification or abolition of any Flow if any Operator’s Fares for that Flow are Regulated.

(b) A request for this consent must be made in accordance with Clause 4-8 below.

(7) Date on which new Flow is Created or existing Flow is modified or abolished
The **Creation** of a new **Flow** or, as the case may be, the modification or abolition of an existing **Flow** will take effect on the date, specified by the **RSP**, on which the **RSP** records the change in accordance with its usual procedures.

4-8 **PROCEDURE FOR OBTAINING THE AUTHORITY’S CONSENT**

This is set out in Schedule 4 Part VIII

4-9 **EXISTING PRODUCTS**

(1) **Fares** and **Discount Cards** which are deemed to have been **Created**

   (a) The **Fares** and **Discount Cards** which may be **Purchased** at the date of this Agreement are deemed to have been **Created** by the **Operators** specified in the **RSP**’s records. In the case of most **Fares**, this information can be obtained from the **Fares Manuals** that are in issue at the date of this Agreement.

   (b) The **Operator** specified as such in the **RSP**’s records for each **Fare** which may be **Purchased** at the date of this Agreement and which includes a right to goods and services that are to be provided by a person which is not an **Operator** is deemed to be the **Sponsoring Operator** in respect of that **Fare**.

(2) Discontinuing **Special Fares**

   (a) **Special Fares** (as specified in Schedule 5) will be discontinued if any of the **Operators** which are deemed to have **Created** it serve a written notice to this effect on the other **Operators** (if any) which are deemed to have **Created** it and the **RSP**. However, such a notice may not be served if the discontinuation of the **Fare** would breach an agreement that has been entered into with a person who is not an **Operator**.

   (b) Where a notice is validly served pursuant to this sub-Clause (2), the **Fare** to which it relates will be discontinued with effect from the end of the first **Fares Setting Round** to begin after the notice is received by the **RSP**.

4-10 **CHANGING OR REMOVING A FARE**
(1) **Permanent Fares**

(a) Subject to paragraph (c) below, a **Permanent Fare** may only be discontinued or replaced, or its **Price** or other terms altered, in a **Fares Setting Round** or outside a **Fares Setting Round** in accordance with sub-Clause (4) below and only by:-

(i) the **Operator(s)** which **Created** the **Fare**; or

(ii) if it was **Created** pursuant to Clause 4-20 below, the **Lead Operator** for the relevant **Flow** at the time of the proposed change.

(b) Details of each **Permanent Fare** will continue to be supplied to **Approved TIMs**, **Approved Information Systems** and **Approved Reservation Systems** in accordance with Clause 4-52 below unless and until that **Permanent Fare** is discontinued or replaced, or its **Price** or other terms altered, in a **Fares Setting Round** or outside a **Fares Setting Round** in accordance with sub-Clause (4) below.

(c) If an **Operator** ceases to be a **Major Flow Operator** for a **Flow** on which it has **Created** a **Fare** pursuant to Clause 4-33 below, it must notify the **RSP** immediately. Where this notification is made, or a **Major Flow Operator** ceases to be bound by this Agreement, the **RSP** will, with effect from the end of the first **Fares Setting Round** to begin after the date of the notification or, as the case may be, the date on which it becomes aware that the **Operator** is no longer bound by this Agreement, withdraw details of the **Permanent Fares** that were **Created** by that **Major Flow Operator** from the **Approved TIMs**, **Approved Information Systems** and **Approved Reservation Systems** referred to in Clause 4-56 below.

(2) **Temporary Fares**

(a) Subject to paragraph (b) below, a **Temporary Fare** may only be discontinued or replaced, or its **Price** or other terms altered, in accordance with the procedure set out in Part II of Schedule 4 and only by:-

(i) the **Operator(s)** which **Created** the **Fare**; or

(ii) if it was **Created** pursuant to Clause 4-20 below, the **Lead Operator** for the relevant **Flow** at the time of the proposed change.
(b) If an **Operator** ceases to be a **Major Flow Operator** for a **Flow** on which it has **Created** a **Fare** pursuant to Clause 4-33 below, it must notify the **RSP** immediately. Where this notification is made, or a **Major Flow Operator** ceases to be bound by this Agreement, the **RSP** will, as soon as reasonably practicable, notify this fact to each **Operator** which was authorised to **Sell** any **Temporary Fares** that the former **Major Flow Operator Created**. Upon the receipt of this notification those **Operators** will cease to be authorised to **Sell** those **Temporary Fares**.

(3) **Special Fares**

A **Special Fare** may only be discontinued or replaced, or its **Price** or other terms altered, by the **Operator(s)** which **Created** it, and in accordance with the procedure specified in Part III of Schedule 4.

(4) **Creating or Changing Permanent Fares** when incorrect

A **Permanent Fare** may be **Created**, or discontinued or replaced, or its **Price** or other terms may be altered, otherwise than in a **Fares Setting Round**, but otherwise in accordance with sub-Clause (1) above, only if the **Permanent Fare** is incorrect and in accordance with the provisions of this sub-Clause (4).

(a) **Conditions**

In order to make a request for consent pursuant to this sub-Clause, the **Operator** concerned must fulfil either condition (i) or condition (ii) or condition (iii) or condition (iv) or condition (v) or condition (vi) below.

(i) **Fares** that have been deleted in error during a **Fares Setting Round**;

or

(ii) **Fares** that have been amended in error during a **Fares Setting Round** causing a situation referred to in Clause 16.1 Part I Schedule 4; or

(iii) The **Operator** has been notified by the **Authority** that the **Fare** should be altered; or
(iv) A new train service requires new Flows and Fares, provided that the new Flows and Fares are Created in accordance with the requirements of Chapter 4; or

(v) Where a Passenger Transport Executive has instructed the Operator in a timely fashion for the Creation, amendment or deletion of a Permanent Fare in a Fares Setting Round, but the Operator has failed to implement those instructions; or

(vi) Where the Operator has obtained the consent of the other Operators which are bound to honour a Fare that relates to the same Compulsory Inter-Available Flow or any parallel Compulsory Inter-Available Flow. A parallel Compulsory Inter-Available Flow is either a Flow with the same origin and destination Station or if the origin or destination is a group of Stations any single Station which is part of that group of Stations.

(b) Requirement for consent

If an Operator wishes to Create, discontinue, replace or alter a Permanent Fare outside a Fares Setting Round, it must obtain the consent of both the Ticketing and Settlement Scheme Council; and the Authority.

The request for this consent must be made in accordance with the following provisions of the sub-Clause (4).

(c) Representations

A request made pursuant to sub-Clause (b) above must be supported by written representations by the Operator requesting it and demonstrating that one of the relevant conditions in sub-Clause (a) applies.

(d) Contents of Representations

Any representations made under sub-Clause (c) must be made in such form and contain any details, and within such times, as the Ticketing and Settlement Scheme Council and the Authority, respectively, specify from time to time, either generally or in any particular case.
(e) Further information

The Ticketing and Settlement Scheme Council and the Authority may require any Operator making any representations to provide any further information that they need, either orally or in writing. Sub-Clause (d) above will also apply to these representations.

(f) Ticketing and Settlement Scheme Council Delegation

The Ticketing and Settlement Scheme Council may delegate its decision as to whether or not to give consent to such other persons or body as it may from time to time consider appropriate. If the Ticketing and Settlement Scheme Council or its representative refuses its consent, the Operator referred to in sub-Clause (b) above may refer the dispute for resolution in accordance with Clause 14-4 below.

(g) Notification of decision to the Operator

If the Ticketing and Settlement Scheme Council and the Authority, where appropriate, give their consent to a request that is made under this sub-Clause (4), they will notify its terms to the Operator referred to in sub-Clause (b) above as soon as reasonably practicable.

(h) Notification of decision to the RSP

The Operator will then notify the RSP of the consent and the RSP will implement the decision as soon as possible in such manner as the RSP, acting reasonably, thinks fit in accordance with Clauses 4-56 and 4-58 below.

(i) Fault/Service charges

The Operator will pay the RSP all its direct costs arising from the provision of this service, unless, in the case of a change to correct an incorrect Permanent Fare, the RSP agrees that the Permanent Fare is incorrect due to an error by the RSP, in which case the RSP will bear all such costs. The Operator and the RSP will use their reasonable endeavours to resolve any dispute as to whether or not the RSP is in
error, but, in the absence of a resolution of the dispute after 4 weeks, either party may refer the dispute for resolution in accordance with Clause 14-4 below.

(5) **Effect of changes to the rate of VAT**

Sub-Clauses (1) to (3) above are subject to Clause 4-63 below.
PART II: INCLUDING RIGHTS TO OTHER GOODS AND SERVICES IN A FARE

4-11 ABILITY TO INCLUDE OTHER RIGHTS WITHIN A FARE

(1) General

A Fare may include rights to goods or services other than a journey on the Network using the Operators’ trains or the carriage of luggage on such a journey. For example, it may include a right to use another person’s transport services, to enter a place which is not a Station, to obtain complimentary refreshments or to obtain a reduction in price of any goods or services that would otherwise apply. However, the inclusion of these rights within a Fare is subject to the restrictions set out in this Clause 4-11.

(2) The Sponsoring Operator

Rights to goods or services that are to be provided by a person who is not an Operator may only be included as part of a Permanent Fare or a Temporary Fare if that person has entered into an agreement with one or more Operators (referred to as the “Sponsoring Operator”) which allows each Operator to include those rights as part of any Fare it Creates (or as part of any Fare it Creates that satisfies certain criteria).

(3) Creation of Fares by the Sponsoring Operator

Before a Sponsoring Operator for any goods or services Creates a Permanent Fare or a Temporary Fare (by itself or in conjunction with any other Operator(s)) that includes the right to obtain those goods or services it must:-

(b) notify the RSP of the amount (including any applicable VAT) that is to be received by the Sponsoring Operator in respect of that right following the Sale of any Fare which includes that right (whether Created by the Sponsoring Operator or by any other Operator(s)) and the extent (if at all) to which that amount is to be reduced where the Fare is Purchased by the holder of a Discount Card that entitles the Purchaser to a discount in respect of a Fare.

(c) Ensure that the terms upon which such goods or services are made available include the right to a full Refund if it is not possible for Purchasers to exercise the right to obtain those goods or services due to a failure on the part of an Operator’s
services. The Rights and Restrictions applicable to a Fare including the right to obtain those goods or services may not prohibit the Purchaser of that Fare from obtaining a Refund in respect of the Fare unless the prior approval of the Authority has been obtained in accordance with Clause 8-13(3).

(7) Requirement for restrictions to apply generally

The period during which a right to obtain any goods or services may be included as part of a Fare, and any criteria that such a Fare is required to satisfy, must apply to the Sponsoring Operator as well as the other Operators.

(8) Incidental travel rights

Sub-Clause (3) above does not apply to any rights which are set out in the National Rail Conditions of Travel or, as the case may be, the CIV Rules (as opposed simply to being set out in a document which is referred to in the National Rail Conditions of Travel or the CIV Rules). To the extent that they are applicable, those rights are automatically part of each Fare.

4-12 INCLUSION OF RIGHTS WITHIN FARES BY OTHER OPERATORS

(1) Ability to include rights within Fares

(a) An Operator which is entitled pursuant to Clause 4-5(1) above to Create a Fare may include the right to any goods or services as part of the Fares it Creates.

(b) However, if the notification to the RSP set out in Clause 4-11 (3) (b) states that this right may only be included as part of a Fare which satisfies certain criteria it may only be included as part of a Fare which satisfies those criteria.
(2) **Time limit**

The ability to include the right referred to in sub-Clause (1) above as part of a Fare applies until the expiry of the period specified in the notification made pursuant to Clause 4-11(3)(b) above or, as the case may be, the date on which the Sponsoring Operator notifies the other Operators in writing that they are no longer allowed to do so.

### 4-13 SETTLEMENT WITH THIRD PARTIES

#### (1) Allocation to the Sponsoring Operator

The Sponsoring Operator for any goods or services will receive a Credit in respect of each Sale of a Fare which includes those goods or services in accordance with Clause 11-13 below unless the person who has agreed to provide those goods or services is an Approved Third Party (in which case a Credit will be received by that Approved Third Party).

#### (2) Payment to the third party

The Sponsoring Operator for any goods or services is responsible for ensuring that any person who is due to receive a payment in return for agreeing to provide those goods or services receives that payment unless that person is an Approved Third Party (in which case the RSP will be responsible for this). However, if that Operator is bound by Chapter 12, with the consent of the RSP, it may, pursuant to Clause 12-15 below, elect to clear that payment through the RSP as an Inter-User Payment.
PART III: CREATION OF FARES UNILATERALLY OR BY AGREEMENT

4-14 APPLICATION OF PART III

Clauses 4-15 and 4-16 below apply to each Operator, whether it is a Franchise Operator, an Open-access Operator.

4-15 DEDICATED FARES

Subject to Clause 4-25 below (where this applies), each Operator may Create Dedicated Fares in respect of journeys on its own trains.

4-16 THROUGH FARES AND INTER-AVAILABLE FARES CREATED BY AGREEMENT BETWEEN OPERATORS

(1) Ability to Create such a Fare

Unless they are prohibited from doing so by Clause 4-25 below, any two or more Operators may, pursuant to an agreement reached between them, Create:-

(a) a Through Fare which is valid for a journey that involves the use of the trains of more than one of those Operators;

(b) an Inter-available Fare which entitles the Purchaser of it, in making a journey, to choose between the trains of any of those Operators; or

(c) a Fare which falls within both paragraph (a) and paragraph (b) above.

Such an agreement must be substantially in the form of Schedule 7. A Product Implementation Form signed by the relevant Operators will satisfy the requirements of Schedule 7.

(2) Rights and Restrictions

The Price of such a Fare and (subject to Chapter 8 and the other provisions of this Chapter) the Rights and Restrictions applicable to it will be determined by the Operators which agree to Create it.
PART IV: CREATION BY LEAD OPERATORS OF THROUGH FARES AND INTER-AVAILABLE FARES ON COMPULSORY INTER-AVAILABLE FLOWS

4-17 APPLICATION OF PART IV

(1) The effect of Part IV

Clauses 4-18 to 4-30 below entitle Lead Operators to Create Permanent Fares and Temporary Fares on Compulsory Inter-available Flows in certain circumstances and restrict the circumstances in which certain Operators may Create Fares pursuant to Clauses 4-15 and 4-16 above.

(2) The Participating Operators

Clauses 4-18 to 4-30 below apply only to:-

(a) Franchise Operators which have agreed in a Franchise Agreement to be bound by those Clauses;

(b) Open-Access Operators and other Franchise Operators which have agreed in an Accession Agreement or a Supplemental Accession Agreement to be bound by those Clauses; and

These Operators are referred to as the “Participating Operators”.

4-18 COMPULSORY INTER-AVAILABLE FLOWS

All Flows without a Route restriction, or which include a geographical Route Code are Compulsory Inter-available Flows except:-

(a) those specified in Schedule 8; and

(b) those specified by the Authority in an Inter-Availability Direction made pursuant to Clause 4-26 below.

4-19 THE LEAD OPERATOR
The Lead Operator for a Compulsory Inter-available Flow is the Operator specified as such in the RSP’s records from time to time. The Lead Operator for such a Flow may, however, be changed pursuant to Clause 4-28 below.

4-20 **CREATING FARES FOR A COMPULSORY INTER-AVAILABLE FLOW**

(1) **Creation of Fares by Lead Operators**

(a) Subject to Clauses 4-21 to 4-25 below, each Lead Operator must Create at least one Inter-available Fare in respect of each Compulsory Inter-available Flow for which it is the Lead Operator. This Fare must be a Permanent Fare.

(b) Subject to Clauses 4-21 to 4-25 below, the Lead Operator may also Create one or more other Inter-available Fares in respect of that Flow. These may be Permanent Fares or Temporary Fares.

(c) Any Fare that is Created pursuant to this Clause 4-20 may also be a Through Fare.

(d) The Price of any Fare that is Created pursuant to this Clause 4-20 and the Rights and Restrictions applicable to it are (subject to Chapter 8 and the other provisions of this Chapter) at the discretion of the Lead Operator.

(2) **Honouring by other Operators**

Fares Created by a Lead Operator pursuant to sub-Clause (1) above must be honoured by any other Participating Operators which run trains on all or part of the relevant Flow.

(3) **e-Ticket Fares**

A Lead Operator may only Create an e-Ticket Fare pursuant to sub-Clause (1) above with the consent of each Operator who receives a Percentage Allocation in respect of the Flow(s) concerned.
(a) must act in an even-handed manner between the Participating Operators which run trains on the relevant Flow; and

(b) must not engage in disruptive or anti-competitive or other pricing policies which restrict, or might reasonably be expected to restrict, passengers’ freedom to choose between the services of the Operators which run trains on the relevant Flow.

4-22 RESTRICTION ON THE CREATION OF ADVANCE PURCHASE TRAIN-SPECIFIC FARES

(1) Fares covered by the restriction

A Lead Operator may not Create a Fare pursuant to Clause 4-20 above which is an “Advance Purchase Train-specific Fare”.

(2) Ability to Create Fares under Part III

Sub-Clause (1) above does not prevent a Lead Operator from Creating an Advance Purchase Train-specific Fare pursuant to Clause 4-15 or 4-16 above.

4-23 RESTRICTION ON THE CREATION OF FARES WHICH REQUIRE A RESERVATION

A Lead Operator may not Create a Fare pursuant to Clause 4-20 above in relation to which the Rights and Restrictions require a Reservation to be acquired before that Fare is valid. However, this does not prevent the Lead Operator (or any other Operator which is bound to honour that Fare) from requiring a Reservation to be acquired pursuant to Clause 4-46 below.

4-24 RESTRICTION ON THE CREATION OF FIRST CLASS FARES

(1) Restrictions on Lead Operators

A Lead Operator may not Create a First Class Fare pursuant to Clause 4-20 above in respect of a Flow for which it does not provide first class accommodation on its trains unless it is required to do so pursuant to sub-Clause (2) below.
(2) **Circumstances in which a Lead Operator may be required to Create a First Class Fare**

(a) Where, in respect of a Compulsory Inter-available Flow, the Lead Operator does not provide first class accommodation on its trains, but one or more other Participating Operators do, those Participating Operator(s) may, pursuant to a unanimous agreement amongst themselves (if there is more than one of them), require the Lead Operator to Create one or more First Class Fares in respect of that Flow having the Price and Rights and Restrictions specified by them.

(b) However, the Price of each First Class Fare that is Created in this way must be equal to or greater than the Price of the Standard Class Fare Created by the Lead Operator in respect of that Flow whose Rights and Restrictions are closest to those of the proposed First Class Fare in terms of:

(i) the range of trains on which travel may be made; and/or

(ii) the days of the week on which travel may be made; and/or

(iii) the types of person who are entitled to travel.

(3) **Types of Fare Created**

Any Fare which is Created pursuant to sub-Clause (2) above will be an Inter-available Fare. It may also be a Through Fare.

4-25 **Restriction on the Creation of Fares under Part III**

(1) The Lead Operator for a Flow may only Create a Fare in respect of that Flow pursuant to Clause 4-15 or Clause 4-16 above if at least one of paragraphs (a) to (f) below applies:

(a) the Fare is a First Class Fare and its Price is equal to or greater than the Price of the Standard Class Fare Created in respect of that Flow by the Lead Operator whose Rights and Restrictions are closest to the proposed First Class Fare in terms of:
(i) the range of trains on which travel may be made;

(ii) the days of the week on which travel may be made; and

(iii) the types of person who are entitled to travel;

(b) the Fare is an Advance Purchase Train-specific Fare;

(c) the period during which the Fare can be used in the 52 weeks ending on the last day of that period, plus the periods during which any other Fares Created by the Lead Operator for the same, or a substantially similar, Flow pursuant to Clause 4-15 or 4-16 above (other than any which fall within paragraph (a) or (b) above) can be used during the same 52 week period, is not more than 12 weeks; or

(d) the Fare is a Special Fare.

(e) the Lead Operator has:

(i) made a written request to the Authority for consent to the Creation of that Fare and that consent has been granted pursuant to sub-Clauses (2) - (6) below; and

(ii) consulted with the RPC(s) in whose area the Flow to which that Fare relates is situated (determined in accordance with the Act), and supplied the results of that consultation to the Authority. When consulting with the RPC(s) the Lead Operator shall stipulate that the RPC(s) must respond to the notice within 28 days of the service of the notice and the Lead Operator shall not be obliged to submit any response received after such time to the Authority.

The Lead Operator may, if it wishes, consult with other Operators in relation to the Creation of that Fare, and shall submit any response received to that consultation to the Authority together with the written request referred to in sub-paragraph (i) above.

(f) the fare is a Temporary Fare other than one created pursuant to paragraphs (a) to (e) above, and the Operator has obtained the express consent of all other Operators entitled to a percentage allocation for the flow. Notification of a Dispute does not
provide evidence that express consent has been obtained. The requirement in Chapter 4-5(3) (a)(i) for no similar Temporary Fare to have been offered for sale during the previous 17 weeks need not apply for fares created under this Clause.

(g) the Fare is an e-Ticket Fare and its Price is equal to or greater than the Price of the Standard Class Fare Created, pursuant to Clause 4-20 above, in respect of that Flow by the Lead Operator whose Rights and Restrictions are closest to the proposed e-Ticket Fare in terms of:-

(i) the range of trains on which travel may be made;

(ii) the days of the week on which travel may be made, and

(iii) the types of person who are entitled to travel.

(2) Notification by the Authority

Following a request for consent pursuant to paragraph (e) of sub-Clause (1) above, the Authority will:

a) notify the Regulator

b) notify any other Operator(s) which he reasonably believes might be affected if he gives his consent; and

c) consider any representations made by the Lead Operator seeking his consent and any representation made by the Regulator (insofar as such representation relates to the condition of an Operator’s Licence relating to predatory fares and exclusionary behaviour), other Operator(s) and RPC(s).

(3) Contents of Representations to the Authority

Any representations made under this Clause 4-25 must be made in such form and contain such details, and within such times, as the Authority specifies from time to time, either generally or in any particular case.

(4) Representations by other Operators
(a) In seeking the views of affected Operators and the Regulator pursuant to sub-Clause (2) above, the Authority may give those Operator(s) and the Regulator any information about the request and the representations made by the Lead Operator that the Authority considers appropriate.

(b) However, the Lead Operator making the request may ask the Authority to keep any representations confidential. The Authority will comply with such a request, but may refuse to consider further the giving of his consent to the Creation of the proposed Dedicated Fare if he believes it will not be practicable to seek the views of the other Operators which might be affected and the Regulator if the information is not disclosed.

(5) Further Information

The Authority may require any Operator making any representations to provide any further information that he needs, either orally or in writing. Sub-Clause (4) above will also apply to these representations.

(6) Notification of the Authority’s Decision

If the Authority gives his consent to a request under this Clause 4-25, he will notify its terms to the RSP, the Regulator the Operators and RPC(s) referred to in sub-Clause (2) above as soon as reasonably practicable.

4-26 INTER-AVAILABILITY DIRECTIONS

(1) The making of Inter-availability Directions by the Authority

The Authority may direct that one or more Compulsory Inter-available Flows (or proposed Compulsory Inter-available Flows) will, from the date specified in that direction, be regarded as a Flow which is not a Compulsory Inter-available Flow either in all respects or with respect to one or more Fare(s), Fare Type(s) and/or Operator(s). Such a direction is referred to as an “Inter-availability Direction”.

(2) The Authority’s discretion
(a) The Authority may agree to make an Inter-availability Direction on a provisional or temporary basis and subject to any conditions that he may specify.

(b) The Authority’s decision whether or not to make an Inter-availability Direction and as to the terms and conditions on which, and the period for which, it is granted will be binding on the Operators.

(3) Inter-availability Directions made at the initiative of the Authority

(a) An Inter-availability Direction may be made by the Authority following the receipt of a request made pursuant to Clause 4-27(1) below or on the Authority’s own initiative. However, the Authority will only make an Inter-availability Direction on his own initiative if he has sought and considered the views of all the Operators which he believes might be affected if it is made and any relevant RPC(s), as described in Clause 4-27(2) below.

(b) If the Authority makes an Inter-availability Direction on his own initiative he will notify those Operators and the RSP accordingly in accordance with Clause 4-27(5) below.

4-27 PROCEDURE FOR MAKING AN INTER-AVAILABILITY DIRECTION

This is set out in Schedule 4 Part IX

4-28 CHANGING THE LEAD OPERATOR

(1) Requesting a change in the designation of the Lead Operator

(a) Any Operator which receives income in respect of a Compulsory Inter-available Flow, but which is not the Lead Operator for that Flow, may at any time request a change in the identity of the Lead Operator for that Flow.

(b) The Lead Operator itself may not request a change from its designation as the Lead Operator.

(2) Procedure for requesting the change
The **Operator** requesting a change of **Lead Operator** must serve a notice substantially in the form of Schedule 10 (nominating itself as the proposed **Lead Operator**) on:-

(a) the existing **Lead Operator** in respect of that **Flow**;

(b) the other **Operators** which receive **Credits** in respect of the **Flow**;

(c) the **Authority**; and

(d) where relevant, the proposed **Lead Operator**.

(3) **Agreeing the identity of the Lead Operator**

Following the service of the notice referred to in sub-Clause (2) above, the relevant **Operators** will attempt to reach an agreement as to which **Operator** should be the **Lead Operator**. If, within four weeks of the service of this notice they have been unable to reach an agreement, Clause 14-4 below will apply.

(4) **Criteria for resolving a dispute**

Where Clause 14-4 below applies, the **ATOC Schemes Committee** (or the arbitrator or expert appointed in accordance with the **ATOC Dispute Resolution Rules**) will determine whether, in its or his reasonable opinion in the circumstances, the existing **Lead Operator** or the person specified in the notice better satisfies overall the following criteria in relation to the relevant **Compulsory Inter-available Flow**:-

(a) it is the principal revenue earner (calculated exclusive of VAT);

(b) it is in the best position to understand the market served by the relevant **Flow**, for example a commuter, local or long haul market;

(c) its appointment is more likely to ensure the avoidance of price anomalies between **Compulsory Inter-available Flows**;

(d) it is likely to want to set the highest **Price** for the **Fares** on that **Compulsory Inter-available Flow**;
(e) the total revenue (exclusive of VAT) earned in respect of the **Flow** by all **Operators** is likely to be greater if it is the **Lead Operator**; and

(f) if the **Compulsory Inter-available Flow** must involve the use of the trains of more than one **Operator**, it runs trains for the longer or longest part of the journey.

### 4-29 NOTICE TO THE RSP OF A NEW LEAD OPERATOR

Within seven days of any agreement that is reached or determination that is made as to the identity of a new **Lead Operator**, that **Lead Operator** must send to the **RSP**:-

(a) a notice substantially in the form of Schedule 11 and a copy of the determination or, as the case may be, written evidence of the agreement signed by each of the parties to it; and

(b) such supporting information and/or documents as the **RSP** may from time to time require, generally or in any particular case.

### 4-30 THE POWERS OF THE NEW LEAD OPERATOR

A new **Lead Operator**:-

(a) may not **Create** a **Permanent Fare** pursuant to Clause 4-20 above until the next **Fares Setting Round** to start after the information referred to in Clause 4-29 above has been received by the **RSP**; but

(b) except as otherwise provided above, may **Create Temporary Fares** as soon as it is appointed as the **Lead Operator**.
PART V: CREATION OF THROUGH FARES BY MAJOR FLOW OPERATORS

4-31 APPLICATION OF PART V

Clauses 4-32 to 4-36 below enable Major Flow Operators to Create Permanent Fares and Temporary Fares in certain circumstances on Flows which are not Compulsory Inter-available Flows. However, these Clauses apply only to the Participating Operators.

4-32 MAJOR FLOW OPERATORS

In respect of a Flow between two Stations which is not a Compulsory Inter-available Flow, each Operator which provides services for over half the length of that Flow is known as a “Major Flow Operator” for that Flow. For this purpose the length of a Flow is to be determined by the shortest track distance over which a Fare Created in respect of that Flow would be valid.

4-33 CREATING A THROUGH FARE FOR A NON-COMPULSORY INTER-AVAILABLE FLOW

(1) A Major Flow Operator may Create the Fare

(a) Subject to sub-Clause (2) below, a Major Flow Operator for a Flow which is not a Compulsory Inter-available Flow may Create one or more Through Fares in respect of that Flow. However, each Through Fare that is Created pursuant to this sub-Clause (1) must require the Purchaser to use the Major Flow Operator’s trains for the part of the Flow on which they run.

(b) A Major Flow Operator may only Create a Fare pursuant to this Clause 4-33 which entitles the Purchaser to travel between two specified Stations.

(c) The Price of each of these Through Fares and (subject to Chapter 8 and the other provisions of this Chapter) the Rights and Restrictions applicable to them are at the discretion of the Major Flow Operator.

(d) The Fares Created pursuant to this Clause 4-33 may be Permanent Fares or Temporary Fares.

(2) Imposition of inter-availability on the secondary leg
If, on any part of the Flow on which the relevant Major Flow Operator does not run trains, two or more other Participating Operators do run trains (and these stop at the furthest Station that the Major Flow Operator’s trains reach), a Through Fare Created by that Major Flow Operator must entitle the Purchaser to travel on the trains of any other Participating Operators without further payment when deciding how to complete his journey.

(3) **Honouring by other Operators**

Fares Created by a Major Flow Operator pursuant to sub-Clauses (1) and (2) above must be honoured by the Operators referred to in sub-Clause (2) above.

### 4-34 RESTRICTION ON THE CREATION OF ADVANCE PURCHASE TRAIN-SPECIFIC FARES

(1) **Fares covered by the restriction**

A Major Flow Operator may not Create a Fare pursuant to Clause 4-33 above which is an Advance Purchase Train-specific Fare.

(2) **Ability to Create Fares under Part III**

Sub-Clause (1) above does not prevent a Major Flow Operator from Creating an Advance Purchase Train-specific Fare pursuant to Clause 4-15 or 4-16 above.

### 4-35 RESTRICTION ON THE CREATION OF FARES WHICH REQUIRE A RESERVATION

A Major Flow Operator may not Create a Fare pursuant to Clause 4-33 above in relation to which the Rights and Restrictions require a Reservation to be acquired before that Fare is valid. However, this does not prevent the Major Flow Operator (or any other Operator which is bound to honour that Fare) from requiring a Reservation to be acquired pursuant to Clause 4-46 below.

### 4-36 DUTY OF THE MAJOR FLOW OPERATOR TO ACT IN AN EVEN-HANDED MANNER
If, on the part of the Flow on which the relevant Major Flow Operator does not run trains, two or more other Operators do run trains (and these stop at the furthest Station that the Major Flow Operator’s trains reach), in Creating any Fare pursuant to Clause 4-33 above, the Major Flow Operator:-

(a) must act in an even-handed manner between the Operators which are bound to honour that Fare and those which are bound to honour any other Through Fare(s) Created by the Major Flow Operator in respect of the Flow; and

(b) if a Purchaser of a Through Fare can choose between the trains of two or more Operators which run trains on the part of the Flow on which the Major Flow Operator does not run trains, must not engage in disruptive or anti-competitive or other pricing policies which restrict, or might reasonably be expected to restrict, passengers’ freedom to choose between them.
PART VI: CREATION OF NON-RAIL PRODUCTS

4-37 TERMINOLOGY

Determining the Price and other terms of a Non-Rail Product and providing details of those terms to the RSP in accordance with Part IV of Schedule 4 is referred to as “Creating” that Non-Rail Product.

4-38 ABILITY TO CREATE NON-RAIL PRODUCTS

A Non-Rail Product may be Created by any Operator (by itself or in conjunction with any other Operator(s)). However, before it does so, if it is not to provide the goods or services that are comprised in the Non-Rail Product itself, it must be authorised by the person who is to provide them to Create the Non-Rail Product. No Operator is required to Create a Non-Rail Product in any circumstances.

4-39 CHANGING OR REMOVING A NON-RAIL PRODUCT

A Non-Rail Product may be discontinued or replaced, or its Price or other terms altered, at any time but only in accordance with Schedule 4 Part IV and only by the Operator(s) which Created the Non-Rail Product.
PART VII: CREATION OF DISCOUNT CARDS AND DISCOUNT SCHEMES

4-40 TERMINOLOGY

Determining the Price and other terms of a Discount Card, or determining the terms of a Discount Scheme and in either case providing details of those terms to the RSP in accordance with Part V of Schedule 4 is referred to as “Creating” that Discount Card, or Discount Scheme, as appropriate.

4-41 ABILITY TO CREATE DISCOUNT CARDS AND DISCOUNT SCHEMES

(1) Circumstances in which Discount Cards and Discount Schemes may be Created

An Operator may (by itself or in conjunction with any other Operator(s)) only Create a Discount Card or Discount Scheme if it is allowed to do so pursuant to sub-Clause (2) or (3) below.

(2) Discount Cards or Discount Schemes in respect of Dedicated Fares

Each Operator may Create a Discount Card or Discount Scheme in respect of its own Dedicated Fares.

(3) Discount Cards or Discount Schemes Created by agreement

Two or more Operators may agree to Create a Discount Card or Discount Scheme in respect of Fares which are valid for use solely on their own trains.

4-42 USE OF TICKETS AND OTHER DOCUMENTS AS DISCOUNT CARDS

A Discount Card may, as well as entitling the Purchaser of it to Purchase a Fare at a lower price than would otherwise apply, evidence other rights. For example, a Discount Card may also be a Ticket.

4-43 DISCOUNT CARDS EXISTING AT THE DATE OF THIS AGREEMENT

(1) The Discount Card Agreements

The Operators which are parties to the Discount Card Agreements have agreed to Create the Discount Cards referred to in the Discount Card Agreements.
(2) **Staff travel**

Each of the documents referred to in the first column of Schedule 12 issued by any of the companies referred to in the second column of that Schedule is a **Discount Card** which has been **Created** by the **Operators** which are parties to the **Staff Travel Scheme**. However, where that Schedule states that another document must also be presented, that **Discount Card** is only valid when it is presented with that other document.

4-44 **CHANGING OR REMOVING A DISCOUNT CARD OR DISCOUNT SCHEME**

(1) **Operators**

A **Discount Card** or **Discount Scheme** may only be discontinued or replaced, or the **Price** of a **Discount Card** or the other terms of a **Discount Card** or a **Discount Scheme** altered, by all the **Operator(s)** which **Created** it, acting in accordance with the procedure set out in Part V of Schedule 4.

(2) **Discount Card Agreements**

A **Discount Card Created** pursuant to the **Discount Card Agreements** may only be discontinued or replaced, or its **Price** or other terms altered, in accordance with those agreements.

4-45 **PROVISION OF INFORMATION TO THE RSP**

(1) **Obligation to provide information about Discount Cards**

(a) Subject to sub-Clause (3) below, information about a **Discount Card** which any **Operator(s)** propose to **Create** must be provided to the **RSP** in accordance with Part V of Schedule 4.

(b) This information must include:-

(i) **the name of the Discount Card**;

(ii) **the Price at which it is to be Sold**;
(iii) the persons to whom it may be sold;

(iv) the fares and fares type(s) in relation to which it is to be valid;

(v) the amount of the discount which is to be allowed to a holder of the Discount Card;

(vi) the circumstances in which such a discount is to be allowed;

(vii) the operators which are to receive a share of any revenue (exclusive of VAT) that is received from sales of the Discount Card and the proportion of the revenue (exclusive of VAT) to which each is entitled or a formula acceptable to the RSP that will enable the RSP to calculate them;

(viii) whether details of the Discount Card are to be made available to all the Operators to enable them to sell it and, if not, the Operators which are to be allowed to offer the Discount Card for sale; and

(ix) any other information about the Discount Card that the RSP requires from time to time either generally or in any particular case.

(2) Obligation to provide information about Discount Schemes

(a) Information about a Discount Scheme which any Operator(s) propose to create must be provided to the RSP in accordance with Part V of Schedule 4.

(b) This information must include:-

(i) the name of the Discount Scheme;

(ii) the name or nature of the document entitling the holder to the discount;

(iii) the fares and fares type(s) in relation to which it is to be valid;

(iv) the amount of the discount which is to be allowed to holders;
(v) the circumstances in which such a discount, or discounts, are to be allowed;

(vi) any other information about the Discount Scheme that the RSP requires from time to time either generally or in any particular case.

(3) Discount Cards Created pursuant to the Discount Card Agreements

The information referred to in sub-Clause (1) above about Discount Cards that are Created pursuant to the Discount Card Agreements will be provided to the RSP by the relevant Discount Cards Scheme Council at the start of each Fares Setting Round.
4-46 TERMINOLOGY

Determining the Price and other terms of a Reservation and providing details of those terms to the RSP in accordance with Part VI of Schedule 4 is referred to as “Creating” that Reservation.

4-47 ABILITY TO CREATE RESERVATIONS

(1) Circumstances in which Reservations may be Created

An Operator may (by itself or in conjunction with any other Operator(s)) only Create a Reservation if it is allowed to do so pursuant to sub-Clause (2) or (3) below.

(2) Reservations in respect of its own trains

Each Operator may Create a Reservation in respect of a journey that is to be made on its own trains.

(3) Reservations Created by agreement

Two or more Operators may agree to Create a Reservation in respect of a journey that is to be made solely on their own trains.

4-48 OPERATORS’ ABILITY TO REQUIRE OR MAKE AVAILABLE RESERVATIONS

(1) Requiring Reservations

(a) An Operator may require a Reservation to be Purchased before the Purchaser of a Fare is entitled to use particular trains of that Operator, even though the Rights and Restrictions applicable to the Fare do not require a Reservation to be Purchased. Such an Operator is not bound to carry the Purchaser of the Fare on those trains if a Reservation has not been Purchased.

(b) However:-
(i) if the Operator is a Franchise Operator, it must comply with the terms of its Franchise Agreement;

(ii) the Operator's policy for requiring and charging for Reservations must not discriminate between, on the one hand, Through Fares and Inter-available Fares and, on the other hand, the Dedicated Fares of that Operator.

(2) Making Reservations available

In addition, an Operator on whose trains a Fare is valid may permit Reservations to be Purchased in respect of those trains.

(3) Refunds

A Purchaser of a Reservation may not be restricted from obtaining a Refund in respect of that Reservation unless the prior approval of the Authority has been obtained pursuant to Clause 8-13(3).

4-49 CHANGING OR REMOVING A RESERVATION

A Reservations may only be discontinued or replaced, or its Price or other terms altered, by all the Operator(s) which Created it, acting in accordance with the procedure set out in Part VI of Schedule 4.

4-50 PROVISION OF INFORMATION TO THE RSP

Information about a Reservation which any Operator(s) propose to Create must be provided to the RSP in accordance with Part VI of Schedule 4.

This information must include:-

(i) the Price at which it is to be Sold;

(ii) the Fares and Fares Type(s) in relation to which it is to be valid;

(iii) the circumstances (if any) in which it is required; and

(iv) the circumstances in which it may be issued (where they are not required).
(v) the Operators which are to receive a share of any revenue (exclusive of VAT) that is received from Sales of the Reservation and the proportion of the revenue (exclusive of VAT) to which each is entitled or a formula acceptable to the RSP that will enable the RSP to calculate them;

(vi) whether details of the Reservation are to be made available to all the Operators to enable them to Sell it and, if not, the Operators which are to be allowed to offer the Reservation for Sale; and

(vii) any other information about the Reservation that the RSP requires from time to time either generally or in any particular case.
PART IX: UPGRADERS

4-51 TERMINOLOGY

Determining the Price and other terms of an Upgrade and providing details of those terms to the RSP in accordance with Part VII of Schedule 4 is referred to as “Creating” that Upgrade.

4-52 ABILITY TO CREATE UPGRADES

(1) Circumstances in which Upgrades may be Created

An Operator may (by itself or in conjunction with any other Operator(s)) only Create an Upgrade if it is allowed to do so pursuant to sub-Clause (2) or (3) below.

(2) Upgrades in respect of its own trains

Each Operator may Create an Upgrade in respect of a journey that is to be made on its own trains.

4-53 OPERATORS’ ABILITY TO REQUIRE OR MAKE AVAILABLE UPGRADES

(1) An Operator may permit Upgrades to be Purchased in respect of its own trains, for use in conjunction with any Fare it specifies.

(2) However the Operator’s policy for requiring and charging for Upgrades must not discriminate between, on the one hand, Through Fares and Inter-available Fares and, on the other hand, the Dedicated Fares of that Operator.

4-54 CHANGING OR REMOVING AN UPGRADE

An Upgrade may only be discontinued or replaced, or its Price or other terms altered, by all the Operator(s) which Created it, acting in accordance with the procedure set out in Part VII of Schedule 4.

4-55 PROVISION OF INFORMATION TO THE RSP
Information about an Upgrade which any Operator(s) propose to Create must be provided to the RSP in accordance with Part VII of Schedule 4. This information must include:-

(i) the Price at which it is to be Sold;

(ii) the Fares and Fares Type(s) in relation to which it is to be valid;

(iii) the circumstances in which it may be Sold;

(iv) the Operators which are to receive a share of any revenue (exclusive of VAT) that is received from Sales of the Upgrade and the proportion of the revenue (exclusive of VAT) to which each is entitled or a formula acceptable to the RSP that will enable the RSP to calculate them;

(v) whether details of the Upgrade are to be made available to all the Operators to enable them to Sell it and, if not, the Operators which are to be allowed to offer the Upgrade for Sale; and

(vi) any other information about the Upgrade that the RSP requires from time to time either generally or in any particular case.
PART X: INFORMATION ABOUT RAIL PRODUCTS AND NON-RAIL PRODUCTS

4-56 PROVISION OF INFORMATION ABOUT PERMANENT FARES

Where an Approved TIM, an Approved Reservation System or an Approved Information System operated by an Operator has the capacity to hold data relating to Permanent Fares and Discount Cards, the RSP will use its reasonable endeavours to supply the data to that Approved TIM, Approved Reservation System or Approved Information System in accordance with the criteria and procedures specified in the approval certificate for the Approved TIM, Approved Reservation System or Approved Information System.

4-57 USE OF INFORMATION ABOUT RAIL PRODUCTS AND NON-RAIL PRODUCTS

(1) Use by the Operators of information about their own products

Each Operator may use and publish in any form it considers appropriate any information supplied to it by the RSP about Fares which entitle a Purchaser of them to use that Operator’s trains, any Discount Cards any Reservation any Upgrade or Non-Rail Products which that Operator has Created and any Reservations or Upgrades which that Operator has allowed to be Sold in relation to its services.

(2) Use of information about other Operators’ products

The RSP hereby grants each Operator a non-exclusive, non-assignable Licence to use any other information supplied to it by the RSP about Rail Products and Non-Rail Products, but only for:-

(a) the purpose of Selling Rail Products and Non-Rail Products; and

(b) any other reasonable business and marketing purposes of that Operator.

4-58 FARES DATA

(1) Preparation and distribution of Fares Data
Following each Fares Setting Round the RSP will prepare a data file (referred to as “Fares Data”) containing information about Permanent Fares and Discount Cards. The format and contents of the Fares Data will be determined by the RSP.

(2) Supply of Fares Data to Lead Retailers

The RSP will use its reasonable endeavours to ensure that the Lead Retailer at each Regulated Station receives the Fares Data referred to in Schedule 17 against the name of that Regulated Station.

(3) Supply of Fares Data to Operators

The RSP will also use its reasonable endeavours to ensure that, in addition to the Fares Data referred to in sub-Clause (2) above (where this applies), each Operator receives any Fares Data that it requests from time to time.

(4) Charges for Fares Data

(a) If any of the Fares that an Operator Sells are RSP-settled Fares, the cost of the data referred to in sub-Clause (2) above will be included in the cost of the services provided by the RSP to that Operator and so no additional charge will be payable.

(b) Otherwise, the Operator must pay to the RSP for the data referred to in sub-Clause (2) above any reasonable charges that the RSP specifies from time to time, together with any applicable VAT.

(c) These charges must also be paid by each Operator (regardless of whether it is a Lead Retailer) in respect of any of the data it receives pursuant to sub-Clause (3) above.

4-59 THE ROUTEING GUIDE

(1) Preparation and distribution of the Routeing Guide

The RSP will prepare the Routeing Guide, the format and contents of which will be determined by the RSP from time to time.
(2) **Supply of the Routeing Guide to Operators**

The RSP will ensure that the Routeing Guide is made available to each Operator.

(3) **Charges for the Routeing Guide**

Each Operator must pay the RSP any reasonable charges that the RSP specifies from time to time (together with any applicable VAT) for the provision of the Routeing Guide (or parts of it) that it receives.
PART XI: GENERAL PROVISIONS

4-60 NOTIFICATION TO THE RSP ON BEHALF OF A GROUP OF OPERATORS

(1) Responsibility for notifying the RSP

Subject to Clause 4-45(2) above, where two or more Operators propose to Create a particular Fare, Discount Card, Reservation, Upgrade or Non-Rail Product they must nominate one of their number to provide details of the Fare, Discount Card, Reservation, Upgrade or Non-Rail Product to the RSP in accordance with the relevant provisions of Schedule 4.

(2) Termination of agreement between Operators

(a) If an agreement between two or more Operators to Create a Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product expires or otherwise terminates, or those Operators agree to discontinue that Fare, Discount Card, Reservation, Upgrade or Non-Rail Product or alter its Price or other terms, the Operator or Discount Card Scheme Council which provided details of the Fare, Discount Card, Reservation, Upgrade or Non-Rail Product to the RSP must notify the RSP of the termination of the original agreement or, as the case may be, the terms of the new agreement.

(b) In the case of a Permanent Fare, this notification must take place during a Fares Setting Round. In the case of a Temporary Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product, it must take place as soon as reasonably practicable, in accordance with the relevant provisions of Schedule 4.

(3) Verification of the notifying Operator’s authority

If an Operator purports to provide details to the RSP on behalf of itself and one or more other Operators of an agreement to Create a Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product, the RSP will verify that each Operator which is identified as a party to that agreement has authorised the Creation of the Fare, Discount Card, Reservation, Upgrade or Non-Rail Product and the notification of details of it to the RSP.

(4) Reliance on the notifying Operator
(a) The RSP may assume that an Operator which purports to provide details to the RSP on behalf of itself and one or more other Operators to discontinue a Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product or alter its Price or other terms, or of the termination of an agreement to Create a Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product, has authority from those other Operator(s) to do so.

(b) The RSP may refuse to accept such instructions about a Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product which has been Created from any Operator other than the one which provided the relevant details to the RSP. However, with the consent of the RSP, the Operators which Created the Fare, Discount Card, Reservation, Upgrade or Non-Rail Product may from time to time appoint one of their number to liaise with the RSP in place of the existing Operator. If this is done, this sub-Clause (4) will apply to the replacement in the same way as to the Operator that was originally appointed.

4-61 CREATION OF TRAVELCARDS

(1) Travelcards which are valid only within the TTL Zones

The Lead Operator for the Flows which involve travel only within one or more of the Zones agreed between the Operators and TTL for the Creation of Travelcards is the Travelcard Scheme Management Group. Travelcards in respect of those zonal Flows may only be Created pursuant to a resolution of the Ticketing and Settlement Steering Group.

(2) Other Travelcards

The Lead Operator (if any) for the Flows which involve travel outside the Zones agreed between the Operators and TTL for the Creation of Travelcards as well as within them is determined in accordance with Clauses 4-19 and 4-28 above.

(3) Creation of Fares involving TTL’s services

(a) An Operator which is entitled to Create a Fare pursuant to this Chapter may include as part of that Fare the right to travel on the services of TTL, its
subsidiaries and TTL Third Parties if the Sale of such Fares is permitted by the Travelcard Agreement or the Through Ticketing (Non-Travelcard) Agreement.

(b) The Sponsoring Operator in respect of this right consists of the relevant Scheme Council constituted under the LRT Scheme and the notifications referred to in Clause 4-11(3) above are deemed to have been given.

4-62 SYSTEMS LIMITATIONS

An Operator may not, without the RSP’s prior consent, Create a Fare or a Discount Card which has a Price or any Rights and Restrictions that the RSP is unable to record, or about which it is unable to supply information to Approved TIMs, Approved Information Systems and Approved Reservation Systems in accordance with its usual procedures. The RSP will explain any such limitations which apply on request by an Operator.

4-63 EFFECT OF CHANGES TO THE RATE OF VAT

(1) Adjustment to Prices

If the rate of VAT payable in respect of the Sale of any Rail Products or Non-Rail Products changes, each Operator may instruct the RSP to take any action that that Operator directs in relation to the Price of the Rail Products and Non-Rail Products that it has Created and the RSP will use its reasonable endeavours to comply with those instructions.

(2) Provision of information

Not later than the day on which such a change to the rate of VAT takes effect (or, if this is not practicable, as soon as reasonably practicable thereafter), if the change affects the Price of any Fares or Discount Cards, the RSP will:-

(a) supply to each Operator that received the Fares Manuals which contained details of those Fares or Discount Cards, new Fares Manuals showing the revised Prices; and

(b) use its reasonable endeavours to supply revised information about the Fares and Discount Cards to the Approved TIMs and Approved Information Systems
and Approved Reservation Systems referred to in Clause 4-56 above in accordance with that Clause.

(3) Charging for the supply of Fares Manuals

Clause 4-58 above will apply to any Fares Data supplied pursuant to sub-Clause (2) above.

4-64 CALCULATION OF CHARGES

Each Operator must pay such amounts for Creating Fares, Discount Cards, Reservations, Upgrades and Non-Rail Products as the RSP notifies it from time to time or as otherwise agreed between that Operator and the RSP. Each Operator must also pay any applicable VAT in respect of these amounts.
PART XII: TRANSITIONAL PROVISIONS FOLLOWING THE TERMINATION OF A FRANCHISE

4-65 EFFECT ON EXISTING RAIL PRODUCTS AND NON-RAIL PRODUCTS

(1) **Transfer to the incoming Operator**

Subject to the provisions in this Chapter 4 allowing discontinuance and amendment of products, this Clause 4-65 applies if, in connection with the termination of a Franchise Operator’s Franchise Agreement, another person signs an Accession Agreement and enters into a Franchise Agreement relating to the same or substantially the same services as the terminated Franchise Agreement.

(2) **Existing Rail Products and Non-Rail Products**

Where this Clause 4-65 applies:- the Fares, Discount Cards, Reservations, Upgrades and Non-Rail Products which were Created by the original Franchise Operator will be deemed to have been Created by that other person.

(3) **Alteration of Rail Products and Non-Rail Products**

Sub-Clause (2) above does not prevent the new Operator from discontinuing or replacing a Fare, a Discount Card, a Reservation, an Upgrade or a Non-Rail Product or altering its Price or other terms, as permitted by this Chapter.

(4) **Transfer of Sponsoring Operator’s rights and obligations**

Where this Clause 4-65 applies and the Franchise Operator whose Franchise Agreement has been terminated is the Sponsoring Operator in respect of any Fares at the time the new Franchise Operator signs its Accession Agreement, that new Franchise Operator will become the Sponsoring Operator in respect of those Fares instead of it.

4-66 PARTICIPATION IN FARES SETTING ROUNDS

Once a person has signed a Franchise Agreement, that person will be entitled to participate in the Fares Setting Rounds as if it were an Operator. However, any Fares which are Created by that
person before it has become an Operator may not be valid for travel on a date before that person has become an Operator.
CHAPTER 5: PRODUCT BRANDS AND SOFTWARE

5-1 OWNERSHIP

The RSP is the owner, or controls the use, of all trade marks, service marks and trading names comprising the names set out in Schedule 13.

5-2 THE TRADE MARKS LICENCE

(1) Grant of licence

The RSP hereby grants each Operator a non-exclusive, non-assignable royalty-free licence (referred to as a “Trade Marks Licence”) to use the names described below (referred to as the “Marks”) on the terms set out in this Chapter:-

(a) the names listed in Schedule 13, as amended from time to time in accordance with this Agreement; and

(b) the names of any other Discount Cards that are Created pursuant to an ATOC Scheme to which that Operator is a party where rights in respect of the names are vested in the RSP, but only while the Operator is a party to that ATOC Scheme.

(2) Duration of the Trade Marks Licence

An Operator’s Trade Marks Licence will terminate automatically if it ceases to be an Operator.

(3) User Rules

(a) The Marks may only be used in the manner set out in the User Rules.

(b) The “User Rules” are as follows:-

(i) in the case of Marks which relate to the names set out in Part I of Schedule 13, the rules determined from time to time by the Ticketing and Settlement Scheme Council; and
(ii) in the case of Marks which relate to the names of the Permanent Fares set out in Part II of Schedule 13 or the names of any other Discount Cards that are Created pursuant to an ATOC Scheme, the rules determined from time to time by the relevant Discount Card Scheme Council; and

(iii) in the case of Marks which relate to the names set out or referred to in Part III of Schedule 14, the rules determined from time to time by the Ticketing and Settlement Scheme Council.

(c) The User Rules applicable to the names of the Permanent Fares set out in Part I of Schedule 13 which are in existence at the date of this Agreement are set out in Part I of Schedule 14.

(d) The User Rules applicable to the names of the Discount Cards set out in Part II of Schedule 13 which are in existence at the date of this Agreement are set out in Part II of Schedule 14.

(e) The User Rules applicable to the names set out or referred to in Part III of Schedule 14 will be those which are applicable as at the date of this Agreement.

(4) Challenge to ownership or validity of the Marks

No Operator may challenge the ownership or validity of any of the Marks.

5-3 CHANGES TO THE USER RULES

The RSP may change the User Rules which relate to the names set out in Part I or Part III of Schedule 13 by giving at least the notice specified by the Ticketing and Settlement Scheme Council or its delegate to each of the Operators. However, the RSP will not exercise this right unless it is directed to do so by the Ticketing and Settlement Scheme Council.

5-4 REGISTRATION OF THE MARKS

The Ticketing and Settlement Scheme Council may direct the RSP to apply for the registration of any of the Marks listed in Part I or Part II of Schedule 13 as registered trade marks. The RSP will make such an application and use its reasonable endeavours to secure the registration.
5-5 CHANGES TO SCHEDULE 13

(1) **Fares**

The **Ticketing and Settlement Scheme Council** may decide from time to time to add any names to, or delete any names from, Part I and Part III of Schedule 13. If it does so, it will direct the **RSP** accordingly. If it receives such a direction the **RSP** will give the notice specified by the **Ticketing and Settlement Scheme Council** or its delegate of the change to the **Operators**, on the expiry of which Part I and/or Part III of that Schedule will be amended. Subject to sub-Clause (3) below, from then on, references in this Agreement to that Schedule will be construed accordingly.

(2) **Discount Cards**

Each of the **Discount Card Scheme Councils** may decide from time to time to add any names of **Discount Cards** to, or delete any names from, Part II of Schedule 13 if they fall within the responsibilities of that **Discount Card Scheme Council**. If it does so, it will direct the **RSP** accordingly. If it receives such a direction, the **RSP** will give 12 months’ notice of the change to each of the **Operators**, on the expiry of which Part II of that Schedule will be amended. Subject to sub-Clause (3) below, from then on, references to it in this Agreement to that Schedule will be construed accordingly.

(3) **Vesting of rights in the RSP**

If a direction is given to the **RSP** pursuant to sub-Clauses (1) or (2) above, the **Operators** must take any steps that are needed to vest any rights they have in respect of the name(s) to which the direction relates in the **RSP** as soon as reasonably practicable. Part I or, as the case may be, Part II or Part III of Schedule 13 will not be amended pursuant to those sub-Clauses until this has been done.

5-6 LICENCE AGREEMENTS

At the request of the **RSP**, any **Operator** that is using or intends to use any **Marks** which are registered trade marks must enter into a licence agreement, and use its best endeavours to secure the registration of the agreement in the Register of Trade Marks, as soon as practicable.
5-7 GOODWILL

Any goodwill arising out of the use of the Marks is the property of the RSP. Each Operator must execute any documents reasonably specified by the RSP to vest this goodwill in the RSP.

5-8 WRITTEN MATERIAL

Each Operator must:

(a) provide the RSP at its request with a copy of any literature, advertising or promotional material issued by that Operator which contains any of the Marks; and

(b) permit the RSP on reasonable notice during ordinary working hours to inspect any facilities owned or run by it, any leaflets, notices or other documents which it produces or displays using the Marks and any services which it provides by reference to any of the Marks to ensure that its use of the Marks is in accordance with the provisions of its Trade Marks Licence.

5-9 NO PASSING OFF

An Operator must not use or attempt to register any trade mark, service mark or trading name which is identical to or substantially the same as any of the Marks without the prior written consent of the RSP.

5-10 MAINTAINING TRADE MARK REGISTRATIONS

Each Operator must assist the RSP in maintaining the registration of any Marks which are registered trade marks. It must also assist the RSP in connection with any application the RSP makes to register as a trade mark or a service mark any other Mark specified by the RSP.

5-11 INFRINGEMENT

(1) Notice to the RSP

Each Operator must notify the RSP as soon as reasonably practicable if it becomes aware of any infringement of a Mark or a Trade Marks Licence or any claim by a person that an Operator’s use of any of the Marks infringes that person’s trade mark or other intellectual
property rights. It must also use its reasonable endeavours to provide the RSP with all information that is available to it about the infringement or claim.

(2) **Restriction on taking of action**

Except as specified in sub-Clause (1) above, no Operator may take any action in relation to any infringement or claim which falls within that sub-Clause unless it is authorised to do so by the RSP.

(3) **Infringement proceedings**

(a) The RSP has the sole right to determine:-

(i) whether proceedings should be commenced in respect of an alleged infringement of a Mark or a Trade Marks Licence;

(ii) if it decides that they should be commenced, the person(s) in whose name(s) the action should be brought;

(iii) whether any claim notified to it pursuant to sub-Clause (1) above should be defended; and

(iv) the conduct of any such proceedings or defence.

(b) However, it will not commence such proceedings or defend such a claim unless it is directed to do so by the Ticketing and Settlement Scheme Council (in the case of any proceedings or claims which relate to the names set out in Part I or Part III of Schedule 13) or the relevant Discount Card Scheme Council (in any other case). Furthermore, if it is directed to commence such proceedings it will do so in its own name unless this is not reasonably practicable or legally advisable.

(c) Each Operator must:-

(i) at the request of the RSP, commence proceedings in respect of an alleged infringement of a Mark in accordance with the RSP’s instructions; and
(ii) use its reasonable endeavours to provide any documents and witnesses, and take any other action, that the RSP reasonably requires in connection with any such proceedings (whether commenced in the name of an Operator or the RSP) or defence.

(4) Costs

(a) Any costs and expenses incurred by the RSP or an Operator in taking such proceedings or defending such a claim (including any VAT for which credit is not available to it under the VAT Act) will be borne by the Operators in the proportions determined by the Ticketing and Settlement Scheme Council (if they relate to the names set out in Part I or Part III of Schedule 13) or the relevant Discount Card Scheme Council (in any other case). Each Operator must indemnify the RSP and, where relevant, the Operator required to take any such proceedings, on an after tax basis for the relevant proportion of these costs and expenses.

(b) The RSP may insist on being funded in advance for the costs and expenses it is to incur in taking such proceedings or defending such a claim. The eventual liability under paragraph (a) above of an Operator which makes a payment pursuant to this paragraph will be reduced by the amount of the payment. If the liability is less than the amount paid by that Operator, a sum equal to the excess will be repaid by the RSP as soon as reasonably practicable after the amount of the liability is finally determined.

5-12 WARRANTIES

(1) No warranty by the RSP

(a) The RSP gives no warranty that any of the Marks are validly registered (or will proceed to registration) or are owned by it, nor that the use by an Operator of the Marks in accordance with this Agreement will not infringe the rights of any third party.

(b) Each Operator acknowledges that no representation or warranty as to the ownership or validity or third party infringement of, or in relation to, any of the Marks or the efficacy of its Trade Marks Licence has been made to it.
(2) Further acknowledgement by the Operators

Each Operator also acknowledges that no representations or promises have been given to it about the identity of any other users of the Marks, the extent of their use or the past or future profitability of any business in which they are used.

5-13 ASSIGNMENT

A Trade Marks Licence is personal to the Operator to which it is granted and cannot be assigned, licensed, sub-let or in any other way dealt with without the prior written consent of the RSP. No Operator may purport to assign, license, sub-let or in any way deal with its Trade Marks Licence unless it has obtained this consent first.

5-14 PROHIBITION ON CHARGING

No Operator may charge or otherwise deal in or encumber any Trade Marks Licence.

5-15 TERMINATION OF THE TRADE MARKS LICENCE

If an Operator's Trade Marks Licence terminates or expires with respect to any Mark, that Operator must cease to use that Mark immediately.

5-16 SOFTWARE AND COPYRIGHT WORKS LICENCE

(1) Grant of licence

The RSP hereby grants to each Operator a non-exclusive, non-assignable, royalty-free licence to use the Software (in object code version) and the Copyright Works for the purposes of its business. The Operator may sub-licence the Software only with the prior written approval of the RSP (although this approval may not be unreasonably withheld). The licence granted by this sub-Clause (1) will terminate immediately on the Operator ceasing to be a party to this Agreement.

(2) Encumbrance

No Operator may charge or otherwise deal in or encumber the Software or the Copyright Works.
5-17 OWNERSHIP OF SOFTWARE AND COPYRIGHT WORKS

(1) The RSP

The copyright and all other intellectual property rights in the Software and the Copyright Works are the exclusive property of the RSP.

(2) Notice of infringement

Each Operator must promptly give notice in writing to the RSP if it becomes aware of or suspects an infringement of any intellectual property right in the Software or the Copyright Works.

(3) Assistance from Operators

Each Operator must, at the request and expense of the RSP, provide all reasonable assistance to the RSP in connection with any action that the RSP wishes to take in relation to the Software or the Copyright Works.

(4) Warranties

No warranty, condition, undertaking or term (whether express or implied), as to the condition, quality, performance, merchantability or fitness for purpose of the Software or the Copyright Works is given or assumed by the RSP. The RSP does not warrant that use by an Operator of the Software in accordance with this Agreement will not infringe the rights of any third party.

(3) Modifications to the Software

(a) Except as permitted by law or with the prior written consent of the RSP (which is not to be unreasonably withheld or delayed), no Operator may decompile, disassemble or modify the whole or any part of the Software.

(b) The RSP agrees that an Operator may make such copies of the Copyright Works as are required for the purposes of its business.
5-18  OPERATION AND MAINTENANCE OF THE SOFTWARE

The RSP will operate, maintain and provide services in relation to the Software. As and when introduced, this obligation will be construed in accordance with the Service Level Agreements (as modified, supplemented or replaced from time to time) in respect of the agreements referred to in Clauses 3-9(2) and (3) above or any other agreement relating to the Software entered into pursuant to 3-9(1) above.

5-19  SUB-LICENCE OF RAILTRACK SOFTWARE

(1)  Grant of sub-licence

The RSP hereby grants to each Operator a non-exclusive, non-assignable, royalty-free licence to use the Railtrack Software on the terms of the Train Services Data Agreement (but only on the terms and conditions set out in that agreement). This Licence will terminate immediately on the Operator ceasing to be a party to this Agreement.

(2)  Encumbrance

No Operator may charge or otherwise deal in or encumber the sub-licence granted by this Clause 5-20 or the Railtrack Software.

(3)  Modifications to the Railtrack Software

Except as permitted by law or with the prior written consent of the RSP and Railtrack PLC, no Operator may decompile, disassemble or modify the whole or any part of the Railtrack Software.

5-20  OWNERSHIP OF RAILTRACK

(1)  Railtrack

The copyright and all other intellectual property rights in the Railtrack Software are the exclusive property of Railtrack PLC.

(2)  Warranties
No warranty, condition, undertaking or term (whether expressed or implied) as to the condition, quality, performance, merchantability or fitness for purpose of the Railtrack Software or as to the RSP’s rights to sub-license it is given or assumed by the RSP.

5-21 MAINTENANCE OF THE RAILTRACK SOFTWARE

The Railtrack Software will be maintained and operated by Railtrack PLC pursuant to contracts for computer services between the Operators and Railtrack PLC.
CHAPTER 6: RETAILING

PART I: LEAD RETAILERS

6-1 LEAD RETAILERS

Each Station has a Lead Retailer, which is the Operator specified in Schedule 17 against the name of that Station.

6-2 NEW STATIONS

(1) New Stations in substantially the same location

If a Station is replaced by a new Station in the same or substantially the same location and at which the same or substantially the same train services stop:

(a) its Lead Retailer will be the Operator that was the Lead Retailer at the old Station;

(b) the Lead Retailer will be obliged to Sell the same Rail Products at the new or altered Station that it would have been obliged to Sell at the old one;

(c) if the Station was a Regulated Station the new Station will be as well; and

(d) the RSP will amend Schedule 17 accordingly.

(2) Other new Stations

(a) If a new Station is built which is not within sub-Clause (1) above, the Operators which propose to operate trains which call at that Station may decide, by agreement amongst themselves, which Operator is the Lead Retailer. In the event of a dispute between them, the Authority will decide the matter. In reaching his decision he will seek and consider the views of the Operators which he believes might be affected by the decision.

(b) Any Operator which is likely to be affected by such a decision may make representations to the Authority about these matters. In reaching his decision the
Authority will also seek and consider the views of the Operators which he believes might be affected by the decision and any other person who is responsible for operating the relevant Station.

(3) Notification of changes

The Authority will notify each of the Operators of any decision he makes pursuant to sub-Clause (2) above as soon as reasonably practicable after making it.

6-3 CHANGING THE LEAD RETAILER

(1) Requesting a change

(a) A request to change the Lead Retailer at a Station may be made to the Authority by:-

(i) that Lead Retailer; or

(ii) any other Operator whose trains stop at that Station for the purpose of allowing passengers on and off the train, or which has access rights which allow them to do so.

(b) The request must nominate an Operator as the new Lead Retailer and must be supported by written representations by the Lead Retailer or other Operator seeking the change. No Operator may be nominated as a replacement Lead Retailer unless it has given its prior consent to the nomination or it is itself seeking the change.

(2) Obtaining the Authority’s consent

Following the receipt of a request to change a Lead Retailer, the Authority will:-

(a) notify any other Operators which he believes might be affected by the change; and
(b) consider the representations made by the Lead Retailer or other Operator seeking the change and any made by the Operators notified pursuant to sub-Clause (1) above.

(3) The coming into effect of the change

(a) If the Authority agrees to a request made pursuant to sub-Clause (1) above, the Lead Retailer will be changed accordingly.

(b) The change will take effect four months after the Authority notifies the outgoing Lead Retailer, the Operator which is to become the Lead Retailer in its place and the RSP of his decision. The change may, however, occur earlier if the Authority and all the Operators concerned agree.

6-4 WHERE THE LEAD RETAILER'S TRAINS NO LONGER STOP AT A STATION

(1) Change of Lead Retailer

If, after the date of this Agreement, an Operator ceases to run trains which stop at a Station for which it is the Lead Retailer, it must notify the Authority as soon as reasonably practicable. The Authority will then appoint another Operator whose trains do stop at that Station as the Lead Retailer in place of that Operator.

(2) Notification and representations

The Authority will only change the Lead Retailer at a Station pursuant to sub-Clause (1) above if he has first:-

(a) notified that Lead Retailer, the Operator which he proposes should become the Lead Retailer in its place and any other Operator(s) which he believes might be affected by the change; and

(b) considered any representations made by that Lead Retailer and those Operator(s).

(3) The coming into effect of the change
The change of Lead Retailer referred to in sub-Clause (1) above will take effect four months after the Authority notifies the persons referred to in sub-Clause (2) above of his decision. The change may, however, occur earlier if the Authority and all the Operators concerned agree and it is reasonably practicable for the RSP to record the change in accordance with its usual procedures at or before the time agreed by them.

6-5 PROCEDURE FOR THE MAKING OF CHANGES

(1) Contents of representations to the Authority

Any representations required by Clause 6-3 or 6-4 above must be made in such form and within such times, and must contain such information, as the Authority specifies from time to time, either generally or in any particular case.

(2) Representations by other Operators

(a) If the Authority seeks the views of affected Operators pursuant to Clauses 6-3 or 6-4 above, he may give those Operators any information about the application and the representations made by the applicant that the Authority considers appropriate.

(b) However, the applicant may ask the Authority to keep any representations it makes confidential. The Authority will comply with such a request, but may refuse to consider further the making of a change if he believes it will not be possible to seek the views of other Operators properly if that information is not disclosed to them. If the Authority does refuse to do so, he will notify the Operator(s) concerned.

(c) If the Authority seeks the views of an affected Operator about a proposed change, that Operator may make representations to the Authority. However, the representations must be made in such form and within such times, and must contain such information, as the Authority specifies from time to time, either generally or in any particular case.

(d) The Authority may require any Operator making such representations to provide any further information that he needs, either orally or in writing. Paragraph (b) above will also apply to these representations.
(3) **The Authority’s discretion**

The **Authority** may agree to change a **Lead Retailer** pursuant to Clause 6-3 or 6-4 above on a permanent or a temporary basis and subject to any conditions that he may specify. The **Authority’s** decision will be binding on the **Operators**.

(4) **Notification of changes**

(a) If the **Authority** agrees to change a **Lead Retailer** pursuant to Clause 6-3 or 6-4 above, he will notify the change to the **RSP** as soon as reasonably practicable.

(b) As soon as reasonably practicable after the **RSP** receives this notification, it will notify the **Operators** of the relevant change.
PART II: RAIL PRODUCTS AND NON-RAIL PRODUCTS WHICH OPERATORS HAVE A RIGHT TO SELL

6-6 RAIL PRODUCTS THAT MAY BE SOLD

(1) Permanent Fares

Subject to Clause 6-7 below, an Operator may Sell any Permanent Fare that has been Created (unless it has been discontinued or replaced).

(2) Temporary Fares

(a) Subject to Clause 6-7 below, an Operator may Sell any Temporary Fare that has been Created (and which has not been discontinued or replaced) if:-

(i) it Created that Fare (by itself or in conjunction with any other Operator(s)); or

(ii) it has been notified by the Operator(s) which Created it that it is permitted or required to Sell it.

(b) The Operator(s) which have Created a Temporary Fare must notify (in accordance with Part II of Schedule 4) any Operator which is to be permitted or required to Sell that Fare of the period during which it may be Sold and the terms of the Product Implementation Form. Such Operator(s) must also supply any bar code or other device specified by the RSP that is needed to record the Sale of the Fare.

(3) Special Fares

(a) Subject to Clause 6-7 below, an Operator may Sell any Special Fare that has been Created (and which has not been discontinued or replaced) if:-

(i) it Created that Fare (by itself or in conjunction with any other Operator(s)); or
(ii) it has been notified by the Operator(s) which Created it that it is permitted to Sell it.

(b) The Operator(s) which have Created a Special Fare must notify (in accordance with Part III of Schedule 4) any Operator which is to be permitted to Sell that Fare of the terms of the Product Implementation Form. Such Operator(s) must also supply any bar code or other device that is needed to record the Sale of the Fare.

(4) Excess Fares

(a) An Operator may Sell any Excess Fare that gives the Purchaser of it the rights described in paragraph (b) below and those rights are the same as the rights that arise under a Permanent Fare or a Temporary Fare which that Operator is entitled to Sell. However, before it does so it must take reasonable steps to ensure that the Purchaser already holds a valid Fare for the same Flow or (in the case of an Excess Fare which falls within paragraph (b)(v) below) part of that Flow.

(b) An Excess Fare may only be Sold if it entitles the Purchaser of it to:

(i) travel via a different route than the one he would otherwise be entitled to use;

(ii) travel at a different time or on a different day than he would otherwise be entitled to travel;

(iii) terminate or break and resume his journey at a Station at which he would not otherwise be entitled to do this;

(iv) use a better class of accommodation;

(v) travel beyond the Station to which the Fare he holds entitles him to travel, but only where he was unable to buy a Fare that entitles him to make such a journey at the Station where and at the time when he started his journey; or
(vi) start his journey at a **Station** that is on the **Permitted Route** for the **Flow** that he is entitled to use, where he would not otherwise be entitled to do this.

(5) **Discount Cards**

An **Operator** may **Sell** any **Discount Card** that has been **Created** (and which has not been discontinued or replaced) if:-

(a) that **Discount Card** is the **Young Person's Railcard** or the **Senior Railcard**;

(b) it **Created** the **Discount Card** (by itself or in conjunction with any other **Operator(s)**); or

(c) it has been notified by the **Operator(s)** which **Created** it that it is permitted to **Sell** it.

(6) **Reservations and Upgrades**

(a) An **Operator** may **Sell** any **Reservation** or **Upgrade** that has been Created (and which has not been discontinued or replaced) if:-

(i) it **Created** that **Fare** (by itself or in conjunction with any other **Operator(s)**); or

(ii) it has been notified by the **Operator(s)** which **Created** it that it is permitted to **Sell** it.

(b) A **Reservation** may be **Sold** by an **Operator** even if that **Operator** has not **Sold** or been asked to **Sell** a **Fare** that is valid for travel on the relevant train and even if the **Purchaser** does not hold a **Ticket** for such a **Fare** at the time of the **Sale**.

6-7 **RESTRICTIONS ON THE SALE OF FARES**

(1) **Restrictions on the Sale of Fares which have not been properly Created**

An **Operator** may not offer any **Fare** for **Sale**, or authorise another person to do so, unless that **Fare** has been **Created** pursuant to Chapter 4 (and has not been discontinued or
replaced). This restriction applies to all Fares, including Dedicated Fares which are Sold by the Operator on whose trains they are valid.

(2) Restrictions on the Sale of Temporary Fares

(a) A Temporary Fare may only be offered for Sale during the period specified in the Product Implementation Form that was used to Create it.

(b) Each Operator which Sells a Temporary Fare must comply with the terms of that Product Implementation Form.

(3) Restriction on the Sale of Special Fares

(a) Some Special Fares, as specified in Schedule 5, may not be Sold at a Station or a TTL Station (except by an ATOC Travel Agent).

(b) Furthermore, where a Special Fare is to be Sold only to a particular type of person or together with a right to obtain a particular type of service, it may only be Sold to that person or together with that right.

(4) Restriction on the Sale of e-Ticket Fares

(a) An Operator may not Sell any e-Ticket Fare that has been Created (and which has not been discontinued or replaced) unless:-

(i) it Created that Fare (by itself or in conjunction with any other Operator(s)); or

(ii) it has been notified by the (Operator(s)) which Created it that it is permitted to Sell that Fare.

(b) The Operator(s) which have Created an e-Ticket Fare must notify (in accordance with Part III of Schedule 4) any Operator which is to be permitted to Sell that Fare of the terms of the Product Implementation Form.

(5) Photocards
(a) The Rights and Restrictions applicable to a Season Ticket Fare may require Purchasers of that Fare to hold a photocard and where, under the National Rail Conditions of Travel, they are required to produce a Ticket evidencing that Season Ticket Fare on demand, to produce the photocard at the same time.

(b) If a person provides a photograph of himself at a Ticket Office, the Operator must issue him with a photocard.

(c) If the Rights and Restrictions applicable to a Season Ticket Fare require the Purchaser of the Fare to hold a photocard, an Operator may only Sell that Season Ticket Fare at a Ticket Office if the Purchaser holds a photocard.

(d) All photocards which are issued must comply with the standards specified in writing from time to time by the RSP for this purpose.

6-8 THE ISSUE OF PERMITS TO TRAVEL

(1) Issue and use of Permits to Travel

(a) An Operator may, in any area in which Penalty Fares may be charged, issue Permits to Travel from machines installed at Stations for that purpose.

(b) Permits to Travel may only be issued if the Ticket Office at the relevant Station is closed or there is no Ticket Office there.

(2) Contents of Permits to Travel

(a) Each Permit to Travel must state the date and time of the issue, the amount paid for it and the name of the Station at which it was issued. It must also contain the following statement, or a statement to the same effect:

"This permit authorises the holder to travel during one journey from the station named and on the date shown providing that it is exchanged promptly for a valid ticket and any balance of fare due is paid at the first opportunity and in any case within two hours of the time stamped hereon. This document is issued subject to the National Rail Conditions of Travel."
(b) Other than in exceptional circumstances, unless the Permit to Travel could only be validly presented on the trains of the Operator which issues it, it must:-

(i) be printed in a format specified from time to time by the Ticketing and Settlement Scheme Council; and

(ii) comply with any technical specifications determined by the RSP with a view to reducing the risk of fraud.

6-9 NON-RAIL PRODUCTS THAT MAY BE SOLD

(1) Operators which may Sell Non-Rail Products

An Operator may Sell any Non-Rail Product that has been Created if:-

(a) it Created that Non-Rail Product (by itself or in conjunction with any other Operator(s)); or

(b) it has been notified by the RSP or the Operator(s) which Created it that it is permitted or required to Sell it.

(2) Supply of bar codes

The Operator(s) which have Created a Non-Rail Product must supply any Operator which is to be permitted or required to Sell that Non-Rail Product with any bar code or other device specified by the RSP that is needed to record the Sale of that Non-Rail Product.

6-10 AMOUNT THAT MAY BE CHARGED

(1) Fixed price Rail Products

(a) The Rail Products listed in paragraph (b) below may only be Sold for an amount equal to the Price of the Rail Product, less any discount to which the Purchaser is entitled:-

(i) by virtue of being a Child or presenting a Discount Card; or
(ii) pursuant to an Operator’s Passenger's Charter.

However, the Operator is not required to give a discount pursuant to an Operator’s Passenger's Charter if the Sale takes place through a Self-service TIM.

(b) The Rail Products referred to in paragraph (a) above are:-

(i) Special Fares;

(ii) Fares which entitle the Purchaser to take an item of luggage or an animal on a journey on the Network (where this right does not exist under the National Rail Conditions of Travel or, as the case may be, the CIV Rules except on the payment of a fee);

(iii) Reservations; and

(iv) Upgrades.

(2) Excess Fares

(a) Subject to paragraph (b) below, an Excess Fare may only be Sold for an amount equal to the difference between:-

(i) the Price of the Fare whose Rights and Restrictions are the same as those to which the Purchaser is entitled following the Sale of the Excess Fare, less any discount to which he would have been entitled by virtue of being a Child or presenting a Discount Card if he had Purchased that Fare; and

(ii) the amount (including any VAT) which was paid for the Fare that the Purchaser has already Purchased.

(b) An Excess Fare for travel in one direction only may be Sold even if the Fare that the Purchaser already holds is a return Fare. In this event, the amount that must be charged for the Excess Fare is:-

(i) calculated in accordance with paragraph (a) above, but using 50 per cent. of the amounts determined in accordance with paragraphs (a)(i) and (ii) above; or
(ii) as the case may be, any higher amount (not exceeding the amount calculated in accordance with paragraph (a) above) specified by the Operator which Created the Fare which the Purchaser of the Excess Fare has already Purchased.

(3) Other Rail Products

(a) The amount that may be charged to the Purchaser of any Rail Product which is not specified in sub-Clauses (1) or (2) above is at the discretion of the Operator which Sells that Rail Product. However, it must not exceed the Price of the Rail Product, less any discount to which the Purchaser of it is entitled:–

   (i) by virtue of being a Child or presenting a Discount Card; or

   (ii) pursuant to an Operator’s Passenger's Charter.

(b) The Operator is not required to give a discount pursuant to an Operator’s Passenger's Charter if the Sale takes place through a Self-service TIM.

(c) Where an Operator Sells a Rail Product for less than the amount determined in accordance with the second sentence of paragraph (a) above, it will nevertheless receive a Debit of that amount in accordance with Clause 11-4(1) below.

(4) Non-Rail Products

With the exception of a product exercisable against the companies shown in Schedule 46, a Non-Rail Product may only be Sold for an amount equal to the Price of the Non-Rail Product.

(5) Payment made at another Station

(a) An Operator may agree to Sell a Rail Product or a Non-Rail Product in return for a payment that is made at another Station (whether or not at that Operator’s Ticket Office).

(b) The Operator which received the payment is required to account for the sum received from the Purchaser of the Rail Product or Non-Rail Product to the
Operator which Sold it (less any reasonable administrative charge made by it). Each Operator agrees that it will receive such payment in these circumstances.

(c) This sum will be an Inter-User Payment which will be Accepted for Clearing by the RSP when information about the Sale of the Fare is received by it.

(d) For the purposes of this Agreement, any such charge that is made is not regarded as comprising part of the amount paid for the Rail Product or Non-Rail Product.

6-11 DISCOUNTS FOR CHILDREN

(1) Amount of the discount

The discount to which a Child is entitled in respect of a Rail Product is the amount or percentage determined, and notified to the RSP, by:-

(a) (in the case of a Fare or a Discount Card) the Operator(s) which Created it; or

(b) (in the case of a Reservation or an Upgrade) the Operator which notified its availability to the Operators pursuant to Clauses 4-47 or 4-49 above.

A Child is not entitled to a discount in respect of a Rail Product which may only be used by a Child.

(2) Notification by the RSP of Child discounts

(a) If the RSP is notified pursuant to sub-Clause (1) above that Children are to receive a discount in respect of a Permanent Fare, it will notify the Operators (other than the one(s) which Created the Fare) accordingly.

(b) If Children are to receive a discount in the case of any other Rail Product, the Operator(s) which Created it or (in the case of a Reservation or an Upgrade) permitted or required it to be Sold, must notify the other Operators who are permitted or required to Sell it accordingly.
PART III: RAIL PRODUCTS AND NON-RAIL PRODUCTS WHICH OPERATORS MUST OFFER FOR SALE

6-12 REGULATED STATIONS

(1) Existing Regulated Stations

(a) The Stations at which Rail Products are offered for sale at staffed points of sale at the time this Agreement is entered into are referred to as "Regulated Stations". They are listed in Schedule 17.

(b) A Station which is closed, as permitted by Section 41 or 42 of the Act, will cease to be a Regulated Station and the RSP will delete it from Schedule 17 accordingly.

(2) Stations becoming Regulated Stations

(a) Where:-

(i) a new Station that is to have a staffed Ticket Office is constructed and Clause 6-2(1) above does not apply; or

(ii) the Lead Retailer starts to Sell Rail Products at a Ticket Office at a Station at which it did not previously operate a Ticket Office,

the Lead Retailer for that Station must notify the Authority accordingly.

(b) On a date which is between 12 and 18 months after that Ticket Office first opened, the Lead Retailer must also notify the RSP of the opening hours of the Ticket Office and the range of Rail Products which has been Sold at that Station during the previous 6 months.

(c) Such a Station will, from the date of the notification to the RSP, be a Regulated Station and the RSP will amend Schedule 17 accordingly.

6-13 DEFINITION OF "BASIC PRODUCT"

A Basic Product is a Rail Product which:-
(a) is valid for one or more journeys on the Network in Great Britain and, if it gives the Purchaser or any other person the right to obtain goods or other services (for example, entry to a place which is not a Station or a TTL Station, complimentary refreshments or a discount off the price of any goods or services that would otherwise apply), that right is evidenced by the Ticket or Reservation Voucher issued in respect of the Rail Product and not by any other document; and

(b) can be Purchased with any of the methods of payment referred to in Clause 7-1 below.

6-14 LEAD RETAILERS' OBLIGATIONS IN RESPECT OF BASIC PRODUCTS

(1) Basic Products available at the date of this Agreement

Subject to sub-Clause (2) and Clauses 6-17 to 6-19 below, the Lead Retailer at each Regulated Station must offer for Sale at that Station during its opening hours:

(a) all Permanent Fares which are Basic Products and which relate to the Flows that are listed in those Fares Manuals in existence at the date of this Agreement that are specified in Schedule 17 against the name of that Station (and any new Flows listed in any Fares Manuals that replace them, to the extent that they cover the same or substantially the same geographical areas);

(b) the Young Person's Railcard and the Senior Railcard; and

(c) Reservations for trains which run on any of the Flows referred to in paragraph (a) above.

(2) Exceptions

A Lead Retailer’s obligation to offer any Rail Products for Sale at a particular Regulated Station pursuant to sub-Clause (1) above is subject to the following exceptions:-

(a) if the word "APTIS" appears in Schedule 17 against the name of that Station (and no times are specified there) it is only required to offer for Sale at that Station
the **Rail Products** which are capable of being **Sold** on an **APTIS Machine** (as described in Schedule 18);

(b) if the word "SPORTIS" appears in Schedule 17 against the name of that **Station** (and no times are specified there), it is only required to offer for **Sale** at that **Station** the **Rail Products** which are capable of being **Sold** on a **SPORTIS Machine** (as described in Schedule 19);

(c) if the words "APTIS" and "SPORTIS" each appear in Schedule 17 against the name of that **Station** (and a range of times appear after each):

   (i) it is only required to offer for **Sale** at that **Station** between the times stated against the word "APTIS" the **Rail Products** which are capable of being **Sold** on an **APTIS Machine** (as described in Schedule 18); and

   (ii) it is only required to offer for **Sale** at that **Station** between the times stated against the word "SPORTIS" the **Rail Products** which are capable of being **Sold** on a **SPORTIS Machine** (as described in Schedule 19); and

(d) the exceptions stated in the fifth column of Schedule 17 against the name of that **Station**.

(3) **Basic Products** notified by other **Operators**

A **Lead Retailer** at any **Station** which has a **Ticket Office** must offer for **Sale** at that **Station** a **Temporary Fare** or a **Discount Card** which is a **Basic Product** if:-

(a) it is required to do so by the **Operator(s)** that **Created** it;

(b) it is capable of **Selling** it on the **Approved TIM(s)** that it operates at that **Station**; and

(c) the information specified in the relevant **Product Implementation Form** and any bar code or other device specified by the **RSP** that is needed to record the **Sale** of the **Fare** or **Discount Card** is provided to that **Lead Retailer**.

(4) **Direct train services**
The **Lead Retailer** at any **Station** which has a **Ticket Office** must offer for **Sale** at that **Station** during its opening hours all **Fares** that are available for journeys that can be made from that **Station** to any other **Station** in the **Network** in Great Britain without changing train.

(5) **Exception**

Clauses 6-14(1)(a), 6-14(1)(c), 6-14(3) and 6-14(4) shall not apply, between 1200 on 24 December 2004 and 1200 on 27 December 2004, to **Reservations** or other **Rail Products** which incorporate an entitlement to a place, seat, a sleeper or the carriage of an item of luggage or an animal on a particular train.

(6) **Methods of payment**

Nothing in this Clause 6-14 requires a **Lead Retailer** to accept any method of payment for a **Basic Product** which is not specified in Clause 7-1 below.

6-15 **APTIS AND SPORTIS**

Where "APTIS" and/or "SPORTIS" appears against the name of a **Regulated Station** in Schedule 17, the **Lead Retailer** of that **Station** must continue to have an **APTIS Machine** and/or, as the case may be, a **SPORTIS Machine** (or, in either case, an Approved TIM which has at least the same Ticket issuing capability) at that **Station**. However, if a range of times appears against those words, it need do so only between the times specified.

6-16 **TICKET OFFICE OPENING**

(1) **Display of times**

The opening hours of each **Ticket Office** must be prominently displayed at a location nearby that is accessible to members of the public at all times unless the **Authority** agrees otherwise.

(2) **Minimum opening times**

(a) The times during which a **Ticket Office** is open are at the discretion of the relevant **Operator**. However, the **Lead Retailer** at a **Regulated Station** must use its
reasonable endeavours to ensure that the Ticket Office specified in Schedule 17 against the name of that Station is open for the times specified except:

(i) on Christmas Day, Boxing Day and additionally in Scotland on New Year’s Day holidays; and

(ii) on other Public or Bank Holidays at Stations served by a “Saturday”, “Sunday”, or “Special” train service, when the Lead Retailer at a Regulated Station must use its reasonable endeavours to ensure that a Ticket Office at that Station is open during the “Saturday” or “Sunday” times specified in Schedule 17, or in the case of a “Special” train service during the times which are appropriate for that service; and

(iii) during periods when no trains call at that Station due to planned engineering work, unless the Operator responsible for the Ticket Office concerned provides a replacement bus or other service to substitute for the trains that would normally call at the Station concerned.

(b) The Operator which is responsible for a Ticket Office must use its reasonable endeavours to ensure that the Ticket Office is open during the opening hours displayed pursuant to sub-Clause (1) above.

6-17 MINOR CHANGES TO THE SCOPE OF A LEAD RETAILER’S OBLIGATIONS

(1) Types of change that are permitted

An Operator may change the range of Basic Products that it is required to offer for Sale at a Regulated Station, the hours during which its Ticket Office at a Regulated Station is required to be open or the range of Credit Cards that it is required by Clause 7-1 below to accept at a Regulated Station:-

(a) in the case of a change in the range of Basic Products or the opening hours, the change is in response to a material shift in the timing of demand for the Sale of Rail Products and the total time during which the relevant Ticket Office is open each day is not materially reduced; or
(b) in the case of a change in the range of Credit Cards, it has been unable (despite its reasonable endeavours) to negotiate with an appropriate Credit Card Company an agreement relating to the acceptance of the relevant Credit Card, except on terms which are unreasonably onerous to that Operator (having regard to the terms available to it in relation to other Credit Cards and the terms available to the British Railways Board at the date of this Agreement); or

(c) in either case, the change does not have a material adverse effect on passengers or other Operators’ Sales through the relevant Ticket Office, particularly in relation to the range of Rail Products that can be Purchased or, as the case may be, the range of Credit Cards that may be used to Purchase them.

The change must be made by following the procedure set out in sub-Clause (2) below.

(2) Procedure

(a) An Operator that wishes to make any of the changes referred to in sub-Clause (1) above must serve a written notice on each of the other Operators, the Authority and the RSP specifying the nature of the proposed change.

(b) Any Operator may object to the proposed change on the basis that it does not fulfil either of the relevant criteria specified in sub-Clause (1) above by serving a notice in writing on the Operator that wishes to make it, the Authority and the RSP. The Authority may also object to the proposed change on the same basis by serving a notice in writing on the Operator that wishes to make it and the RSP.

(c) If no such notice is served within 28 days after the service of the notice referred to in paragraph (a) above, the proposal will be deemed to have been approved and will be binding on the Operators and the RSP accordingly.

(d) If a notice of objection is received from an Operator within the period referred to in paragraph (b) above and has not been withdrawn by the end of that period, the Operator wishing to make the relevant change must, at the end of the period, either:-

   (i) withdraw the proposal (and send a written notice to the other Operators, the Authority and the RSP to that effect); or
(ii) refer the matter to the ATOC Schemes Committee.

(e) If a referral is made to the ATOC Schemes Committee, it (or the expert or arbitrator appointed pursuant to the ATOC Dispute Resolution Rules) will determine, in accordance with the ATOC Dispute Resolution Rules, whether either of the relevant criteria referred to in sub-Clause (1) above are satisfied in respect of the proposed change.

(f) If the proposed change is approved (or is deemed to have been approved) or the ATOC Schemes Committee (or the expert or arbitrator appointed pursuant to the ATOC Dispute Resolution Rules) determines that either of the relevant criteria referred to in sub-Clause (1) above are satisfied, the Operator which proposed the change must notify the RSP of this. The RSP will then update Schedule 17 and notify the other Operators accordingly.

(g) If a notice of objection is received from the Authority, the change may not take place pursuant to this Clause 6-17. However, the Operator wishing to make it may make a new application pursuant to this Clause 6-17 or may seek to make the change pursuant to Clause 6-18 below.

(3) Experimental Changes

(a) Before an Operator makes an Experimental Change it must notify the Authority of its intention to do so and the date on which the Experimental Change is to take effect.

(b) On a date which is between 12 and 18 months after the date of the notice, that Operator must notify the RSP of the opening hours of the Ticket Office in respect of which the Experimental Change is to be made and the range of Rail Products which has been Sold during the previous six months at the Station in which that Ticket Office is situated. The RSP will then amend Schedule 17 accordingly.

6-18 MAJOR CHANGES TO THE SCOPE OF THE LEAD RETAILERS' OBLIGATIONS

(1) Types of change that are permitted
(a) An Operator may change the range of Basic Products that it is required to offer for Sale at a Regulated Station or the hours during which its Ticket Office at a Regulated Station is required to be open if:

(i) the change would represent an improvement on current arrangements in terms of quality of service and/or cost effectiveness and members of the public would continue to enjoy widespread and easy access to the Purchase of Rail Products, notwithstanding the change; or

(ii) the change is in response to a change in the requirements specified by a Passenger Transport Executive.

(b) The change may only be made by following the procedure set out in sub-Clause (2) below.

(c) This Clause 6-18 applies even if the proposed change does not comply with either of the criteria in Clause 6-17(1) above.

(2) Procedure

(a) An Operator that wishes to make any of the changes referred to in sub-Clause (1) above must serve a notice on each of the other Operators, the RPC in whose area the Station is situated (determined, in the case of the RPC, in accordance with the Act), any Passenger Transport Executive whose responsibilities relate to that area (or part of it), the Authority and the RSP specifying the nature of the proposed change and containing the information referred to in sub-Clause (3) below.

(b) Information about the proposed change must also be advertised at the Station no later than the day on which the notice is served. The advertisement must invite members of the public who wish to comment on the proposed change to write to the relevant RPC not later than 21 days after the service of the notice.

(c) Any Operator or the RPC may object to the proposed change on the basis that it does not fulfil either of the criteria specified in sub-Clause (1) above by serving a notice in writing on the Operator that wishes to make it, the Authority and the RSP. However, if no such notice is served within 28 days of the service of the notice
referred to in paragraph (a) above, the proposal will be deemed to have been approved and will be binding on the Operators and the RSP accordingly.

(d) If a notice of objection is received from the RPC within the period referred to in paragraph (d) above and has not been withdrawn by the end of that period, the Operator wishing to make the relevant change must, at the end of the period, either:-

(i) withdraw the proposal (and send a written notice to the other Operators, the RPC, any relevant Passenger Transport Executive, the Authority and the RSP to that effect); or

(ii) refer the matter to the Authority, who will deal with it in accordance with Clause 6-19 below.

(e) If a notice of objection is received from an Operator (but not from the RPC) within that period, the Operator wishing to make the relevant change must, at the end of the period, either:-

(i) withdraw the proposal (and send a written notice to the other Operators, the RPC, any relevant Passenger Transport Executive, the Authority and the RSP to that effect); or

(ii) refer the matter to the ATOC Schemes Committee.

(f) If such a referral is made to the ATOC Schemes Committee, it (or the expert or arbitrator appointed pursuant to the ATOC Dispute Resolution Rules) will determine, in accordance with the ATOC Dispute Resolution Rules, whether either of the criteria referred to in sub-Clause (1) above are satisfied in respect of the proposed change.

(g) If the Authority or the ATOC Schemes Committee (or the expert or arbitrator appointed pursuant to the ATOC Dispute Resolution Rules) determines that either of the criteria referred to in sub-Clause (1) above is satisfied, the Operator which proposed the change must notify the RSP of this. The RSP will then update Schedule 17 and notify the other Operators accordingly.

(3) Contents of the notice
(a) A notice which is served pursuant to sub-Clause (2)(a) above must state the reasons why the Operator wishing to make the relevant change believes the change would satisfy either of the criteria referred to in sub-Clause (1) above, taking into account:-

(i) current levels of accessibility to facilities for the Sale of Fares;

(ii) the need to safeguard the interests of passengers and other Operators;

(iii) the promotion of the use of the Network;

(iv) the existence (or the provision as part of the change proposal) of any alternative means, including new technology, of meeting the needs of passengers and other Operators;

(v) the sufficiency of those alternative means and the extent to which passengers and other Operators can be offered assurances that they will continue to be available;

(vi) the costs of providing existing facilities, the level of demand for those facilities, and the extent to which the proposals would meet the needs of dependent users and the costs of doing so;

(vii) the adequacy of the proposed alternatives in relation to the needs of passengers who are disabled;

(viii) the continued provision of clear standards of service which can easily be understood and monitored; and

(ix) the need to provide passengers with reasonable certainty about the new arrangements and avoid frequent changes.

(b) The notice which is served on the RPC must also state:-
that the **RPC** may object to the proposed change by serving a notice in writing to this effect within 28 days on the **Operator** which proposes to make the relevant change;

(ii) the addresses to which any such notice must be sent; and

(iii) that if such a notice is served, the matter will be referred to the **Authority**, who will consider whether the relevant criteria are satisfied.

6-19 CONSIDERATION OF MAJOR CHANGES BY THE **AUTHORITY**

(1) **Notification of the Authority’s** consideration of the application

If a proposal is referred to the **Authority** pursuant to Clause 6-18(2)(d) above, the **Authority** will notify the relevant **RPC** and any **Operators** (other than the one making the proposal) or **Passenger Transport Executives** which he believes may be affected by the proposed change and will consider any representations made by them or by the **Operator** making the proposal.

(2) **Contents of representations to the Authority**

Any representations made pursuant to sub-Clause (1) above must be made in such form and within such times, and must contain such information, as the **Authority** specifies from time to time, either generally or in any particular case.

(3) **Representations by other Operators**

(a) If the **Authority** seeks the views of any **Operators** or **Passenger Transport Executives** or a **RPC** pursuant to sub-Clause (1) above, he may give those **Operators** or **Passenger Transport Executives** or that **RPC** any information about the proposed change and the representations made by the **Operator** wishing to make it that the **Authority** considers appropriate.

(b) However, that **Operator** may ask the **Authority** to keep any representations it makes confidential. The **Authority** will comply with such a request, but may refuse to consider further the making of a change if he believes it will not be possible to seek the views of other **Operators** or **Passenger Transport Executives** or the **RPC** properly if that information is not disclosed to them.
(4) The **Authority’s decision**

After considering any representations made by the **Operators**, the **Passenger Transport Executives** or the **RPC**, the **Authority** will decide whether the proposed change he has been asked to consider satisfies either of the criteria set out in Clause 6-18(1)(a) above. The Authority’s decision will be binding on the **Operators** and the **RSP**.

(5) **Notification of changes**

(a) If the **Authority** decides that either of the criteria in Clause 6-18(1)(a) above are satisfied, he will notify the **Operators**, the **Passenger Transport Executives** and the **RPC** as soon as reasonably practicable.

(b) If this notification is made, the proposed change may take place at any time after the date specified for this purpose in the notification (or if no such date is specified, immediately). Any such date that is specified by the **Authority** will be a reasonable time after the date of the notification.

(6) **Appointment of an arbitrator**

The **Authority** may delegate the consideration of a proposed change to an arbitrator selected by him. However, if he does so, he will instruct the arbitrator to follow the procedure set out in this Clause 6-19. If the arbitrator fails to follow that procedure, Clause 3-5(2)(a) above will apply.
PART IV: RETAILING THROUGH INTERNET SITES AND TELEPHONE SALES OFFICES AND SITES

6-20 INTERNET SITES, TELEPHONE SALES OFFICES AND SITES THAT ARE IMPARTIAL POINTS OF SALE

(1) ATOC Standards

An Operator providing train service information and Selling Rail Products through an Internet Site or Telephone Sales Office or Site that is an Impartial Point of Sale will comply with the provisions of the appropriate ATOC Standard shown in Schedule 44.

(2) Delegation of powers

The Ticketing and Settlement Scheme Council is deemed to have delegated the performance of its rights under this Part IV to the Retail Group unless it decides otherwise.

(3) The right of Operators to provide information about train services and to Sell Rail Products and Non-Rail Products through an Internet Site or Telephone Sales Office or Site that is an Impartial Point of Sale

(a) Subject to Clause 6-20(4), an Operator must comply with the appropriate ATOC Standard. Compliance will be evidenced by the Operator being granted Accreditation by the Ticketing and Settlement Scheme Council.

(b) Operators who have been granted Accreditation are permitted to provide information about train services and Sell Rail Products and Non-Rail Products through Internet Sites and/or Telephone Sales Offices and/or Sites that are designated as Impartial Points of Sale.

(c) An Operator of an Internet Site or a Telephone Sales Office or a Site that is an Impartial Point of Sale and that has been granted Accreditation, and who subsequently fails to comply with the appropriate ATOC Standard, may be subject to the Reserve Powers specified in the ATOC Standard.
(4) **Accreditation of Internet Sites, Telephone Sales Offices or Sites that are Impartial Points of Sale**

(a) **Internet Sites, Telephone Sales Offices and Sites** that are **Impartial Points of Sale** in existence on 1 July 2001 or other such date as agreed by the **Ticketing and Settlement Scheme Council**:

(i) The **Operator** will demonstrate to the **Ticketing and Settlement Scheme Council** that it is compliant with the appropriate **ATOC Standard**. An **Operator** failing to satisfy the **Ticketing and Settlement Scheme Council** that it is compliant will be granted six months from the date when it was deemed not to be compliant to become compliant.

(ii) An **Operator** that is not deemed to be compliant is permitted to continue to provide information about train services and to **Sell Rail Products** and **Non-Rail Products** during the six month period referred to in Clause 6-20(4)(a)(i) above.

(iii) If after such six month period the **Operator** has failed to satisfy the **Ticketing and Settlement Scheme Council** that it is compliant, its right to provide information about train services and to **Sell Rail Products** and **Non-Rail Products** may be withdrawn at the discretion of the **Ticketing and Settlement Scheme Council**.

(iv) An **Operator** whose **Internet Site** or **Telephone Sales Office** or **Site** that is an **Impartial Point of Sale** is deemed by the **Ticketing and Settlement Scheme Council** to be compliant will be granted **Accreditation**.

(b) **Internet Sites or Telephone Sales Offices or Sites** becoming **Impartial Points of Sale**:

(i) Prior to an **Internet Site** or **Telephone Sales Office** or **Site** being designated as an **Impartial Point of Sale**, the **Operator** concerned will propose to the **Ticketing and Settlement Scheme Council** how it is intended to comply with the appropriate **ATOC Standard**.
(ii) In deciding whether to grant Accreditation the Ticketing and Settlement Scheme Council will determine whether the Operator is able to comply with the appropriate ATOC Standard. If the Ticketing and Settlement Scheme Council is satisfied that the new Internet Site or Telephone Sales Office or Site is compliant it will grant Accreditation.

(c) The Ticketing and Settlement Scheme Council will list the Internet Sites and Telephone Sales Offices and Sites that are Impartial Points of Sale and that have been granted Accreditation in Schedule 45.

(5) Rail Products and Non-Rail Products which Operators are not required to offer for Sale

(a) Operators of Internet Sites and Telephone Sales Offices and Sites that are Impartial Points of Sale are not obliged to Sell the Rail Products or Non-Rail Products listed in Clause 6 of the appropriate ATOC Standard subject to the discretion of the Ticketing and Settlement Scheme Council.

(b) Each Operator of an Internet Site, Telephone Sales Office and Site that is an Impartial Point of Sale will submit to the Ticketing and Settlement Scheme Council a resolution in accordance with Clause 15-33(2) listing those Rail Products and Non-Rail Products it does not wish to Sell. The resolution will be valid if the majority of the votes cast in respect of the resolution is as specified in Clause 15-37(2). If the resolution is valid the Ticketing and Settlement Scheme Council will list the Rail Products and Non-Rail Products the Operator is not obliged to Sell in Schedule 45.

(c) An Operator of an Internet Site or a Telephone Sales Office or a Site that is an Impartial Point of Sale that wishes to amend the list of Rail Products and Non-Rail Products it is not obliged to Sell, either by increasing or reducing it, will first obtain the agreement of the Ticketing and Settlement Scheme Council by submitting a resolution in accordance with Clause 15-33(2). The resolution will be valid if the majority of the votes cast in respect of the resolution is as specified in Clause 15-37(2). If the resolution is valid the Ticketing and Settlement Scheme Council will amend the list of Rail Products and Non-Rail Products the Operator is not obliged to Sell shown in Schedule 45 and advise all Operators accordingly.
(d) The **Ticketing and Settlement Scheme Council** may amend the list of **Rail Products** and **Non-Rail Products** that an **Operator** of an **Internet Site** or **Telephone Sales Office** or **Site** that is an **Impartial Point of Sale** is required to **Sell** by passing a resolution in accordance with Clause 15-33(2). The resolution will be valid if the majority of votes cast in respect of the resolution is as specified in Clause 15-37(2). If the resolution is valid the **Ticketing and Settlement Scheme Council** will amend Schedule 45 accordingly. The **Operator** will then be required to offer such **Rail Product(s)** or **Non-Rail Product(s)** for **Sale** as specified in the resolution by a date specified by the **Ticketing and Settlement Scheme Council**.

(e) If an **Operator** referred to in Clause 6-20(5)(d) refuses to **Sell** a **Rail Product** or **Non-Rail Product** that the **Ticketing and Settlement Scheme Council** requires it to **Sell**, its right to **Sell** any **Rail Product** or **Non-Rail Product** through the **Internet Site** or **Telephone Sales Office** or **Site** concerned may be withdrawn.

(f) For the purpose of Clause 6-20(5)(b), Clause 6-20(5)(c) and Clause 6-20(5)(d), approval of the Authority, as specified by sub-Clause 15-62(1)(a) is not required provided that the changes have been approved by the **Ticketing and Settlement Scheme Council**.

(g) Subject to Clauses 6-7 and 6-20(5)(a) an **Operator** of an **Internet Site** or a **Telephone Sales Office** or **Site** that is an **Impartial Point of Sale** may **Sell** those **Rail Products** and **Non-Rail Products** shown in Clause 6-6 above.

(6) **Ticket Issuing Machines**

The **TIM** used by an **Operator** of an **Internet Site** or a **Telephone Sales Office** or a **Site** that is an **Impartial Point of Sale** must be one approved by the **RSP**.

(7) **Amount that may be charged**

The **Operator** will comply with Clause 6-10 above when **Selling Rail Products** and **Non-Rail Products** at an **Internet Site** or a **Telephone Sales Office** or a **Site** that is an **Impartial Point of Sale**.

(8) **Discounts for Children**
An Operator of an Internet Site or a Telephone Sales Office or a Site that is an Impartial Point of Sale must only apply the discounts referred to in Clause 6-11 above.

(9) **Obligations in respect of Basic Products**

(a) Subject to sub-Clause (b)(i) below, an Operator of an Internet Site or a Telephone Sales Office or a Site that is an Impartial Point of Sale must offer for Sale:

(i) all Permanent Fares that are Basic Products and which relate to the Flows listed in Fares Manuals, and

(ii) Reservations for trains which run on any of the Flows referred to in paragraph (i) above.

(b) Exceptions:

(i) any Rail Product that is a Basic Product listed in Schedule 45, and

(ii) the information in the relevant Product Implementation Form and any bar code or other device specified by the RSP that is needed to record the Sale of the Fare or Discount Card has not been provided to the Operator.

(c) **Basic Products** notified by other Operators:

An Operator of an Internet Site or a Telephone Sales Office or a Site that is an Impartial Point of Sale must offer for Sale a Temporary Fare which is a Basic Product if:

(i) it is required to do so by the Operator(s) that Created it;

(ii) it is capable of Selling it on the Approved TIM that it operates;

(iii) it is capable of being Sold by the Internet Site or Telephone Sales Office or Site through which it is intended to Sell it.

(10) **Restrictions on the Sale of Fares**
(a) Restrictions on the Sale of Fares which have not been properly Created:

An Operator of an Internet Site or a Telephone Sales Office or a Site that is an Impartial Point of Sale may not offer any Fare for Sale, or authorise another person to do so, unless it has been Created pursuant to Chapter 4 (and has not been discontinued or replaced).

(b) Restrictions on the Sale of Temporary Fares:

(i) A Temporary Fare may only be offered for Sale during the period specified in the Product Implementation Form that was used to Create it.

(ii) Each Operator which Sells a Temporary Fare must comply with the terms of that Product Implementation Form.

(11) Retail Standards

The following Clauses do not apply to Operators of Internet Sites and Telephone Sales Offices and Sites that are Impartial Points of Sale:

Part VI – 6-30(1)(b)(c), 6-32 and 6-34
Part VII – 6-38, 6-39 and 6-41.
PART V: COMMISSION

6-21 ENTITLEMENT TO COMMISSION

Each Operator will be entitled to commission, calculated in accordance with the following table, in respect of the Rail Products that are Sold by it.

<table>
<thead>
<tr>
<th>Operator</th>
<th>Location of Sale</th>
<th>Product Sold</th>
<th>Rate of commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Operator</td>
<td>On a train</td>
<td>Basic Product</td>
<td>National Standard Rate of Commission</td>
</tr>
<tr>
<td>Any Operator</td>
<td>On a train</td>
<td>Any Rail Product</td>
<td>Nil unless otherwise agreed between the Operator Selling the Rail Product and any of the Operators which are bound to honour it</td>
</tr>
<tr>
<td>Lead Retailer</td>
<td>Station where it is the Lead Retailer</td>
<td>Basic Product</td>
<td>National Standard Rate of Commission</td>
</tr>
<tr>
<td>Lead Retailer</td>
<td>Station where it is the Lead Retailer</td>
<td>Any Rail Product</td>
<td>Nil unless otherwise agreed between the Lead Retailer and any of the Operators which are bound to honour the Rail Product</td>
</tr>
<tr>
<td>Any Operator</td>
<td>Telephone Sales Office that is an Impartial Point of Sale</td>
<td>Basic Product</td>
<td>National Standard Rate of Commission</td>
</tr>
<tr>
<td>Any Operator</td>
<td>Telephone Sales Office that is an Impartial Point of Sale</td>
<td>Any Rail Product</td>
<td>Nil unless otherwise agreed between the Operator Selling the Rail Product and any of the Operators which are bound to honour it</td>
</tr>
<tr>
<td>Any Operator</td>
<td>Internet Site that is an Impartial Point of Sale</td>
<td>Basic Product that is not a Season Ticket</td>
<td>5.0% on all sales from 01 April 2013 until 31 March 2019.</td>
</tr>
</tbody>
</table>
Any Operator  Internet Site that is an Impartial Point of Sale  Basic Product that is a Season Ticket  National Standard Rate of Commission until further notice.

Any Operator  Internet Site that is an Impartial Point of Sale  Any Rail Product that is not a Basic Product  Nil unless otherwise agreed between the Operator Selling the Rail Product and any of the Operators which are bound to honour it.

Any Operator  Business travel service  Basic Product that is not a Season Ticket  Max 6.0% from 25 July 2010 until 03 January 2015 and then 3.0% thereafter.

Any Operator  Business travel service  Basic Product that is a Season Ticket  National Standard Rate of Commission

Any Operator  Business travel service  Rail Product which is not a Basic Product  Nil unless otherwise agreed between the Operator Selling the Rail Product and any of the Operators which are bound to honour it.

Any Operator  Anywhere except on a train, at a Station at which it is the Lead Retailer or at a Telephone Sales Office that is an Impartial Point of Sale or at an Internet Site that is an Impartial Point of Sale  Any Rail Product  Nil unless otherwise agreed between the Operator Selling the Rail Product and any of the Operators which are bound to honour it.

Any Operator  Anywhere  Non-Rail Product  Nil unless otherwise agreed between the Operator Selling the Non-Rail Product and any of the Operators which Created it.

6-22  NATIONAL STANDARD RATES OF COMMISSION

(1)  Rates of commission
The National Standard Rates of Commission are:-

(a) for Season Ticket Fares, two per cent. of the Price (exclusive of VAT) of the Season Ticket Fare, less any discount to which the Purchaser is entitled by virtue of being a Child or holding a Discount Card or pursuant to an Operator’s Passenger's Charter;

(b) for all other Rail Products, nine per cent. of the Price (exclusive of VAT) of the Rail Product, less any discount to which the Purchaser is entitled by virtue of being a Child or holding a Discount Card or pursuant to an Operator’s Passenger's Charter.

(2) Prohibition on the payment of additional commission

(a) Where an Operator is entitled to the National Standard Rate of Commission in respect of the Sale of a Rail Product, no other Operator may pay it (or procure that another person pays it) any additional amount in return for Selling that Rail Product.

(b) This prohibition also applies to payments to any other person who Sells Rail Products on behalf of an Operator, other than an ATOC Travel Agent or an ITX Travel Agent.

6-23 AGREEMENT ON RATES OF COMMISSION

(1) Agreement must be capable of implementation

Unless the RSP agrees otherwise, any agreement that is reached for the purposes of Clause 6-21 above about commission that is to be settled through the RSP (unless it is to be settled only as an Inter-User Payment) must be capable of being implemented by the RSP in accordance with its normal procedures.

(2) Agreement with particular carriers

Subject to sub-Clause (1) above, where two or more Operators are bound to honour a particular Rail Product or have Created a particular Non-Rail Product, an agreement that is reached for the purpose of Clause 6-21 above will be implemented, in favour of the
Operator(s) which have reached the agreement, by the RSP even if it does not involve all those Operators. It will also be implemented if some of them agree to pay a particular rate of commission while the others agree to pay a different rate of commission.

(3) Notification of agreement

(a) Where a rate of commission is agreed for the purposes of Clause 6-21 above, it must be notified to the RSP by means of a notice substantially in the form of Schedule 16 as soon as reasonably practicable after the agreement has been reached, unless the commission is not to be settled through the RSP (or is only to be settled through it as an Inter-User Payment). The rate notified to the RSP must be exclusive of VAT.

(b) The new rate will come into effect on the date on which the RSP is able to give effect to the rate in accordance with its usual procedures. This date will be notified in writing by the RSP to the relevant Operators.

(4) Current commission rates

(a) Where, at the date of this Agreement, commission is paid in relation to a Rail Product to which the National Standard Rate of Commission does not apply, the rate of commission that is paid on that date in respect of Sales of that Rail Product will be deemed to have been agreed until the RSP is notified otherwise.

(b) Where, at the date of this Agreement, commission is paid to an Operator which is not a Lead Retailer in respect of Sales of Rail Products at Euston, Leeds or Stevenage Station, the rate of commission that is paid to it on that date in respect of those Sales will be deemed to have been agreed unless the RSP is notified otherwise.

(5) Discount Cards

For the purposes of Clause 6-21 above, an Operator will be deemed to have agreed a particular rate of commission in respect of any Discount Cards Sold by it which have been Created pursuant to an ATOC Scheme if it has agreed that rate with, or the rate has been specified for this purpose by, the relevant Discount Card Scheme Council.
(6) Review of the rates of commission applying to the Sale of Rail Products through Internet Sites and Telephone Sales Offices that are Impartial Points of Sale

(a) The Ticketing and Settlement Scheme will arrange to undertake a review of the rates paid on the Sale of Rail Products through Internet Sites and Telephone Sales Offices that are Impartial Points of Sale by no later than 1 March 2002.

(b) The Ticketing and Settlement Scheme will review the results of the review referred to in Clause 6-23(6)(a) above and any recommendations from the review will be put to the vote as a resolution in accordance with Clause 15-37(1) by no later than 30 June 2002.

(c) In the event that the number of votes cast in favour of the resolution is less than 70% (expressed as a percentage of the total votes cast on the resolution) then a commission rate of not more than 7% will apply from 1 July 2003 in respect of the Sale of Rail Products through an Internet Site that is an Impartial Point of Sale and a commission rate of not more than 9% in respect of the Sale of Rail Products through a Telephone Sales Office that is an Impartial Point of Sale.

(d) The Ticketing and Settlement Scheme will arrange to undertake reviews of commission rates every three years from the date of the review to be completed by 1 March 2002.

6-24 PAYMENT OF COMMISSION

(1) The obligation to pay

The commission referred to in Clause 6-21 above and, where applicable, notified to the RSP pursuant to Clause 6-23(3) and (4) above will be paid:-

(a) in the case of RSP-settled Products, by the RSP in accordance with Chapter 12; and

(b) in the case of other Rail Products and Non-Rail Products, in accordance with any alternative settlement arrangements that may be agreed between the relevant Operators from time to time and (in the case of Rail Products) approved by the Authority.
(2) VAT

The rates referred to in Clauses 6-22 and 6-23 above are exclusive of VAT. Accordingly, where the relevant commission is to be settled through the RSP, the RSP or (in the circumstances described in sub-Clause (1)(b) above) the person due to pay the commission will, in addition, pay any VAT that is due in respect of that commission.
PART VI: RETAILING STANDARDS

6-25 RIGHTS AND RESTRICTIONS

(1) Obligations of the Operator making the Sale

When Selling a Rail Product, an Operator must not say or do anything which is inconsistent with the Rights and Restrictions, the National Rail Conditions of Travel and/or any other conditions which apply to the Rail Product.

(2) Awareness of the Purchaser

An Operator which Sells a Fare (otherwise than through a Self-service TIM) must take reasonable steps to ensure that the Purchaser is aware, before the Sale takes place, of the Rights and Restrictions that apply to the Fare.

6-26 ISSUE OF TICKETS AND RESERVATION VOUCHERS

(1) Obligation to issue Tickets and Reservation Vouchers

Subject to sub-Clause (5) below, where an Operator Sells:

(a) a Fare, unless the Fare is an e-Ticket Fare;

(b) an Excess Fare; or

(c) an Upgrade

it must issue a Ticket to the Purchaser. Where it Sells a Reservation it must issue a Reservation Voucher to him (unless the Sale of the Reservation is evidenced by the Ticket).

(2) Supply of blank ticket stock

(a) Each Operator is responsible for obtaining sufficient stocks of blank tickets to enable it to comply with sub-Clause (1) above. However, at the request of that Operator, the RSP will negotiate the terms of a contract for the supply of blank ticket stock.
(b) For two years after the date of this Agreement, each Operator must obtain blank ticket stock from a supplier nominated by the RSP. After that, each Operator may choose its own supplier.

(3) Contents of Tickets and Reservation Vouchers

(a) Each Ticket and Reservation Voucher that is issued by an Operator must contain the following statement or a statement to the same effect:-

"This document is issued subject to the National Rail Conditions of Travel and the conditions of carriage of any other operators on whose services it is valid. It is not transferable. Unless indicated otherwise, it is valid for travel by any permitted route and on the services of participating operators. The National Rail Conditions of Travel and a list of participating operators are available at ticket offices."

(b) Unless the Ticket or Reservation Voucher does not relate to an RSP-settled Product, it must also:-

(i) be printed in a format specified from time to time by the Ticketing and Settlement Scheme Council; and

(ii) comply with any technical specifications determined by the RSP with a view to reducing the risk of fraud and/or enabling the Ticket or Reservation Voucher to be issued on Approved TIMs.

(c) If the Ticket or Reservation Voucher does not relate to an RSP-settled Product, it must not be issued in a confusingly similar format to the format referred to in paragraph (b)(i) above and must clearly indicate the service to which it relates.

(4) National Class of Accommodation

(a) A Ticket for a Fare to which the Standard National Class of Accommodation applies must contain the words "standard class" or a recognised abbreviation of it.
(b) A Ticket for a First Class Fare must signify on it that a class other than standard class applies. However, the words that are used to do this are at the discretion of the Operator which issues the Ticket.

(5) **Fares not requiring the issue of a Ticket**

When an Operator Sells a Fare it is not required to issue a Ticket:-

(a) if the Fare is an e-Ticket Fare;

(b) if it has been notified accordingly by the Operator(s) which Created the Fare and it complies with any relevant conditions specified by those Operator(s), and

(c) subject to using its reasonable endeavours to make the purchaser aware that the Fare is Sold subject to the National Rail Conditions of Travel.

(6) **Group travel**

If the Rights and Restrictions applicable to a Fare provide that the Purchaser of the Fare is only entitled to travel on the Network if he does so with one or more other persons who have Purchased Fares at the same time, the Operator which Sells those Fares must issue a single Ticket in respect of all of them at the time of the Sale unless the Rights and Restrictions entitle each Purchaser to a separate Ticket.

6-27 **SALE OF DISCOUNT CARDS**

(1) **Criteria for the Sale of a Discount Card**

Before Selling a Discount Card an Operator must use its reasonable endeavours to ensure that the Purchaser meets the criteria for the Purchase of the Discount Card notified to it by the RSP or the Operator(s) which Created that Discount Card.

(2) **Contents of Discount Cards**

(a) Each Discount Card that is issued by an Operator must state the conditions to which it is subject or contain a reference to another document which states them.
(b) Unless the Discount Card only entitles the holder to a discount off the Price of Dedicated Fares of that Operator which are Purchased from that Operator, it must also:-

(i) be issued in the format specified from time to time by or on behalf of the Ticketing and Settlement Scheme Council; and

(ii) comply with any technical specifications determined by the RSP with a view to reducing the risk of fraud or enabling the Discount Card to be issued on Approved TIMs.

6-28 DESIGNATION OF POINTS OF SALE

(1) Ways in which Rail Products may be Sold

(a) An Operator may only Sell a Rail Product:-

(i) at a Dedicated Point of Sale;

(ii) at an Impartial Point of Sale;

(iii) on a train; or

(iv) through a Self-service TIM.

(b) Paragraph (a) above applies whether the Rail Product is Sold by the Operator itself or by another person on its behalf, unless that other person is an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party.

(2) Designation of Dedicated Points of Sale

(a) Each Dedicated Point of Sale must be designated in such a way that it is clear to potential Purchasers that the Operator which is responsible for it does not give impartial advice about Rail Products at that Dedicated Point of Sale, or Sell Rail Products on an impartial basis there. A staffed point of sale or a Telephone Sales Office or an Internet Site or a Site which is not designated in this way is an Impartial Point of Sale (unless it is on a train).
(b) Each **Dedicated Point of Sale** and each **Impartial Point of Sale** must make it clear:–

(i) whether it is open or closed; and

(ii) whether it is restricted to the **Sale** of certain types of **Fare**.

(3) **Designation of Impartial Points of Sale**

(a) Subject to Clause 6-28(3)(b) and Clause 6-28(3)(c) an **Impartial Point of Sale** must not be marked in such a way that it suggests (expressly or by implication) a connection to a particular **Operator**.

(b) An **Internet Site** or a **Telephone Sales Office** or a **Site** that is an **Impartial Point of Sale** may be marked in a way that suggests a connection to a particular **Operator** provided that the **Operator** can demonstrate through the **Annual Survey** specified in the appropriate **ATOC Standard** that it provides information impartially and **Sells Rail Products** in an impartial manner.

(c) An **Internet Site** or a **Site** that is an **Impartial Point of Sale** must be marked in such a way that it is clear to members of the public using it that it gives impartial information and **Sells Rail Products** and **Non-Rail Products** impartially.

(4) **Advertisements promoting Internet Sites and Telephone Sales Offices and Sites that are Impartial Points of Sale**

Any advertisement issued by an **Operator** to promote an **Internet Site** or **Telephone Sales Office** or a **Site** that is an **Impartial Point of Sale** must make it clear to members of the public using it that the **Operator** gives impartial advice about **Rail Products**, or **Sells Rail Products** on an impartial basis from that **Internet Site** or **Telephone Sales Office** or **Site**.

6-29 **DESIGNATION OF INFORMATION CENTRES**

(1) **Types of Information Centre**

An **Information Centre** may be:-
(a) a Dedicated Information Centre; or

(b) an Impartial Information Centre.

(2) Designation of Information Centres

An Operator which operates a Dedicated Information Centre must make it clear to persons who visit the Information Centre that it does not give impartial advice there. If it fails to do this, the Information Centre will be an Impartial Information Centre.

6-30 THE IMPARTIALITY OBLIGATION

(1) The general rule

(a) An Operator which Sells Fares, or provides information about them, on a train or at an Impartial Point of Sale or an Impartial Information Centre must act fairly and impartially between Operators. Any such information that is provided must be factual, accurate and impartial.

(b) At least 51 per cent. of a Lead Retailer’s staffed points of sale which are open at a Station must be Impartial Points of Sale unless the Authority agrees otherwise.

(c) At any of the Impartial Points of Sale referred to in paragraph (b) above only certain types of Rail Product (for example, only Season Ticket Fares or Fares which are intended to be used on the day of Purchase) may be offered for Sale as long as at least half the Impartial Points of Sale which are open at the same Station (or any smaller proportion agreed by the Authority) Sell the full range of Rail Products. Each Impartial Point of Sale at which a restricted range of Rail Products is available must be clearly labelled with the type(s) of Rail Product that may be Purchased there.

(d) Operators must accurately Sell to Purchasers the Fares appropriate for the journey described by the Purchasers.

(2) Specific requirements
(a) If more than one Fare is available that meets the requirements specified by a potential Purchaser and he does not specify which of the Fares he requires, the Operator must seek any additional information from him that is necessary to enable it to recommend (in an impartial manner) which of them is suitable for him.

(b) Where an Operator is asked to recommend a suitable Fare or paragraph (a) above applies, it must request sufficient additional information to enable it to make the recommendation. This may (for example) include any of the following:-

(i) the departure and/or arrival time required;

(ii) how important it is to the person requesting the Fare to minimise the journey time involved;

(iii) the importance to him of the price of the Fare;

(iv) whether he minds changing trains;

(v) (if a return journey is to be made) the extent to which he needs flexibility in his choice of trains for that journey;

(vi) whether he wants the flexibility of an Inter-available Fare; and

(vii) any special requirements that he has.

(c) If more than one Fare is suitable, the Operator must explain the main features of the alternatives in an impartial manner.

(d) If, on a train or at an Impartial Point of Sale, a person asks to Purchase a particular Fare which is offered for Sale there, the Operator which operates that train or Impartial Point of Sale may Sell him that Fare without seeking any additional information unless it is reasonably apparent that he wants to make a journey which it is not possible to make with it.
(e) The **Operator** must not give any information which it knows to be inaccurate or misleading. The **Operator** must not give any opinion which is not based on verifiable fact.

(f) If, on the basis of the information it has, an **Operator** reasonably believes that the **Operator** which is due to provide the train services to which a **Fare** relates will be unable to provide them, it may take this into account when deciding whether to recommend that **Fare**.

3) **Requirement to offer a full range of Fares**

(a) If an **Operator** offers a **Fare** for **Sale** at a **Ticket Office** at a **Station** at which it is the **Lead Retailer** or on a train or at an **Internet Site** or at a **Telephone Sales Office** or at a **Site** that is an **Impartial Point of Sale**, it must also offer for **Sale** all **Fares** relating to that **Flow** which have similar **Rights and Restrictions**, including those which entitle the **Purchaser** to use other **Operators'** trains.

(b) Unless the **Authority** agrees otherwise, if an **Operator** offers a **Fare** for **Sale** at a **Self-service TIM**, at a **Station** at which it is the **Lead Retailer**, it must also offer for **Sale** all **Fares** relating to that **Flow**, that are valid for travel from that **Station**, which have similar **Rights and Restrictions**, including those which entitle the **Purchaser** to use other **Operators'** trains.

(c) Paragraph (b) above also applies to a **Self-service TIM** located at a **Station** which is operated by an **Operator** that is not the **Lead Retailer** at that **Station** unless it is made clear to members of the public that such a range of **Fares** is not available from the **Self-service TIM**.

(d) Any written information that is displayed on a **Self-service TIM** to which paragraph (b) above applies must be impartial between the **Fares** of different **Operators**.

4) **Giving incentives**

An **Operator** must not remunerate or otherwise reward its **Ticket Office**, **Information Centre**, **Internet Site**, **Telephone Sales Office** or **Site** staff by reference to **Sales** of the
Fares of one or more particular Operators, except in relation to Sales that take place at Dedicated Points of Sale.

6-31 MATCHING OF FARES TO PRODUCE A THROUGH JOURNEY

Where, at an Impartial Point of Sale, a person indicates that he wishes to make a journey for which a Fare is not available, the Operator which operates that Impartial Point of Sale must offer to Sell him a combination of two or more of the Fares offered for Sale at that Impartial Point of Sale which between them are valid for the whole journey unless such a combination is not possible using the Fares that are offered for Sale there. The Operator must use its reasonable endeavours to ensure that the combined Fares meet the Purchaser's requirements.

6-32 SALE OF FARES THROUGH SELF-SERVICE TIMS

An Operator must ensure that:-

(a) every Self-service TIM it operates prominently displays:-

(i) the name of the Operator;

(ii) the Fares that are available from that Self-service TIM; and

(iii) the address to which a Purchaser of a Fare from that Self-service TIM must apply in order to claim a Refund in respect of that Fare; and

(b) a notice stating any location(s) in the Station in which the Self-service TIM is situated where Fares may be Purchased otherwise than by using a Self-service TIM is prominently displayed on or nearby the Self-service TIM.

6-33 PROVISION OF INFORMATION AT IMPARTIAL POINTS OF SALE AND IMPARTIAL INFORMATION CENTRES

(1) Obligation to provide information

Subject to sub-Clause (2) below, each Operator must provide the following information at each of its Impartial Points of Sale and Impartial Information Centres:-
(a) each **Operator’s** train times, as published in the **National Timetable**;

(b) any notified alterations or additions to those published train times, in particular those concerning engineering work and bank holidays;

(c) the on-train facilities that are available, including those relating to disabled travel, cycle conveyance, available classes of accommodation and catering arrangements;

(d) the facilities that are available at each **Station** (as described in the **National Timetable**);

(e) the **Fares** that may be **Purchased** at that **Impartial Point of Sale** or, as the case may be, about which information may be obtained at that **Impartial Information Centre**;

(f) **Station** and **TTL Station** interchange times and arrangements, as described in the **National Timetable** or other publications; and

(g) **Reservation** arrangements for seats, cycles, disabled customers, sleeper accommodation and accompanied articles and animals.

(2) **Exception**

An **Operator** is only required to provide the information referred to in sub-Clause (1) above to the extent that it has been provided with it.

**6-34 ROUTEING GUIDE**

An **Operator** must ensure that:

(a) a **Purchaser** and a potential **Purchaser** of a **Fare** can obtain information about the **Permitted Routes** for the corresponding **Flow**; and

(b) the **Routeing Guide** can be viewed on an **Internet Site**.
6-35 OPERATOR SUPPORT

(1) Obligations to provide support

(a) Each Operator must make available information about its train services to each Ticket Office which has an Impartial Point of Sale, each Internet Site and each Telephone Sales Office and each Site which is an Impartial Point of Sale and each Impartial Information Centre (whether or not it is operated by another Operator) as soon as it is available. It must also make available to each of these Ticket Offices, Internet Sites and Telephone Sales Offices and Sites which are Impartial Points of Sale and Information Centres information about any of its Rail Products that are Sold, or about which information is provided, at that Ticket Office, Internet Site and Telephone Sales Office and Site which is an Impartial Point of Sale, or Information Centre.

(b) This information must be updated if it changes and must include information about engineering and bank holiday service variations.

(2) Further information that may be supplied

In addition to the information referred to in sub-Clause (1) above, an Operator may (for example) supply the following to a Ticket Office, an Internet Site, and a Telephone Sales Office and a Site which is an Impartial Point of Sale or Information Centre:

(a) advance timetable information (once confirmed by Railtrack PLC), giving background details of future train service changes;

(b) retailing information (in the form of staff merchandisers, or other appropriate documents), including information about Temporary Fares;

(c) details of catering services on the trains of the Operator supplying the information;

(d) details of any personal help service that is offered in relation to Reservations during normal office hours;
(e) information about facilities for staff who are responsible for Selling Rail Products or providing information to customers to undertake familiarisation journeys on the relevant Operator’s trains;

(f) a merchandising plan describing the publicity materials that are to be made available and display dates; and

(g) a promotions plan in relation to any merchandising support or retail training agreed with the Operator to which it is supplied.

6-36 SERVICE QUALITY

(1) **Image**

Each Operator must use its best endeavours to ensure that its staff at an Impartial Point of Sale or an Impartial Information Centre provide a professional, impartial, courteous and friendly image to customers.

(2) **Reservations**

When Selling a Reservation the Purchaser’s preferences (for example, as to whether or not he prefers to face the direction of travel) must be sought and the appropriate Reservation Sold accordingly.

(3) **Liability for information failures**

An Operator will not be liable for supplying inaccurate information, or for failing to supply information, if this is caused by an error or omission in the information supplied by another Operator (unless it has been corrected by the issue of a supplement or other advice).

(4) **Queueing times**

(a) Each Operator must use its reasonable endeavours to ensure that no-one has to queue at its Impartial Points of Sale (that are not Internet Sites, Telephone Sales Offices or Sites) to Purchase a Rail Product for more than five minutes during times of peak demand or for more than three minutes at any other time (or any shorter period(s) specified in its Passenger’s Charter).
(b) For these purposes, that Operator may determine, on a reasonable basis, the times of peak demand applicable to each of its Impartial Points of Sale.

(c) Unless the Authority agrees otherwise, the times of peak demand applicable to each Impartial Point of Sale must be prominently displayed at a location nearby that is accessible to members of the public at all times.

6-37 STAFF

(1) Competence

Each Operator must ensure that its staff who work at an Impartial Point of Sale or an Impartial Information Centre:

(a) have received appropriate training in each Operator’s timetable and about Rail Products which are offered for Sale there or about which information is available there; and

(b) are competent to advise customers correctly so as to achieve compliance with Clause 6-30 above.

(2) Customer service skills

Each Operator must ensure that all its staff who work at an Impartial Point of Sale or an Impartial Information Centre receive adequate training in customer service and sales skills, so as to achieve compliance with Clause 6-36(1) above.

(3) Dress code

Each Operator must establish and implement an appropriate dress code for its staff who work at an Impartial Point of Sale (that is not an Internet Site, Telephone Sales Office or Site) or an Impartial Information Centre and must ensure that they comply with that dress code and do not smoke, eat or drink in the view of customers.

(4) Staff briefings
Each Operator must ensure that its staff who work at an Impartial Point of Sale or an Impartial Information Centre receive periodic briefings with a view to communicating to them information about the Operators' products and businesses. This may include, for example:-

(a) making available other Operators' newsletters or other briefing material; and/or

(b) personal briefings by other Operators at times agreed with the Operator which is responsible for the relevant Impartial Point of Sale or Impartial Information Centre.

(5) Costs of in-depth briefings

Where an Operator requires an in-depth briefing of another Operator's staff pursuant to sub-Clause (4) above which cannot be accommodated within a routine briefing meeting or which needs all staff to attend within a short period, the means and costs of achieving that in-depth briefing will be agreed with the Operator that is responsible for those staff. Those costs will be paid for by the Operator requiring the briefing.

(6) Familiarisation trips

(a) If an Operator is reasonably requested by another Operator from time to time to do so, it will permit its staff who work at an Impartial Point of Sale or an Impartial Information Centre to undertake "familiarisation trips" on that other Operator's services in order to gain familiarity with the services provided and the key destinations served by that other Operator.

(b) Any reasonable costs incurred as a result by the Operator which is responsible for the Impartial Point of Sale or the Impartial Information Centre will be reimbursed by the Operator requesting the familiarisation trip.

(7) Supervision

Each Operator must introduce and enforce supervision procedures which are designed to ascertain whether its staff who work at an Impartial Point of Sale or an Impartial
Information Centre are complying with Clauses 6-30, 6-31, 6-33, 6-36 and sub-Clause (3) above.
PART VII: PROMOTIONAL MATERIAL

6-38 ALLOCATION OF DISPLAY SPACE

(1) Percentage of space available

(a) A reasonable proportion of any display space that is available at Ticket Offices which have an Impartial Point of Sale must be reserved for Rail Products Created pursuant to an ATOC Scheme (other than the Ticketing and Settlement Scheme) that are offered for Sale throughout Great Britain.

(b) The remaining display space at such a Ticket Office must be available on an impartial basis to the Operators on whose trains Rail Products that are offered for Sale at that Ticket Office are valid.

(2) Allocation of space

(a) The space referred to in sub-Clause (1)(b) above must be allocated to each of the Operators referred to in that sub-Clause in reasonable proportions, having regard to their respective shares of non-Season Ticket Fare revenue from Sales at that Ticket Office in the preceding financial year of the RSP.

(b) In the event of a dispute the matter must be referred to the ATOC Schemes Committee. Following such a referral, the ATOC Schemes Committee (or an expert or arbitrator appointed pursuant to the ATOC Dispute Resolution Rules) will determine, in accordance with the ATOC Dispute Resolution Rules, the proportion of display space that each such Operator is entitled to under paragraph (a) above.

(3) Securing of additional space

No Operator may increase the display space at a Ticket Office which has an Impartial Point of Sale beyond the space allocated to it under sub-Clause (2) above by securing additional space exclusively reserved for the display of promotional material which it has supplied.
6-39  **USE OF DISPLAY SPACE**

(1)  **Display of promotional material**

Promotional material received by an Operator for the purpose of Clause 6-38 above must be prominently displayed in the condition received by that Operator and must not be obscured in any way.

(2)  **Monitoring of stocks**

Each Operator must monitor the quantities of promotional material on display at its Ticket Offices and must notify the Operator(s) which supplied it in sufficient time to enable stocks to be re-ordered where this is necessary to meet customer demand.

(3)  **Changing of displays**

Provided that promotional material has been received in time, the Operator which is responsible for a Ticket Office at which it is displayed pursuant to this Clause 6-39 must ensure that an Operator’s displays are changed on each date reasonably specified by it.

(4)  **Size guidelines**

(a)  Each Operator’s promotional material must conform to the size guidelines determined from time to time by the Ticketing and Settlement Steering Group (after considering any recommendations made by the Retail Group).

(b)  No Operator will be required to display promotional material which does not comply with these guidelines unless its reasonable charges for doing so are paid in advance.

6-40  **CONTACTS**

Each Operator must notify every other Operator of the name and address of one or more persons who may be contacted to discuss the provision of promotional materials and one or more addresses to which all materials for display at the first Operator’s Ticket Offices must be despatched. These notifications must be made through the Retail Group.
6-41 **PROMOTIONAL MATERIAL AT INFORMATION CENTRES**

Operators are not obliged to display promotional material at Information Centres but must make available to the public any promotional material that is reasonably supplied by other Operators. If an Operator does display promotional material at its Information Centres, it must do so in accordance with Clause 6-38(1) above.
PART VIII: MISCELLANEOUS

6-42 PERFORMANCE MONITORING

(1) Each year the Ticketing and Settlement Scheme Council must commission an Annual Survey of retail performance by Operators to determine whether or not they are complying with their obligations under Clause 6-30.

(2) Changes to the methodology to be adopted for the Annual Survey must be agreed by the Ticketing and Settlement Scheme Council and the Authority.

(3) The Threshold for each year will be 96.5%. An Operator will be deemed to have met the Threshold if the sum of the weighted score achieved in the Annual Survey and the confidence interval of the Operator is equal to, or above the Threshold.

(4) The Threshold may not be reduced without the prior consent of the Authority having been obtained.

(5) The Authority shall have the right to verify whether the calculations made in producing the Annual Survey have been correctly made.

Fieldwork for the Annual Survey will be undertaken between 1 April and 31 October, unless the Ticketing and Settlement Scheme Council agrees otherwise. The Retail Group shall consider the results of the Annual Survey at the January meeting in the year following completion of the Annual Survey undertaken in the previous year.

6-43 REMEDIAL ACTIONS

(1) The Ticketing and Settlement Scheme Council will require an Operator failing to meet the Threshold to take Improvement Action to remedy the failure. The Operator must document the Improvement Action in, and carry out the Improvement Action in accordance with, the Plan. The Plan must be formulated in accordance with Schedule 41 and the PMMD.

(2) The Plan must be approved by Retail Group. In deciding whether to approve the Plan, Retail Group will act in accordance with the terms of reference set out at Schedule 42.
(3) An Operator who is required to prepare a Plan must submit it to the March meeting of the Retail Group in the year following completion of the Annual Survey to which the Plan refers.

(4) If an Operator fails to submit a Plan in accordance with Clauses 6-43(1) and 6-43(3), the Ticketing and Settlement Scheme Council shall be entitled to exercise whichever of the Reserve Powers as are set out in Clause 6-44(2) as it considers appropriate.

(5) During the currency of the Plan, the Operator must take Improvement Action and meet the Improvement Milestones in accordance with the Plan.

(6) An Operator required to prepare a Plan in accordance with Clauses 6-43(1) and 6-43(3) will submit a written report to Retail Group by 31 December in the year following completion of the Annual Survey for the previous year specifying the actions that have been taken to implement the Plan.

(7) If an Operator fails to submit a written report in accordance with Clauses 6-43(6), the Ticketing and Settlement Scheme Council shall be entitled to exercise whichever of the Reserve Powers as are set out in Clause 6-44(2) as it considers appropriate.

6-44 RESERVE POWERS

(1) If an Operator does not perform any Improvement Action activity in accordance with the Improvement Milestone set out in the Plan for that activity (as determined by the follow up survey carried out pursuant to the Plan), the Ticketing and Settlement Scheme Council shall be entitled to exercise whichever of the Reserve Powers as are set out in sub-Clause (2) as it considers appropriate. The Ticketing and Settlement Scheme Council shall have regard to the Criteria in order to determine which of the Reserve Powers is appropriate. For the purposes of this vote, each Operator (except the Operator who did not perform the Improvement Action) shall have one vote.

(2) The Reserve Powers are:

(i) the withholding of commission; and/or

(ii) a direction to carry out specified Improvement Action.
The Ticketing and Settlement Scheme Council may exercise its Reserve Powers only to the extent that the cost to the Operator of compliance are equal to or less than the Maximum Amount.

At the second meeting of the Ticketing and Settlement Scheme Council after the end of each financial year of the RSP, the Ticketing and Settlement Scheme Council will calculate the aggregate amount of commission withheld from Operators pursuant to Clause 6-44(2), and shall compare that aggregate amount with the estimated costs for the operation of the arrangements set out in this Part VIII and of operating the Annual Survey in the ensuing financial year. To the extent that there is any excess of sums withheld over the costs so calculated, the Ticketing and Settlement Scheme Council shall arrange for the excess to be distributed to Operators who are not subject to a requirement to carry out Improvement Action as at the end of the financial year in question in proportion to their Voting Percentage.

DELEGATION OF POWERS

The Ticketing and Settlement Scheme Council may delegate the performance of any of its rights under Clause 6-43 to the Retail Group and under Clause 6-44 to the Ticketing and Settlement Steering Group to the extent permitted pursuant to the PMMD.

DISPUTES

If any Operator considers that the Ticketing and Settlement Steering Group has failed correctly to apply the Criteria, the Operator may, within 10 Business Days of the decision of the Ticketing and Settlement Steering Group appeal to the Ticketing and Settlement Scheme Council in writing to reverse the decision of the Ticketing and Settlement Steering Group. The Ticketing and Settlement Scheme Council shall consider the appeal at its next meeting and the decision of the Ticketing and Settlement Steering Group shall be confirmed only if the Ticketing and Settlement Scheme Council votes by a two thirds majority to approve the decision. For the purposes of this vote, each Operator (except the Operator making the appeal) shall have one vote. The decision of the Ticketing and Settlement Steering Group shall be suspended pending the vote of the Ticketing and Settlement Scheme Council.

REFERRAL TO THE AUTHORITY
Any Operator that has failed to perform any Improvement Action in accordance with an Improvement Milestone by the later of:

(i) the time that the next following Annual Survey commences; and

(ii) a date twelve months after the date of any follow up survey provided for in the relevant Plan

shall be referred to the Authority by the Ticketing and Settlement Scheme Council in order for the Authority to consider whether any action under Section 55 of the Act is appropriate in respect of that Operator.

6-48 DUPLICATE TICKETS AND DUPLICATE DISCOUNT CARDS

(1) Issue of Duplicate Tickets and Duplicate Discount Cards

(a) An Operator must issue a Duplicate Ticket or a Duplicate Discount Card in respect of a Fare or, as the case may be, a Discount Card which it has Sold if the Purchaser of the Fare or Discount Card is entitled to one under the National Rail Conditions of Travel, the CIV Rules or any other conditions of which it is aware to which the Fare or Discount Card is subject.

(b) An Operator must also issue a Duplicate Ticket in exchange for a Ticket which is malfunctioning so that the information on it cannot be read electronically.

(c) If the National Rail Conditions of Travel, the CIV Rules or such other conditions state that a Duplicate Ticket or a Duplicate Discount Card may be available from an Operator which has Sold a Fare or, as the case may be, a Discount Card, that Operator has discretion whether or not to issue the Duplicate Ticket or Duplicate Discount Card.

(d) In issuing a Duplicate Ticket or a Duplicate Discount Card, the Operator must comply with any security measures specified by the RSP from time to time.

(2) Ability of the Operator to make an administrative charge
(a) An Operator which issues a Duplicate Ticket or Duplicate Discount Card may make a reasonable administrative charge to the person to whom it is issued, except in the case of a Duplicate Ticket which is issued in exchange for a Ticket which is damaged or is malfunctioning.

(b) An Operator which makes such a charge must make the same charge for all Duplicate Tickets that it issues and the same charge (which may be different from the charge for Duplicate Tickets) for all Duplicate Discount Cards that it issues.

6-49 REFUNDS

(1) Entitlements to Refunds

An Operator must make a Refund in respect of any Rail Product it has Sold if the Purchaser of the Rail Product is entitled to the Refund under the National Rail Conditions of Travel, the CIV Rules, or any other conditions of which it is aware to which the Rail Product is subject.

(2) Discretionary Refunds

(a) An Operator may make a Refund in respect of any Rail Product it has Sold if that Operator reasonably believes that:-

(i) the related Ticket or Reservation Voucher, or the relevant Discount Card, was lost, stolen or accidentally destroyed before it was fully used or expired (or the application for the Refund relates to a Rail Product which was obtained from that Operator to provide a replacement for the Ticket, Reservation Voucher or Discount Card that was lost, stolen or accidentally destroyed); and

(ii) either:-

(1) the circumstances of the loss, theft or accidental destruction prevent the subsequent use of the relevant Rail Product or an application for another Refund in respect of it; or

(2) a refusal of the application would cause hardship.
(b) An Operator may also make a Refund in respect of any Rail Product it has Sold if the applicant was prevented from using that Rail Product when he wished to as a result of a severe disruption to any Operator’s services.

(c) The amount of any Refund that is made in respect of a Season Ticket Fare must be reasonably proportional to the extent to which the Purchaser of that Fare was prevented from using it.

(3) Processing applications for Refunds

If the Purchaser of a Rail Product asks an Operator which did not Sell that Rail Product, that Operator must:-

(a) provide the Purchaser with a form on which he can make a claim for a Refund and give him reasonable assistance in completing it; and

(b) promptly forward any such completed form (together with the related Ticket, Discount Card or Reservation Voucher) to the Operator which Sold the relevant Rail Product.

(4) Administrative charges

(a) An Operator which makes a Refund may make an administrative charge to the person applying for the Refund if it is expressly permitted to do so under the National Rail Conditions of Travel, the CIV Rules and/or, as the case may be, any other conditions to which the relevant Rail Product is subject.

(b) An Operator which makes any such charge must make the same charge in respect of all amounts in respect of Fares which it refunds, all amounts in respect of Discount Cards which it refunds, all amounts in respect of Reservations which it refunds and all amounts in respect of Upgrades which it refunds. However, the charge for Fares, Discount Cards, Reservations and Upgrades respectively may be different.

(c) Any administrative charge that is made must reasonably reflect the cost of processing the application for the relevant refund.
6-50 SEASON TICKET FARE EXTENSIONS

(1) Making extensions

Extensions to the validity of a Season Ticket Fare may only be made with the consent of all the Operators which receive a Credit in respect of that Fare unless reasonable compensation is paid to those other Operators. The extension must be given by the Operator which Sold the Season Ticket Fare.

(2) Obligation to notify

(a) An Operator whose services result in a passenger having a claim under its Passenger's Charter for a discount against the Price of a Season Ticket Fare or an extension to the validity of a Season Ticket Fare must, as soon as reasonably practicable after becoming aware of this, notify the details to the RSP.

(b) As soon as reasonably practicable after receiving these details, the RSP will provide the other Operators with the information they need for the purpose of Selling the Season Ticket Fares to which the discount relates.
CHAPTER 7: METHODS OF PAYMENT

PART I: GENERAL

7-1 REQUIREMENT TO ACCEPT CERTAIN METHODS OF PAYMENT

(1) Generally applicable methods of payment

Each Operator must accept the following methods of payment for Rail Products:

(a) cash denominated in pounds sterling;

(b) cheques denominated in pounds sterling which are drawn on a UK financial institution and supported by a cheque guarantee card for the amount payable;

(c) Warrants (in the circumstances set out in Clause 7-21 below);

(d) Vouchers (in the circumstances set out in Clause 7-35 below);

(e) Permits to Travel (in the circumstances set out in Clause 7-39 below); and

(f) National Transport Tokens (in the circumstances set out in Clause 7-41 below).

(2) Credit Cards

(a) In addition to the methods of payment referred to in sub-Clause (1) above, each Operator must accept as a method of payment for any Rail Product that is Sold at the Regulated Stations listed in Schedule 17, Credit Cards of the type indicated in that Schedule against the name of the relevant Station.

(b) Where, in respect of a Regulated Station, more than one Credit Card Company issues Credit Cards of the type specified in Schedule 17 against the name of that Station, the particular Credit Cards of that type which are accepted at that Station are at the discretion of each Operator which Sells Rail Products there.

7-2 ABILITY TO ACCEPT OTHER METHODS OF PAYMENT
Subject to any other agreement that is binding on it, an Operator may (in addition to the methods of payment referred to in Clause 7-1 above) accept any other method of payment for Rail Products.

7-3 PAYMENT DEFAULTS

An Operator’s obligations to account for revenues arising from the Sale of Rail Products in accordance with Chapter 12 (or any other settlement arrangements that prior to 1 February 2001 have been approved by the Regulator and the Franchising Director and on or after 1 February 2001 have been approved by the Authority) is not affected by the method of payment used. Accordingly, the risk of a default by the Purchaser of a Rail Product (and/or any other person who is due to pay the Operator) is borne by the Operator Selling the Rail Product.
PART II: NOMINATED CREDIT CARDS

7-4 DESIGNATION OF CREDIT CARDS AS NOMINATED CREDIT CARDS

(1) Notification to the RSP

Any Operator (the "Nominating Operator") may from time to time notify the RSP in writing that it would like the RSP to designate a Credit Card as a Nominated Credit Card in respect of that Operator.

(2) Designation by the RSP

Following the receipt of such a notification, the RSP will designate that Credit Card as a Nominated Credit Card in respect of the Nominating Operator if:-

(a) the information on it is capable of being read electronically by the Approved TIMs which are used by the Nominating Operator; and

(b) that information is capable of being processed in accordance with the arrangements for Nominated Credit Cards set out in this Chapter; and

(c) the Nominating Operator has entered into a Credit Card Agreement under which it is permitted to accept the Credit Card as a method of payment for the goods and/or services specified in the notice given to the RSP under this Clause 7-4 (whether or not that agreement is conditional on the Credit Card being designated as a Nominated Credit Card) and has supplied a copy of that agreement to the RSP.

7-5 NOMINATED CREDIT CARDS AT THE DATE OF THIS AGREEMENT

At the date of this Agreement each of the Credit Cards listed in Schedule 20 is a Nominated Credit Card and the British Railways Board is deemed to be the Nominating Operator in respect of them.

7-6 REMOVAL OF A CREDIT CARD'S DESIGNATION AS A NOMINATED CREDIT CARD

A Nominated Credit Card will cease to be designated as such if the Nominating Operator in respect of it submits a written request to this effect to the RSP at least one month in advance. A
Nominating Operator must submit such a request if its authority to accept the Credit Card as a method of payment for the goods and/or services specified in the notice referred to in Clause 7-5 above is terminated or expires.
PART III: PROCESSING OF INFORMATION RELATING TO NOMINATED CREDIT CARDS

7-7 FUNCTIONS OF THE RSP

(1) Nature of the RSP’s functions

Subject to Clause 7-8 below, and compliance by the relevant Nominating Operator with its obligations under this Part III, the RSP will perform the following functions:

(a) the receipt of electronic and manual data from that Operator and the passing of the data on to the relevant Credit Card Company in accordance with Clauses 7-8(2) to 7-15 below;

(b) the notification to that Operator of the amounts (inclusive of any VAT) which it should expect to receive from Credit Card Companies (without regard to Chargebacks) in accordance with Clauses 7-16 and 7-17 below, calculated using data received by the RSP from that Operator and those Credit Card Companies.

(2) Sales of other goods and services

The functions of the RSP referred to in sub-Clause (1) above relate to all sales using Nominated Credit Cards, including those which involve goods and services other than Rail Products and Non-Rail Products.

(3) Sales by persons who are not Operators

(a) The RSP may, on the application of an ATOC Travel Agent, an ITX Travel Agent, an ATOC Self-ticketing Licensee or an Approved Third Party, agree to perform the functions referred to in sub-Clause (1) above in respect of sales of Rail Products, Non-Rail Products and other goods and services by the applicant on any terms agreed between the applicant and the RSP.

(b) At the date of this Agreement, the RSP has agreed to provide such services for the persons listed in Schedule 21.

7-8 MASTERCARD/EURO AND VISA SALES WHICH ARE PROCESSED MANUALLY
(1) **Processing of information**

(a) Each **Nominating Operator** is solely responsible for the processing of the information referred to in this Chapter which relates to sales and **Credit Card Refunds** made by it where:-

(i) the purchaser used a **Nominated Credit Card** which is designated in Schedule 20 as either "Master/Euro" or "Visa" as the method of payment or the account which is to be credited on the making of the **Credit Card Refund** is an account held in respect of a **Nominated Credit Card** which is so designated; and

(ii) the information relating to the **Nominated Credit Card** that was used to make the relevant payment was recorded in manual form by the person making the sale.

(b) Clauses 7-9 to 7-17 (other than Clause 7-11(5) below) below do not apply to these sales or **Credit Card Refunds**.

7-9 **PROVISION OF INFORMATION ABOUT CREDIT CARD SALES TO THE RSP**

Each **Nominating Operator** must provide the following information to the **RSP** in respect of each sale by it of a **Rail Product**, a **Non-Rail Product** or any other goods and services where the purchaser used a **Nominated Credit Card** specified in any notification made by that **Operator** pursuant to Clause 7-5 above as the method of payment:-

(a) the issuing office providing the information and its merchant number;

(b) the date of the sale;

(c) the number of the particular **Nominated Credit Card** that was used;

(d) the amount (inclusive of **VAT**) that was paid using that **Nominated Credit Card**;

(e) the number of any **Approved TIM** which was used to obtain information about that **Nominated Credit Card**; and
(f) any other information specified by the RSP from time to time, generally or in any particular case.

7-10 PROVISION OF INFORMATION ABOUT CREDIT CARD REFUNDS TO THE RSP

Each Operator must provide the following information to the RSP in respect of each Credit Card Refund made by it where the account to be credited relates to a Nominated Credit Card for which that Operator is a Nominating Operator:-

(a) the issuing office providing the information and its merchant number;

(b) the date of the Credit Card Refund;

(c) the number of the particular Nominated Credit Card that was used;

(d) the amount of the Credit Card Refund that was paid using that Nominated Credit Card;

(e) the number of any Approved TIM which was used to obtain information about the relevant Nominated Credit Card; and

(f) any other information specified by the RSP from time to time, generally or in any particular case.

7-11 THE RSP’S REQUIREMENTS ABOUT THE INFORMATION WHICH IS TO BE PROVIDED

(1) Format

The information referred to in Clauses 7-9 and 7-10 above must be provided to the RSP:-

(a) in the case of a sale or Credit Card Refund made on an Approved TIM, electronically from the TIM; and

(b) in the case of a sale or Credit Card Refund made in any other way, in the format notified by the RSP to the relevant Nominating Operator from time to time, generally or in any particular case.
The format specified by the RSP may include a code in which the information is to be provided.

(2) Procedures

In each case the information must be provided in accordance with the procedures notified by the RSP to the relevant Nominating Operator from time to time, generally or in any particular case, including any procedures that are intended to be used if it is impossible or impractical to provide the information in the usual way.

(3) Information already provided pursuant to Chapter 12

If this information has already been provided pursuant to Chapter 12, a Nominating Operator is not required to provide it a second time. However, it must provide the daily batch summaries referred to in sub-Clause (5) below.

(4) Time at which information is to be provided

(a) The RSP will specify from time to time, generally or in any particular case, the times and periods within which the information referred to in Clauses 7-9 and 7-10 above must be provided by the Nominating Operator.

(b) Unless the RSP agrees otherwise, each Nominating Operator must use its reasonable endeavours to comply with these times and periods.

(5) Daily batch summaries

(a) This sub-Clause (5) does not apply to the sales and Credit Card Refunds referred to in Clause 7-8 above. However, it does apply to all other sales and Credit Card Refunds where a Nominated Credit Card was used to make the relevant payment or Credit Card Refund and the information about that Nominated Credit Card was recorded in manual form by the person making the sale or Credit Card Refund.

(b) Each Business Day each Operator must provide the RSP with a summary identifying the value (inclusive of VAT) of:-
(i) its sales of Rail Products, Non-Rail Products and other goods and services where the purchaser used as the method of payment a Nominated Credit Card in respect of which that Operator is a Nominating Operator; and

(ii) the Credit Card Refunds that were made by it in respect of Rail Products, Non-Rail Products and other goods and services on the preceding Business Day where the account to be credited relates to a Nominated Credit Card for which that Operator is a Nominating Operator.

This summary must give separate figures for each Credit Card Company in relation to which a Nominated Credit Card was used.

(c) The Operator must attach to each summary the sales and refund vouchers which relate to the transactions which are summarised.

7-12 Supplying Data

(1) Approved TIMs to supply data to RSP

The procedures referred to in Clause 7-11(2) above will require a Nominating Operator to supply RSP with the information held by Approved TIMs under its control, using such processes, formats and timescales as may be specified by RSP from time to time.

(2) Failure to supply data

If the Operator fails to supply the information to RSP using such processes, formats and timescales as may be specified by RSP from time to time, RSP will inform the Operator as soon as reasonably practicable, whereupon the Operator will use all reasonable endeavours to supply the information to RSP.

(3) Further assistance

Each Nominating Operator must use all reasonable endeavours to comply with any reasonable instructions given by the RSP in order to enable the Approved TIM within that Operator’s control to be able to supply the required information to RSP.
7-13 DATA RE-CREATION IN RELATION TO CREDIT CARD SALES AND REFUNDS

(1) Notification by the Operator to the RSP

(a) If any information which is due to be provided by a Nominating Operator pursuant to Clauses 7-9 or 7-10 above is lost, destroyed or corrupted while under that Operator’s control, the Operator must notify the RSP accordingly as soon as reasonably practicable.

(b) If any information which has been provided by a Nominating Operator pursuant to Clauses 7-9 or 7-10 above is lost, destroyed or corrupted while under the RSP’s control, the RSP will notify the Operator accordingly as soon as reasonably practicable.

(2) Methods of re-creation

(a) As soon as reasonably practicable after the RSP becomes aware that any of the information referred to in sub-Clause (1) above has been lost, destroyed or corrupted, it will use its reasonable endeavours to obtain the missing information from any alternative sources available to it. If it is unable to do so, it will not be under any further obligation to carry out the functions referred to in Clause 7-7 above in respect of that missing information.

(b) Each Nominating Operator must co-operate with the RSP, and provide it with any further information it reasonably requires, to enable the RSP to obtain or estimate such missing information.

(3) Preservation of information

(a) Each Operator must preserve all counterfoils and supporting documentation which relate to:-

(i) its sales of Rail Products, Non-Rail Products and other goods and services for which the purchaser used as the method of payment a Nominated Credit Card in respect of which that Operator is a Nominating Operator; and
(ii) **Credit Card Refunds** that it made in respect of **Rail Products** and other goods and services where the account to be credited relates to a **Nominated Credit Card** for which that **Operator** is a **Nominating Operator**.

(b) These documents must be preserved until the end of the calendar year in which the second anniversary of the relevant sale or **Credit Card Refund** falls.

(c) Each **Operator** must permit the **RSP** and anyone authorised by it to inspect such counterfoils and supporting documentation and must give every reasonable assistance to the **RSP** and anyone so authorised, must comply with all their reasonable requests and must allow them to take copies or extracts from the counterfoils and supporting documentation.

(4) **RSP** to preserve information

(a) The **RSP** will preserve all the information it receives from **Operators** which relates to:

(i) sales for which a **Nominated Credit Card** was used as the method of payment; and

(ii) **Credit Card Refunds** where the account to be credited relates to a **Nominated Credit Card**,

(b) This information will be preserved until the end of the calendar year in which the second anniversary of the relevant sale or **Credit Card Refund** falls.

7-14 **THE RSP’S CHARGES FOR DATA RE-CREATION**

(1) **The RSP’s charges**

Subject to sub-Clause (2) below, the **RSP** may charge for its services for data re-creation. These charges are payable by the relevant **Operator** on demand by the **RSP**, together with any applicable **VAT**.

(2) **Where the RSP was at fault**
If any information for which data re-creation is required is lost, destroyed or corrupted while under the RSP’s control, the cost of re-creating the data will be borne by the RSP and no charges will be made for this.

7-15 PROVISION OF INFORMATION BY THE RSP TO THE CREDIT CARD COMPANIES

(1) **Obligations of the RSP**

Each Business Day, the RSP will, with respect to each Nominating Operator, provide each Credit Card Company with the information it has received on the same or the preceding Business Day about:-

(a) sales which involved the use of Nominated Credit Cards that are the subject of a Credit Card Agreement between that Operator and that Credit Card Company; and

(b) Credit Card Refunds made by that Operator which require an account with that Credit Card Company that relates to a Nominated Credit Card to be credited.

(2) **Conditions**

The RSP is required to carry out the obligations referred to in sub-Clause (1) above:-

(a) in accordance with the procedures notified by it to the Operators from time to time generally or in any particular case; and

(b) only to the extent that it has received the information referred to in Clauses 7-9 and 7-10 above in the form required by the RSP.

7-16 DAILY NOTIFICATION TO THE NOMINATING OPERATORS

Each Business Day the RSP will (on the basis of the information that has been provided to it by the Nominating Operators on the same or the preceding Business Day) notify each Nominating Operator of the total amount that the RSP believes is payable to that Nominating Operator by each Credit Card Company in respect of sales and Credit Card Refunds using Nominated Credit Cards, but:-
(a) disregarding Chargebacks and Credit Card Commission; and

(b) assuming that no notification is received from a Credit Card Company, as described in Clause 7-18 below.

7-17 SUPPLY OF ACCOUNTING INFORMATION TO THE OPERATORS

(1) Statement to the Nominating Operators

Within five Business Days after the end of each Settlement Period, the RSP will send to each Nominating Operator a summary of the daily notifications given to that Operator by the RSP in accordance with Clause 7-16 above.

(2) Contents of the summary

To the extent that the RSP has received this information, the statement will show:-

(a) the total amount that the relevant Nominating Operator should have received from each Credit Card Company in respect of the sales and Credit Card Refunds summarised in those daily notifications;

(b) for each Credit Card Company, the aggregate value (inclusive of any applicable VAT) of sales made during that Settlement Period by that Operator which were settled through the RSP and paid for with a Nominated Credit Card in respect of which the Credit Card Commission is calculated solely by reference to the value of transactions made with that Nominated Credit Card (these are commonly known as commission charges); and

(c) for each Credit Card Company, the total number and aggregate value (inclusive of any applicable VAT) of sales made during that Settlement Period by that Operator which were paid for with a Nominated Credit Card in respect of which the Credit Card Commission is calculated by reference to the number of transactions made with that Nominated Credit Card (these are commonly known as transaction charges).
7-18 NON-ACCEPTANCE OF INFORMATION BY A CREDIT CARD COMPANY

If a Credit Card Company tells the RSP that it believes that all or part of the information that has been provided to it pursuant to Clause 7-15(1) above does not satisfy one of the criteria set out in paragraphs (a) and (b) of that Clause, the RSP will, as soon as reasonably practicable:-

(a) ascertain the identity of the Nominating Operator which provided the relevant information; and

(b) notify that Operator accordingly, specifying the amount that would have been payable to that Operator by the relevant Credit Card Company (disregarding Chargebacks and Credit Card Commission) if the information had satisfied one of those criteria.
PART IV: MISCELLANEOUS PROVISIONS

7-19 CHARGEBACKS

(1) Resolution of disputes

It is the responsibility of each Nominating Operator to resolve all disputes relating to Chargebacks in respect of the Credit Card Agreements it has entered into.

(2) Assistance by the RSP

At the request of a Nominating Operator, the RSP may provide advice or administrative services to that Operator to help it to determine whether any Chargebacks that have been made are valid and/or to resolve any disputes that arise in relation to them.

7-20 "HOT CARDS" AND OTHER INFORMATION

The RSP will notify each Nominating Operator of the information about lost and stolen Credit Cards that is received by the RSP pursuant to a Credit Card Agreement that has been entered into by that Operator.
PART V: WARRANTS AND THE WARRANTS ADMINISTRATOR

7-21 USE OF WARRANTS

(1) Acceptance of Warrants

Subject to Clause 7-44 below, in addition to accepting Warrants as a method of payment for Rail Products, an Operator must, in the circumstances set out in sub-Clause (2) below, accept Warrants as a method of payment for any other goods and services that the Ticketing and Settlement Scheme Council decides from time to time, either generally or in any particular case.

(2) Compliance with terms of Warrant Agreements

Subject to Clause 7-44 below, an Operator must accept a Warrant as a method of payment for any goods or services (including a Rail Product) if the Warrant may be exchanged for those goods or services in accordance with a Warrant Agreement.

(3) Warrants accepted by persons other than Operators

A person other than an Operator shall forward to the Warrants Administrator on behalf of RSP, in accordance with an agreement between that person and the RSP:

(a) a Manual Warrant which has been accepted by that person as a method of payment for Rail Products or any other goods or services, or

(b) Electronic Warrant Data in respect of an Electronic Warrant which has been processed by that person as a method of payment for Rail Products or any other goods or services.

(4) Third parties

The Ticketing and Settlement Scheme Council may from time to time approve arrangements for the acceptance of Warrants by other third parties. As at the date of this Agreement arrangements have been approved for the acceptance of Warrants by the third parties listed in Schedule 37.
7-22  PAYMENT TO THE RSP

(1)  **Warrants** accepted by an **Operator**

Notwithstanding the acceptance of a **Warrant** by an **Operator** as a method of payment, that **Operator** will remain liable to the **RSP** to account for the **Price** of the relevant **Rail Product** in accordance with Chapter 12, if that **Warrant** was accepted as a method of payment for an **RSP-settled Product**.

7-23  **REFUNDS**

The **Warrants Administrator** will make a **Refund** to the relevant **Warrant Account Holder** in respect of a **Rail Product** or any other goods or services for which a **Warrant** was used as the method of payment if:-

(a)  the relevant **Warrant Account Holder** is entitled to claim the **Refund** under the relevant **Warrant Agreement**; and

(b)  that **Warrant Account Holder** makes a request to the retailing **Operator** pursuant to Clause 6-49 above.

7-24  **THE WARRANTS ADMINISTRATOR**

(1)  **Appointment**

The **Ticketing and Settlement Scheme Council** shall appoint a **Warrants Administrator** to undertake on behalf of the **Operators** and **RSP** functions relating to the acceptance of **Warrants** including the provisions set out in this Chapter 7.

(2)  **Entry into its agreement**

The **Warrants Administrator Agreement** will be entered into by any person who is authorised by the **Ticketing and Settlement Scheme Council** for the purpose as agent for each of the **Operators** and will be binding on each of the **Operators** accordingly.

7-25  **PRESERVATION OF INFORMATION**

(1)  **Obligation of Operators to preserve information**
Each **Operator** must preserve for a minimum of two years:-

(a) all counterfoils and supporting documentation which relate to **Sales** for which a **Manual Warrant** was used as the method of payment;

(b) all **Electronic Warrant Data** in respect of **Electronic Warrants** used as the method of payment, and

(c) all counterfoils and supporting documentation which relate to any **Refunds** made by the **Warrants Administrator** in respect of any **Rail Products** or other goods and services which were paid for by the delivery of a **Warrant**.

(2) **Giving assistance**

On reasonable prior notice, each **Operator** must permit **RSP** and anyone authorised by it in accordance with the **Warrants Administrator Agreement** to inspect such counterfoils and supporting documentation and **Electronic Warrant Data** preserved in accordance with Clause 7-25(1). Each **Operator** must also give every reasonable assistance to **RSP** and anyone so authorised, must comply with all their reasonable requests and must allow them to take copies or extracts from any such counterfoils, supporting documentation and **Electronic Warrant Data**.
PART VI: WARRANT ACCOUNTS

7-26 THE APPLICATION PROCESS

(1) Receipt of applications

The Ticketing and Settlement Scheme Council or its delegate will forward to the Warrants Administrator any application for a Warrant Account that it receives within five Business Days of its receipt.

(2) Processing of the application

Following the receipt of an application for a Warrant Account in the form approved from time to time by the Retail Agents Scheme Management Group, together with all supporting documentation and other information that it requires, the Warrants Administrator will open the account within 5 Business Days.

(3) Entry into a Warrant Agreement

(a) If, after receiving notification from the Warrants Administrator in accordance with sub-Clause (2) above, the Retail Agents Scheme Management Group believes that the applicant meets the criteria set out in Clause 7-27 above, it will authorise a person to enter into a Warrant Agreement of the appropriate type, as agent for each of the Operators, with the applicant and will procure that that person enters into such an agreement accordingly.

(b) Each Warrant Agreement that is entered into will be binding on the Operators.

7-27 CRITERIA FOR BECOMING A WARRANT ACCOUNT HOLDER

(1) Criteria

A person who wishes to become a Warrant Account Holder in respect of any particular Warrant Account is required to meet the following criteria:-
(a) the references (of which there must be at least one) concerning the applicant which are taken up by the Ticketing and Settlement Scheme Council or its delegate and any other information obtained by it must be satisfactory to the Ticketing and Settlement Scheme Council or its delegate either on their own merits or in conjunction with any deposit offered by the applicant or method of payment or other terms agreed with that applicant; and

(b) if the applicant is an existing Warrant Account Holder, there must be no amounts overdue under the terms of any of its existing Warrant Accounts.

(2) Existing Warrant Account Holders

At the date of this Agreement all of the Warrant Account Holders referred to in Schedule 22 are deemed to satisfy the criteria set out in sub-Clause (1) above, but are not so deemed at any subsequent time.
PART VII: OPERATION OF WARRANT ACCOUNTS

7-28 INITIAL CHARGES AND ANNUAL FEES

(1) Initial charge

(a) The Retail Agents Scheme Management Group will require an initial charge (including any applicable VAT) to be levied on the opening of Warrant Accounts.

(b) Any such charge (including any applicable VAT) may be waived, either generally or for any particular Warrant Account or Warrant Account Holder, at the discretion of individual Operators. In these circumstances, the Warrant Administrator shall invoice the relevant Operator(s) for the charge.

(2) Annual fee

(a) The Retail Agents Scheme Management Group may (subject to the terms of the relevant Warrant Agreement) require an annual fee (including any applicable VAT) to be charged to Warrant Account Holders. If such a fee is charged the Retail Agents Scheme Management Group will notify the Warrants Administrator accordingly.

(b) Any such fee (including any applicable VAT) may be waived, either generally or for any particular Warrant Account or Warrant Account Holder, at the discretion of individual Operators. In these circumstances, the Warrant Administrator shall invoice the relevant Operator(s) for the fee.

7-29 INVOICING OF WARRANT ACCOUNT HOLDERS

(1) Invoicing

The Warrant Account Holders will receive a statement of account in respect of each of their Warrant Accounts from the Warrants Administrator in accordance with the relevant Warrant Agreement and the Warrants Administrator Agreement.
7-30 PROVISION OF INFORMATION TO THE OPERATORS BY THE WARRANTS ADMINISTRATOR

RSP will use its reasonable endeavours to ensure that the Warrant Administrator complies with its reporting obligations to Operators under the Warrants Administrator Agreement.

7-31 MONITORING AND CLOSURE OF WARRANT ACCOUNTS

(1) Monitoring

The Retail Agents Scheme Management Group will monitor each Warrant Account Holder in respect of its:-

(a) compliance with the terms and conditions of each of its Warrant Agreements; and

(b) meeting the criteria set out in Clause 7-27 above.

(2) Closure of Warrant Accounts

(a) If, at any time, the Retail Agents Scheme Management Group believes that a Warrant Account Holder has failed, and will continue to fail, to meet the criteria set out in Clause 7-27 above or to comply with the terms of any of its Warrant Agreement(s), the Retail Agents Scheme Management Group will notify the Warrant Account Holder accordingly. This notification will ask the Warrant Account Holder to provide an explanation of such matters, within any period that the Retail Agents Scheme Management Group specifies.

(b) In the absence of any explanation, or if the explanation is not satisfactory to the Retail Agents Scheme Management Group, the Retail Agents Scheme Management Group will procure that a person authorised by it for the purpose will terminate the relevant Warrant Agreement, as agent for each of the Operators, in accordance with its provisions.

(c) At the same time as requesting any explanation under paragraph (a) above and/or of giving notice under paragraph (b) above to that Warrant Account Holder of the termination of the relevant Warrant Agreement, the Retail Agents Scheme
Management Group will inform the Warrants Administrator in writing that such request has been made or notice given, specifying the date on which the termination of the relevant Warrant Agreement is to take effect.

(3) Notifications

If at any time the RSP or the Warrants Administrator receives any notice from a Warrant Account Holder under the terms of a Warrant Agreement, it will immediately notify the other accordingly and, if requested, forward a copy of such notice to that other.
PART VIII: EXCHANGE ORDERS

7-32 ISSUE AND USE OF EXCHANGE ORDERS

(1) Issue and use of Exchange Orders

Each Operator or a number of Operators acting under an ATOC Scheme may agree with a Warrant Account Holder that that Warrant Account Holder may issue Exchange Orders for use as a method of payment or part payment for Fares or Discount Cards.

(2) Information to be supplied

If a number of Operators acting under an ATOC Scheme make any such agreement with a Warrant Account Holder the relevant ATOC Scheme must supply the following information to the Warrants Administrator:-

(a) the identity of the Warrant Account Holder with whom it has made that agreement; and

(b) the percentage discount from the face value of Exchange Orders issued by that Warrant Account Holder which it has agreed.

(c) the allocation of the discount between Operators.

7-33 SETTLEMENT

(1) Settlement with the retailer

Settlement of all sums due to Operators who have accepted Exchange Orders will occur in the same manner as such sums are settled in respect of all other Warrants.

(2) Payment of the discount

Each Operator will be liable to RSP for the full amount X its % allocation specified by ATOC pursuant to Clause 7-32(2)(c) above of the discount on each Exchange Order issued by the Warrant Account Holder.
PART IX: BUSINESS TRAVEL CENTRES

7-34 ISSUE OF WARRANTS BY OPERATORS

(1) Application of this Clause

This Clause 7-34 applies where:-

(a) an Operator Sells a Rail Product to an employee of a Warrant Account Holder; and

(b) the employee does not present a Manual Warrant or an Electronic Warrant but the Warrant Account Holder has agreed in writing that the Operator may act as referred to in paragraph (c) below; and

(c) as the method of payment for that Rail Product the Operator either completes a Manual Warrant or produces an Electronic Warrant on behalf of the Warrant Account Holder.

(2) Procedure to be followed

The Operator must send the completed Manual Warrant or Electronic Warrant Data in respect of an Electronic Warrant to the Warrants Administrator, who is bound, under the Warrants Administrator Agreement, to treat the Warrant as if it had been completed by the Warrant Account Holder.

PART X: VOUCHERS

7-35 ISSUE AND USE OF VOUCHERS

(1) Issue of Vouchers

Subject to Clause 7-37 below, each Operator may issue Vouchers.

(2) The use to which a Voucher may be put

The person to whom a Voucher is issued may use it as a method of payment for Rail Products and other goods and services that are sold by any Operator.
7-36 PRESERVATION OF INFORMATION

(1) Obligation of Operators to preserve information

Each Operator must preserve for two years any supporting documentation which relates to Sales for which a Voucher was used as the method of payment, and any Refunds made by the Operator in respect of any Rail Products or other goods or services which were paid for with a Voucher.

(2) Giving assistance

On reasonable prior notice, each Operator must permit the RSP and anyone authorised by it to inspect such counterfoils and supporting documentation. The Operator must also give every reasonable assistance to the RSP and anyone so authorised, must comply with all their reasonable requests and must allow them to take copies or extracts from any such counterfoils and supporting documentation.

7-37 SUPPLY OF VOUCHER

(1) Information to be supplied

If an Operator wishes to issue Vouchers it must ensure that:-

(a) the format of the Voucher complies with the standards issued by RSP from time to time; and

(b) the costs of printing and supplying blank Vouchers to an Operator which wishes to issue those Vouchers will be borne by that Operator.

(2) Processing

The RSP may arrange for the Warrants Administrator to carry out any processing or other function that is necessary for them to comply with any of their obligations under this Agreement that relate to Vouchers on any terms that may be agreed between them and the Warrants Administrator.
SETTLEMENT

Settlement of all sums due to Operators who have accepted Vouchers will occur through the RSP in accordance with Chapters 11 and 12.
PART XI: PERMITS TO TRAVEL

7-39 ACCEPTANCE OF PERMITS TO TRAVEL

Each Operator must accept a Permit to Travel as a method of payment or part payment for a Fare if that Permit to Travel is tendered within two hours of its issue and the Fare to be purchased is in respect of a journey which started at the Station at which the relevant Permit to Travel was issued.

7-40 SETTLEMENT

Amounts due to Operators which accept Permits to Travel will be settled in accordance with Chapters 11 and 12.
PART XII: NATIONAL TRANSPORT TOKENS

7-41 ACCEPTANCE OF NATIONAL TRANSPORT TOKENS

Each Operator must accept a National Transport Token as a method of payment or part payment for a Rail Product if that National Transport Token is tendered in accordance with the terms and conditions of its issue.

7-42 SETTLEMENT

Each Operator will be responsible for arranging for the collection of National Transport Tokens which it has accepted as a method of payment and for the reimbursement of that Operator in respect of those National Transport Tokens by National Transport Tokens Limited or some other person.
PART XIII: MISCELLANEOUS

7-43 INCENTIVES FOR LARGE VOLUME CUSTOMERS

(1) Authority to offer incentives

(a) An Operator or a number of Operators acting under an ATOC Scheme may arrange for incentives to be given to any Warrant Account Holder upon such terms as it may from time to time decide.

(b) Any such incentive may relate to the value of Rail Products and/or other goods and services paid for with Warrants pursuant to Warrant Agreements with that Warrant Account Holder. Any such incentives may be in the form of a payment or discount or any other form.

(c) The incentive arrangements referred to in Schedule 22 are deemed to have been approved by the Ticketing and Settlement Scheme Council pursuant to paragraph (a) above.

(2) Costs

The costs of offering and paying any incentive pursuant to sub-Clause (1) above will be borne by the Operators sponsoring the incentive or in the case of any incentives arranged by Operators under an ATOC Scheme such costs will be borne by the Operators in the proportions which the members of the relevant ATOC Scheme may decide from time to time.

(3) Other incentives

An Operator may provide any other incentive to any Warrant Account Holder provided that the Operator:-

(a) bears all costs relating to that incentive; and

(b) makes such arrangements with the Warrants Administrator as may be necessary in relation to that incentive.

(4) Notification of incentives to RSP
An **Operator** agreeing an incentive with a **Warrant Account Holder** shall notify **RSP** prior to the implementation of such incentive providing the following details:

(a) value of the incentive offered or given;

(b) start and end date and/or frequency of the incentive; and

(c) any other information as may be requested by **RSP**.

Upon receiving the above information **RSP** shall charge the full amount of the incentive to the **Operator** or where appropriate the relevant **ATOC Scheme** participants in accordance with the relevant scheme allocation criteria.

7-44 **SUSPENDED WARRANT ACCOUNT HOLDERS**

An **Operator** must not accept **Warrants** issued by any Suspended **Warrant Account Holder** notified by **RSP** or the **Warrants Administrator** from time to time.

7-45 **THE CHARGES OF THE, WARRANTS ADMINISTRATOR**

Each **Operator** must pay the amounts for the **Warrants Administrator's** services under this Chapter that are approved by the **Ticketing and Settlement Scheme Council** from time to time, together with any applicable **VAT** on these amounts. These amounts will be calculated in accordance with the **Warrants Administrator Agreement**.

7-46 **THE WARRANTS ADMINISTRATOR'S OBLIGATIONS**

Under the **Warrants Administrator Agreement**, the **Warrants Administrator** is obliged to carry out its functions referred to in this Chapter only insofar as it has received information which is sufficient to enable it to do so.

7-47 **FORMS OF NOTIFICATION BY THE WARRANTS ADMINISTRATOR**

Unless otherwise expressly specified in this Chapter, any notification by the **Warrants Administrator** as referred to in this Chapter may be made in any form specified in the **Warrants Administrator Agreement**, either generally or in any particular case.
CHAPTER 8: THE CONTRACT WITH THE PASSENGER

PART I: FARES

8-1 THE NATURE AND TERMS OF THE CONTRACT

(1) The parties to the contract

The Purchase of a Fare gives rise to a contract between the person by or on behalf of whom the Fare was Purchased and:-

(a) if the Fare is Purchased from an Operator, that Operator;

(b) every Operator on whose trains the Purchaser is entitled to travel; and

(c) if the Rights and Restrictions applicable to the Fare state that the Purchaser is to be entitled to obtain goods or services from a person who is not an Operator, that person.

(2) The terms of the contract

The contract referred to in sub-Clause (1) above contains the following terms:-

(a) the Rights and Restrictions applicable to the relevant Fare;

(b) the National Rail Conditions of Travel (unless the Fare is for an International Journey);

(c) if the Fare is for an International Journey, the CIV Rules;

(d) any terms and conditions published by any Operator on whose trains the Purchaser of the Fare is entitled to travel (although these only apply to the relationship between the person by or on behalf of whom the Fare was Purchased and that Operator); and

(e) if the Rights and Restrictions state that the Purchaser of the Fare is entitled to obtain goods or services from a person who is not an Operator or a European Operator, the terms and conditions that would apply if the Purchaser
contracted with that person directly (although these only apply to the relationship between the person by or on behalf of whom the Fare was Purchased and that person).

8-2 THE AGENCY OF THE SELLING OPERATOR

(1) Appointment of other Operators

Each Operator hereby appoints:-

(a) every other Operator as its agent to make the contract referred to in Clause 8-1 above in relation to any Permanent Fare; and

(b) each of the Operators specified in the relevant Product Implementation Form as its agent to make that contract in relation to the Temporary Fare(s) specified in that form.

(2) Appointment on behalf of third parties

(a) If the Rights and Restrictions applicable to a Fare state that the Purchaser is to be entitled to obtain goods or services from a person who is not an Operator, the Sponsoring Operator will itself be acting as agent for that person for the purpose of making the contract between him and the person by or on behalf of whom the Fare was Purchased.

(b) Each Sponsoring Operator must, before Creating a Fare which includes the right to obtain those goods or services, or notifying the other Operators that they are permitted to do so, obtain that person's authority to make that contract on his behalf on the terms referred to in Clause 8-1(2)(e) above and to authorise the other Operators or (in the case of Temporary Fares) the Operators referred to in sub-Clause (1)(b) above, to do so.
PART II: PERMITS TO TRAVEL

8-3 THE NATURE AND TERMS OF THE CONTRACT

(1) The parties to the contract

The Purchase of a Permit to Travel gives rise to a contract between the person by or on behalf of whom it was Purchased and:-

(a) if the Permit to Travel is issued from an Operator’s machine, that Operator; and

(b) every Operator on whose trains the Purchaser is entitled to travel.

(2) The terms of the contract

(a) The contract referred to in sub-Clause (1) above permits the Purchaser to travel by standard class accommodation for one journey from the Station of issue on the date shown on the Permit to Travel provided that he Purchases a Fare for the journey as soon as is reasonably practicable and in any event within two hours after the time of issue.

(b) The contract also contains the following terms (where applicable):-

(i) the National Rail Conditions of Travel;

(ii) any terms and conditions published by the Operator which issued the Permit to Travel.

8-4 THE AGENCY OF THE ISSUING OPERATOR

Each Operator hereby appoints any other Operator as its agent to make the contract referred to in Clause 8-3 above.
PART III: DISCOUNT CARDS

8-5 THE NATURE OF THE CONTRACT

The Purchase of a Discount Card gives rise to a contract between the person by or on behalf of whom the Discount Card was Purchased and:-

(a) if the Discount Card is Purchased from an Operator, that Operator; and

(b) every Operator which has agreed to honour that Discount Card.

8-6 THE AGENCY OF THE SELLING OPERATOR

Each Operator which has agreed to honour a Discount Card hereby appoints:-

(a) every other Operator as its agent to make the contract referred to in Clause 8-5 above if that Discount Card is listed in the records of the RSP; and

(b) the Operators specified in any notification made by it to the RSP pursuant to Clause 4-45(1)(b)(viii) above as its agent to make the contract referred to in Clause 8-5 above in relation to the Discount Card(s) referred to in that notification.

8-7 ISSUE OF DISCOUNT CARDS

Each Discount Card issued by an Operator must state the terms on which it is issued or contain a reference to a document containing them that is available to members of the public. If the Discount Card is issued pursuant to a Discount Card Agreement, the wording included in it for this purpose must be the same as the wording specified by the relevant Discount Card Scheme Council.
PART IV: RESERVATIONS AND UPGRADES

8-8 THE NATURE AND TERMS OF THE CONTRACT

(1) The parties to the contract

The Purchase of a Reservation or an Upgrade gives rise to a contract between the person by or on behalf of whom the Reservation or Upgrade was Purchased and:-

(a) if the Reservation or Upgrade was Purchased from an Operator, that Operator; and

(b) the Operator(s) to whose train(s) the Reservation or Upgrade relates.

(2) The terms of the contract

The contract referred to in sub-Clause (1) above contains the following terms:-

(a) the National Rail Conditions of Travel; and

(b) any terms and conditions published by any Operator to whose trains the Reservation or Upgrade relates (although these only apply to the relationship between the person by or on behalf of whom the Reservation or Upgrade was Purchased and that Operator).

8-9 THE AGENCY OF THE SELLING OPERATOR

Each Operator hereby appoints every other Operator which is notified pursuant to Clause 4-47 or 4-49 above of a requirement for, or the availability of, a Reservation or, as the case may be, the availability of an Upgrade as its agent to make the contract referred to in Clause 8-8 above for that Reservation or Upgrade.
8-10 THE NATURE AND TERMS OF THE CONTRACT

(1) The parties to the contract

The Purchase of a Non-Rail Product gives rise to a contract between the person by or on behalf of whom the Non-Rail Product was Purchased and:-

(a) if the Non-Rail Product is Purchased from an Operator, that Operator; and

(b) the person from whom the Non-Rail Product entitles the Purchaser to obtain the relevant goods or services.

(2) The terms of the contract

The contract referred to in sub-Clause (1) above is made on the terms and conditions that would apply if the Purchaser contracted directly with the person who is to provide the relevant goods or services (although these only apply to the relationship between the person by or on behalf of whom the Non-Rail Product was Purchased and that person).

8-11 THE AGENCY OF THE SELLING OPERATOR

If the person who is to provide the goods or services which are comprised in a Non-Rail Product is not the Operator which Created it, that Operator will itself be acting as agent for the person who is to do so for the purpose of making the contracts referred to in Clause 8-10 above. Each Operator that Creates such a Non-Rail Product must, before doing so, obtain that person's authority to make that contract on his behalf and to authorise the other Operators to do so.
PART VI: FACTORS AFFECTING THE CONTRACT

8-12 CONDITIONS AND BYE-LAWS

(1) Prohibition on restricting the Purchaser's rights

An Operator must not publish any conditions which apply to the Purchaser of a Fare, Reservation or an Upgrade, and must not pass any bye-laws or operate any procedures, which restrict or purport to restrict the rights that the Purchaser would otherwise have under the National Rail Conditions of Travel or the CIV Rules.

(2) Exception

Sub-Clause (1) above does not apply to the extent that this is expressly permitted by the National Rail Conditions of Travel or, as the case may be, the CIV Rules.

8-13 RESTRICTING PURCHASERS' RIGHTS TO A REFUND

(1) Requirement for the approval of the Authority

Where the National Rail Conditions of Travel permit an Operator to restrict the right of the Purchaser of a Fare or a Reservation to obtain a refund of the amount paid for the Fare or Reservation, the Operator may not exercise that right without the prior approval of the Authority.

(2) General approval

The Authority may for the purposes of this Clause 8-13 give a general approval to any Operator or any class of Operators stating the terms on which such a right can be restricted, which he will publish in any manner that he considers appropriate.

(3) Specific approval

A request made pursuant to Clauses 4-7(2), 4-11(3)(c), 4-48(3) for the Authority’s approval must be made in the form set out in Schedule 40.

8-14 WITHDRAWAL OF TICKETS
An Operator may withdraw a Ticket held by a passenger if it is expressly permitted to do so by and in accordance with the National Rail Conditions of Travel.

8-15 HOTEL ACCOMMODATION AND OTHER EXPENDITURE

(1) **Right to reimbursement**

(a) Subject to sub-Clause (2) below, if an Operator incurs any out of pocket expenses under Condition 43 of the National Rail Conditions of Travel as a result of a failure by another Operator to provide the relevant train service it was due to provide, that other Operator must reimburse the first Operator on demand for any reasonable expenses which were incurred. The first Operator may charge VAT to the second Operator in addition to the sums reimbursed.

(b) Before incurring such expenses under Condition 43 of the National Rail Conditions of Travel, an Operator will take reasonable steps to verify that the person claiming the relevant services under that Condition is entitled to them.

(2) **Limitation**

An Operator may only bring a claim under sub-Clause (1) above if the expenses it has incurred as a result of a failure by another Operator to provide a particular train service total £1,000 (inclusive of any irrecoverable VAT) or more.

8-16 **TTL**

Notwithstanding the above provisions of this Chapter, or any provisions to the contrary in Chapter 6, Travelcards and Fares Sold by TTL or the Operators pursuant to the Travelcard Agreement and Through Ticketing (Non-Travelcard) Agreement are subject to those Agreements.
CHAPTER 9: RETAILING BY THIRD PARTIES

PART I: APPLICATION OF THIS CHAPTER

9-1 THIRD PARTIES

(1) Application of Chapter 9

Parts II to VI of this Chapter do not apply:-

(a) where an Operator Sells Rail Products and makes Refunds using the services of its employees;

(b) where (in accordance with sub-Clause (2) below) an Operator Sells Rail Products and makes Refunds through an agent for which that Operator accepts sole responsibility as if the Rail Products had been Sold or Refunds had been made by employees of that Operator;

(c) in relation to the third parties referred to in sub-Clause (3) below.

(2) Agents of Operators

(a) The agents of Operators referred to in sub-Clause (1)(b) above may provide their services:-

(i) at Stations or elsewhere; and

(ii) in their own name or in the name of the relevant Operator.

(b) Such an agent may provide its services at any place where it already provides services itself as an ATOC Travel Agent, an ITX Travel Agent or an ATOC Self-ticketing Licensee provided that it is clear, from the agreement(s) appointing the agent and from the way in which the agent conducts its business and activities (including its accounting procedures and the use of any TIMs), in which capacity the agent is acting in respect of each Sale of a Rail Product and each Refund made by it.

(c) A suggested form of contract between the Operator and such an agent is contained in Schedule 26.
(d) Where an **Operator** has entered into an agreement with such an agent that the **Operator** will remain bound by the provisions of this Agreement as if the **Sale of Rail Products** and making of **Refunds** by that agent had been the action of the relevant **Operator**.

(e) The **RSP** will for all purposes treat the premises and activities of such an agent as if they were the premises and activities of that **Operator** and may charge that **Operator** for the functions performed by the **RSP** in relation to such agent such amount as may be specified from time to time by the **RSP**, generally or in any particular case.

(f) Such an agent may be the agent of more than one **Operator** provided that it is clear from the agreement(s) appointing the agent and from the way in which the agent conducts its business and activities (including its accounting procedures and the use of any **TIMs**) which **Rail Products** are **Sold** and which **Refunds** are made on behalf of which particular **Operator**.

(3) **Approved Third Parties**

Each of the following third parties is authorised by the **Operators** to **Sell Fares** and **Reservations**:-

(a) **TTL**, on the terms of the **Travelcard Agreement** and the **Through Ticketing (Non-Travelcard) Agreement**;

(b) each **Approved Third Party** (other than **TTL**), on the terms of its **ATP Agreement**.

See, further, Clauses 12-23 to 12-27 below.
PART II: LICENSING OF ATOC TRAVEL AGENTS AND ATOC RETAIL AGENTS

9-2 GRANT OF AUTHORITY TO SELL RAIL PRODUCTS

(1) Authority of Retail Agents Scheme Council

The Retail Agents Scheme Council shall have the authority to determine from time to time the categories of agents to be appointed by the Operators to Sell Rail Products and make Refunds on behalf of the Operators and to determine the:-

(a) Suitability Criteria;

(b) Credit Criteria;

(c) Form of Licence to appoint new categories of agents; and

(d) the monitoring arrangements to apply to ensure compliance of such agents with their obligations pursuant to such licences.

(2) Additional Provisions to the Scheme

Upon determination of the matters set out in sub-Clause (1) above, the relevant Suitability Criteria, Credit Criteria and monitoring arrangements shall be constituted as parts of Schedule 41. The new form of licence shall be the New ATOC Licence.

9-3 CRITERIA FOR THE GRANT OF AN ATOC LICENCE TO A TRAVEL AGENT

(1) Suitability Criteria

Any applicant for an ATOC Licence must fulfil the following criteria:-

(a) the applicant must be a member of the Association of British Travel Agents or an equivalent trade or other association or have a status that is acceptable to the Retail Agents Scheme Management Group;

(b) the references (of which there must be at least two) concerning the applicant which are taken up by the Retail Agents Scheme Management Group must be
satisfactory to the Retail Agents Scheme Management Group (although, at the discretion of the Retail Agents Scheme Management Group, the applicant may be deemed to fulfil this criterion by virtue of its membership of an association described in paragraph (a) above);

(c) the applicant must submit a duly completed application form, substantially in the form set out in Part I of Schedule 27, or any other form that the Retail Agents Scheme Management Group approves from time to time, together with any supporting documentation, including the business plans required by that application form or any Marketing and Promotion Plan, and any additional information reasonably requested by the Retail Agents Scheme Management Group in respect of the applicant and each outlet at which it proposes to Sell Rail Products and/or make Refunds;

(d) the applicant must have facilities to enable it to Sell Rail Products and make Refunds throughout the normal business hours of each outlet;

(e) the business plan(s) or Marketing and Promotion Plan, as the case may be, submitted in support of the application must appear to be sustainable on the basis of the supporting documentation submitted with it and any other information available to the Retail Agents Scheme Management Group;

(f) the location and appearance of the outlets at which the applicant proposes to Sell Rail Products must be suitable for the Selling of Rail Products as an ATOC Travel Agent;

(g) the applicant must appear to be capable of complying with all the provisions of the ATOC Licence and, in particular, those provisions which relate to the number, experience and qualifications of staff at the outlets at which it proposes to Sell Rail Products and those provisions which relate to settlement;

(h) the applicant must not propose to offer Rail Products for Sale to the public at an outlet which is within the precincts of a Station unless the Lead Retailer at that Station has notified the Retail Agents Scheme Management Group in writing that it consents to the Sale to the public of Rail Products by that applicant at that Station; and
(i) the level of annual **Sales** forecast by the applicant in the business plan(s) supporting its application must be acceptable to the **Retail Agents Scheme Management Group** as justifying the cost of processing the application and administering its **ATOC Licence** on an on-going basis.

(2) **Credit Criteria**

An **ATOC Licence** or **New ATOC Licence** will be granted only if at least two references taken up by the **RSP** in relation to the applicant, and all financial information concerning the applicant required and received by the **RSP**, is reasonably satisfactory to the **RSP**. These matters are referred to as the "**Credit Criteria**".

(3) **Existing agents**

All the travel agents referred to in Part I of Schedule 25 are deemed to satisfy both the **Suitability Criteria** and the **Credit Criteria** as at the date of this Agreement, but are not so deemed at any subsequent time.

(4) **New outlets for ATOC Travel Agents**

(a) When considering a request by an **ATOC Travel Agent** for it to be licensed to **Sell Rail Products** and to make **Refunds** at an outlet which is not covered by the terms of its existing **ATOC Licence** or **New ATOC Licence**, the **Retail Agents Scheme Management Group** shall have regard only to the **Credit Criteria** referred to in sub-Clause (2) above and to the criteria set out in paragraphs (c) to (h) of sub-Clauses (1) above.

(b) The provisions of Clauses 9-4 to 9-6 below will apply to any such request by an **ATOC Travel Agent**, except that:-

(i) references to the **Suitability Criteria** will be restricted to those criteria referred to in paragraph (a) above;

(ii) the **Retail Agents Scheme Management Group** will consider such **Suitability Criteria** only in relation to the proposed new outlet(s); and
(iii) the RSP will consider whether it would be reasonable to require the ATOC Travel Agent to procure that another person enters into a bond or other guarantee in favour of the RSP for the purpose of securing debts owed to the RSP or to increase the level of any existing bond or other guarantee and, in either case, the appropriate level of such a bond or other guarantee.

(5) Additional Criteria for the grant of a New ATOC Licence

Suitability Criteria and Credit Criteria

Any applicant for a New ATOC Licence shall fulfil such of the Suitability Criteria and any additional Credit Criteria applicable to that New ATOC Licence as determined by the Retail Agents Scheme Council.

9-4 THE APPLICATION PROCESS

(1) Consideration of the application

Following the receipt of an application for the ATOC Licence or New ATOC Licence the Retail Agents Scheme Management Group will consider whether the applicant meets the Suitability Criteria. If the Suitability Criteria are met, it will then forward to the RSP a copy of the application form and any supporting documentation and other information submitted by the applicant.

(2) Credit vetting

(a) Within ten Business Days of receiving a completed application form and all supporting documentation and other information (including any further information required pursuant to paragraph (c) below) the RSP will:-

(i) consider whether the applicant meets the Credit Criteria;

(ii) consider whether it would be reasonable to require the applicant to procure that another person enters into a bond or other guarantee in favour of the RSP for the purpose of securing debts owed to the RSP and, if so, the appropriate level of such a bond or other guarantee; and
(iii) notify the **Retail Agents Scheme Management Group** accordingly in writing.

(b) Such a bond may be in the form set out in Part V of Schedule 27 or any other form that the **RSP** considers appropriate from time to time, either generally or in any particular case.

(c) If the **RSP** does not have all the information which is necessary to be able to decide whether the applicant meets the **Credit Criteria** it will, within five **Business Days** of receiving the relevant application form or, if later, any required information previously requested by the **RSP** which relates to that application, ask the **Retail Agents Scheme Management Group** to obtain that required information.

(3) **Request for additional information**

If the **Retail Agents Scheme Management Group** does not have enough information about the applicant to be able to decide whether it meets the **Suitability Criteria** or is notified by the **RSP** that it does not have enough information about the applicant to be able to decide whether it meets the **Credit Criteria**, the **Retail Agents Scheme Management Group** will ask the applicant to provide the additional information that is required.

9-5 **GRANT OF AN ATOC LICENCE OR NEW ATOC LICENCE**

(1) **Authority of the Retail Agents Scheme Management Group**

An **ATOC Licence** or **New ATOC Licence**, giving the relevant applicant such authority as the **Retail Agents Scheme Management Group** may from time to time decide, will be granted by the **Operators** if:-

(a) the **Retail Agents Scheme Management Group** believes that the applicant meets the **Suitability Criteria**;

(b) on the basis of such notification(s) as the **Retail Agents Scheme Management Group** has received from the **RSP**, the **Retail Agents Scheme Management Group** believes that the applicant meets the **Credit Criteria**; and
(c) if required, a bond or other guarantee of the required level in a form approved by the RSP is in place for the purpose of securing debts owed by the applicant to the RSP. At the date of this Agreement, the form of bond set out in Part V of Schedule 26 is hereby approved by the RSP.

(2) Form of ATOC Licence or New ATOC Licence

(a) Each ATOC Licence and New ATOC Licence will take the form of an agreement entered into between the RSP, the applicant and a duly authorised representative of the Operators (acting for this purpose as the agent of the Operators) substantially in the form of the relevant part of Schedule 27 (or such other form as the Retail Agents Scheme Council decides from time to time in consultation with the RSP, generally or in any particular case).

(b) The Retail Agents Scheme Management Group is hereby authorised by each of the Operators to authorise any person to act as their agent for that purpose.

(3) Register of ATOC Travel Agents and ATOC Retail Agents

The RSP will maintain a register showing the names and principal offices of all ATOC Travel Agents and ATOC Retail Agents in a form approved from time to time by the Retail Agents Scheme Management Group. The register will be kept up to date at all times by the RSP.

(4) Publicity material

(a) If, under the terms of its ATOC Licence, an ATOC Travel Agent is required to make publicity material available to its customers on their request, each Operator may notify the Retail Agents Scheme Management Group that it requires publicity material to be made available by that ATOC Travel Agent. Each such notification must specify:-

(i) the publicity material that the Operator requires the ATOC Travel Agent to make available; and

(ii) the outlets at which the Operator requires the ATOC Travel Agent to make that publicity material available.
(b) As soon as reasonably practicable after receiving such a notification, the Retail Agents Scheme Management Group will consider whether the ATOC Travel Agent concerned can reasonably be expected to make available all of the publicity material required by the Operators and if not, will act fairly as between Operators in deciding which publicity material the ATOC Travel Agent should be required to make available and the outlets at which this requirement should apply. The Retail Agents Scheme Management Group will then notify the relevant ATOC Travel Agent of its decision in accordance with the terms of the relevant ATOC Licence.

9-6 THE RSP AS A PARTY TO THE ATOC LICENCE OR NEW ATOC LICENCE

The RSP will enter into an ATOC Licence or New ATOC Licence with each person to whom the Retail Agents Scheme Management Group has decided to grant an ATOC Licence or New ATOC Licence in accordance with Clause 9-5 above. The Operators, acting through their representative appointed pursuant to Clause 9-5(2) above, will enter into the ATOC Licence or New ATOC Licence at the same time.
PART III: MONITORING OF ATOC TRAVEL AGENTS AND ATOC RETAIL AGENTS

9-7 SUITABILITY CRITERIA

(1) Monitoring

(a) The Retail Agents Scheme Management Group will at least once every year check each ATOC Travel Agent and ATOC Retail Agent in order to confirm that it:-

(i) continues to meet the Suitability Criteria;

(ii) has met its annual revenue targets;

(iii) has complied with its ATOC Licence or New ATOC Licence; and

(iv) has complied with such other requirements as may be imposed by the Retail Agents Scheme Management Group from time to time, either generally or in any particular case, pursuant to the relevant ATOC Licence or New ATOC Licence.

(b) The Retail Agents Scheme Management Group may carry out from time to time any other monitoring and checking of ATOC Travel Agents or ATOC Retail Agents that it considers necessary or desirable, either generally or in any particular case or in the light of information or a request received from an Operator.

(c) The Retail Agents Scheme Management Group shall in respect of each category of ATOC Retail Agent, comply with the monitoring arrangements established for that category by the Retail Agents Scheme Council.

(2) Enforcement for non-compliance

(a) If, at any time, the Retail Agents Scheme Management Group believes that an ATOC Travel Agent or ATOC Retail Agent does not meet the Suitability Criteria or has failed to comply with its ATOC Licence or New ATOC Licence, it will:-
(i) notify that ATOC Travel Agent or ATOC Retail Agent accordingly; and

(ii) exercise, or instruct the RSP to exercise, any rights that the Operators have under the relevant ATOC Licence or New ATOC Licence that the Retail Agents Scheme Management Group considers appropriate (including, in the case of the RSP, reducing the rates of commission applicable to that ATOC Travel Agent), unless it believes that it is in the Operators' best interests not to do so.

(b) If, at any time, the RSP believes that an ATOC Travel Agent or ATOC Retail Agent has failed to comply with the provisions of its ATOC Licence or New ATOC Licence it will notify the Retail Agents Scheme Management Group and, unless it has been otherwise directed in writing by the Retail Agents Scheme Management Group, that ATOC Travel Agent or ATOC Retail Agent accordingly.

(3) Termination of an ATOC Licence or New ATOC Licence

(a) If, at any time, the Retail Agents Scheme Management Group believes that the ATOC Travel Agent or ATOC Retail Agent has failed, and will continue to fail, to meet the Suitability Criteria and/or the Credit Criteria or to comply with its ATOC Licence or New ATOC Licence, it will notify the ATOC Travel Agent or ATOC Retail Agent accordingly.

(b) This notification will ask the ATOC Travel Agent or ATOC Retail Agent to provide an explanation, within any period that is specified, of these matters. If no explanation is provided, or if the explanation is not satisfactory to the Retail Agents Scheme Management Group, it will terminate the ATOC Travel Agent's ATOC Licence or the ATOC Retail Agent's New ATOC Licence in accordance with its provisions unless it believes that it is in the Operators' best interests not to do so.

(c) At the same time as requesting any explanation under paragraph (b) above and of giving any notice to an ATOC Travel Agent of the termination of its ATOC Licence or to the ATOC Retail Agent of the termination on its New ATOC Licence, the Retail Agents Scheme Management Group will inform the RSP in writing that it has made the request or given the notice. In the latter case, the Retail
Agents Scheme Management Group will also specify the date on which the termination of the ATOC Travel Agent's ATOC Licence or the ATOC Retail Agent’s New ATOC Licence is to take effect. The RSP will then take any action under the ATOC Licence or New ATOC Licence that it considers appropriate.

9-8 CREDIT CRITERIA AND THE RSP’S STANDARD TERMS

(1) Monitoring by the RSP

(a) Within fifteen Business Days of the end of each Settlement Period, the RSP will review the compliance of each ATOC Travel Agent and ATOC Retail Agent with the provisions of its ATOC Licence or New ATOC Licence, respectively, which relate to settlement. If the ATOC Travel Agent or ATOC Retail Agent has failed to comply with those provisions the RSP will, unless the Retail Agents Scheme Management Group otherwise directs, reduce the rates of commission applicable to that ATOC Travel Agent, or charge interest to that ATOC Travel Agent or ATOC Retail Agent, in accordance with the provisions of its ATOC Licence or New ATOC Licence.

(b) As soon as reasonably practicable after such a review, the RSP will notify the Retail Agents Scheme Management Group of each ATOC Travel Agent or ATOC Retail Agent which has:-

(i) breached the provisions of its ATOC Licence or New ATOC Licence which relate to settlement in any material respect of which the RSP is aware;

(ii) had its rates of commission reduced, or which has been charged interest by the RSP; or

(iii) been notified to the Retail Agents Scheme Management Group under (i) or (ii) above three or more times within the previous thirteen Settlement Periods.

In each case, the RSP will recommend a course of action to be taken.

(2) Provision of ongoing information
The Retail Agents Scheme Management Group will send the RSP copies of any financial or other relevant information it receives from an ATOC Travel Agent or ATOC Retail Agent.

(3) Annual review

At the end of every thirteenth Settlement Period after a person has been appointed as an ATOC Travel Agent or ATOC Retail Agent the RSP will, in respect of that ATOC Travel Agent or ATOC Retail Agent, review the previous thirteen Settlement Periods with regard to determining:-

(a) whether or not a bond or other guarantee should be, or continue to be, required and, if so, the level of that bond or other guarantee;

(b) the level of Sales of Rail Products achieved as against its most recent Sales targets;

(c) whether there have been any breaches of the provisions of its ATOC Licence or New ATOC Licence which relate to settlement; and

(d) the sustainability of the business plan, Marketing and Promotion Plan, and/or revenue targets of that ATOC Travel Agent or ATOC Retail Agent for the following thirteen Settlement Periods.

(4) Annual stocktake

(a) In relation to the blank, written and other Ticket, Discount Card and Reservation Voucher stocks held by each ATOC Travel Agent or ATOC Retail Agent, the RSP will at least once a year carry out a reconciliation of the ATOC Travel Agent’s or ATOC Retail Agent’s records against the RSP’s own records and investigate any discrepancy.

(b) The RSP will notify the Retail Agents Scheme Management Group of any ATOC Travel Agent or ATOC Retail Agent which has failed to account for any such stock or whose records have not been adequately reconciled under paragraph (a) above or who has failed to co-operate with such reconciliation by the RSP.
(5) **Action by the RSP**

The **RSP** will promptly take any action which it considers may be appropriate or is directed to take following the reviews carried out pursuant to sub-Clauses (3) and (4) above. In addition, the **RSP** will notify the **Retail Agents Scheme Management Group** of:

(a) the results of its reviews and, to the extent appropriate, make recommendations as to any further action to be taken; and

(b) the level of **Sales** achieved by each **ATOC Travel Agent** or **ATOC Retail Agent** as against its most recent revenue targets.

9-9 **COMMUNICATIONS**

If at any time the **Retail Agents Scheme Management Group** or the **RSP** receives a notice from an **ATOC Travel Agent** or **ATOC Retail Agent** under its **ATOC Licence** or **New ATOC Licence**, or from any guarantor of an **ATOC Travel Agent's** obligations under its **ATOC Licence** or **New ATOC Licence**, it will immediately notify the **RSP** or, as the case may be, the **Retail Agents Scheme Management Group** accordingly and, if requested, forward a copy of the notice to it.

9-10 **REPORTS**

At any intervals that the **Retail Agents Scheme Council** requests, the **Retail Agents Scheme Management Group** will submit a written report to the **Retail Agents Scheme Council** about any matters that it requests from time to time.
PART IV: PAYMENT OF COMMISSION AND BENEFITS TO ATOC TRAVEL AGENTS AND ATOC RETAIL AGENTS

9-11 RATE OF COMMISSION

(1) Fares, Discount Cards, Upgrades and Non-Rail Products

Following the Sale by it of any Fare, Discount Card, Upgrade or Non-Rail Product, an ATOC Travel Agent or ATOC Retail Agent will be entitled to a commission or Agent’s Fee at a rate agreed with that ATOC Travel Agent or ATOC Retail Agent calculated on the price (exclusive of VAT) of the relevant Sale, subject to any reduction that is made from time to time in accordance with its ATOC Licence or New ATOC Licence.

(2) Reservations

Following the Sale of a Reservation, an ATOC Travel Agent or ATOC Retail Agent will be entitled to a commission of the greater at a rate agreed with that ATOC Travel Agent or ATOC Retail Agent calculated on the price (exclusive of VAT) of the relevant Sale.

(3) Payment of commission

Such commission will be payable by the RSP in accordance with the relevant ATOC Licence or New ATOC Licence. The ATOC Travel Agent or ATOC Retail Agent will be entitled to retain such commission (together with any VAT on it) where it makes a Refund in respect of the Rail Product in respect of which the commission is paid.

9-12 TOP-UP COMMISSIONS

In respect of any Rail Products Sold by an ATOC Travel Agent or ATOC Retail Agent, Operator(s) may negotiate and pay an additional commission in excess of that provided for in Clause 9-11 above. Any such additional commission (together with any VAT applicable to it) may, with the consent of the RSP, be paid through the RSP as an Inter-User Payment in accordance with Clause 12-15 below.

9-13 DISCOUNTS AND OTHER INCENTIVES
The Retail Agents Scheme Council will in accordance with Chapter 15 determine the arrangements (if any) for, and level of, discounts and other incentives allocated to ATOC Travel Agents and/or ATOC Retail Agents from time to time.
PART V: ITX TRAVEL AGENTS

9-14 ITX FARES

A Special Fare of the type specified in paragraph 1 of Schedule 5 is referred to as an "ITX Fare".

9-15 APPLICATION OF CHAPTER 9 TO ITX TRAVEL AGENTS

All the provisions of this Chapter 9 apply to ITX Travel Agents and, if the context requires, to applicants to become ITX Travel Agents, except that:-

(a) the following provisions do not apply:-

(i) Clause 9-3(1)(d), (f), (g) (in so far as it refers to the number, experience and qualifications of staff) and (h) above (Suitability Criteria);

(ii) Clause 9-3(2) above (in so far as the relevant ATOC Licence provides for the supply of Ticket stock only after receipt by the RSP of payment for that Ticket stock and the Retail Agents Scheme Management Group has decided that the Credit Criteria should not apply);

(iii) Clause 9-3(4) above (new outlets for ATOC Travel Agents);

(iv) Clause 9-5(4) above (publicity material); and

(v) Clauses 9-11 to 9-13 above (commission and benefits);

(b) the form of ATOC Licence to be entered into with ITX Travel Agents is set out in Part IV of Schedule 27; and

(c) Clause 9-3(3) above will apply in respect of all the agents referred to in Part II of Schedule 25 as inclusive tour agents.
PART VI: ATOC SELF-TICKETING LICENSEES

9-16 APPLICATION OF CHAPTER 9 TO ATOC SELF-TICKETING LICENSEES

All the provisions of this Chapter 9 apply to ATOC Self-ticketing Licensees and, if the context requires, to applicants to become ATOC Self-ticketing Licensees except that:-

(a) the following provisions do not apply:-

(i) Clause 9-3(1)(d), (e), (f), (g) (in so far as it refers to the number, experience and qualifications of staff) and (h) above (Suitability Criteria);

(ii) Clause 9-5(4) above (Publicity Material); and

(iii) Clauses 9-11 to 9-13 above (commission and benefits);

(b) the form of ATOC Licence to be entered into with ATOC Self-ticketing Licensees is set out in Part III of Schedule 27; and

(c) Clause 9-3(3) above will apply in respect of all the licensees referred to in Part III of Schedule 25 as self-ticketing outlets.
CHAPTER 10: CARRIAGE OF PASSENGERS

PART I: THE OBLIGATION TO CARRY PASSENGERS

10-1 THE OBLIGATION OF THE OPERATORS TO CARRY PASSENGERS

(1) **Fares** in respect of which the Operators are bound

An Operator is bound to carry on its trains each Purchaser of a Fare, in accordance with its terms, for the whole or any part of the journey for which the Fare entitles him to use those trains.

(2) **Permits to Travel**

An Operator is bound to carry on its trains each Purchaser of a Permit to Travel, in accordance with its terms, for the whole or any part of the journey for which the Permit to Travel entitles him to use those trains.

(3) **Extent of the obligation**

The obligations in sub-Clauses (1) and (2) above exist even if there has been a default by another Operator in respect of a payment due to the RSP under Chapter 12.

10-2 EMERGENCIES

(1) **Obligation to carry**

(a) An Operator which is required to do so pursuant to Condition 44 of the National Rail Conditions of Travel must provide the services referred to in that Condition.

(b) If any event occurs which is capable of affecting two or more trains of an Operator and is likely to result in passengers who are using or wish to use those trains being delayed by more than an hour, every other Operator must use its reasonable endeavours to enable the passenger to complete his journey on its trains at no extra charge.
(2) **Exception**

The obligation in sub-Clause (1)(b) above only applies if the affected **Operator** could not reasonably have been expected to make alternative arrangements to prevent the passengers referred to in that sub-Clause being delayed by more than an hour, having regard to the length of any notice it had of the event which affected its train(s).

(3) **Additional services**

The obligation in sub-Clause (1)(b) above does not require an **Operator** to run additional trains.

(4) **Additional stops**

The obligation in sub-Clause (1)(b) above does not require an **Operator** to make additional stops at **Stations** if:-

(a) it is not entitled to do so; or

(b) to make such stops would cause a significant disruption to its passengers or to its own commercial arrangements.

(5) **Compensation**

(a) An **Operator** which carries passengers pursuant to sub-Clause (1) above will not receive any compensation for doing so unless the delay referred to in that sub-Clause continues for more than 48 hours.

(b) If it does continue for more than 48 hours, each **Operator** which carries any passengers pursuant to sub-Clause (1)(b) above will be entitled to receive from the **Operator** whose trains are affected a proportion of the revenue (exclusive of **VAT**) relating to **Fares Purchased** by such passengers which is appropriate having regard to the number of miles travelled by those passengers on the trains of the relevant **Operators**.

(c) The total amount payable to each carrying **Operator** will be determined by reference to an estimate agreed between that **Operator** and the **Operator** whose
trains are affected or, in default of agreement, in accordance with the dispute resolution procedure referred to in Clause 14-4 below.
PART II: CLASSES OF ACCOMMODATION

10-3 ENTITLEMENT TO USE PARTICULAR CARRIAGES

(1) Marking of carriages

An Operator on whose trains a Fare is valid must allow the Purchaser of the Fare to use any carriage (and any part of a carriage) which is not marked as available only to the Purchasers of a particular type of Fare.

(2) Fares with special accommodation rights

An Operator may designate its carriages as available only for the use of the holders of First Class Fares, particular types of Standard Class Fare and/or particular types of First Class Fare. The types of Fare which qualify to allow their Purchasers to use these carriages are at the discretion of the Operator.

(3) Requirement to have classes of carriage

An Operator is not required on any train to make particular carriages available to the holders of Standard Class Fares or the holders of First Class Fares except (if it is a Franchise Operator) to the extent that it is required to do so by its Franchise Agreement.
PART III: RESERVATIONS

10-4 RESERVATIONS

(1) Carriage

Where an Operator requires a Reservation to be Purchased before the Purchaser of a Fare can use a particular train that it runs and has Created the Reservation pursuant to Clause 4-47 above, it is not bound to carry the Purchaser of a Fare on that train unless such a Reservation has been Purchased.

(2) Marking reserved areas

An Operator which runs a train in respect of which a Reservation has been Purchased must, during the validity of the Reservation, make it clear to the passengers on the train that the area reserved by the Reservation is available only to the Purchaser of that Reservation. This obligation does not apply if every passenger is required to Purchase a Reservation before being entitled to use that train.
PART IV: THE ROUTES FOR WHICH A TICKET IS VALID

10-5 THE PERMITTED ROUTES

Subject to any applicable Rights and Restrictions and any routeing restrictions that apply to the relevant Flow, a Fare is valid on any of the following routes:-

(a) if the Fare is a Zone Fare, on any route within the geographical area(s) for which the Fare is valid; and;

(b) to the extent that the Fare entitles a Purchaser to travel otherwise than in a specified geographical area, on:-

(i) the route taking the shortest distance that can be travelled on scheduled passenger services between the origin and destination Stations (which, for this purpose, includes TTL Stations); and

(ii) any other route(s) which the applicable Routeing Guide states is permitted for the Flow to which that Fare relates.

These routes are referred to as the "Permitted Routes" for the Flow to which that Fare relates.

10-6 CHANGING THE PERMITTED ROUTES

(1) Agreement to make a change

The Routeing Guide may, with the consent of the Authority, be altered from time to time by a resolution of the Ticketing and Settlement Scheme Council, passed by a 75 per cent. majority. Before giving his consent, the Authority will consult with any relevant RPC(s).

(2) Requirement to notify the RSP

(a) If such a resolution is passed the Operators must ensure that its terms are notified to the RSP as soon as reasonably practicable after the consent of the
Authority has been obtained, in the format and in accordance with the procedure specified by the RSP from time to time.

(b) The alteration will take effect immediately after the first Fares Setting Round to start after the RSP receives this notification has been completed.

(3) Publication by the RSP

Following the receipt of the notification referred to in sub-Clause (2) above, the RSP will amend the Routeing Guide accordingly (or the part of it which is subject to the amendment) and distribute it in accordance with Clause 4-59 above.
CHAPTER 11: REVENUE ALLOCATION

PART I: THE COMPONENTS OF REVENUE ALLOCATION

11-1 EFFECT OF THIS CHAPTER

(1) Allocation of revenues

This Chapter sets out how revenues which are received from the Sale of Rail Products and Non-Rail Products, and expenses which are incurred in the making of Refunds, are allocated amongst the Operators and the Approved Third Parties.

(2) Credits and Debits

(a) The calculations made under this Chapter result in a series of credits and debits.

(b) An Operator may receive a credit (referred to as a "Credit") as a result of:

(i) the Sale of a Fare, an Excess Fare or an Upgrade which that Operator is bound to honour;

(ii) the Sale of a Discount Card which entitles the Purchaser to a discount off the Price of a Fare which that Operator is bound to honour;

(iii) the Sale of a Reservation for a train that operates on a Flow on which that Operator runs trains;

(iv) the Sale of a Non-Rail Product which that Operator Created;

(v) being entitled to commission in respect of a Rail Product or a Non-Rail Product which it has Sold;

(vi) making a Refund; or

(vii) accepting a Permit to Travel or Voucher issued by another Operator as a method of payment.
An Operator may receive a debit (referred to as a "Debit") in respect of:-

(i) the amount for which it is due to account in relation to a Rail Product or a Non-Rail Product which it has Sold;

(ii) the commission that is due following the Sale of a Rail Product or a Non-Rail Product if that Operator received (or is due to receive) a Credit in respect of the Sale;

(iii) a Refund that is made in respect of a Rail Product or a Non-Rail Product for which that Operator received a Credit; or

(iv) the issue by it of a Permit to Travel or Voucher which is accepted by another Operator as a method of payment.

11-2 PRIVATE SETTLEMENT CREDITS

(1) Meaning

Certain types of Credit are known as "Private Settlement Credits". These are Credits which relate to Non-Rail Products and to rights to goods or services (other than a journey on the Network involving only the trains of the Operators) which are part of a Fare.

(2) Recipients of Private Settlement Credits

A Private Settlement Credit may be received by the person which provides the relevant goods or services or the Operator which Created the relevant Fare or Non-Rail Products: see Clause 11-13 below.

11-3 NATURE OF CREDITS AND DEBITS

The Credits or Debits are used to determine the amounts that are payable by or to the Operators pursuant to Chapter 12 (or any alternative settlement arrangements that prior to 1 February 2001 have been approved by the Regulator and after 1 February 2001 have been approved by the Authority) or by or to an Approved Third Party pursuant to its ATP
Agreement. They do not themselves represent sums which are owed by or to the RSP or any Operator.
PART II: CALCULATION OF CREDITS AND DEBITS

11-4 FARES

(1) Debit received by the retailing Operator

(a) An Operator which Sells a Fare will receive a Debit in respect of that Sale.

(b) The amount of the Debit that is received in respect of any of the Fares referred to in Clause 6-10(1)(b) above, is the amount charged to the Purchaser (including any applicable VAT).

(c) The amount of the Debit that is received in respect of any other Fare is:-

(i) the Price of the Fare; less

(ii) the amount of any discount allowed to the Purchaser as a result of him presenting a Discount Card or being a Child,

or (if higher) the amount charged to the Purchaser (including any applicable VAT).

(2) Credit received by carrying Operators

Each Operator which has a Percentage Allocation for a Fare will receive a Credit in respect of each Sale of that Fare whether the Sale is by an Operator, an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party or is to an ATOC Self-ticketing Licensee.

(3) Calculation of the Credit

(a) Subject to sub-Clause (4) below, the Credit to be received by such an Operator in respect of any of the Fares referred to in Clause 6-10(1)(b)(i) and (ii) above is:-

(i) the Operator’s Percentage Allocation for the Fare (determined in accordance with Part III of this Chapter);
(ii) multiplied by:-

(1) the amount charged to the Purchaser (including any applicable VAT); less

(2) any Private Settlement Credits in respect of the Fare.

(b) Subject to sub-Clause (4) below, the Credit to be received by such an Operator in respect of any other Fare is:-

(i) the Operator’s Percentage Allocation for the Fare (determined in accordance with Part III of this Chapter);

(ii) multiplied by:-

(1) the Price of the Fare less the amount of any discount allowed to the Purchaser as a result of him presenting a Discount Card or being a Child, or (if higher) the amount charged to the Purchaser (including any applicable VAT); less

(2) any Private Settlement Credits in respect of the Fare.

(4) Passenger's Charter discounts

Where a discount is allowed to the Purchaser of a Fare pursuant to an Operator’s Passenger's Charter, the Credit to be received by that Operator pursuant to sub-Clause (3) above and the Debit to be received by any Operator which Sold the Fare will be reduced by the amount of the discount.

(5) Penalty Fares

For the purpose of sub-Clauses (1) and (3) above, the amount charged to the Purchaser of a Fare does not include any Penalty Fare that is collected.

(6) Duplicate Tickets
No Credits or Debits will be received by any Operator in respect of a Duplicate Ticket which is issued in respect of a Fare.

11-5 EXCESS FARES

(1) Debit received by the retailing Operator

An Operator which Sells an Excess Fare will receive a Debit in respect of that Sale. The amount of the Debit is the amount charged to the Purchaser of the Excess Fare (including any applicable VAT).

(2) Credits received by carrying Operators

Each Operator which has a Percentage Allocation for an Excess Fare will receive a Credit in respect of each Sale of that Excess Fare, whether the Sale is by an Operator, an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party, or is to an ATOC Self-ticketing Licensee.

(3) Calculation of the Credit

The Credit to be received by such an Operator is:-

(a) the Operator’s Percentage Allocation for the Excess Fare (determined in accordance with Part III of this Chapter);

(b) multiplied by the amount charged to the Purchaser of the Excess Fare (including any applicable VAT).

(4) Penalty Fares

For the purpose of sub-Clauses (1) and (3) above, the amount charged to the Purchaser of an Excess Fare does not include any Penalty Fare that is collected.

11-6 DISCOUNT CARDS

(1) Debit received by the retailing Operator
An Operator which Sells a Discount Card will receive a Debit in respect of that Sale. The amount of the Debit is the Price of the Discount Card or (if higher) the amount charged to the Purchaser of the Discount Card (including any applicable VAT).

(2) Credits received by the Operators which are to honour the Discount Card

Each Operator which has a Percentage Allocation for a Discount Card will receive a Credit in respect of each Sale of that Discount Card, whether the Sale is by an Operator, an ATOC Travel Agent or an Approved Third Party.

(3) Calculation of the Credit

The Credit to be received by such an Operator is:-

(a) the Operator’s Percentage Allocation for the Discount Card (determined in accordance with Part III of this Chapter);

(b) multiplied by the Price of the Discount Card or (if higher) the amount charged to the Purchaser (including any applicable VAT).

(4) Duplicate Discount Cards

No Credits or Debits will be received by any Operator in respect of a Duplicate Discount Card.

11-7 RESERVATIONS AND UPGRADES

(1) Debit received by the retailing Operator

An Operator which Sells a Reservation or an Upgrade will receive a Debit in respect of that Sale. The amount of the Debit is the amount charged to the Purchaser of the Reservation or Upgrade (including any applicable VAT).

(2) Credits received by the carrying Operators

Each Operator which has a Percentage Allocation for a Reservation or an Upgrade will receive a Credit in respect of each Sale of that Reservation or Upgrade, whether the Sale is
by an Operator, an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party or is to an ATOC Self-ticketing Licensee.

(3) Calculation of the Credit

The Credit to be received by such an Operator is:-

(a) the Operator’s Percentage Allocation for the Reservation or Upgrade (determined in accordance with Part III of this Chapter);

(b) multiplied by the amount charged to the Purchaser of the Reservation or Upgrade (including any applicable VAT).

11-8 NON-RAIL PRODUCTS

(1) Debit received by the retailing Operator

An Operator which Sells a Non-Rail Product will receive a Debit in respect of that Sale. The amount of the Debit in respect of a Non-Rail Product that is issued on an Approved TIM is the amount paid for the Non-Rail Product. The amount of the Debit in respect of a Non-Rail Product that is not issued on an Approved TIM is the Price of the Non-Rail Product (inclusive of any VAT).

(2) Credits received by the Creating Operator

The Operator which Created a Non-Rail Product (or, if there is more than one of them, the Operator which provided details of the Non-Rail Product to the RSP pursuant to Clause 4-54 above) will receive a Credit in respect of each Sale of that Non-Rail Product.

(3) Calculation of the Credit

The Credit to be received by such an Operator in respect of a Non-Rail Product that is issued on an Approved TIM is the amount paid for the Non-Rail Product. The Credit to be received by such an Operator in respect of a Non-Rail Product that is not issued on an Approved TIM is the Price of the Non-Rail Product (inclusive of VAT).
11-9 **COMMISSION**

(1) **Entitlement to a Credit**

Each **Operator** which is entitled to commission pursuant to Clause 6-21 above in respect of a **Rail Product** or a **Non-Rail Product** which it has **Sold** (or which would be entitled to it but for Clause 12-12(1)(b) below) will receive a **Credit** equal to the amount of that commission (plus any **VAT** payable in respect of it).

(2) **Corresponding Debits**

Each **Operator** which received (or is due to receive) a **Credit** following the **Sale** of a **Rail Product** or a **Non-Rail Product** will receive a **Debit** in respect of the commission (plus any **VAT** payable in respect of it) that is due (or which would be due but for Clause 12-12(1)(b) below) in respect of that **Sale**, whether it is due to an **Operator**, an **ATOC Travel Agent** or an **Approved Third Party**.

(3) **Calculation of the Debit**

Subject to sub-Clause (4) below, the **Debit** to be received by such an **Operator** is:-

(a) the amount of the **Credit** (exclusive of any **VAT**) received by that **Operator** in respect of the **Rail Product** or **Non-Rail Product**;

(b) multiplied by the rate at which commission is due (or would be due but for Clause 12-12(1)(b) below) in respect of the **Sale** under Chapter 6 or, as the case may be, the relevant **ATOC Licence** or **ATP Agreement**;

(c) plus any **VAT** payable in respect of the commission that is due (or would be due but for Clause 12-12(1)(b) below).

(4) **Calculation of the Debit in respect of commission on free Reservations and other products**

The **Debit** to be received by such an **Operator** in respect of any commission that is due under an **ATOC Licence** or **ATP Agreement** in respect of the **Sale** of a **Rail Product** or a **Non-Rail Product** free of charge is:-
(a) the amount of the commission;

(b) multiplied by that Operator’s Percentage Allocation in respect of the Sale;

(c) plus any VAT payable in respect of such commission.

11-10 **REFUNDS**

(1) **Information regarding Refunds**

(a) Each Operator which has made a Refund pursuant to Clause 6-49 above or makes an authorised Refund in respect of a Non-Rail Product must record the information set out in Clause 12-8 in respect of each such Refund.

(b) Each Operator shall, in respect of the information recorded under sub-Clause (1)(a) above, either:

(i) retain such information in its records; or

(ii) provide such information to the RSP with the request that the RSP retain such information in the RSP’s records; or

(iii) provide such information to the RSP with the request that the RSP settle the relevant Refund in accordance with Chapter 12 and retain such information in the RSP’s records.

(c) Provided that the information has been compiled in accordance with Clause 12-8, the RSP will comply with the requests in sub-Clause (ii) and (iii) above.

(2) **Entitlement to a Credit**

Each Operator which has made a Refund pursuant to Clause 6-49 above or makes an authorised Refund in respect of a Non-Rail Product is entitled to receive a Credit equal to the amount of the Refund and will receive such a Credit provided that the Operator makes the request referred to in sub-Clause (1)(b)(iii) above.
(3) **Corresponding Debits**

Each **Operator** which received (or is due to receive) a **Credit** following the **Sale** of a **Rail Product** or a **Non-Rail Product** will receive a **Debit** if a **Refund** is made in respect of that **Rail Product** or **Non-Rail Product**, whether by an **Operator**, an **ATOC Travel Agent**, an **ITX Travel Agent**, an **ATOC Self-ticketing Licensee** or an **Approved Third Party**.

(4) **Calculation of the Debit**

The **Debit** to be received by such an **Operator** is:-

(a) the **Operator’s Percentage Allocation** for the **Rail Product** or **Non-Rail Product** (determined in accordance with Part III of this Chapter);

(b) multiplied by the amount of the **Refund** (before any administrative charges by the person making the **Refund** have been deducted).

11-11 **PERMITS TO TRAVEL**

(1) **Entitlement to a Credit**

(a) An **Operator** which accepts a **Permit to Travel** that was issued by another **Operator** as a method of payment for a **Fare**, may forward that **Permit to Travel** to the issuing **Operator** (or a person nominated by it for this purpose) and, if so, will send the **RSP** any document(s) that the **RSP** requires from time to time.

(b) If this is done in accordance with any procedures specified by the **RSP** from time to time (either generally or in any particular case), the **Operator** which accepted the **Permit to Travel** will receive a **Credit** equal to the face value of the **Permit to Travel**.

(2) **Corresponding Debit**

The **Operator** which issued a **Permit to Travel** that is forwarded in accordance with sub-Clause (1) above, will receive a **Debit** equal to the face value of that **Permit to Travel**.

11-12 **VOUCHERS**
(1) **Entitlement to a Credit**

(a) An Operator which accepts a Voucher that was issued by another Operator as a method of payment for a Rail Product, a Non-Rail Product or other goods or services may forward that Voucher to the RSP or a person nominated by it for this purpose.

(b) If this is done in accordance with any procedures specified by the RSP, from time to time (either generally or in any particular case), the Operator which accepted the Voucher will receive a Credit equal to the face value of the Voucher.

(2) **Corresponding Debit**

The Operator which issued a Voucher that is forwarded to the RSP (or the person nominated by it), as described in sub-Clause (1) above, will receive a Debit equal to the face value of that Voucher.

11-13 **PRIVATE SETTLEMENT CREDITS**

(1) **Existence of a Private Settlement Credit**

Following the Sale of a Fare which includes rights to goods or services (other than a journey on the Network using only the trains of the Operators), a Private Settlement Credit will arise.

(2) **Recipient of the Private Settlement Credit**

(a) If the rights comprised in the Fare involve a right to make a journey on any trains or buses run by TTL, its subsidiaries or TTL Third Parties, the Private Settlement Credit will be received by TTL.

(b) If the rights consist of a right to make a journey on the trains of a European Operator, the Private Settlement Credit will be received by EPS.

(c) If the rights are rights against an Approved Third Party (other than TTL or EPS), the Private Settlement Credit will be received by that Approved Third Party.
(d) In any other case, the Private Settlement Credit will be received by the Operator which Created the relevant Fare.

(3) **Amount of the Credit**

The Private Settlement Credit to be received pursuant to sub-Clause (2) above is:-

(a) in the case of TTL, subject to sub-Clause (4) below, the amount determined in accordance with the Clearance Agreement between TTL and the RSP;

(b) in the case of EPS, the amount determined in accordance with the Clearance Agreement between EPS and the RSP;

(c) in the case of an Approved Third Party (other than TTL or EPS), the amount determined in accordance with its ATP Agreement; and

(d) in any other case, the amount notified to the RSP pursuant to Clause 4-11(4)(f) above by the Operator which Created the relevant Fare or, as the case may be, the amount calculated by the RSP in accordance with the formula notified to it pursuant to Clause 4-11(4)(f) above.

(4) **Lump sum payments to TTL**

Sub-Clauses (1) to (3) above do not apply to Fares involving a right to make a journey on any trains or buses run by TTL, its subsidiaries or a TTL Third Party in respect of which the payment that is due to TTL is not calculated by reference to each Fare that is Sold. Instead, in respect of each Settlement Period:-

(a) TTL will receive a Credit that is equal to the amount that is required to be taken into account under the Clearance Agreement with TTL in respect of these Fares; and

(b) each Operator will receive a Debit of an amount calculated by applying the percentage specified from time to time pursuant to the LRT Scheme and notified to the RSP to the amount of the Credit received by TTL.
11-14  **SEASON TICKET FARES**

(1) **Maintenance of Season Ticket Suspense Accounts**

The RSP will maintain, with respect to each Operator, a "memorandum account" in its books known as that Operator's "Season Ticket Suspense Account". Each Season Ticket Suspense Account will be broken down by reference to the Settlement Periods to enable the RSP to debit or, as the case may be, credit the amounts referred to in this Clause 11-14 against the appropriate Settlement Period.

(2) **Crediting of sums to the Season Ticket Suspense Accounts**

(a) As soon as reasonably practicable after determining the amount of any Credit that is to be received by an Operator in respect of a Season Ticket Fare, the RSP will determine, with respect to each Settlement Period during which (or during any part of which) the Season Ticket Fare is valid (other than the one in which it was Accepted for Clearing), that Operator’s Suspense Amount for that Settlement Period and that Season Ticket Fare.

(b) The Suspense Amount will be calculated in accordance with the following formula:-

\[
\text{Suspense Amount} = \frac{\text{Current Credit} \times \text{Settlement Period Validity}}{\text{Total Validity}}
\]

For the purposes of this calculation:

"**Current Credit**" means the sum of the Credits received (or to be received) pursuant to Clauses 11-4 by the relevant Operator in respect of the Season Ticket Fare;

"**Settlement Period Validity**" means the number of journeys which the Purchaser of the Season Ticket Fare is estimated to have made with that Fare (determined in accordance with sub-Clause (5) below) during the relevant Settlement Period; and

"**Total Validity**" means the total number of journeys which the Purchaser of the Season Ticket Fare is estimated to make with that Fare (determined in accordance with sub-Clause (5) below).
(c) The Suspense Amount calculated in respect of each Settlement Period will then be credited to the Operator’s Season Ticket Suspense Account against the equivalent Settlement Period.

(3) Calculating the Adjustment Amount

(a) At the same time as determining the Credits that are to be received by the Operators in respect of Season Ticket Fares that have been Accepted for Clearing in a particular Settlement Period (referred to as the "Current Settlement Period"), the RSP will determine, in respect of each Season Ticket Fare which is still valid at that time but which was Accepted for Clearing in a previous Settlement Period, each Operator’s Adjustment Amount (if any) in relation to that Fare.

(b) An Operator’s Adjustment Amount will be calculated in accordance with the following formula:-

\[
\text{Adjustment} = (\text{New Credit} - \text{Original Credit}) \times \frac{\text{Remaining Validity Amount}}{\text{Total Validity}}
\]

For the purposes of this calculation:

"New Credit" means the sum of the Credits that would be received by the relevant Operator in respect of the Season Ticket Fare if they were calculated at the time that the determinations referred to in paragraph (a) above were made, on the basis of the Percentage Allocations in force at that time;

"Original Credit" means the sum of the Credits that were in fact received by that Operator in respect of the Season Ticket Fare pursuant to Clauses 11-4 or, if any Adjustment Amounts have previously been calculated in respect of that Fare, the New Credit that was used in the last such calculation;

"Remaining Validity" means the number of journeys which the Purchaser of the Season Ticket Fare is estimated to make from (and including) the first
day of the **Current Settlement Period** to (and including) the last day on which the **Fare** is valid; and

**“Total Validity”** means the total number of journeys which the **Purchaser** of the **Season Ticket Fare** is estimated to make with that **Fare** (determined in accordance with sub-Clause (5) below).

(4) **Additional Credits and Debits**

(a) In the case of each **Adjustment Amount** which is greater than zero a **Credit** of an equal sum will be received by the **Operator** to which it relates, in addition to any **Credits** which arise under Clause 11-4 above.

(b) In the case of each **Adjustment Amount** which is less than zero a **Debit** of an equal sum (expressed as a positive value) will be received by the **Operator** to which it relates, in addition to any **Debits** which arise under Clause 11-4 above.

(5) **Estimating the number of journeys made with a Season Ticket Fare**

For the purposes of sub-Clauses (2) and (3) above, the **Purchaser** of a **Season Ticket Fare** is estimated to make the number of journeys specified in Schedule 28 in the **Settlement Periods** listed in that Schedule.
PART III: DETERMINING THE PERCENTAGE ALLOCATIONS

11-15 OPERATORS WHICH HAVE A PERCENTAGE ALLOCATION

Each Operator’s Percentage Allocation for a particular Rail Product or Excess Fare will be determined in accordance with the following table:-

1. Fares for Compulsory Inter-available Flows

<table>
<thead>
<tr>
<th>Type of Fare</th>
<th>Percentage Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Fare Created by a Lead Operator</td>
<td>The relevant Operator’s manual Allocation, if it has one. Otherwise, its ORCATS Allocation, if it has one. Otherwise, the Operator’s Default Allocation for that Fare, it has one. If it has none of them, zero.</td>
</tr>
<tr>
<td>A Dedicated Fare</td>
<td>If the relevant Operator runs the trains on which the Dedicated Fare is valid, 100 per cent. Otherwise, zero.</td>
</tr>
<tr>
<td>A Fare Created by agreement between two or more Operators</td>
<td>The relevant Operator’s Manual Allocation, if it has one. Otherwise, zero.</td>
</tr>
</tbody>
</table>

2. Fares for other Flows

<table>
<thead>
<tr>
<th>Type of Fare</th>
<th>Percentage Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Fare Created by a Major Flow Operator</td>
<td>The relevant Operator’s Manual Allocation, if it has one. Otherwise, its ORCATS Allocation, if it has one. Otherwise, the Operator’s Default Allocation for that Fare, if it has one. If it has none of them, zero.</td>
</tr>
<tr>
<td>A Dedicated Fare</td>
<td>If the relevant Operator runs the trains on which</td>
</tr>
</tbody>
</table>
the Fare is valid, 100 per cent. Otherwise, zero.

A Fare Created by agreement between two or more Operators

The relevant Operator’s Manual Allocation, if it has one. Otherwise, zero.

3. Excess Fares

An Excess Fare

The relevant Operator’s Manual allocation, if it has one. Otherwise zero.

4. Discount Cards

Type of Discount Card

Percentage Allocation

A Discount Card which entitles the holder to a discount only off the Price of a particular Operator’s Dedicated Fares

If the relevant Operator runs the trains on which those Dedicated Fares are valid, 100 per cent. Otherwise, zero.

Any other Discount Card

The relevant Operator’s Manual Allocation, if it has one. Otherwise, zero

5. Reservations

A Reservation in respect of which the related Reservation Voucher was issued on an Approved TIM

The relevant Operator’s Percentage Allocation for Full Fares that are Sold in respect of the Flow to which the Reservation relates, if it has one. Otherwise, zero.

Any other Reservation

The relevant Operator’s Manual Allocation, if it has one. Otherwise, zero.

6. Upgrades
An Upgrade that is Sold on a train without the use of an Approved TIM

If the relevant Operator runs the trains on which the Upgrade is Sold, 100 per cent. Otherwise, zero.

An Upgrade that is Sold in any other circumstances

The relevant Operator’s Percentage Allocation for Full Fares that are Sold in respect of the Flow to which the Upgrade relates, if it has one. Otherwise, zero.
11-16 **DISPUTES AS TO PERCENTAGE ALLOCATIONS**

(1) **Income Allocation Dispute Rules**

The ATOC Scheme Committee shall establish and maintain an Income Allocation Disputes Sub-Committee, together with Income Allocation Dispute Rules in accordance with which disputes as to Percentage Allocations shall be resolved.

11-17 **ABILITY TO CHANGE THE PERCENTAGE ALLOCATIONS**

(1) **Service of a notice requesting a change**

An Operator which is bound to honour a Fare, an Excess Fare, a Reservation or an Upgrade may dispute the Percentage Allocations for that Fare, Excess Fare, Reservation or Upgrade by serving a notice in accordance with the Income Allocation Dispute Rules on the persons entitled to receive such notice under those Rules.

Such notice may cover several Fares, Excess Fares, Reservations and/or Upgrades.

(2) **Exception**

Sub-clause (1) above does not apply to Manual Allocations which have existed for less than six months. These may not be disputed.

(3) **Introduction of Dedicated Fare**

On the Creation by an Operator of a Dedicated Fare in respect of a Compulsory Inter-Available Flow, unless all the Operators which have a Percentage Allocation in respect of any Fare that relates to the Flow agree otherwise in writing, that Operator must serve a notice on all such other Operators and (in the case of a notice pursuant to sub-paragraph (b)) to the RSP either:

(a) on the same basis as set out in accordance with the Income Allocation Dispute Rules; or
(b) in the form of a Product Implementation Form agreeing not to change the Percentage Allocations in respect of that Compulsory Inter-Available Flow.

(4) **Introduction of a Through Fare and/or Inter-Available Fare**

On the Creation of a Through Fare and/or Inter-Available Fare in respect of a Compulsory Inter-Available Flow between two or more Operators pursuant to sub-Clause 4-16 above, those Operators must nominate one of their number in accordance with the Income Allocation Dispute Rules to serve either of the notices set out in sub-paragraphs (a) or (b) below on all the other Operators which have a Percentage Allocation in respect of any Fare that relates to that Flow unless those other Operators agree otherwise in writing.

A notice sent pursuant to sub-paragraph (b) below must also be sent to the RSP. The notices referred to above are either:

(a) a notice sent out on the same basis as that referred to in sub-Clause (1) above in accordance with the Income Allocation Dispute Rules; or

(b) a notice in the form of a Product Implementation Form agreeing not to change the Percentage Allocations in respect of that Compulsory Inter-Available Flow.

(5) **Disputes in relation to previous Percentage Allocations**

An Operator may not dispute Percentage Allocations that applied during any period before the service of a notice pursuant to sub-Clause (1) above unless:

(a) the notice arises as a result of the correction of an error in the National Timetable or a Permanent Fare in the circumstances specified in sub-Clause 16.1 of Schedule 4 below; and

(b) is served within 6 weeks of the Timetable Change Date, or the end of the Fares Setting Round in which the Permanent Fare referred to in (a) above, when the error took effect,

in which case any changes to the Percentage Allocations which result from such notice shall take effect from that Timetable Change Date or the end date of the Fares Setting Round.
11-18 RESOLUTION OF INCOME ALLOCATION DISPUTES

Disputes initiated by the service of a notice pursuant to Clause 11-17 above shall be resolved in accordance with the Income Allocation Dispute Rules.

11-19 IMPLEMENTATION OF PERCENTAGE ALLOCATION CHANGES

(1) Implementation

(a) The resolution of disputes in accordance with the Income Allocation Dispute Rules shall take effect as specified in those Rules.

(b) Changes to Percentage Allocations in respect of a Compulsory Inter-Available Flow shall take effect on the later of

(i) the date specified by the relevant Operator(s) on the notice served pursuant to sub-Clause 11-17(3)(b) or 11-17(4)(b) above and

(ii) a date four weeks after receipt of such notice by the RSP, unless the RSP reasonably requires a longer period to implement the terms of the notice, in which case it will notify the Operators whose Percentage Allocations are to be changed when the change will be implemented.

(c) When the change is implemented the percentages so implemented will be Manual Allocations for the relevant Operators in respect of the relevant Fare, Excess Fare, Reservation or Upgrade.

(2) Systems Limitations

No change to any Percentage Allocations may be made that the RSP is unable to implement. The RSP will explain any such limitations which apply on request by an Operator.

11-20 AWARDS FROM THE DATE OF SERVICE OF THE NOTICE

(1) Calculating the adjustment amount
(a) If an agreement is reached following the service of a notice pursuant to Clause 11-17 above, or an order is made pursuant to the Income Allocation Dispute Rules, that the Percentage Allocations for a Fare, an Excess Fare, a Reservation or an Upgrade should be changed, unless the relevant Operators agree otherwise, the RSP will calculate, in respect of each Operator:-

(i) the sum of the Credits that such Operator would have received in respect of that Fare, Excess Fare, Reservation or Upgrade on the basis of the Percentage Allocations that have been agreed or, as the case may be, specified under the Income Allocation Dispute Rules from the date on which the notice referred to in Clause 11-17 above was served to the date on which the new Percentage Allocations are implemented; less

(ii) the sum of the Credits that the Operator did receive in respect of that Fare, Excess Fare, Reservation or Upgrade from the date on which the notice was served to the date on which the new Percentage Allocations are implemented.

(b) The RSP will then notify the relevant Operators of the results of these calculations.

(2) Payment

Each Operator or former Operator in respect of which the amount calculated pursuant to sub-Clause (1) above is greater than zero will receive a payment equal to that amount from the RSP. Each Operator or former Operator in respect of which the amount calculated is less than zero must make a payment equal to that amount to the RSP.

(3) Costs

The Operator which served the relevant notice pursuant to Clause 11-17 above must pay the RSP its reasonable costs for calculating any payment that is due pursuant to sub-Clause (2) above.

11-21 AGREEMENTS INVOLVING ONLY SOME OF THE OPERATORS

(1) Type of agreement that may be reached
(a) An agreement reached, following the service of a notice pursuant to Clause 11-17 above, may involve only some of the Operators which receive Percentage Allocations in respect of the Fare, Excess Fare, Reservation or Upgrade which is the subject of the agreement as long as they include the Operator which served the notice. However, where two or more Operators agree to vary their Percentage Allocations for a Fare, an Excess Fare, a Reservation or an Upgrade and one or more other Operators also receive a Percentage Allocation in respect of the Fare, Excess Fare, Reservation or Upgrade, the sum of the percentages agreed must equal the sum of the Percentage Allocations of the Operators which are parties to the agreement.

(b) The agreement must be substantially in the form of Schedule 30.

11-22 AUTOMATIC ADJUSTMENTS TO THE MANUAL ALLOCATIONS

(1) Effect of a change in the Percentage Allocations

If, after an agreement has been reached between only some of the Operators which receive Percentage Allocations in respect of a Fare, Excess Fare, Reservation or Upgrade, as referred to in Clause 11-21 above, the sum of the Percentage Allocations that would be received by those Operators in respect of that Fare, Excess Fare, Reservation or Upgrade but for the agreement changes (whether or not as a result of an ORCATS Run), the agreement will continue to have effect in respect of the sum of the Percentage Allocations received by those Operators after the change unless they agree otherwise (in which case Clause 11-21 above will apply). However, the agreement will relate only to the sum of those Percentage Allocations immediately after the change. The Operators' Manual Allocations will therefore be adjusted by the RSP accordingly.

(2) Example
For example, if the Manual Allocations to be received by two Operators in respect of a particular Fare in total represent 100 per cent. of all the Percentage Allocations in respect of such a Fare, which they agree to divide in equal proportions, but the sum of the Percentage Allocations to be received by them is subsequently reduced to 80 per cent., each Operator’s Manual Allocation will automatically be reduced to 40 per cent.

11-23 MANUAL ALLOCATIONS FOR DISCOUNT CARDS

Clause 4-45(1)(b) above requires any Operators which Create a Discount Card to specify the Percentage Allocations that are to be received in respect of that Discount Card (unless it relates solely to the Dedicated Fares of the Operator Creating it) or a formula acceptable to the RSP that will enable the RSP to calculate them. These are referred to as "Manual Allocations" for that Discount Card.

11-24 EXISTING MANUAL ALLOCATIONS

The percentages specified on the Manual Allocation Files are Manual Allocations for the Operators and the Rail Products listed on it. In the case of Fares, Reservations or Upgrades, they may, however, be changed pursuant to Clause 11-17 above.

11-25 MANUAL ALLOCATIONS IN RESPECT OF TRAVELCARDS

(1) Ability to change Manual Allocations

The Manual Allocations in respect of Sales of Travelcards may only be changed pursuant to a resolution of the Travelcard Scheme Management Group. Such a change may take place at any time and Clauses 11-16 to 11-20 above do not apply. Notice of the change must, however, be given to the RSP in accordance sub-Clause (2) below and the change will come into effect at the time specified in sub-Clause (3) below.

(2) Notice of change

Operators reaching an agreement in accordance with sub-Clause (1) above must give at least four week’s written notice of the proposed change to the RSP (or any other period of notice that the RSP reasonably requires), together with evidence satisfactory to the RSP of each such Operator’s agreement to the change. The RSP is not required to implement the change unless it is provided with all the details of the terms of the agreement that it reasonably requires.
(3) **Time at which agreement takes effect**

The percentages agreed pursuant to sub-Clause (1) above will come into effect on the date agreed between the relevant Operators (provided that this is not earlier than the expiry of the notice period referred to in sub-Clause (2) above), unless the RSP has notified any of the Operators submitting the notice that it has not been provided with sufficient evidence of the relevant agreement or sufficient details of its terms. In this event, the agreed percentages will come into effect four weeks after the RSP has been provided with all the evidence and details of the terms and of the relevant agreement that it needs. The agreed percentages are referred to as “**Manual Allocations**” with effect from the date on which they come into effect.
PART V: ORCATS ALLOCATIONS AND DEFAULT ALLOCATIONS

11-26 INPUT OF THE INFORMATION ABOUT THE NATIONAL TIMETABLE INTO ORCATS

(1) Information to be input

As soon as reasonably practicable after receiving details of the National Timetable which is to apply with effect from the next Timetable Change Date the RSP will input into ORCATS the following information about that National Timetable:-

(a) the Station at which each passenger train service is due to commence;

(b) the Station at which that service is due to terminate;

(c) each intermediate Station at which the trains providing the service are due to stop;

(d) whether the National Timetable states that passengers are to be picked up by those trains at each such Station;

(e) whether the National Timetable states that passengers are to be set down by those trains at each such Station;

(f) the publicly advertised times at which the trains providing the service are due to arrive at and, where relevant, leave from each such Station;

(g) the publicly advertised days and dates on which the trains providing the service are due to run;

(h) the Service Code(s) to which that service has been allocated;

(i) the Route Code for the passenger train service; and

(j) the National Classes of Accommodation available on the passenger train service.
(2) The agreement between the RSP and Railtrack PLC

(a) The input will take place by the electronic transfer of data ultimately from the Train Services Database (via the "Common Interface File") (which the RSP has a licence to use) by Railtrack PLC, as specified in the Train Services Data Agreement or any other agreement entered into between the RSP and Railtrack PLC from time to time to modify, supplement or replace that agreement.

(b) Each Operator must comply with the Service Level Agreement relating to the input and checking of data provided to Railtrack PLC in connection with the train planning process (and with the contract for computer services it has entered into with Railtrack PLC).

(c) Each Operator must also otherwise ensure that it does everything in its power that is necessary to ensure that the RSP complies with its obligations to Railtrack PLC, as set out in the agreement referred to in sub-Clause (2)(a) above.

11-27 OBTAINING THE OUTPUTS

(1) Choice of dates

(a) The Ticketing and Settlement Scheme Council will select the dates in the National Timetable on the basis of which each ORCATS Run is to take place and will notify the RSP accordingly. One of these dates must be a Wednesday, one must be a Saturday and one must be a Sunday.

(b) The Ticketing and Settlement Scheme Council will also select the date on which the National Timetable is to be supplied to the RSP for that purpose and will notify the RSP accordingly.

(2) The ORCATS Run

As soon as reasonably practicable after inputting the information referred to in Clause 11-25 above, the RSP will:-
(a) run ORCATS on the basis of that information and the dates notified to it by the Ticketing and Settlement Scheme Council pursuant to sub-Clause (1) above; and

(b) record each of the outputs, expressed as a percentage, generated by ORCATS for each Service Code, specifying, in relation to each output, whether it relates to:-

   (i) a Full Fare that involves a single journey;

   (ii) a Full Fare that involves a return journey;

   (iii) a Full Fare that is a First Class Fare involving a single journey where part of that journey includes only standard class accommodation;

   (iv) a Full Fare that is a First Class Fare involving a return journey where part of that journey includes only standard class accommodation;

   (v) a Season Ticket Fare;

   (vi) an Advance Purchase Train-specific Fare; or

   (vii) a Fare which does not fall into any of the above categories.

11-28 MAINTENANCE OF RECORDS

The records made pursuant to Clause 11-27(2)(b) above may be held by the RSP in written form, on microfiche or on computer disc in any format that the RSP determines from time to time. These records will be retained by the RSP for at least 18 months after they are made.

11-29 DETERMINING THE ORCATS ALLOCATIONS

An Operator’s ORCATS Allocation in respect of a Fare for a particular Flow is the percentage (if any) generated by ORCATS pursuant to sub-Clause 11-27(2) above in respect of that Operator which relates to:-

   (a) that Flow; and
whichever of the categories referred to in paragraph (i) to (vii) of sub-Clause 11-27(2)(b) above that Fare falls into.

11-30 CHANGES TO ORCATS AND CAPRI / LENNON

(1) Circumstances in which changes can be made

(a) The RSP may make a change to ORCATS or CAPRI / Lennon only if it is authorised by the Ticketing and Settlement Scheme Council to do so, unless it reasonably believes that an immediate change is required to ensure the continued functioning of ORCATS or, as the case may be, CAPRI / Lennon.

(b) If such an immediate change is made, details of the change must be notified by the RSP to the Ticketing and Settlement Scheme Council as soon as reasonably practicable, which will then resolve whether or not to approve the change.

(c) If the Ticketing and Settlement Scheme Council resolves not to approve the change, the change will be reversed by the RSP as soon as reasonably practicable.

(2) Records of changes

The RSP will make a record of any change to ORCATS and CAPRI / Lennon which is made by it, as set out in sub-Clause (3) below. The record will be kept until at least six years after each of the Operators has ceased to be bound by this Agreement and will be open to inspection by any Operator at all times during normal business hours.

(3) Copy of amended ORCATS programme

(a) Within 20 Business Days after the date of execution of this Agreement and within ten Business Days after 31 March in each subsequent calendar year the RSP will deliver to the Custodian for safekeeping a copy, signed on behalf of the RSP, of the current version of ORCATS and CAPRI / Lennon, together with a copy of all data necessary to operate ORCATS and CAPRI / Lennon.

(b) Within ten Business Days after the end of each successive three month period and on any other occasion specified by the RSP from time to time, the RSP
will deliver to the Custodian for safekeeping a copy, signed on behalf of the RSP, of the versions of ORCATS and CAPRI / Lennon that are in production on that date, together with detailed information about the changes that have been undertaken since the last deposit, in such format as it may determine from time to time. On each such occasion the RSP will also deliver to the Custodian a statement on a floppy disk of any Manual Allocations made since the last such deposit.

(c) The RSP will require the Custodian to make a copy of ORCATS and/or CAPRI / Lennon and any data necessary to operate ORCATS and CAPRI / Lennon available for testing by the RSP Auditors at the request of any Operator. Any costs (including any irrecoverable VAT) incurred by the RSP, and any reasonable fees charged by the RSP Auditors, in doing so will be borne by that Operator.

(4) Changes to the environment

(a) If any change is made to ORCATS and/or CAPRI / Lennon or to any part of the environment in which ORCATS and/or CAPRI / Lennon operate which would, or might reasonably be expected to, render the copies of ORCATS and/or CAPRI / Lennon held by the Custodian invalid in their existing form and incapable of recreating ORCATS and/or CAPRI / Lennon on the production systems.

(b) The RSP will notify the Ticketing and Settlement Scheme Council as soon as reasonably practicable of any such change that is made.

(c) When the RSP next delivers material to the Custodian for safekeeping, it will include a copy of all data necessary to operate ORCATS and CAPRI / Lennon signed on behalf of the RSP.

11-31 TIMETABLE CHANGES

If the RSP becomes aware of a modification to the National Timetable that will be in effect after a particular Timetable Change Date but before an ORCATS Run has taken place on the basis of that National Timetable, it will input the information into ORCATS before that ORCATS Run occurs. The ORCATS Run will accordingly take place on the basis of the revised information.

11-32 DETERMINING THE DEFAULT ALLOCATIONS

- 285 -
(1) **Circumstances in which Default Allocations are calculated**

If no ORCATS Allocations are recorded for any Operator, in respect of a Fare, the RSP will determine the Operators' Default Allocations for that Fare.

(2) **Calculation**

An Operator's Default Allocation in respect of a Fare is the proportion (expressed as a percentage) of the Credits relating to Relevant Fares which were Accepted for Clearing in the previous Settlement Period that is represented by Credits received by that Operator.

(3) **Definition of "Relevant Fares"**

For the purposes of sub-Clause (2) above, the term "Relevant Fares" means:-

(a) all Fares which were Sold at the same issuing office as the Fare in question and were Accepted for Clearing in the Settlement Period before the one in which that Fare was Accepted for Clearing; or

(b) (if these figures are not available) all Fares which were Accepted for Clearing in the Settlement Period in which the Fare in question was Accepted for Clearing.
PART VI: TRANSITIONAL PROVISIONS FOLLOWING THE TERMINATION OF A FRANCHISE

11-33 ADJUSTMENTS TO THE DEBITS AND CREDITS

In the circumstances described in Clause 4-65 above, the RSP will ensure that any Debits and Credits that would otherwise have been received by the outgoing Franchise Operator are received by the new Franchise Operator instead.
CHAPTER 12: SETTLEMENT

PART I: AVAILABILITY OF THE RSP'S SERVICES

12-1 CLEARANCE OF RAIL PRODUCTS AND NON-RAIL PRODUCTS

(1) Application of this Chapter

(a) Each Operator must clear and settle revenues arising in relation to Rail Products and Non-Rail Products that it Sells, and Refunds which it makes, in accordance with this Chapter.

(b) However, subject to sub-Clause (2) below, this does not apply if that Operator is a party to other settlement arrangements for those revenues and expenses and:-

(i) the arrangements are consistent with this Agreement (apart from this Chapter);

(ii) to the extent that they relate to Rail Products, they have been approved by the Regulator and the Franchising Director prior to 1 February 2001, and approved by the Authority on or after 1 February 2001; and

(iii) the RSP has been given the amount of notice that it reasonably requires that such Operator does not wish to be bound by this sub-Clause (1) (or only wishes to be bound by it in relation to the Rail Products or the Non-Rail Products specified by it).

(2) Payments involving a single Operator

(a) Revenues arising from the Sale of a Rail Product, and expenses incurred in the making of a Refund, by an Operator which is the only person who is bound to honour that Rail Product or, as the case may be, the Rail Product to which the Refund relates, are not required to be cleared or settled through the RSP.

(b) Similarly, revenues arising from the Sale of a Non-Rail Product by an Operator which Created that Non-Rail Product are not required to be settled through the RSP.
(c) However, this does not prevent that Operator from providing information to the RSP about that Rail Product or Non-Rail Product for the purposes of Clause 12-53 below.
PART II: CLEARANCE OF RSP-SETTLED PRODUCTS

12-2 PROVISION OF SERVICES IN RESPECT OF RSP-SETTLED PRODUCTS

The RSP will provide clearance and settlement services on the terms of this Chapter in respect of RSP-settled Products and RSP-settled Refunds in relation to which the information specified in Clauses 12-3 to 12-8 below is provided to it in accordance with Clause 12-9.

12-3 INFORMATION ABOUT RSP-SETTLED FARES

(1) Obligation to provide information

Each Operator must provide the following information to the RSP in respect of each RSP-settled Fare it Sells:-

(a) the issuing office at which the Fare was Sold;

(b) the date of the Sale;

(c) the Station or TTL Station at which the journey is to commence (except in the case of a Zone Fare);

(d) the destination (except in the case of a Zone Fare);

(e) in the case of a Zone Fare, the Zone(s) in which the Fare is valid;

(f) any requirements as to the route that must be taken or the Operator(s) whose trains must or must not be used;

(g) the National Class of Accommodation;

(h) the Fare Type;

(i) the amount (including any applicable VAT) charged to the Purchaser of the Fare;

(j) if payment for the Fare was made in cash, by cheque, by Credit Card, Voucher, Permit to Travel or by Warrant, the method of payment used;
(k) whether the Fare is a Season Ticket Fare and, if so, the period during which it is valid;

(l) if the Rights and Restrictions applicable to the Fare permit it to be Sold only to, or to be used only by, a particular category of person (for example, a Child or a person holding a Discount Card), the category in question;

(m) if the Fare includes any rights to goods or services (other than a journey on the Network involving only the trains of the Operators), the fact that this is the case;

(n) if the Ticket evidencing the Fare was issued on an Approved TIM, the number of the Approved TIM;

(o) if the Fare was Sold by an agent of the relevant Operator (other than an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party), the identity of the agent; and

(p) any other information required by the RSP from time to time.

(2) Deadline for the provision of the information

(a) Unless the RSP agrees otherwise, the Operator must use its reasonable endeavours to provide the information referred to in sub-Clause (1) above as soon as reasonably practicable after the relevant Fare was Sold.

(b) If the Ticket for the Fare was issued on an Approved TIM which is not a Self-service TIM, the information must in any event be provided by the end of the Business Day after the Fare was Sold. If that Ticket was issued on a Self-service TIM, the information must be provided by the end of the fifth Business Day after the Fare was Sold.

12-4 INFORMATION ABOUT RSP-SETTLED DISCOUNT CARDS

(1) Obligation to provide information
Each Operator must provide the following information to the RSP in respect of each RSP-settled Discount Card it sells:

(a) the issuing office at which the Discount Card was Sold;

(b) the date of the Sale;

(c) the type of Discount Card;

(d) the amount (including any applicable VAT) charged to the Purchaser of the Discount Card;

(e) if payment for the Discount Card was made by Credit Card, Voucher, Permit to Travel or by Warrant, the method of payment used;

(f) if the Discount Card was Sold by an agent of the relevant Operator (other than an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party), the identity of the agent;

(g) if the Discount Card was issued on an Approved TIM, the number of the Approved TIM; and

(h) any other information required by the RSP from time to time.

(2) Deadline for the provision of the information

(a) Unless the RSP agrees otherwise, the Operator must use its reasonable endeavours to provide the information referred to in sub-Clause (1) above as soon as reasonably practicable after the Discount Card was Sold.

(b) If the relevant Discount Card was issued on an Approved TIM which is not a Self-service TIM, the information must in any event be provided by the end of the Business Day after it was Sold. If it was issued on a Self-service TIM, the information must be provided by the end of the fifth Business Day after the Discount Card was Sold.
12-5 INFORMATION ABOUT RSP-SETTLED RESERVATIONS

(1) Obligation to provide information

Each Operator must provide the following information to the RSP in respect of each RSP-settled Reservation it sells:

(a) the issuing office at which the Reservation was Sold;

(b) the date of the Sale;

(c) the Stations between which the Reservation is valid;

(d) the National Class of Accommodation to which the Reservation relates;

(e) the amount (including any applicable VAT) charged to the Purchaser of the Reservation;

(f) if payment for the Reservation was made by Credit Card, Voucher, Permit to Travel or by Warrant, the method of payment used;

(g) if the Reservation Voucher or Ticket evidencing the Reservation was issued on an Approved TIM, the number of the Approved TIM;

(h) if the Reservation was Sold by an agent of the relevant Operator (other than an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party), the identity of the agent; and

(i) any other information required by the RSP from time to time.

(2) Deadline for the provision of the information

(a) Unless the RSP agrees otherwise, the Operator must use its reasonable endeavours to provide the information referred to in sub-Clause (1) above as soon as reasonably practicable after the relevant Reservation was Sold.
(b) If the related Reservation Voucher was issued on an Approved TIM which is not a Self-service TIM, the information must in any event be provided by the end of the Business Day after the Reservation was Sold. If it was issued on a Self-service TIM, the information must be provided by the end of the fifth Business Day after the Reservation was Sold.

12-6 INFORMATION ABOUT RSP-SETTLED UPGRADES

(1) Obligation to provide information

Each Operator must provide the following information to the RSP in respect of each RSP-settled Upgrade it Sells:-

(a) the issuing office at which the Upgrade was Sold;

(b) the date of the Sale;

(c) the Station at which the journey is to commence;

(d) the destination;

(e) any requirements as to the route that must be taken or the Operator(s) whose trains must or must not be used;

(f) the type of Upgrade;

(g) the amount (including any applicable VAT) charged to the Purchaser of the Upgrade;

(h) if payment for the Upgrade was made by Credit Card, Voucher, Permit to Travel or by Warrant, the method of payment used;

(i) if the Ticket evidencing the Upgrade was issued on an Approved TIM, the number of the Approved TIM;
if the Upgrade was Sold by an agent of the relevant Operator (other than an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party), the identity of the agent; and

any other information required by the RSP from time to time.

(2) Deadline for the provision of the information

(a) Unless the RSP agrees otherwise, the Operator must use its reasonable endeavours to provide the information referred to in sub-Clause (1) above as soon as reasonably practicable after the relevant Upgrade was Sold.

(b) If the Ticket for the Upgrade was issued on an Approved TIM which is not a Self-service TIM, the information must in any event be provided by the end of the Business Day after the Fare was Sold. If that Ticket was issued on a Self-service TIM, the information must be provided by the end of the fifth Business Day after the Fare was Sold.

12-7 INFORMATION ABOUT RSP-SETTLED NON-RAIL PRODUCTS

(1) Obligation to provide information

Each Operator must provide the following information to the RSP in respect of each Non-Rail Product it Sells:

(a) the issuing office at which the Non-Rail Product was Sold;

(b) the date of the Sale;

(c) the type of Non-Rail Product that was Sold;

(d) the amount (including any applicable VAT) charged to the Purchaser of the Non-Rail Product;

(e) if payment for the Non-Rail Product was made by Credit Card, Voucher, Permit to Travel or by Warrant, the method of payment used;
(f) any other information required by the RSP from time to time.

(2) Deadline for the provision of the information

(a) Unless the RSP agrees otherwise, the Operator must use its reasonable endeavours to provide the information referred to in sub-Clause (1) above as soon as reasonably practicable after the relevant Non-Rail Product was Sold.

(b) If the document which evidences the Sale of the Non-Rail Product was issued on an Approved TIM, the information must in any event be provided by the end of the Business Day after the Non-Rail Product was Sold. If it was issued on a Self-service TIM, the information must be provided by the end of the fifth Business Day after the Non-Rail Product was Sold.

12-8 INFORMATION ABOUT REFUNDS

(1) Provision of information to the RSP

Each Operator may provide the following information to the RSP in respect of a Refund made by it:-

(a) the office at which the Refund was made;

(b) the date of the Refund;

(c) the amount of the Refund and the amount of VAT for which credit is being given;

(d) the amount of any administrative charge levied (including any applicable VAT);

(e) the Rail Product in respect of which the Refund was made;

(f) the Station or TTL Station at which the relevant journey was to commence (except in the case of a Zone Fare or a Discount Card);
(g) the destination for that journey (except in the case of a Zone Fare or a Discount Card);

(h) if the Refund relates to a Zone Fare, the Zone(s) in which the Fare was valid;

(i) any requirements as to the route that had to be taken or the Operator(s) whose trains did or did not have to be used (except in the case of a Discount Card);

(j) if the Refund relates to a Fare or a Reservation, the National Class of Accommodation included;

(k) if the Refund relates to an Upgrade, the type of Upgrade involved;

(l) if the Refund relates to a Season Ticket Fare, the period during which it was valid when issued;

(m) the name and address of the person to whom the Refund was made;

(n) if the Refund was made by Credit Card, that fact;

(o) if the Refund was made by an agent of the relevant Operator (other than an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party), the identity of the agent;

(p) whether the Operator wishes the RSP either:

   (i) only to retain the information in the RSP’s records; or

   (ii) to settle the relevant Refund in accordance with Chapter 12 and retain the information in the RSP’s records; and

(q) any other information required by the RSP from time to time.

(2) Deadline for the provision of the information
The **Operator** must use its reasonable endeavours to provide the information referred to in sub-Clause (1) above as soon as reasonably practicable after the relevant **Refund** was made.

12-9 **FORMAT IN WHICH INFORMATION IS TO BE PROVIDED**

(1) **The RSP’s requirements**

(a) The information referred to in Clauses 12-3 to 12-8 above must be provided to the **RSP**:

   (i) in the case of an **RSP-settled Product** which was issued (or the document evidencing which was issued) on an **Approved TIM**, electronically from the **Approved TIM**; and

   (ii) in the case of an **RSP-settled Product** which was issued (or the document evidencing which was issued) in any other way, or an **RSP-settled Refund**, in the format notified by the **RSP** to the **Operators** from time to time.

(b) The format in which the information is to be provided to the **RSP** may include a code in which the information is to be provided.

(c) In each case the information must be provided in accordance with the procedures notified by the **RSP** to the **Operators** from time to time, generally or in any particular case. These may include procedures that are intended to be used if it is impossible or impractical to provide the information in the usual way.

(d) The format in which the information is, at the date of this Agreement, to be provided in respect of **RSP-settled Refunds** is set out in Schedule 31.

(2) **Polling**

(a) The procedures referred to in sub-Clause (1) above may require an **Operator** to make the information held by **Approved TIMs** under its control available for electronic communication to the **RSP** by a process initiated by the **RSP**. If so, provided that the **Operator** follows these procedures, the
RSP will use its reasonable endeavours to obtain the information from the Approved TIMs within any time limits specified in the procedures.

(b) If the RSP fails to obtain the information within these time limits it will inform the Operator accordingly as soon as reasonably practicable.

(c) Each Operator must use its reasonable endeavours to comply with any reasonable instructions given by the RSP to enable the RSP to obtain information held by any Approved TIMs within that Operator’s control.

12-10 ISSUE OF TICKETS AND RESERVATION VOUCHERS

(1) The time of issue

For the purposes of Clauses 12-3 to 12-8 above, if the Ticket or Reservation Voucher which evidences the Sale of a Rail Product is issued on an Approved TIM, that Rail Product is treated as having been Sold at the moment that the Ticket or Reservation Voucher is printed by the Approved TIM.

(2) Debts are due only to and from the RSP

(a) For the avoidance of doubt, the Sale of an RSP-settled Product or the making of an RSP-settled Refund does not give rise to any debt or payment due between the Operator which Sold the RSP-settled Product or made the RSP-settled Refund and (apart from any liability to HM Customs & Excise that may arise as a result of such a Sale or Refund) any other person (other than the Purchaser or person to whom the Refund is due).

(b) Nor does it give rise to an individual debt or payment due, in respect of the amount (inclusive of any VAT) charged for the RSP-settled Product, or the amount of the RSP-settled Refund, between that Operator and the RSP or between the RSP and any Operators which are to receive a Credit in respect of the RSP-settled Product or RSP-settled Refund.

(c) The only debts arising, and the only payments which are due, in respect of RSP-settled Products and RSP-settled Refunds are those which are calculated and expressed to be payable in accordance with this Chapter.
12-11 INFORMATION SUPPLIED INCORRECTLY IN RELATION TO RSP-SETTLED PRODUCTS AND RSP-SETTLED REFUNDS

(1) The RSP has a discretion whether or not to Accept for Clearing

(a) The RSP has a discretion whether or not to Accept for Clearing an RSP-settled Product or an RSP-settled Refund if the information that is provided to it about that RSP-settled Product or RSP-settled Refund is incomplete or is provided in a different format or using a different procedure from that specified by the RSP.

(b) This sub-Clause (1) applies whether the information is provided by an Operator or on its behalf pursuant to Clauses 12-3 to 12-8 above, by an ATOC Travel Agent or an ITX Travel Agent, or to an ATOC Self-ticketing Licensee pursuant to its ATOC Licence or by an Approved Third Party pursuant to an ATP Agreement entered into by it.

(2) Notification by the RSP and re-submission of information

(a) If the RSP elects not to Accept for Clearing an RSP-settled Product or an RSP-settled Refund it will notify the Operator, ATOC Travel Agent, ITX Travel Agent, ATOC Self-ticketing Licensee or Approved Third Party in question as soon as reasonably practicable by means of a notice substantially in the form of Schedule 33.

(b) Any Operator which receives such a notice must then re-submit the relevant information, together with any missing information, as soon as reasonably practicable, in accordance with Clause 12-9 above.

(c) The RSP will also require any ATOC Travel Agent, ITX Travel Agent, ATOC Self-ticketing Licensee or Approved Third Party which receives such a notice to re-submit the information in accordance with its ATOC Licence or, as the case may be, ATP Agreement.

12-12 INFORMATION SUPPLIED LATE

(1) Loss of entitlement to commission
(a) This sub-Clause (1) applies where an Operator fails to provide the information referred to in Clauses 12-3 to 12-8 above by the time it is required to do so pursuant to those Clauses in accordance with Clause 12-9 above and, as a result, any RSP-settled Products issued by that Operator are not Accepted for Clearing until after the end of the Settlement Period in which they were Sold. This power is without prejudice to any other remedy that is available to the RSP or the Ticketing and Settlement Scheme Council.

(b) The RSP may calculate the amount of commission to which that Operator would otherwise be entitled pursuant to Clause 6-21 above in respect of those RSP-settled Products. If the RSP decides to make this calculation, that Operator will not receive a Credit in respect of commission on those RSP-settled Products. Sub-Clauses 11-9(1) above and 12-33(a)(i) below are to be construed accordingly.

(c) Each Operator which is bound to honour the RSP-settled Products (or, in the case of a Non-Rail Product, which Created the Non-Rail Product) will continue to receive a Debit in respect of commission on them but any amount recovered by the RSP in respect of that Debit will be retained by it and used to defray its expenses.

(2) The costs of the RSP

If the cost (including any VAT for which the RSP is not entitled to a credit under the VAT Act) to the RSP of calculating the amount of the commission referred to in sub-Clause (1)(a) above exceeds the amount of that commission (together with any applicable VAT), the excess (including any applicable VAT) will be payable by the Operator referred to in that sub-Clause to the RSP on demand.

12-13 DATA RE-CREATION IN RELATION TO RSP-SETTLED PRODUCTS

(1) Notification by the Operator to the RSP

(a) If any information which is due to be provided by an Operator or on its behalf under Clauses 12-3 to 12-8 above is lost, destroyed or corrupted while under its control, that Operator must notify the RSP accordingly as soon as reasonably practicable.
(b) If any information which has been provided by an Operator or on its behalf under Clauses 12-3 to 12-8 above is lost, destroyed or corrupted while under the RSP’s control, the RSP will notify that Operator accordingly as soon as reasonably practicable.

(2) Methods of re-creation

(a) As soon as reasonably practicable after the RSP becomes aware that any of the information referred to in sub-Clause (1)(a) above has been lost, destroyed or corrupted, the RSP will use its reasonable endeavours to obtain the missing information (or any part of it that it needs for the purposes of Clause 12-33 below) from any alternative sources available to it. If the RSP is unable to do so, it will estimate the part of the missing information that it needs for these purposes.

(b) The relevant Operator must co-operate with the RSP, and provide it with any further information that it reasonably requires, to enable the RSP to obtain or estimate this missing information.

(c) The RSP will notify that Operator of the results of any estimates it makes under this sub-Clause (2).

(3) The RSP’s estimates are binding on the Operators

Any missing or corrupted information which is obtained from an alternative source or is estimated by the RSP is deemed to have been provided by the relevant Operator unless there has been fraud, negligence, wilful default or a manifest error by the RSP.

(4) The RSP’s charges for data re-creation

(a) The RSP may charge for its services for data re-creation. These charges are payable by the relevant Operator to the RSP on demand, together with any applicable VAT.

(b) However, if the information was lost, destroyed or corrupted while under the RSP’s control, the cost of providing these services will be borne by the RSP.
12-14 **EFFECT OF ACCEPTANCE FOR CLEARING OF RSP-SETTLED PRODUCTS**

Following the Acceptance for Clearing of an RSP-settled Product or an RSP-settled Refund, the RSP will:

(a) take the Credits and Debits which under Chapter 11 or Clause 12-50 below are to be received by each Operator in respect of that RSP-settled Product or RSP-settled Refund into account, in accordance with Clause 12-33, for the purpose of determining the payment due to or from that Operator under Clause 12-35 below; and

(b) take the Acceptance for Clearing of that RSP-settled Product or RSP-settled Refund into account for the purpose of determining the payment(s) due to or from each Approved Third Party under its ATP Agreement.
PART III: OPTIONAL CLEARANCE OF INTER-USER PAYMENTS

12-15 PAYMENTS WHICH QUALIFY AS INTER-USER PAYMENTS

(1) Definition of "Inter-User Payments"

(a) From time to time an Operator may, with the consent of the RSP, elect to have any sums which it wishes to pay to another person (referred to as "Inter-User Payments") cleared through the RSP. The election must be made substantially in the form of Schedule 32 or in any other form that the RSP reasonably requires from time to time, either generally or in any particular case.

(b) The RSP’s consent may be given generally or subject to any conditions specified by it, generally or in any particular case (including conditions as to the type of Inter-User Payment that may be capable of being Accepted for Clearing and the persons to whom Inter-User Payments may be made).

(c) An Operator’s election to clear a particular Inter-User Payment through the RSP must be made by providing the information specified by the RSP from time to time, generally or in any particular case, in the format and in accordance with the procedures so specified. The format may include a code in which the information is to be provided.

(d) Unless otherwise notified to the RSP, any Inter-User Payment that is Accepted for Clearing will be deemed to include any applicable VAT.

(2) Payments which may not be treated as Inter-User Payments

(a) An election under sub-Clause (1) above may not be made in respect of revenues relating to RSP-settled Products or RSP-settled Refunds. These must be settled in accordance with Clauses 12-3 to 12-14 above.

(b) However, this does not prevent an Operator which receives a Credit in respect of a Fare or a Non-Rail Product from electing to treat a payment which it wishes to make to another person in respect of that Credit as an Inter-User Payment.
12-16 INFORMATION SUPPLIED INCORRECTLY IN RELATION TO INTER-USER PAYMENTS

(1) The RSP has a discretion whether or not to Accept for Clearing

If the information supplied by an Operator pursuant to Clause 12-15 above is incomplete or is supplied in a different format or using a different procedure from that specified by the RSP, the RSP will have a discretion whether or not to Accept for Clearing the relevant Inter-User Payment(s).

(2) Notification by the RSP to the Operator(s)

If the RSP elects not to Accept for Clearing the relevant Inter-User Payments, it will notify the Operator(s) concerned accordingly by means of a notice substantially in the form of Schedule 33.

12-17 EFFECT OF ACCEPTANCE FOR CLEARING OF INTER-USER PAYMENTS

(1) Calculations by the RSP

Following the Acceptance for Clearing of an Inter-User Payment that an Operator (referred to as the "Paying Operator") wishes to make, the RSP will:-

(a) take the principal amount of that payment (or its sterling equivalent, determined in accordance with Clause 12-19 below, if it is not denominated in sterling), together with any applicable VAT, into account when calculating the Paying Operator’s Supplementary Settlement Amount for the Settlement Period in which the Inter-User Payment was Accepted for Clearing;

(b) if the person to which the Inter-User Payment is to be made (referred to as the "Recipient") is an Operator, take that principal amount (or its sterling equivalent, determined in accordance with Clause 12-19 below), together with an amount equal to any applicable VAT, into account when calculating its Supplementary Settlement Amount for that Settlement Period; and

(c) if the Recipient is not an Operator, pay that principal amount (or its sterling equivalent, determined in accordance with Clause 12-19 below), together with an
amount equal to any applicable VAT, to it on the Settlement Date for that Settlement Period.

(2) **Extinguishing of Inter-Operator claims**

If the Recipient is an Operator or Rail Staff Travel Limited, immediately and automatically upon the Acceptance for Clearing of an Inter-User Payment (other than a Post-liquidation Payment payable to the Recipient), any claim that it has against the Paying Operator for the payment of that Inter-User Payment shall be extinguished (and replaced by the rights and obligations referred to in sub-Clause (1) above) unless the Paying Operator and the Recipient expressly agree otherwise.

12-18 **MATCHING OF NOTIFICATIONS**

(1) **Requirement for joint notifications**

The RSP may make the Acceptance for Clearing of a particular type of Inter-User Payment (including Inter-User Payments which are payable to a particular person) conditional on:-

(a) the person to which it is payable confirming that it is to receive the payment; and

(b) the RSP being able to verify that this confirmation is consistent in all material respects with the information provided pursuant to Clause 12-15(1)(a) above by the Operator submitting the Inter-User Payment for clearing.

(2) **Effect of failure to provide identical information**

If the Acceptance for Clearing of an Inter-User Payment is conditional on the matters referred to in sub-Clause (1) above but the RSP is unable for any reason (including a failure by the person which is to receive the payment to provide the confirmation) to effect the verification that is required, the Inter-User Payment will not be eligible to be cleared through the RSP. In this event, the RSP will notify that person and the Operator which submitted the Inter-User Payment for clearing accordingly.
12-19 **INTER-USER PAYMENTS NOT DENOMINATED IN STERLING**

(1) **The rate of exchange**

If the RSP agrees to *Accept for Clearing Inter-User Payments* which are denominated in a currency other than pounds sterling, it will make available to the Operators the rate of exchange from time to time that it will apply for the purposes of this Chapter to determine the sterling equivalent of these payments.

(2) **Currency conversion**

As soon as reasonably practicable after *Accepting for Clearing an Inter-User Payment* which is denominated in a currency other than pounds sterling, the RSP will determine the amount in pounds sterling which could be purchased with the principal amount of that payment at the last such rate of exchange which the RSP has made available. The amount to be taken into account in the calculations referred to in Clause 12-17(1) above will be the pounds sterling amount so determined by the RSP.
PART IV: PRESERVATION OF INFORMATION

12-20 PRESERVATION BY THE RSP

The RSP will preserve for as long as the Ticketing and Settlement Scheme Council directs (not being less than the periods referred to in Clause 12-62 below) any parts of the information received by it under this Chapter that it needs to be able to perform the calculations referred to in Clauses 12-30 to 12-35 below. The information may be preserved in written form, on microfiche or on computer disk in any format decided upon by the RSP.

12-21 PRESERVATION BY THE OPERATORS

Each Operator must keep counterfoil copies of receipts issued in connection with the Sale of an RSP-settled Product for which a Credit Card was used as the method of payment, in accordance with Clause 7-13(3) above.
PART V: SETTLEMENT WITH PERSONS WHO ARE NOT OPERATORS

12-22 ATOC TRAVEL AGENTS AND ITX TRAVEL AGENTS

(1) Provision of clearing and settlement facilities by the RSP

The RSP will provide facilities for the receipt by it of:-

(a) information relating to Rail Products and Non-Rail Products that are Sold by ATOC Travel Agents, ITX Travel Agents and to ATOC Self-ticketing Licensees and Refunds that are made by ATOC Travel Agents and ITX Travel Agents; and

(b) revenues (net of any commission or other sums due to the relevant ATOC Travel Agents, ITX Travel Agents or ATOC Self-ticketing Licensees but including any applicable VAT relating to the revenues) relating to those Rail Products, Non-Rail Products and Refunds.

(2) Effect of Acceptance for Clearing

Clause 12-14 above will apply to any Rail Products and Non-Rail Products that are Sold by an ATOC Travel Agent, an ITX Travel Agent or to an ATOC Self-ticketing Licensee and any Refunds that are made by an ATOC Travel Agent or an ITX Travel Agent (where they are Accepted for Clearing by the RSP).

12-23 EPS

(1) RSP-settled Products Sold by the Operators

An Operator which Sells an RSP-settled Product or makes a Refund in respect of an RSP-settled Rail Product must provide the RSP with the information referred to in Clauses 12-3 to 12-8 above in relation to the Sale or Refund even if EPS or the EPS Partners are bound to honour it (in whole or in part). For this purpose,

"RSP-settled Products" includes rights to travel on the services of EPS and "RSP-settled Refunds" includes refunds in respect of such products.

(2) Rail Products Sold by EPS
Pursuant to an agreement between EPS and the Operators, EPS is permitted to Sell Rail Products which Operators are bound to honour. When EPS Sells a Rail Product which an Operator is bound to honour, or makes a Refund in respect of such a Rail Product, EPS will provide the RSP with the information referred to in the Clearance Agreement between EPS and the RSP in relation to the Sale or Refund.

(3) Settlement in respect of Sales by EPS

The RSP will, in accordance with the Clearance Agreement between EPS and the RSP, pay EPS any sums that become due to it under that agreement as a result of the Sale of RSP-settled Products or the making of RSP-settled Refunds that (in either case) are Accepted for Clearing by the RSP. For this purpose, "RSP-settled Products" includes rights to travel on the services of EPS and "RSP-settled Refunds" includes refunds in respect of such products.

(4) Effect of Acceptance for Clearing

Clause 12-14 above will apply to any Rail Products that are Sold, and any Refunds that are made, by EPS provided that they are Accepted for Clearing by the RSP.

12-24 INTERNATIONAL MARKETING AGENTS

(1) RSP-settled Rail Products sold by International Marketing Agents

Pursuant to sales and marketing agreements between International Marketing Agents and the Operators, the International Marketing Agents are permitted to Sell Rail Products which the Operators are bound to honour.

(2) Provision of information

(a) When an International Marketing Agent Sells a Rail Product which an Operator is bound to honour but which does not involve the services of a European Operator, or makes a Refund in respect of such a Rail Product, the relevant International Marketing Agent will provide the RSP with the information specified in the Clearance Agreement between the RSP and the relevant International Marketing Agent.
(b) When the relevant International Marketing Agent sells a Rail Product which one or more Operators and one or more European Operators are bound to honour, or makes a Refund in respect of such a Rail Product, the relevant International Marketing Agent will provide ISSP, or such other person as the RSP may designate with the information required pursuant to the rules that are made by the UIC from time to time.

(3) **Settlement**

The Rail Products and Refunds referred to in sub-Clauses (2)(a) and (2)(b) above will be settled in the way described in Clause 12-25(5) below, as applicable.

12-25 **ISSP**

(1) **RSP-settled Rail Products Sold by Operators**

(a) An Operator which Sells an RSP-settled Rail Product or makes a Refund in respect of such an RSP-settled Rail Product, must provide the RSP with the information referred to in Clauses 12-3 to 12-8 above in relation to the Sale or Refund even if a European Operator or a Foreign Railway is bound to honour it.

(b) Where a European Operator or a Foreign Railway is so bound it must also provide ISSP, or such other person as the RSP may designate with the information about the Sale or Refund that is required pursuant to the rules that are published by the UIC from time to time in the format specified by the RSP from time to time.

(2) **RSP-settled Rail Products Sold by European Operators**

(a) Under the Agreement for the provision of international clearance service between ISSP and the RSP, ISSP has agreed to provide the RSP with information about, Sales of Rail Products by the European Operators (other than the Foreign Railways) of which it is, or should reasonably be, aware, together with information identifying the Operator to which that revenue is attributable.

(3) **Rail Products Sold by Foreign Railways**
A Foreign Railway which Sells a Rail Product which an Operator is bound to honour or makes a Refund in respect of such a Rail Product is required to provide ISSP with the information about the Sale or Refund that is required by the bilateral agreement between the British Railways Board and that Foreign Railway or the RSP and that Foreign Railway.

(4) **RSP-settled Rail Products that are Accepted for Clearing**

Clause 12-14 above will apply to any RSP-settled Products and RSP-settled Refunds involving a European Operator that are Accepted for Clearing by the RSP.

(5) **RSP-settled Rail Products that are not Accepted for Clearing**

Following the receipt by the RSP of information from ISSP pursuant to the Clearance Agreement between the relevant International Marketing Agent and the RSP, the RSP will:-

(a) take the Debits and Credits which under Chapter 11 are to be received by each Operator in respect of the Rail Product or Refund into account, in accordance with Clause 12-33 below for the purpose of determining the payments due to or from that Operator pursuant to Clause 12-35 below; and

(b) take the amount which ISSP notifies the RSP is due to European Operators into account, in accordance with the Clearance Agreement with the relevant International Marketing Agent, for the purpose of determining the payment(s) due to or from European Operators under the rules that are made by the UIC from time to time.

12-26 TTL

(1) Exchange of information

TTL has entered into a Clearance Agreement with the RSP in which TTL has agreed to provide the RSP with certain information about Sales of Fares by TTL, its subsidiaries and the TTL Third Parties pursuant to the Travelcard Agreement and the Through Ticketing (Non-Travelcard) Agreement.

(2) **RSP-settled Rail Products that are Accepted for Clearing**
Clause 12-14 above will apply to any RSP-settled Rail Products and RSP-settled Refunds involving TTL, its subsidiaries or TTL Third Parties that are Accepted for Clearing by the RSP.

(3) **Fares Sold by TTL and its subsidiaries and TTL Third Parties**

Following the receipt by the RSP of information from TTL pursuant to its Clearance Agreement about the Sale of Fares or the making of Refunds, the RSP will:-

(a) take the Debits and Credits which under Chapter 11 are to be received by each Operator in respect of those Fares and Refunds into account, in accordance with Clause 12-33 below for the purpose of determining the payments due to or from that Operator pursuant to Clause 12-35 below; and

(b) take the amount which is due to TTL pursuant to its Clearance Agreement in respect of the Fares and Refunds into account, in accordance with that Clearance Agreement, for the purpose of determining the payment(s) due to or from TTL under the Clearance Agreement.

**12-27 OTHER APPROVED THIRD PARTIES**

(1) **Provision of clearance and settlement facilities by the RSP**

Where an ATP Agreement authorises the relevant Approved Third Party to Sell Rail Products and/or to make Refunds, the RSP will provide clearance services in relation to those Rail Products and Refunds on the terms of that ATP Agreement.

(2) **Effect of Acceptance for Clearing of Inter-User Payments**

(a) Following the Acceptance for Clearing by the RSP of an Inter-User Payment payable by Rail Staff Travel Limited, the RSP will take the principal amount of that payment (including any applicable VAT) into account when calculating:-
the amount(s) due to or from Rail Staff Travel Limited under its ATP Agreement in respect of the Settlement Period in which the Inter-User Payment was Accepted for Clearing; and

(ii) the Supplementary Settlement Amount of the Operator to which the Inter-User Payment is to be paid in respect of that Settlement Period.

(b) Immediately and automatically upon the Acceptance for Clearing of such an Inter-User Payment (other than a Post-liquidation Payment payable to an Operator), any claim that such Operator has against Rail Staff Travel Limited for the payment of that Inter-User Payment shall be extinguished (and replaced by the rights and obligations referred to in paragraph (a) above) unless Rail Staff Travel Limited and the Operator expressly agree otherwise.

(c) Paragraph (b) above applies in favour of Rail Staff Travel Limited. Accordingly, the agreement represented by that paragraph is entered into between each Operator and the RSP, acting for this purpose as the agent of Rail Staff Travel Limited as well as for its own account.

12-28 FARES SOLD TOGETHER WITH OTHER RIGHTS TO GOODS OR SERVICES

(1) Responsibility to account to a third party

(a) Where a Fare Created by an Operator includes rights to goods or services (other than a journey on the Network), that Operator will be responsible for settling any sums due between it and any other person who provides such goods or services, including any VAT on these sums. Any sums which are due to any person who provides the rights which are comprised in a Non-Rail Product must also be settled by the Operator which Created the Non-Rail Product.

(b) The Operator which is responsible for settling these sums may, subject to obtaining the RSP’s consent, elect to treat them as Inter-User Payments. In this event, they will be paid by the RSP direct to the person specified by that Operator.

(2) Settlement through the RSP
(a) Until 23 July 1997 each Operator which receives a Private Settlement Credit in respect of which a payment is due from it to a person who has agreed to provide goods or services (other than travel on the Network in Great Britain using only the trains of the Operators) is deemed to have elected to settle that payment through the RSP as an Inter-User Payment.

(b) For the purpose of Clause 12-15(1)(a) above, the RSP’s consent to the clearance of that payment through the RSP is hereby given. No further action on the part of any of the Operators is required for it to be Accepted for Clearing.

(c) Until 23 July 1997, the RSP is not required to record the amount of the Private Settlement Credit received by each Operator as long as it records the aggregate amount of the Private Settlement Credits that are received by the Operators taken together in each Settlement Period in respect of each person to whom the payments referred to in paragraph (a) above are due.

(3) Reclassification of information

(a) If the RSP determines that any information it has received pursuant to Clause 12-3 above about a Fare that has been Sold by or on behalf of an Operator, an ATOC Travel Agent, an ITX Travel Agent or an Approved Third Party, or to an ATOC Self-ticketing Licensee, wrongly fails to indicate that the Fare Sold included rights to goods or services (other than a journey on the Network), it may treat the information as if it related to the Fare which the RSP believes was actually Sold.

(b) If it does either of these things, the calculations referred to in Clause 12-33 below will be made on the basis of the information that the RSP believes it ought to have received.

(c) The RSP is not required to make this determination in the Settlement Period in which the Fare that was Sold is Accepted for Clearing. If it makes it in a later Settlement Period, it will recalculate, in respect of each Operator, the Final Payments that were payable to or by the Operators in respect of the Settlement Period in which the relevant Fare was Accepted for Clearing.

(d) Where in respect of any Operator, there is a difference between the Final Payment recalculated in this way and the Final Payment that was notified to that
Operator, the RSP will adjust the Final Payment that would otherwise be due to or from that Operator in the Settlement Period in which the recalculation is made. Clause 12-35 below will be construed accordingly.

12-29 **ATOC SCHEME EXPENSES**

Any sums (including any applicable VAT) that are due from any of the Operators under an ATOC Scheme may be cleared through the RSP. These sums are deemed to be Inter-User Payments which are Accepted for Clearing at the time the RSP is notified by the ATOC Secretariat that they have become due.
PART VI: CALCULATION OF PAYMENTS DUE

12-30 NOTIFICATION OF SETTLEMENT PERIODS, SETTLEMENT DATES AND INTERIM PAYMENT DATES

(1) The period from 23 July 1995 to 31 March 1996

For the period from 23 July 1995 to 31 March 1996, the Settlement Periods, Settlement Dates and Interim Payment Dates shall be as specified in Part I of Schedule 34.

(2) 1 April 1996 to 31 March 1997 and subsequent years

On or before 31 December in each year (starting in 1996), the RSP will determine the Settlement Periods and Interim Payment Dates in the 12 month period commencing on 1 April in the following year and shall notify them to the Operators in writing substantially in the form of Part II of Schedule 33.

12-31 INTERIM PAYMENTS

(1) Calculation of the Interim Payments

(a) On or before the first day of each Settlement Period, the RSP will calculate:

(i) each Operator’s Historical Settlement Amount for that Settlement Period; and

(ii) the Interim Payments which will be due to or from that Operator in that Settlement Period (apart from those due under sub-Clause (4) below), each calculated in accordance with the following formula:

\[
\text{Interim Payment} = \frac{\text{Historical Settlement Amount} \times 70\%}{\text{Number of Payments}}
\]

where "Number of Payments" means the number of Interim Payments (as determined by the RSP) that are to be made in that Settlement Period otherwise than under sub-Clause (4) below.
(b) If the amount of any Interim Payment calculated under paragraph (a) above has a positive value it is payable by the RSP to the Operator. If it has a negative value it is payable by the Operator to the RSP.

(c) The percentage referred to in paragraph (a)(ii) above may, at the discretion of the RSP, be increased to not more than 100 per cent. if the Operator has failed to pay any amount due under this Chapter when payable and such payment remains outstanding at the date the relevant calculation is made.

(2) **Notification to the Operators of Interim Payments**

As soon as reasonably practicable, and in any event within three Business Days after the first day of each Settlement Period, the RSP will notify each Operator of the Interim Payments payable to or by that Operator under sub-Clause (1) above in that Settlement Period.

(3) **Payment**

On each Interim Payment Date:-

(a) each Operator will pay to the RSP the Interim Payment (if any) payable by that Operator on that date, less any Unpaid Amounts payable to that Operator by the RSP; and

(b) subject to Clause 12-36 below, the RSP will pay to each Operator the Interim Payment (if any) payable to that Operator on that date, less any Unpaid Amounts payable to the RSP by that Operator.

(4) **Interim Payments in respect of ATOC Travel Agent, ITX Travel Agent and ATOC Self-ticketing Licensee receipts**

(a) On or before the eighth business day of each Settlement Period, the RSP will estimate, in respect of each Operator, the sum of the Credits which that Operator is to receive in respect of Fares Sold by the ATOC Travel Agents, ITX Travel Agents or to ATOC Self-ticketing Licensees which were Accepted for Clearing in the previous Settlement Period.
(b) On or before the ninth Business Day of that Settlement Period, the RSP will notify each Operator of the amount that has been estimated with respect to it.

(c) On or before the 14th Business Day of that Settlement Period, the RSP will pay 90 per cent. of that amount to that Operator, less any Unpaid Amounts that are payable by it to the RSP.

12-32 TIME AT WHICH ITEMS ARE ACCEPTED FOR CLEARING

(1) The RSP’s discretion

(a) The RSP may elect to treat an RSP-settled Product or an RSP-settled Refund in relation to which the information referred to in Clause 12-22 above was received by it in a particular Settlement Period from an ATOC Travel Agent, an ITX Travel Agent or an ATOC Self-ticketing Licensee via an Approved TIM as having been Accepted for Clearing in the following Settlement Period.

(b) The RSP may also elect to treat an RSP-settled Product, or RSP-settled Refund or an Inter-User Payment in relation to which the information supplied to the RSP by the person submitting it for clearing was incomplete or supplied in a format or in accordance with a procedure which is different from that specified by the RSP as not having been Accepted for Clearing until the Settlement Period in which complete information was supplied in the format and in accordance with the procedure so specified.

(2) Effect of an election by the RSP

If the RSP makes one of the elections referred to in sub-Clause (1) above, the relevant RSP-settled Product, RSP-settled Refund or Inter-User Payment will be treated for all purposes as having been Accepted for Clearing in the Settlement Period so elected by the RSP.

12-33 THE COMPULSORY SETTLEMENT AMOUNT

An Operator’s Compulsory Settlement Amount in relation to a Settlement Period is the amount (whether positive or negative) calculated by the RSP as follows:-

(a) the sum of:-
(i) the Credits which are to be received by that Operator in respect of RSP-settled Products and RSP-settled Refunds which were Accepted for Clearing in that Settlement Period (including any Credits which are to be received by it in respect of commission or pursuant to Clause 12-50(1) below); less

(ii) the Debits which are to be received by that Operator in respect of RSP-settled Products and RSP-settled Refunds which were Accepted for Clearing in that Settlement Period (including any Debits which are to be received by it in respect of commission);

(b) plus:-

(i) any Interim Payments payable by that Operator to the RSP under Clause 12-31 above in relation to that Settlement Period; less

(ii) any Interim Payments payable by the RSP to that Operator under Clause 12-31 above in relation to that Settlement Period;

(c) plus:-

(i) any amounts allocated to that Operator in that Settlement Period under Clause 12-47 below in relation to defaulted payments that have since been received (to the extent that the payment was borne by the Operator under Clause 12-43, 12-45 or 12-46 below); less

(ii) the amount that the RSP determines is to be borne by that Operator in that Settlement Period under Clause 12-43, 12-45 or 12-46 below in respect of a default by another Operator, an ATOC Travel Agent, an ITX Travel Agent, an ATOC Self-ticketing Licensee or an Approved Third Party.

12-34 THE SUPPLEMENTARY SETTLEMENT AMOUNT

An Operator’s Supplementary Settlement Amount in relation to a Settlement Period is the amount (whether positive or negative) calculated by the RSP as follows:-

(a) the sum of:-
(i) the principal amount (including any applicable VAT) of any Inter-User Payments payable to that Operator which were Accepted for Clearing in that Settlement Period, other than any Post-liquidation Payments payable to that Operator; less

(ii) the principal amount (including any applicable VAT) of any Inter-User Payments payable by that Operator which were Accepted for Clearing in that Settlement Period, other than any Post-liquidation Payments payable to another person;

(b) plus:-

(i) any amount allocated to that Operator in that Settlement Period under Clause 12-47 below in relation to defaulted payments that have subsequently been received (to the extent that the payment was borne by the Operator under Clause 12-44 below); less

(ii) the amount that the RSP determines should be borne by that Operator under Clause 12-44 below in respect of a default by another Operator in that Settlement Period or an Approved Third Party.

12-35 THE FINAL PAYMENT

(1) Calculation of the Final Payment

(a) An Operator’s Final Payment in relation to a Settlement Period will be calculated by the RSP in accordance with the following formula:-

\[
\text{Final Payment} = \frac{\text{Compulsory Settlement Amount}}{} + \frac{\text{Supplementary Settlement Amount}}{}
\]

(b) If the Final Payment has a negative value, the relevant Operator must pay it (expressed as a positive value) to the RSP, together with any Unpaid Amounts that are payable to the RSP by that Operator but less any Unpaid Amounts that are payable to that Operator by the RSP.
(c) If the Final Payment has a positive value, subject to Clause 12-36 below, the RSP must pay it to the relevant Operator, together with any Unpaid Amounts that are payable to that Operator by the RSP but less any Unpaid Amounts that are payable to the RSP by that Operator.

(2) Notification of the Final Payment to the Operators

At or before close of business on the Advice Date for each Settlement Period, the RSP will notify each Operator of its Final Payment for that Settlement Period, indicating whether it represents a sum due to or from the Operator. The notification will also state the amount of the Final Payment which consists of the Operator’s Compulsory Settlement Amount and the amount which consists of its Supplementary Settlement Amount.

(3) Payment of the Final Payment

Subject to Clause 12-36 below, each Final Payment must be paid by close of business on the first Settlement Date after the end of the Settlement Period to which it relates in accordance with Clause 12-39 below.

12-36 EFFECT OF INSOLVENCY EVENT ON PAYMENTS BY THE RSP

(1) Conditions precedent to payment

The payments due to an Operator under Clauses 12-31 and 12-35 above are subject to the condition precedent that none of the events specified in paragraphs (a) to (i) of Clause 12-55 below has occurred and is continuing in relation to that Operator.

(2) Following the occurrence of such an event

(a) On the second Settlement Date after notice of the occurrence of any of the events referred to in sub-Clause (1) above has been given to the RSP, the Final Payment for the relevant Operator in relation to that second Settlement Date will be determined in accordance with Clause 12-35 above. However, for this purpose the amounts referred to in Clauses 12-33 and 12-34 above will be calculated by reference to the RSP-settled Products, RSP-settled Refunds and Inter-User Payments which were Accepted for Clearing in the Settlement Period in which such event(s) first
occurred and every subsequent Settlement Period ending before that second Settlement Date.

(b) If the Final Payment calculated in accordance with paragraph (a) above has a negative value, the relevant Operator must pay it to the RSP, together with any Unpaid Amounts that are payable to the RSP by that Operator but less any Unpaid Amounts that are payable to that Operator by the RSP.

(c) If the Final Payment has a positive value, the RSP must pay it to the relevant Operator, together with any Unpaid Amounts that are payable to that Operator by the RSP but less any Unpaid Amounts payable to the RSP by that Operator.

12-37 NON-PAYMENT BY AN OPERATOR

If an Operator is in default in the payment of any sum due from it to the RSP under this Chapter and Clause 12-36 above does not apply, the RSP may set off against such sum any or all sums payable from the RSP to that Operator under this Chapter.

12-38 OVERPAYMENTS

(1) Overpayment by the RSP or by an Operator

(a) If at any time an Operator or the RSP pays more than is due from it at that time under this Chapter, whether as a result of a miscalculation by the RSP or otherwise, the RSP and/or, as the case may be, the relevant Operator must repay to the other on demand the amount of the overpayment.

(b) The RSP or, as the case may be, the relevant Operator must also pay on demand interest on the amount of the overpayment, calculated by the RSP at the Standard Rate from (and including) the day on which the overpayment was made to (but excluding) the day on which it is repaid, unless the amount of interest payable would be less than £1,000.

(c) The RSP or, as the case may be, the relevant Operator may, however, deduct from any sum which it is obliged to pay under this sub-Clause (1) the amount of any tax that is imposed on it in respect of the payment, whether or not under English law.
(2) Status of amounts overpaid

Any amount payable under sub-Clause (1) above is a debt due from the RSP or, as the case may be, the Operator to which the overpayment was made. Whether or not a demand for its repayment has been made, the RSP may (to the extent that it remains unpaid) treat it as an Unpaid Amount for the purposes of calculating the amount due to or from that Operator on any Settlement Date.

(3) Claims against third parties

Each of the Operators acknowledges and agrees that its only remedy (whether under contract, tort or otherwise and whether or not caused by the negligence of the RSP, its employees or agents) in respect of any repayment to be made by the RSP under sub-Clause (1)(a) above shall be as set out in sub-Clause (1) above. Accordingly, each of the Operators agrees not to make or pursue any claim against any third party relating to or in connection with any such repayment if this would result in the RSP being required to make any payment in addition to that due under sub-Clause (1) above.

12-39 PAYMENTS

(1) Payments to the RSP from Operators

(a) Any amounts due from an Operator under this Chapter must be paid by direct debit under a mandate granted to the RSP over a pounds sterling account with a bank in the United Kingdom unless the RSP agrees to an alternative method of payment.

(b) No Operator may terminate or vary the terms of any such mandate that it grants to the RSP without the RSP’s prior consent.

(2) Payments to Operators from the RSP

Payments due to an Operator from the RSP under this Chapter will be made in pounds sterling by the transfer of immediately available funds for value on the day they become due to such pounds sterling account with a bank in the United Kingdom as that Operator notifies to the RSP from time to time.
12-40 APPLICATION OF MONEYS

(1) General

Any moneys received by the RSP from an Operator under this Chapter will, despite any statement by that Operator to the contrary, be applied:-

(a) first, in the payment of any interest accrued on sums due from, or other charges incurred by, that Operator to the RSP under this Agreement;

(b) second, in the payment of any Unpaid Amounts due from the Operator in respect of previous Settlement Periods, in accordance with sub-Clause (2) below;

(c) third, in the payment of any other sums due from the Operator to the RSP under this Chapter in respect of the current Settlement Period, pari passu and rateably; and

(d) fourth, on account of any future liability of the Operator to the RSP.

(2) Unpaid Amounts

Moneys which under sub-Clause (1) are to be applied in respect of any Unpaid Amounts will be applied:-

(a) first, to the Shared Loss;

(b) second, to the Supplementary Settlement Amount; and

(c) third to any other Unpaid Amounts.
NON-PAYMENT BY AN OPERATOR

(1) Liability to pay interest

(a) If an Operator fails to pay any amount payable by it under this Chapter when due, it must pay interest on the amount from time to time outstanding in respect of that overdue sum for the period beginning on its due date and ending on the date of its receipt in cleared funds by the RSP (both before and after any judgement) at the Default Rate.

(b) Interest accrued under this sub-Clause (1) will be payable by the Operator on the receipt of a demand from the RSP but, if not previously demanded, will be payable on the last day of the Settlement Period in which the default occurred. If not paid when due, the interest will be added to the overdue sum and will itself bear interest accordingly.

(2) Indemnity by the Operator

Each Operator will on demand indemnify the RSP (on an after-tax basis) against any cost, loss, expense or liability sustained or incurred by the RSP (including any VAT for which a credit is not available under the VAT Act) as a result of a failure by that Operator to pay any amount payable by it under this Chapter when due, including the costs and expenses of any proceedings brought against the Operator to recover the amount due.

NOTIFICATION OF THE DEFAULT

(1) Notifications by the RSP

If an Operator fails to pay any amount payable by it under this Chapter when due, on the fifth Business Day after the default occurred the RSP will, if the default is continuing on that date, use its reasonable endeavours to notify each of the other Operators, the Approved Third Parties and the Authority of:-

(a) the amount and nature of the default;

(b) the date on which the payment was due; and
(c) any reason given by the defaulting Operator for the default.

(2) Further notification of payment received

If any such defaulted payment is subsequently paid, in whole or in part, the RSP will use its reasonable endeavours to notify each of the other Operators, the Approved Third Parties and the Authority accordingly within one Business Day of the receipt of such payment.

12-43 ALLOCATION OF LOSS IN RESPECT OF THE COMPULSORY SETTLEMENT AMOUNT FOLLOWING A DEFAULT

(1) Calculation by the RSP of the Shared Loss

If an Operator (the "Defaulting Operator") fails to pay in full any Interim Payment or Final Payment that is due from it and the default is continuing on the last day of the Settlement Period after the one in which the relevant Interim Payment Date falls (in the case of an Interim Payment) or to which the payment relates (in the case of a Final Payment), the RSP will determine:

(a) the aggregate amount that is outstanding from the Defaulting Operator on that day in respect of these payments (the "Overdue Amount"); and

(b) the Shared Loss, calculated in accordance with the following formula:

\[
\text{Shared Loss} = \text{Overdue Amount} \times \text{Compulsory Proportion}
\]

where "Compulsory Proportion" means the proportion of the Final Payment referred to in this sub-Clause (1) that consists of a Compulsory Settlement Amount.

(2) Allocation of the Shared Loss

After the deduction of the proportion of the Shared Loss (if any) that is to be borne by the Approved Third Parties (as described in sub-Clause (3) below), the remainder of the Shared Loss will be borne by the Operators (the "Non-Defaulting Operators") other than the Defaulting Operators and any Operators which at the time that the Shared Loss arises are in the course of being wound up, in proportion to their Turnover for the previous
financial year of the RSP. However, the amount to be borne by each Operator will be due only in accordance with Clause 12-35 above.

(3) Proportion to be borne by the Approved Third Parties

The proportion of the Shared Loss which is to be borne by each Approved Third Party is the amount calculated in accordance with its ATP Agreement or, as the case may be, Clearance Agreement. Subject to sub-Clause (4) below, this is:-

(a) the proportion that the Overdue Amount bears to the sum of the Interim Payments and the Final Payments referred to in sub-Clause (1) above;

(b) multiplied by:-

(i) the amount that would be due to that Approved Third Party if it were calculated solely on the basis of the Rail Products and Non-Rail Products Sold and Refunds made by the Defaulting Operator (or on its behalf by an agent appointed solely by the Defaulting Operator) which were Accepted for Clearing in the Settlement Period to which the Shared Loss relates; less

(ii) the Final Payment that would be due to the Defaulting Operator if it were calculated solely on the basis of the Rail Products and Non-Rail Products which were Sold and the Refunds which were made by or on behalf of that Approved Third Party (or, in the case of TTL, any other person for whose Sales and Refunds it is due to account) in that Settlement Period.

(4) Limitation of TTL's liability

Under the Clearance Agreement entered into by TTL, TTL is liable to bear a proportion of the Shared Loss only to the extent that it relates to Fares Sold and Refunds made by the Defaulting Operator that were Accepted for Clearing in the two Settlement Periods after:-

(a) the one in which the default took place (in the case of an Interim Payment); or
(b) the one to which the default related (in the case of a Final Payment).

However, slightly different provisions are contained in that Clearance Agreement in respect of partial defaults and defaults in respect of which the portion that is due to be borne by TTL does not exceed £40,000.

12-44 ALLOCATION OF LOSS IN RESPECT OF THE SUPPLEMENTARY SETTLEMENT AMOUNT FOLLOWING A DEFAULT

(1) Who bears the loss

After deduction of the Shared Loss, the remainder of the Overdue Amount, if any, will be borne by the Non-Defaulting Operators in the proportions set out in sub-Clause (2) below.

(2) Allocation of the loss

(a) The amount to be borne by each of the Non-Defaulting Operators is the proportion of such remainder of the Overdue Amount that is referable to that Non-Defaulting Operator, as determined by the RSP. For the purpose of making this determination, amounts which represent a payment to be made to the Non-Defaulting Operator will be deducted from those which represent a payment to be made by it.

(b) The amount to be borne by each Non-Defaulting Operator will be reflected in that Operator’s Supplementary Settlement Amount in accordance with Clause 12-34(b) above and will be due only in accordance with Clause 12-35 above.
12-45 ALLOCATION OF LOSSES FOLLOWING A DEFAULT BY AN ATOC RETAIL AGENT, ATOC TRAVEL AGENT, AN ITX TRAVEL AGENT, AN ATOC SELF-TICKETING LICENSEE OR AN APPROVED THIRD PARTY

(1) Who bears the loss

If an ATOC Retail Agent, ATOC Travel Agent, an ITX Travel Agent, an ATOC Self-ticketing Licensee or an Approved Third Party fails to pay in full any sums that are due from it under its Clearance Agreement with the RSP and the default is continuing on the last day of the Settlement Period after the one in which it first occurred, the shortfall will be borne by the Operators, other than any Operators that at the time that the default occurs are in the course of being wound up.

(2) Allocation of the shortfall

(a) The amount to be borne by each of those Operators is the proportion of the shortfall that is referable to that Operator (calculated on the basis set out in Chapter 11 by reference to the RSP-settled Products and RSP-settled Refunds to which the default relates), as determined by the RSP.

(b) The amount to be borne by each Operator will be reflected in that Operator’s Compulsory Settlement Amount and will be due only in accordance with Clause 12-35 above.

12-46 ALLOCATION OF LOSSES FOLLOWING A DEFAULT IN RESPECT OF A WARRANT ACCEPTED BY A PERSON OTHER THAN AN OPERATOR

(1) Who bears the loss

If the RSP has not received in full the face value of any Warrant which has been received by the RSP for processing in accordance with sub-Clause 7-21(3) above, before the last day of the Settlement Period after the one in which the relevant Warrant was first submitted to the RSP, the shortfall shall be borne by the Operators, other than any Operators that at the time that the default occurs are in the course of being wound up.

(2) Allocation of the shortfall
(a) The amount to be borne by each of those Operators is the proportion of the shortfall that is referable to that Operator as determined by the RSP in accordance with (b) below.

(b) The RSP will determine the proportion of the shortfall that is referable to each Operator:-

(i) on the basis set out in Chapters 11 and 12 by reference to the RSP-settled Product for which the relevant Warrant was delivered up, if the relevant Warrant was delivered up in exchange for an RSP-settled Product; or

(ii) if the relevant Warrant was not delivered up in exchange for an RSP-settled Product on the same basis as is set out in Clause 15-46(1) below.

(c) The amount to be borne by each Operator will be reflected in that Operator’s Compulsory Settlement Amount and will be due only in accordance with Clause 12-35 above.

12-47 ALLOCATION OF RECOVERED MONEYS

Any amount referred to in Clauses 12-43 to 12-46 above that is subsequently recovered by the RSP, and any interest that is received by the RSP in respect of the default, will be allocated to the Operator(s) and/or the Approved Third Parties which bore the cost of the default under the relevant Clause pro rata to the proportion borne by each of them. The allocation will be taken into account in determining the Compulsory Settlement Amounts and the Supplementary Settlement Amounts of such Operator(s) in respect of the then current Settlement Period, in accordance with Clauses 12-33 and 12-34 above.

12-48 EFFECT OF NON-RECEIPT OF PAYMENT BY AN OPERATOR

Any amount expressed to be due and payable by an Operator to the RSP under Clause 12-31 or 12-35 above will be due and payable regardless of whether the Operator has received payment from the persons to whom it has Sold RSP-settled Products in the relevant Settlement Period.

12-49 DEFAULTING OPERATOR NOT DISCHARGED
Nothing in this Chapter is to be construed as releasing any Operator that is in default in the payment of any sum due under this Chapter from its obligation to make that payment.
PART VIII: OTHER ALLOCATIONS IN RESPECT OF MONEYS RECEIVED BY THE RSP

12-50 ENTITLEMENT OF OPERATORS TO RECEIVE OTHER AMOUNTS

(1) Entitlement of Operators to receive interest

Where, in respect of RSP-settled Products which have been Accepted for Clearing in a particular Settlement Period, the RSP receives a payment from an ATOC Travel Agent, an ITX Travel Agent or an ATOC Self-ticketing Licensee before the Settlement Date for that Settlement Period, each Operator which is to receive a Credit in respect of those RSP-settled Products (referred to as an "ATOC Travel Agent Credit") will receive an additional Credit, calculated in accordance with sub-Clause (2) below.

(2) Calculation of interest

The Credit to be received by an Operator pursuant to sub-Clause (1) above will be equal to the amount of interest that would have accrued (calculated at the Standard Rate) if an amount equal to the ATOC Travel Agent Credit had been deposited in an interest-bearing account from (and including) the day on which the RSP receives the payment from the relevant ATOC Travel Agent, ITX Travel Agent or ATOC Self-ticketing Licensee in cleared funds to (but excluding) the first Settlement Date thereafter.

(3) Entitlement of Operators to receive surplus amounts from ITX Travel Agents

Where the RSP has received a payment from an ITX Travel Agent in respect of Ticket stock which is not subsequently issued as evidence of the Purchase of an ITX Fare from that ITX Travel Agent and Accepted for Clearing during the term of the relevant ATOC Licence, each Operator which received a Credit in respect of an ITX Fare issued by that ITX Travel Agent will receive an additional Credit, calculated in accordance with sub-Clause (4) below.

(4) Calculation of surplus

The Credit to be received by an Operator pursuant to sub-Clause (3) above will be:-

(a) the amount of the payment referred to in sub-Clause (3) above;
(b) multiplied by the aggregate of the Credits received by that Operator in respect of ITX Fares issued by the relevant ITX Travel Agent during the term of its ATOC Licence;

(c) divided by the aggregate of the Credits received by all of the Operators in respect of those ITX Fares during that period.

This Credit will be received in the first Settlement Period after the relevant ITX Travel Agent’s ATOC Licence has been terminated.
PART IX: PROVISION OF INFORMATION BY THE RSP

12-51 PROVISION OF INFORMATION THAT IS AVAILABLE TO ALL OPERATORS

(1) Type of information available

Subject to sub-Clause (2) below, at the request of an Operator, the RSP will make the following information available to that Operator:-

(a) the number of RSP-settled Fares, RSP-settled Upgrades and RSP-settled Reservations Sold in respect of any Flow that were Accepted for Clearing in any Settlement Period;

(b) the number of any type(s) of RSP-settled Discount Card that were Accepted for Clearing in any Settlement Period;

(c) the number of RSP-settled Fares, RSP-settled Upgrades, RSP-settled Discount Cards (categorised by reference to each type of Discount Card) and RSP-settled Reservations Sold at a specified issuing office or by a specified ATOC Travel Agent, ATOC Self-Ticketing Licensee, ITX Travel Agent or Approved Third Party that were Accepted for Clearing in any Settlement Period;

(d) the Percentage Allocations that would be received by the Operators following the Sale of a specified Fare;

(e) the aggregate face value of Permits to Travel and Vouchers issued by that Operator and which have been accepted as a method of payment by another Operator and forwarded in accordance with Clause 11-11 or 11-12 above in any Settlement Period; and/or

(f) the aggregate face value of Permits to Travel and Vouchers accepted by that Operator as a method of payment and forwarded in accordance with Clause 11-11 or 11-12 above in any Settlement Period and which were issued by another Operator.

(2) Exception
An **Operator** will not be entitled to any information under sub-Clause (1) above if it does not run scheduled passenger rail services at the time it asks for the information.

(3) **Format in which information is to be supplied**

The information referred to in sub-Clause (1) above will be made available in writing or in any other format specified by the **Operator** to which it is to be made available. However, if that format is one in which the information is not usually used by the **RSP**, any additional costs incurred by the **RSP** in doing so will be borne by the **Operator** requesting the information.

12-52 **PROVISION OF INFORMATION ABOUT EARNINGS**

(1) **Type of information available**

At the request of an **Operator**, the **RSP** will make the following information available to that **Operator**, with respect to each **Settlement Period** specified in the request:-

(a) the sum of the **Credits** (other than any **Private Settlement Credits**) which are to be received by that **Operator** in respect of each of the following:-

   (i) **RSP-settled Fares**;

   (ii) **RSP-settled Discount Cards**;

   (iii) **RSP-settled Reservations**;

   (iv) **RSP-settled Upgrades**; and

   (v) **RSP-settled Non-Rail Products**,

which were **Accepted for Clearing** in that **Settlement Period**;

(b) the sum of the **Credits** which are to be received by that **Operator** in respect of **Refunds** which were **Accepted for Clearing** in respect of that **Settlement Period** which were made by it in respect of each of the following:-
(i) RSP-settled Fares;

(ii) RSP-settled Discount Cards;

(iii) RSP-settled Reservations;

(iv) RSP-settled Upgrades; and

(v) RSP-settled Non-Rail Products,

(c) the sum of the Debits which are to be received by that Operator in respect of Refunds which were Accepted for Clearing in that Settlement Period in respect of each of the following:-

(i) RSP-settled Fares;

(ii) RSP-settled Discount Cards;

(iii) RSP-settled Reservations;

(iv) RSP-settled Upgrades; and

(v) RSP-settled Non-Rail Products,

(d) the sum of the Debits which are to be received by that Operator in respect of each of the following:-

(i) RSP-settled Fares;

(ii) RSP-settled Discount Cards;

(iii) RSP-settled Reservations;

(iv) RSP-settled Upgrades; and

(v) RSP-settled Non-Rail Products,
Sold by that Operator which were Accepted for Clearing in that Settlement Period;

(e) the sum of the Credits which are to be received by that Operator in respect of commission (inclusive of VAT) which is due to it in respect of each of the following:-

(i) RSP-settled Fares;

(ii) RSP-settled Discount Cards;

(iii) RSP-settled Reservations;

(iv) RSP-settled Upgrades; and

(v) RSP-settled Non-Rail Products,

which were Accepted for Clearing in that Settlement Period, in each case less any commission (inclusive of VAT) that is or was due to that Operator in respect of RSP-settled Fares, RSP-settled Upgrades, RSP-settled Discount Cards or, as the case may be, RSP-settled Reservations for which a Refund was Accepted for Clearing in that Settlement Period;

(f) the sum of the Debits which are to be received by that Operator in respect of commission (inclusive of VAT) which is due to other persons in respect of each of the following:-

(i) RSP-settled Fares;

(ii) RSP-settled Discount Cards;

(iii) RSP-settled Reservations;

(iv) RSP-settled Upgrades; and

(v) RSP-settled Non-Rail Products,
which were Accepted for Clearing in that Settlement Period, in each case less any commission (inclusive of VAT) that is or was due to those other persons in respect of RSP-settled Fares, RSP-settled Reservations, RSP-settled Discount Cards or, as the case may be, RSP-settled Upgrades for which a Refund was Accepted for Clearing in that Settlement Period;

(g) the sum of any Private Settlement Credits which are to be received by that Operator in respect of RSP-settled Fares which were Accepted for Clearing in that Settlement Period after 23 July 1997;

(h) the principal amount (inclusive of VAT) of the Inter-User Payments that were Accepted for Clearing in that Settlement Period and involve payments to that Operator; and

(i) the principal amount (inclusive of VAT) of Inter-User Payments that were Accepted for Clearing in that Settlement Period and involve payments from that Operator (but, until 23 July 1997, excluding the Inter-User Payments referred to in Clause 12-28(2) above).

(2) Provision of information about VAT

The information supplied by the RSP pursuant to sub-Clause (1) above will state the proportion of each amount that consists of VAT.

(3) Type of information available

The RSP will make available to each Operator a breakdown of the information to which that Operator is entitled under sub-Clause (1) above with respect to each of the Flows to which the relevant RSP-settled Fares, RSP-settled Upgrades or RSP-settled Reservations (or RSP-settled Refunds in respect of them) relate and each type of RSP-settled Discount Card and each Inter-User Payment on which the information is based.

(4) Earnings of other Operators

An Operator is not entitled to receive any of the information referred to in this Clause in respect of other Operators.
12-53 PROVISION OF OTHER SERVICES

(1) Provision of consolidated information

(a) If the RSP and an Operator so agree, that Operator may from time to time provide the RSP with any information that it agrees with the RSP about sums the Operator has paid and/or received in respect of which a payment is not due to another person.

(b) These sums will not be included in the calculation of the amounts due to or from the Operator under this Chapter. However, the RSP will consolidate the information provided to it in each Settlement Period into such categories as it may agree with the Operator and will supply the consolidated figures to the Operator on the date(s) agreed by it with the Operator.

(2) Miscellaneous services

The RSP may from time to time provide the Operators with services additional to those set out in this Agreement. The services will be provided on any reasonable terms (including price) agreed between the RSP and the Operators.

12-54 PROVISION OF INFORMATION TO THE AUTHORITY AND OTHERS

(1) Provision of information to the Authority

(a) At the request of the Authority the RSP will, as soon as reasonably practicable, provide him with any information it has received or compiled in relation to an Operator under this Agreement (and each Operator must, insofar as it is within its power, ensure that it does so).

(b) The RSP is only required to supply information to the Authority in the format in which it makes it available to the Operators in accordance with its usual procedures.

(c) The costs of supplying this information will be borne by the RSP.

(2) Provision of information to other persons
(a) At the request of an **Operator** the **RSP** will provide any person referred to in Clause 3-4(2) above that is specified by that **Operator** with any information to which that **Operator** is entitled under this Agreement (and each **Operator** must, insofar as it is within its powers, ensure that the **RSP** does so).

(b) This information will be supplied in any format specified by that **Operator**.

(c) The costs of supplying the information will be borne by that **Operator**.
PART X: NOTIFICATION OF CERTAIN EVENTS

12-55 NOTIFICATION TO THE RSP

An **Operator** must notify the **RSP** immediately if it:-

(a) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

(b) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(c) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied or enforced against all or substantially all its assets where:-

   (i) the secured party maintains possession of the assets for at least 30 days; or

   (ii) the legal process is not dismissed, discharged, stayed or restrained within 30 days;

(d) seeks or becomes subject to the appointment of an administrator, special railways administrator (as defined in the **Act**), provisional liquidator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;

(e) institutes or has instituted against it a proceeding seeking a judgement of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of a proceeding that is instituted or a petition that is presented against the **Operator**, it:-

   (i) results in a judgement of insolvency or bankruptcy, the entry of an order for relief or the making of an order for the winding-up or liquidation of the **Operator**; or

   (ii) if earlier, is not dismissed, discharged, stayed or restrained within 30 days of the institution of the proceeding or the presentation of the petition;
(f) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(g) causes or is subject to any event which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events referred to in paragraphs (a) to (f) above;

(h) receives notice from the Regulator that its Licence has been or is to be terminated or suspended, surrenders its Licence or gives notice to the Regulator of its intention to do so; or

(i) takes any action in furtherance of, or which indicates its consent to, approval of, or acquiescence in, any of the events specified in paragraphs (a) to (h) above.

12-56 **NOTIFICATIONS BY THE RSP**

As soon as reasonably practicable after receiving a notification from an Operator under Clause 12-55 above, the RSP will send details of the notification to:-

(a) the other Operators and the Approved Third Parties;

(b) the Authority; and

(c) the Regulator.
PART XI: MISCELLANEOUS

12-57 BANKING ARRANGEMENTS

(1) Banking facilities

The RSP may borrow money to fund any payment that is to be made by it under this Chapter or otherwise to finance its activities on any terms it considers appropriate but in doing so will act for its own account rather than as agent for the Operators. It may also, as a principal, enter into agreements which entitle it to borrow money from any person(s) on demand or otherwise.

(2) Investments

The RSP may deposit money with any of the persons listed in Part I of Schedule 35 on any terms it considers appropriate, with or without security. It may also purchase and sell any sterling-denominated investments described in Part II of Schedule 35. These transactions will be entered into for the account of the RSP rather than as agent for the Operators.

12-58 DETERMINATIONS BY THE RSP

All determinations and estimates made by the RSP under or pursuant to this Chapter will be final and binding on the Operators in the absence of manifest error, negligence, wilful default or fraud.

12-59 THE RSP’S SYSTEMS

In making the calculations referred to in this Chapter and Chapter 11, the RSP will use CAPRI / Lennon or such other computer system(s) as may be agreed between the RSP and the Operators from time to time. Subject to Clause 12-61 below, the Operators will be bound by the calculations made by CAPRI / Lennon or any such other computer systems.

12-60 ACCOUNTS

Each Operator must prepare in accordance with accounting principles, standards and practices (including the historical cost basis) applicable from time to time in the United Kingdom and submit to the RSP in such format as the RSP may reasonably require within four months after the end of its
accounting period, audited accounts in relation to itself, consolidated as well as unconsolidated if it has subsidiaries, as at the end of and for that accounting period. The accounts of each Operator except British Railways Board must be prepared in accordance with the Companies Act and any accounting standards which are generally applicable in the United Kingdom.

12-61 AUDITS

(1) Periodic audit by the RSP

(a) At least once each year the RSP will instruct the RSP Auditors to audit its procedures (and those of its delegates) with a view to determining whether they are consistent with its obligations under this Chapter. The RSP will instruct the RSP Auditors to prepare a written report on those matters, which will be addressed to the RSP, the Operators, the Approved Third Parties and the Authority. The RSP will send a copy of the report prepared by the RSP Auditors to the Operators within ten Business Days after it becomes available.

(b) The Operators do not have the right to audit the procedures of the RSP or its delegates except as referred to in sub-Clause (2) below.

(2) Suspected errors

(a) If an Operator disputes the accuracy of the calculation of any Interim Payment or Final Payment due to or from it the RSP will consult in good faith with that Operator and use its reasonable endeavours to agree the calculation.

(b) If agreement cannot be reached and the Operator reasonably suspects that the calculation is inaccurate it may, by giving written notice to the RSP, require the calculation to be verified by the RSP Auditors. As soon as reasonably practicable and, in any event within three Business Days, after receiving such a request the RSP will instruct the RSP Auditors to verify the calculation and (after taking account of any representations that the Operator wishes to make) make a written report to the Operator and the RSP of their conclusions as soon as reasonably practicable. The RSP will send a copy of the report to the Authority.

(c) The cost of this verification (including any VAT for which credit is not available to the RSP under the VAT Act) will be borne by the Operator unless the
RSP’s calculation is shown to be inaccurate by more than £1,000, in which case it will be borne by the RSP.

12-62 LIMITATION PERIOD

(1) Requirement to give notice

If an Operator wishes to dispute the accuracy of any calculation required under this Chapter or Chapter 11 it must give written notice of this fact to the RSP:-

(a) in the case of a calculation which relates to an RSP-settled Product or an RSP-settled Refund, within 120 days after the date on which the calculation was made; and

(b) in any other case, within 12 months after the date on which it was made.

(2) Effect of not giving notice

Any claim that an Operator would otherwise have in respect of such a calculation will become void, and Clause 12-61(2) above will not apply, unless written notice of the claim is given to the RSP within the period specified in sub-Clause (1) above.

12-63 VERIFICATION BY THE RSP OF INFORMATION SUPPLIED TO IT BY OPERATORS

(1) Right of the RSP to inspect etc.

Each Operator must permit the RSP or anyone authorised by it, after giving at least two Business Days' notice, to observe that Operator’s procedures for the Sale of RSP-settled Products and the making of RSP-settled Refunds and to inspect any records, Approved TIMs or other property that the RSP or anyone so authorised reasonably requires to verify that that Operator has performed and is capable of performing its obligations under this Chapter.

(2) Obligations of Operators to assist the RSP
Each **Operator** must give every reasonable assistance to the **RSP** and anyone so authorised, and must comply with all their reasonable requests (including a request to take copies or extracts from the **Operator’s** records).

12-64 **PAYMENTS FREE AND CLEAR OF SET-OFF**

Except as expressly required or permitted by this Chapter or as required by law, all sums payable under this Chapter must be paid free and clear of any deductions, withholdings, set-offs or counterclaims.
CHAPTER 13: REVIEW OF THE OPERATION OF THIS AGREEMENT

13-1 SCOPE OF THE REVIEW

(1) Contents of the two-year review

(a) The Ticketing and Settlement Scheme Council will, by the date which falls two years after the date of this Agreement, commence a full review of:-

(i) the practical operation of this Agreement; and

(ii) any connected matters that the Regulator and/or the Franchising Director notified in writing to the Ticketing and Settlement Scheme Council by the date which falls two years after the date of this Agreement or the Authority notifies in any subsequent review of this Agreement as described in sub-Clause (2) below.

(b) In particular, the review will consider:-

(i) the procedures for Creating Fares contained in Chapter 4;

(ii) the retailing rights and obligations contained in Chapter 6 and the obligation to accept certain Credit Cards as a method of payment for Rail Products;

(iii) the rates of commission payable in respect of Sales of Rail Products;

(iv) the mechanisms and procedures for the calculation of the Credits and Debits referred to in Chapter 11; and

(v) the way in which the Operators’ Voting Percentages are calculated.

(2) Subsequent five-yearly reviews

The Ticketing and Settlement Scheme Council will carry out further reviews of the practical operation of this Agreement at least once every five years. The first of these reviews
will commence not later than the fifth anniversary of the completion of the review referred to in sub-Clause (1) above.

13-2 OBJECTIVES OF REVIEW

(1) The objectives

Each review will be carried out for the purposes of making detailed recommendations as to whether the operation of this Agreement is achieving the objectives set out below and, if not, the respects (if any) in which this Agreement, or the underlying operating procedures, should be changed. These objectives are:

(a) those stated in Section 4(1)(a), (c) and (e) of the Act;

(b) those stated in any relevant instructions or guidance given by the Secretary of State to the Authority under Section 5 of the Act (or any modification or replacement of it);

(c) the discharge of the Operators' obligations under their Licences; and

(d) the regulation of the Operators' relationships with one another to their reasonable satisfaction.

(2) Percentage Allocations

Each review will involve the making of detailed recommendations as to how the allocation of revenues between the Operators could be altered or replaced so as better to reflect the Principle that Operators should receive an income allocation which reflects the number of Passenger Miles that, in respect of each Rail Product, are travelled on that Operator's trains. This may involve a recommendation to replace or modify ORCATS.

13-3 WRITTEN REVIEW

The review will be made in writing and will contain:

(a) the conclusions and recommendations of the Ticketing and Settlement Scheme Council;
(b) a detailed timetable for the implementation of each of its recommendations;

(c) a full explanation of how its recommendations are to be implemented, together with the objectives which they are intended to achieve, the work involved, the resources required and the amendments likely to be required to this Agreement and to any other agreement entered into by the RSP and/or the Operators pursuant to, or as permitted by, this Agreement;

(d) a detailed breakdown of the costs of implementing each of the recommendations and a cost/benefit analysis in relation to them;

(e) a summary of the agreements which would have to be altered or entered into to implement these recommendations; and

(f) any other matters that are necessary or reasonably desirable.

13-4 CONSIDERATION OF THE REVIEW

(1) Submission of drafts to the Authority

A draft of the written form of the review will be submitted by the Ticketing and Settlement Scheme Council to the Authority at least eight weeks before it is finalised. The Ticketing and Settlement Scheme Council will consider any written comments made by the Authority and the RSP within a period of four weeks from the receipt of the draft by them.

(2) Consideration of the Authority’s suggestions

If the Ticketing and Settlement Scheme Council does not accept all the recommendations or comments made by the Authority, any subsequent draft that is prepared and the final form of the review will specify why such comments or suggestions have been rejected.

(3) Last date for the finalisation of the recommendations

The final form of the review must be available not later than six months after the dates referred to in Clause 13-1(1)(a) and (2) above.
13-5 APPROVAL OF THE RECOMMENDATIONS

A 85 per cent. majority is required in respect of any resolution of the Ticketing and Settlement Scheme Council:

(a) approve the contents of the submission to the Authority pursuant to Clause 13-4(1) above;

(b) reject any recommendations or comments made by the Authority; and

(c) approve the final written form of the review.

13-6 IMPLEMENTATION OF THE REVIEW

Subject to the approval of the Authority, where this is required, the Ticketing and Settlement Scheme Council will implement the recommendations of the review. Each of the Operators and the RSP will be bound by the Ticketing and Settlement Scheme Council's decision as to how these are to be implemented.

13-7 FINANCING THE REVIEW

The cost of conducting the review and the implementation of any recommendations that are made will be borne by the Operators in the proportions determined by the Ticketing and Settlement Scheme Council.
CHAPTER 14: BREACHES OF THIS AGREEMENT

PART I: MONITORING OF COMPLIANCE

14-1 MONITORING ARRANGEMENTS

The Ticketing and Settlement Scheme Council will establish arrangements to monitor the compliance of Operators with their obligations under this Agreement. From time to time it will also review these arrangements and may change them as a result. These arrangements (as modified from time to time) are referred to as the "Monitoring Arrangements". These are set out in Schedule 38.

14-2 OBLIGATIONS OF THE RSP

(1) Monitoring

The RSP will monitor the compliance of Operators with their obligations under this Agreement to the extent that it is required to do so under the Monitoring Arrangements.

(2) Reporting

If the RSP becomes aware (in the course of carrying out its functions under sub-Clause (1) above or otherwise) of a Material Breach by an Operator of the Ticketing and Settlement Scheme or the Retail Agents Scheme, it will notify the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council accordingly.

14-3 POWERS OF INVESTIGATION

(1) General

Each Operator must allow the following persons reasonable access to its premises, personnel and records for the purpose of monitoring compliance by the Operator with this Agreement:

(a) the persons authorised by the Ticketing and Settlement Scheme Council pursuant to the Monitoring Arrangements; and

(b) the employees and Agents of the RSP.
(2) **Agents**

Each **Operator** must ensure that the persons referred to in sub-Clause (1) above are allowed reasonable access to the premises, personnel and records of its agents who fall within Clause 9-1(1)(b) above.
PART II: MEANS OF DETERMINING DISPUTES

14-4 PROCEDURE

(1) Forum for the resolution of disputes

Subject to Clause 14-5 below, disputes or claims between Operators or between one or more Operators and the RSP arising out of, or in connection with, this Agreement will, unless previously resolved by agreement between the parties involved, be resolved by the ATOC Schemes Committee, followed, if necessary, by arbitration (unless the parties involved agree to submit the dispute to expert determination). In each case this will take place pursuant to the ATOC Dispute Resolution Rules.

(2) Initiation of proceedings

Such a dispute or claim may be referred to the ATOC Schemes Committee by one or more Operators, the RSP and/or the Ticketing and Settlement Scheme Council or, as appropriate, the Retail Agents Scheme Council. However, subject to Clauses 14-8 and 14-10 below, an Operator’s rights and/or obligations under this Agreement may not be suspended or terminated without the agreement of that Operator unless the dispute or claim was referred by the Ticketing and Settlement Scheme Council or, as appropriate, the Retail Agents Scheme Council.

14-5 THE REGULATOR AND THE AUTHORITY

(1) Enforcement actions by the Regulator or the Authority

(a) Clause 14-4 above does not prevent an Operator or the RSP from asking the Regulator and/or the Authority to take enforcement action against an Operator for breach of its Licence or, as the case may be, its Franchise Agreement.

(b) Nor does the fact that the Regulator and/or the Authority has taken such enforcement action prevent a dispute or claim from being referred to the ATOC Schemes Committee or for arbitration or expert determination.

(2) Consideration of enforcement actions
The **ATOC Schemes Committee** and, where relevant, the arbitrator or expert, will have regard to any such enforcement action that has been taken and may, if it or he considers it appropriate, adjourn or stay any dispute that has been referred to it or him in the light of any such action.

14-6 **COURT PROCEEDINGS**

Clause 14-4 above does not prevent a party issuing proceedings in court for summary judgement. However, if the application for a summary judgement is rejected, the parties must follow the procedure referred to in that Clause.

14-7 **PAYMENT OF COMPENSATION AND COSTS**

(1) **Settlement through the RSP**

(a) Any compensation or costs (including any VAT payable in respect of them) which are ordered to be paid pursuant to the **ATOC Dispute Resolution Rules** will be deemed to be an **Inter-User Payment** unless either the **Operator** to which the payment is to be made or the **Operator** which is to make the payment is not bound by Chapter 12 at the relevant time.

(b) The **Inter-User Payment** will be deemed to have been **Accepted for Clearing** on the day the terms of the agreement or order are notified to the **RSP** by any of the **Operators** or, if the relevant compensation or costs are payable to the **RSP**, on the day determined by the **RSP**.

(2) **Alternative settlement provisions**

(a) If either of the **Operators** referred to in sub-Clause (1) above is not bound by Chapter 12 at the relevant time, the compensation or, as the case may be, costs referred to in that sub-Clause will be paid by transfer to a sterling denominated bank account in the United Kingdom nominated by the **Operator** to which the payment is to be made.

(b) The transfer must take place not later than five **Business Days** after the day on which the compensation or, as the case may be, costs are agreed or ordered.
14-8 TERMINATION AND SUSPENSION

(1) **Requirement for a resolution**

(a) Subject to sub-Clauses (2) and (3) below, an Operator’s rights or obligations under the Ticketing and Settlement Scheme may be terminated or suspended if the Ticketing and Settlement Scheme Council passes a resolution to that effect.

(b) Subject to sub-Clauses (2) and (3) below, an Operator’s rights or obligations under the Retail Agents Scheme may be terminated or suspended if the Retail Agents Scheme Council passes a resolution to that effect.

(c) On such a resolution the Operator whose rights and obligations are under consideration may not vote and any votes it casts will be disregarded.

(2) **Circumstances in which termination is possible**

A resolution to terminate any rights or obligations of an Operator under the Ticketing and Settlement Scheme or the Retail Agents Scheme may be proposed and voted upon only if that Operator:-

(a) is in Material Breach of the Ticketing and Settlement Scheme or, as the case may be, the Retail Agents Scheme;

(b) is notified in writing by the Ticketing and Settlement Steering Group or, as the case may be, the Retail Agents Scheme Management Group at least 20 clear Business Days before the resolution is proposed of the nature of that Material Breach and any action required to remedy that Material Breach; and

(c) continues to be in Material Breach at the time the resolution is proposed and voted upon, having failed to take the action required of it to remedy the breach or deliver to the Ticketing and Settlement Steering Group or, as the case may be, the Retail Agents Scheme Management Group any explanation for its failure to take such action which is reasonably satisfactory to the Ticketing and Settlement Steering Group or, as the case may be, the Retail Agents Scheme Management Group.
(3) **Appeal to arbitration**

(a) Subject to sub-Clause (4) below, any resolution passed by the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council under sub-Clause (1) above will take effect ten Business Days after the resolution is voted on unless the Operator whose rights or obligations are to be terminated or suspended:

(i) disputes that the conditions specified in sub-Clause (2)(a) to (c) above were satisfied at the time the resolution was proposed and voted upon; and

(ii) refers the dispute for resolution by arbitration in accordance with the ATOC Dispute Resolution Rules by serving a written notice of arbitration in accordance with the ATOC Dispute Resolution Rules within seven Business Days of the resolution being voted upon.

(b) In this event, the resolution will only take effect if the arbitrator resolves pursuant to the ATOC Dispute Resolution Rules to make an award confirming that the Ticketing and Settlement Scheme or, as the case may be, the Retail Agents Scheme should be terminated or suspended with respect to the relevant Operator in accordance with the resolution.

(c) In calculating the periods referred to in paragraphs (a) and (b) above the day on which the relevant resolution is voted upon and the day on which the period expires are to be disregarded.

(4) **Systems limitations**

If the RSP is unable to implement a resolution that is passed pursuant to sub-Clause (1) above in accordance with its usual procedures on the date on which it would otherwise be due to take effect, the resolution will take effect on the first day thereafter on which the RSP can implement it in accordance with its usual procedures.

(5) **Accrued rights and obligations**
Any rights or obligations which have accrued under this Agreement at the time of the termination referred to in this Clause will continue to be enforceable on the terms of this Agreement.
PART III: ENFORCEMENT OF DISPUTES ARISING UNDER CHAPTER 12 (SETTLEMENT)

14-9 OBLIGATION TO MAKE PAYMENTS NOTIFIED BY THE RSP

(1) Payments required

(a) If the RSP notifies an Operator that a stated amount is due from it to the RSP under this Agreement that Operator must pay the amount claimed on or before the date that the RSP states that it is due.

(b) This amount is payable even if the RSP has made a mistake in calculating it, whether as a result of negligence or otherwise. However, that Operator may, after making this payment, bring a claim against the RSP to recover all or part of the amount paid.

(2) Ability to dispute payments demanded

(a) Notwithstanding sub-Clause (1) above, an Operator may dispute any amount claimed by the RSP under this Agreement by following the procedure set out in Clause 14-4 above.

(b) In determining whether the amount claimed by the RSP was incorrect, the ATOC Schemes Committee or, as the case may be, any arbitrator or expert which decides the dispute, will disregard sub-Clause (1) above.

14-10 TERMINATION BY THE RSP

(1) Circumstances in which termination may take place

(a) An Operator’s rights and obligations under this Agreement may be terminated by the RSP if:-

(i) that Operator is in default in the payment of any sum in excess of £3,000,000 that is due from it to the RSP under this Agreement (or, if lower, 30 per cent. of its Turnover in the preceding financial year of the RSP); and

(ii) the default continues for more than three Business Days.
(b) The termination will take effect immediately on the receipt of written notice from the RSP.

(2) **Accrued rights and obligations**

Any rights or obligations which have accrued under this Agreement at the time that any notice is given pursuant to sub-Clause (1) above will continue to be enforceable on the terms of this Agreement.

14-11 **CLAIMS AGAINST DEFAULTING OPERATORS AND OTHER PERSONS**

The RSP will bring a claim against any Operator which is in default under Chapter 12, any ATOC Travel Agent, ITX Travel Agent or ATOC Self-ticketing Licensee which is in default under the settlement provisions of its ATOC Licence, any Approved Third Party which is in default under the settlement provisions of its ATP Agreement and any person which is in default under a Warrant Agreement to enforce the terms of Chapter 12, the ATOC Licence, the ATP Agreement or, as the case may be, the Warrant Agreement if it has been:-

(a) directed to do so in writing by any Operator(s) which, pursuant to Clauses 12-43 to 12-46 above have borne all or part of the cost of the default; and

(b) provided by the relevant Operators with such security or indemnification for the costs of bringing such claim as it considers appropriate.

14-12 **COSTS OF ENFORCEMENT BY THE RSP**

(1) **Who bears the costs**

All costs, charges, liabilities and expenses reasonably incurred by the RSP or its delegates, agents or employees in making any claim against any of the persons referred to in Clauses 14-2 and 14-11 above (including any VAT for which credit is not available to the RSP under the VAT Act) and which have not been recovered from the person against which that claim is made will be borne:-

(a) in the case of a claim which the RSP institutes after having been directed to do so under Clause 14-11(a) above, by the Operator(s) which gave the direction; and
(b) in the case of any other claim, by the Operator(s) which have borne, or are liable to bear, the cost of the relevant default under Clauses 12-43 to 12-46 above in the same proportions as those in which they have borne or are liable to bear that cost.

(2) Payment of costs

The costs, charges, liabilities and expenses referred to in sub-Clause (1) above must be paid or discharged by such Operator(s) on demand.

14-13 ADVANCE PAYMENT OF COSTS

(1) Upon notice from the RSP

(a) The RSP may, by notice to any Operator which the RSP believes will be liable under Clause 14-12 above to reimburse it for any cost, charge, liability or expense incurred by it (including any VAT for which credit is not available under the VAT Act), require that Operator to pay it any sum that the RSP considers appropriate.

(b) This sum will not exceed the RSP’s estimate of the amount of the Operator’s liability under Clause 14-12 above.

(2) Reducing the Operator’s eventual liability

(a) The Operator’s eventual liability under Clause 14-12 above will be reduced by the amount of any such payment.

(b) If the liability is less than the amount paid by the Operator pursuant to sub-Clause (1) above, a sum equal to the excess will be repaid by the RSP to that Operator as soon as reasonably practicable after the amount of the liability is finally determined.

14-14 LIABILITY OF THE OPERATORS IS JOINT AND SEVERAL

Where two or more Operators are liable under Clauses 14-11, 14-12 or Clause 14-13 above in respect of a cost, charge, liability or expense (whether actual or anticipated), their liability to the RSP
is joint and several. However, if their payments in respect of this liability are not in the same proportions as any award that is made, they will have a claim against each other accordingly.
CHAPTER 15: THE DECISION-MAKING PROCESS

PART I: GENERAL

15-1 SCHEMES CONSTITUTED BY THIS AGREEMENT

(1) The Ticketing and Settlement Scheme

The following provisions of this Agreement constitute the "Ticketing and Settlement Scheme":-

(a) Chapters 4 to 8 and 10 to 14;

(b) Clauses 15-2(1) and 15-3 to 15-49 below; and

(c) Chapters 1, 2 and 3 and Clauses 15-61 to 15-67 below, but in each case only insofar as it relates to any of the other provisions referred to in this sub-Clause (1).

(2) The Retail Agents Scheme

The following provisions of this Agreement are referred to as the "Retail Agents Scheme":-

(a) Chapters 9, 13 and 14;

(b) Clauses 15-2(2) and 15-50 to 15-60 below; and

(c) Chapters 1, 2 and 3 and Clauses 15-61 to 15-67 below, but in each case only insofar as it relates to any of the other provisions referred to in this sub-Clause (2).

15-2 THE DECISION-MAKING BODIES

(1) The Ticketing and Settlement Scheme

The following bodies exist or will be established in accordance with ATOC’s constitution to consider matters which arise in connection with the Ticketing and Settlement Scheme:-

(a) the Ticketing and Settlement Scheme Council;
(b) the **Ticketing and Settlement Steering Group**;

(c) three **Ticketing and Settlement Scheme Groups** each of which has responsibility for the matters covered by or concerning one of the following:

(i) Income Allocation and Settlement Policy, Chapters 11 and 12 of this Agreement, Warrants Settlement, Credit, Debit and Charge Card Settlement, Income Allocation Disputes and Revenue Reporting (known as the **Settlement Group**)

(ii) Distribution Services, Fares Policy, Chapters 4, 5 & 8, of this Agreement, **National Rail Conditions of Travel** (known as the **Products and Distribution Group**).

(iii) Retail Policy, Retail Standards, Chapters 6 & 7 of this Agreement, Voluntary Codes of Practice (known as the **Retail Group**)

(2) **The Retail Agents Scheme**

The following bodies exist or will be established in accordance with ATOC’s constitution to consider matters which arise in connection with the **Retail Agents Scheme**:

(a) the **Retail Agents Scheme Council**; and

(b) the **Retail Agents Scheme Management Group**.
PART II: THE TICKETING AND SETTLEMENT SCHEME COUNCIL

15-3 CONSTITUTION

The Ticketing and Settlement Scheme Council consists of each person that is an Operator at the date of this Agreement or that becomes an Operator by signing an Accession Agreement under which it agrees to be bound by all or part of the Ticketing and Settlement Scheme. However, it excludes any Operator:-

(a) which signs a Cessation Agreement the effect of which is that no part of the Ticketing and Settlement Scheme will be binding on it, as from the date on which it ceases to be bound; or

(b) whose rights and obligations under this Agreement are terminated pursuant to Chapter 14 of this Agreement, as from the date on which the relevant resolution takes effect.

15-4 CONTROL OF THE RSP

(1) Shareholders of the RSP

(a) Each of the Operators at the date of this Agreement, or an Associate of it, is a shareholder of the RSP.

(b) Unless a share is transferred to it under sub-Clause (2) below applies, each person which becomes a party to the Ticketing and Settlement Scheme after the date of this Agreement must, as soon as reasonably practicable thereafter, offer to subscribe for one share in the RSP, or procure that an Associate of it does so.

(c) If its offer is accepted, that person or, as the case may be, its Associate must apply for the registration of the share that is issued to it in the name of that person or its Associate.

(2) Transfer of shares upon ceasing to be an Operator

(a) Each time an Operator signs a Cessation Agreement and thereby ceases to be bound by the whole of the Ticketing and Settlement Scheme or an Operator's rights and obligations under this Agreement are terminated pursuant to Chapter 14 of
this Agreement, the **Ticketing and Settlement Scheme Council** will nominate a person to whom that **Operator** will be required to transfer its share(s) in the **RSP**, and the share(s) in the **RSP** held by its **Associates**, when the **Ticketing and Settlement Scheme** ceases to be binding on that **Operator**.

(b) If all the rights and obligations under the **Ticketing and Settlement Scheme** of the **Operator** referred to in paragraph (a) above are transferred to a single person the **Ticketing and Settlement Scheme Council** will nominate that person as the transferee under paragraph (a) above.

(c) The board of directors of the **RSP** will direct each such **Operator** which ceases to be bound by the whole of the **Ticketing and Settlement Scheme** to transfer and to procure that its **Associates** transfer all their respective shares in the **RSP** to a person nominated by the **Ticketing and Settlement Scheme Council**. An **Operator** which is directed to do so by the directors of the **RSP** must comply with that direction.

(3) **Exercise of shareholder rights**

(a) Each **Operator** which is a party to the **Ticketing and Settlement Scheme** must exercise the rights attached to its shares in the **RSP**, and must procure the exercise of the rights attached to any shares in the **RSP** that are held by its **Associates**, in a manner that is consistent with the decisions of the **Ticketing and Settlement Scheme Council**.

(b) The **Operators** must, so far as it is within their powers to so, procure that no resolution of the shareholders or of the **RSP** is passed which is inconsistent with any of the **Ticketing and Settlement Scheme Council** that is in force from time to time and which has been passed in accordance with the **Ticketing and Settlement Scheme**.

(4) **Resolutions of the **RSP**

(a) Subject to paragraph (b) below, the **Operators** must, so far as it is within their powers to do so, procure that any resolutions that are required to implement a decision of the **Ticketing and Settlement Scheme Council** are proposed at a general meeting of the **RSP** as soon as reasonably practicable after the decision has been
taken. At that meeting, the Operators which are parties to the Ticketing and Settlement Scheme must vote and, to the extent that any shares in the RSP are held by their Associates, must procure that those Associates vote, in a manner that is consistent with any such decisions.

(b) If the Ticketing and Settlement Scheme Council decides to implement any of its decisions pursuant to a written resolution of the RSP, each such Operator must sign and, to the extent that any shares in the RSP are held by its Associates, must procure that its Associates sign, any resolution that is sent to it for this purpose, as soon as reasonably practicable after receiving it. Immediately after doing so, that Operator must return the signed resolution to the RSP in accordance with any instructions reasonably given by the Ticketing and Settlement Scheme Council.
PART III: THE TICKETING AND SETTLEMENT STEERING GROUP

15-5 CONSTITUTION

The Ticketing and Settlement Steering Group is a group of not more than five individuals, three of whom shall be elected every two years in March (commencing in March 1999) in accordance with Clause 15-6 below. The other two members of the Group will be the Chief Executive of Rail Settlement Plan Ltd, who will not be entitled to vote on any matters put to the Group, and the Deputy Chairman of the Ticketing and Settlement Scheme Council. The Chairman of the Ticketing and Settlement Steering Group will be the Deputy Chairman of the Ticketing and Settlement Scheme Council, who will if required hold a casting vote.

15-6 ELECTION PROCEDURE

The three elected Members of the Ticketing and Settlement Steering Group will be the Chairman of the Settlement Group, the Chairman of the Products and Distribution Group and the Chairman of the Retail Group who will be elected in accordance with the following procedure:-

All the Operators may by giving written notice to the ATOC Secretariat nominate a candidate for election as Chairman of each of the three Sub-Groups.

A list of candidates will be distributed to each Operator which is a party to the Ticketing and Settlement Scheme by the ATOC Secretariat.

Each such Operator will be entitled to a total of three votes and may vote for one candidate for the position of Chairman of the Settlement Group, one candidate for the position of Chairman of the Products and Distribution Group and one candidate for the position of Chairman of the Retail Group.

In respect of each position the candidate with the highest number of votes will be appointed as Chairman of the respective Sub Group and also as a member of the Ticketing and Settlement Steering Group.

15-7 REMOVAL OF MEMBERS

(1) Removal by the Ticketing and Settlement Scheme Council
The **Ticketing and Settlement Scheme Council** may terminate the appointment of any member of the **Ticketing and Settlement Steering Group** by passing a resolution to this effect.

(2) **Removal by the Ticketing and Settlement Steering Group**

If a member of the **Ticketing and Settlement Steering Group** fails to attend three or more consecutive meetings of the **Ticketing and Settlement Steering Group** without its approval (which may not be unreasonably withheld), the **Ticketing and Settlement Steering Group** may terminate the appointment of that member by passing a resolution to this effect.

(3) **Replacement**

Any member of the **Ticketing and Settlement Steering Group** whose appointment is terminated in accordance with this Clause 15-7 will be replaced in accordance with Clause 15-9 below.

15-8 **RETIREMENT OF MEMBERS**

Immediately before the completion of each election which takes place pursuant to Clause 15-6 above, all members of the **Ticketing and Settlement Steering Group** will retire from office. Each of the retiring members may stand for re-election.

15-9 **FILLING A VACANCY**

(1) **Nomination of candidates**

(a) If a member of the **Ticketing and Settlement Steering Group** retires or is dismissed from office, dies or (unless the **Ticketing and Settlement Scheme Council** agrees otherwise) ceases to be employed by the **Operator** which employed him at the date of his election to the **Ticketing and Settlement Steering Group** (or one of its **Associates**), or that **Operator** ceases to be a party to the **Ticketing and Settlement Scheme**, each **Operator** which is in the band in which the **Operator** that nominated him fell may nominate a candidate to succeed him.
(b) The nomination must be made by written notice to the **ATOCL Secretariat** not later than the date notified by the **ATOCL Secretariat** to each **Operator** which is a party to the **Ticketing and Settlement Scheme**.

(2) **Election**

(a) As soon as reasonably practicable after the last date for the receipt of nominations pursuant to sub-Clause (1) above, a successor for the member referred to in that sub-Clause will be elected to the **Ticketing and Settlement Steering Group** by the **Operators** which are parties to the **Ticketing and Settlement Scheme**.

(b) For this purpose, each such **Operator** will have one vote in respect of each vacancy. If there is more than one vacancy, only one vote may be cast by each **Operator** in favour of any one candidate.

15-10 **ELECTION OF THE CHAIRMAN**

The Chairman of the **Ticketing and Settlement Steering Group** will be the Deputy Chairman of the **Ticketing and Settlement Scheme Council**, who will be selected by the **Operators** which are parties to the Ticketing and Settlement Scheme, in accordance with Clause 15-30 below.
PART IV: THE DIRECTORS OF THE RSP

15-11 CONSTITUTION

(1) Nomination by the Ticketing and Settlement Scheme Council

The directors of the RSP will consist of the individuals specified from time to time by the Ticketing and Settlement Scheme Council.

(2) Maximum number of directors

The number of individuals that have been specified as directors of the RSP at any time must not exceed any maximum number allowed by the Articles of Association of the RSP at that time.

15-12 APPOINTMENT OF DIRECTORS

(1) Passing of resolutions

Each Operator which is a party to the Ticketing and Settlement Scheme must, insofar as it is within its power to do so, procure that a resolution for the appointment as a director of the RSP of each person specified for this purpose by the Ticketing and Settlement Scheme Council is proposed at a general meeting of the RSP as soon as reasonably practicable after the decision of the Ticketing and Settlement Scheme Council has been taken.

(2) Prohibition on the appointment of other persons as directors

Each Operator which is a party to the Ticketing and Settlement Scheme must, insofar as it is within its power to do so, procure that no-one is appointed as a director of the RSP other than a person specified for that purpose by the Ticketing and Settlement Scheme Council.

(3) Resignation of directorships

If the Ticketing and Settlement Scheme Council resolves that a director of the RSP should resign his directorship, each Operator which is a party to the Ticketing and Settlement Scheme must, so far as it is within its power to do so, procure that that director resigns his directorship as soon as reasonably practicable.
15-13 RESPONSIBILITIES OF THE BOARD OF DIRECTORS OF THE RSP

(1) Limitations on powers

The directors of the RSP will act in a manner that is consistent with the decisions of the Ticketing and Settlement Scheme Council.

(2) Passing of resolutions

The directors of the RSP will pass any resolution that they are asked to pass by the Ticketing and Settlement Scheme Council for the purpose of confirming or implementing a decision that has been taken by the Ticketing and Settlement Scheme Council.
PART V: THE TICKETING AND SETTLEMENT GROUPS

15-14 CONSTITUTION

Each Ticketing and Settlement Group is a group of seven individuals formed in accordance with Clause 15-15 below.

15-15 FORMATION

(1) Appointment of chairmen

(a) The Chairmen of the three Groups will be elected in the manner described in Clause 15-6

(b) No member of the Ticketing and Settlement Steering Group may be the chairman of more than one Ticketing and Settlement Group.

(2) Establishment of the Groups

(a) The members of each Ticketing and Settlement Group (other than the chairman) will be elected in accordance with the following procedure.

(3) Timing of elections

The members of the Ticketing and Settlement Groups will be elected not later than two months after the election of the members of the Ticketing and Settlement Steering Group has been completed.

(4) Maximum number of members

The maximum number of persons (excluding the chairman) who may be elected or appointed as members of a Ticketing and Settlement Group in accordance with sub-Clauses (1) and (2) above from candidates nominated by Operators in a particular band is two.

15-16 REMOVAL OF MEMBERS

(1) Method of removal
(a) The Ticketing and Settlement Scheme Council and the Ticketing and Settlement Steering Group may terminate the appointment of any member of a Ticketing and Settlement Group in the circumstances and in the manner set out in Clause 15-7 above.

(b) If a member of the Ticketing and Settlement Group fails to attend three or more consecutive meetings of it, without its approval (which may not be unreasonably withheld) that Ticketing and Settlement Group may terminate his appointment by passing a resolution to that effect.

(2) Replacement

Any member of a Ticketing and Settlement Group whose appointment is terminated in accordance with this Clause 15-16 will be replaced in accordance with Clause 15-18 below.

15-17 RETIREMENT OF MEMBERS

Immediately before the completion of each election that takes place pursuant to Clause 15-16 above, all members of the relevant Ticketing and Settlement Group will retire from office. Each of the retiring members may stand for re-election.

15-18 FILLING A VACANCY

(1) Operators which may nominate a replacement

(a) If a member of a Ticketing and Settlement Group (other than its chairman) retires or is dismissed from office, dies or (unless the Ticketing and Settlement Scheme Council agrees otherwise) ceases to be employed by the Operator which employed him at the date of his election to the Ticketing and Settlement Group or that Operator ceases to be a party to the Ticketing and Settlement Scheme, each Operator which is in the same band as the Operator that nominated him may nominate a candidate to succeed him.

(b) The nomination must be made by written notice to the ATOC Secretariat not later than the date notified by the ATOC Secretariat to each of the Operators.
(2) Voting

As soon as reasonably practicable after the last date for the receipt of nominations pursuant to sub-Clause (1) above, a successor will be elected to that **Ticketing and Settlement Group** by the **Operators** in accordance with Clause 15-6 above. However, for this purpose, each **Operator** will have one vote in respect of each vacancy. If there is more than one vacancy, only one vote may be cast in favour of any one candidate.
PART VI: MEMBERSHIP OF THE TICKETING AND SETTLEMENT SCHEME BODIES

15-19  CANDIDATES WHO MAY BE ELECTED

Each candidate nominated under Clause 15-6, 15-10, 15-16 or 15-19 must be employed by, or must be a director or officer of, or be associated with an Operator which is a party to the Ticketing and Settlement Scheme (or one of its Associates). No Operator may nominate a director, officer or employee of another Operator as a candidate without the prior consent of that other Operator.

15-20  STATUS OF MEMBERS

(1)  Salaries

The salary of each member of the Ticketing and Settlement Steering Group and each Ticketing and Settlement Group will be borne by the company which employs him (or of which he is a director or officer).

(2)  Time

That company must allow him to spend as much time as the Ticketing and Settlement Scheme Council thinks appropriate on matters falling within the responsibility of the Ticketing and Settlement Steering or, as the case may be, the relevant Ticketing and Settlement Group.

(3)  Office facilities

That company must also provide him with space within the Operator’s offices during normal business hours, and any necessary facilities, to enable him to do so.
PART VII: AUTHORITY TO ACT UNDER THE TICKETING AND SETTLEMENT SCHEME

15-21 AUTHORITY OF THE TICKETING AND SETTLEMENT SCHEME COUNCIL

The Ticketing and Settlement Scheme Council has authority to take any decision and authorise a specified person or persons to enter into any agreement or other arrangement that it considers necessary or desirable in connection with the matters contemplated by the Ticketing and Settlement Scheme.

15-22 AUTHORITY OF THE TICKETING AND SETTLEMENT STEERING GROUP

The Ticketing and Settlement Steering Group has authority to take such decisions and authorise a specified person or persons to enter into such agreements or arrangements as may be delegated to it in writing, either generally or in any particular case, by the Ticketing and Settlement Scheme Council.

15-23 DELEGATION BY THE TICKETING AND SETTLEMENT STEERING GROUP

The Ticketing and Settlement Steering Group may delegate its powers to any person approved by the Ticketing and Settlement Scheme Council. However, if the Ticketing and Settlement Steering Group wishes to appoint a person who is not one of its members as its delegate, the terms of the appointment must first be approved by the Ticketing and Settlement Scheme Council.

15-24 AUTHORITY OF THE TICKETING AND SETTLEMENT GROUPS

(1) Function

The function of each of the Ticketing and Settlement Group is to consider and decide upon any matters which fall within the area for which it is responsible that it thinks is appropriate, or which it is directed to consider by the Ticketing and Settlement Steering Group, and to make recommendations to the Ticketing and Settlement Scheme Council or the Ticketing and Settlement Steering Group.

(2) Authority to enter into agreements
Except to the extent that any delegation takes place pursuant to Clause 15-23 above, no Ticketing and Settlement Group has authority under this Agreement to enter into any agreement on behalf of any of the Operators.

(3) Delegation

No Ticketing and Settlement Group may delegate any of its powers, except to the extent expressly authorised by a resolution of the Ticketing and Settlement Steering Group.

15-25 STATUS OF AGREEMENTS ENTERED INTO

Any agreement that is properly entered into pursuant to Clauses 15-21, 15-22 or 15-24(2) above will be binding on each Operator which is a party to the Ticketing and Settlement Scheme and each such Operator will be jointly and severally liable under it.
PART VIII: PROCEEDINGS OF THE TICKETING AND SETTLEMENT SCHEME COUNCIL

15-26 ATTENDANCE AT MEETINGS

(1) Entitlement to attend and vote

Each Operator which is a party to the Ticketing and Settlement Scheme is entitled to attend and vote and to propose items for discussion and/or resolution at meetings of the Ticketing and Settlement Scheme Council. The Ticketing and Settlement Scheme Council may also invite any other persons to attend its meetings that it considers appropriate.

(2) Agenda

The ATOC Secretariat will decide in its absolute discretion which items are to be included in the agenda of any particular meeting of the Ticketing and Settlement Scheme Council. However, it shall include any items which are requested by an Operator, provided that Operator makes such a request within the following timescales:-

(a) at least 14 days prior to the meeting for an item requiring a resolution to be passed; or

(b) at least 7 days prior to the meeting for an item which is for noting.

15-27 NUMBER OF MEETINGS

(1) Regular meetings

The Ticketing and Settlement Scheme Council will meet at least five times a year and these may either be physical meetings, telephone conference calls or a physical meeting which also allows an Operator to access the meeting by telephone.

(2) Special meetings

Additional meetings, either physical or telephone conference calls, will be convened within 28 days of the receipt by the ATOC Secretariat of a requisition from:-
(a) at least 25 per cent. in number of the Operators which are entitled to vote; or

(b) one or more Operators which are entitled to vote and whose aggregate Voting Percentage is ten per cent. or more.

(3) Convening of meetings by the Operators

If the ATOC Secretariat fails to convene a meeting following the receipt of such a requisition any Operator which is entitled to vote may do so.

15-28 CONVENING OF MEETINGS

(1) Notice

(a) All meetings of the Ticketing and Settlement Scheme Council will be called by the giving of at least 14 days' notice to each Operator which is a party to the Ticketing and Settlement Scheme. A meeting may, however, be called on such shorter notice period as the Operators may unanimously agree, either at a meeting of the Ticketing and Settlement Scheme Council or by confirming such agreement in an email to the ATOC Secretariat.

(b) Subject to Clause 15-27(3) above, this notice will be given by the ATOC Secretariat.

(c) In calculating the notice period, the day on which the notice is served (or is deemed to be served) will be disregarded, but the day for which the meeting is to be called will be counted.

(2) Contents of the notice

(a) A notice convening such a meeting must specify the time and place of the meeting and the nature of the business to be transacted, including a copy of each resolution which may be proposed.

(b) The notice must also be accompanied by a form (referred to as a "Voting Card") indicating the number of votes which each Operator may cast and on which
the recipient may indicate, in respect of each resolution, whether it favours or opposes that resolution.

(c) A notice issued by the ATOC Secretariat will include an explanation in respect of any matters submitted by an Operator under Clause 15-26(2) above which it has decided not to include on the agenda of the relevant meeting.

15-29 **CHAIRMAN OF THE TICKETING AND SETTLEMENT SCHEME COUNCIL**

(1) **Election**

The Chairman of the Ticketing and Settlement Scheme Council will be elected by the members of the Ticketing and Settlement Scheme Council, for a period not exceeding two years, at a meeting of the Ticketing and Settlement Scheme Council. Each Operator who is entitled to vote at the meeting is entitled to one vote for this purpose. The Chairman must be a director, officer or employee of one of the Operators.

(2) **Election at a meeting**

If at the time appointed for the holding of that meeting that Chairman is not present, the Deputy Chairman will take the Chair for that meeting. If within half an hour from the time appointed for the holding of a meeting, neither the Chairman or the Deputy Chairman are present, those Operators which are represented at the meeting will elect a Chairman from amongst their number who is a director, officer or employee of one of the Operators. Each representative is entitled to one vote for this purpose.

(3) **Voting by the Chairman**

The Chairman may be authorised by the Operator of which he is (or of whose Associate he is), a director, officer or employee to vote at meetings of the Ticketing and Settlement Scheme Council, on behalf of that Operator. However he will not have a second or casting vote.

15-30 **DEPUTY CHAIRMAN OF THE TICKETING AND SETTLEMENT SCHEME COUNCIL**

(1) **Election**
The Deputy Chairman of the **Ticketing and Settlement Scheme Council** will be elected by members of the **Ticketing and Settlement Scheme Council**, for a period not exceeding two years, at a meeting of the **Ticketing and Settlement Scheme Council**. Each **Operator** who is entitled to vote at the meeting is entitled to one vote for this purpose. The Deputy Chairman must be a director, officer or employee of one of the **Operators**.

(2) **Election at a meeting**

If at the time appointed for the holding of that meeting that Chairman is not present, the Deputy Chairman will take the Chair for that meeting. If within half an hour from the time appointed for the holding of a meeting, neither the Chairman or the Deputy Chairman are present, those **Operators** which are represented at the meeting will elect a Chairman from amongst their number who is a director, officer or employee of one of the **Operators**. Each representative is entitled to one vote for this purpose.

(3) **Voting by the Deputy Chairman**

The Deputy Chairman may be authorised by the **Operator** of which he is (or of whose Associate he is), a director, officer or employee to vote at meetings of the **Ticketing and Settlement Scheme Council**, on behalf of that **Operator**. However he will not have a second or casting vote.

15-31 **QUORUM**

(1) **Need for a quorum**

No business will be transacted at any meeting of the **Ticketing and Settlement Scheme Council** unless a quorum is present.

(2) **The quorum**

(a) One more than the number of **Operators** which constitute the band comprised of the smallest number of **Operators** will constitute a quorum.

(b) If within half an hour from the time appointed for the holding of a meeting a quorum is not present, the meeting will stand adjourned to the same day in the next
week, at the same time and place, or at any other time, date and place that the chairman of the meeting determines.

15-32 ADJOURNMENTS

(1) Adjournment by the chairman

The chairman may, with the consent of any meeting at which a quorum is present (and must if directed to do so by the meeting), adjourn the meeting with a view to it being held at a time and a place specified by him or at a time and a place to be specified by the ATOC Secretariat within a reasonable time after the adjournment.

(2) The adjourned meeting

No business may be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place.

(3) Notice of the adjourned meeting

Whenever a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given in the same manner as notice of the original meeting was given. Apart from this, the Operators are not entitled to any notice of any adjournment, or of the business to be transacted at an adjourned meeting.

15-33 VOTING PROCEDURES

(1) Use of Voting Cards

At any Ticketing and Settlement Scheme Council meeting a resolution put to the vote of the meeting will be decided on by a casting of verbal votes or, if this does not result in a unanimous decision, an examination of any Voting Cards which are submitted in person or via email. Depending on the type of meeting which has been called, either the voting procedure set out in Clause 15-33(2) or 15-33(3) will apply.
(2) Procedure at a Physical Meeting

Each Operator may submit its Voting Card by presenting it at the meeting at which it is proposed to table the relevant resolution or by emailing it to an authorised proxy or to the ATOC Secretariat. However, unless the Voting Card is presented at the meeting, in order to be valid it must arrive at the ATOC Secretariat by email at least 2 hours before the scheduled start of the relevant meeting. Where an Operator dials into a physical meeting, that Operator may follow the procedure set out in Clause 15-33(3).

(3) Procedure at a Telephone Conference Call Meeting

Each Operator may submit its Voting Card by emailing it to an authorised proxy or to the ATOC Secretariat; however, in order to be valid it must arrive at the ATOC Secretariat by email at least 2 hours before the scheduled start of the relevant meeting at which it is proposed. Alternatively, each Operator may cast a verbal vote on the telephone conference call, but must then submit its Voting Card by emailing it to an authorised proxy or to the ATOC Secretariat; however, in order to be valid it must arrive at the ATOC Secretariat by midnight on the day of the relevant telephone conference call at which it was proposed.

15-34 RECORD OF VOTING

The number of votes cast, and the number opposing and approving each resolution, will be recorded in the minutes of each meeting by the ATOC Secretariat. All Voting Cards will be retained by the ATOC Secretariat for at least two years from the date of the meeting.

15-35 VOTING ARRANGEMENTS OUTSIDE OF A MEETING

(1) Voting outside of a meeting

A resolution of the Ticketing and Settlement Scheme Council may be passed without the convening of a meeting for that purpose if the procedure set out in this Clause 15-35 is followed.

(2) Notification of proposal to vote by resolution

Each Operator must be notified in an email by the ATOC Secretariat if a vote is to be taken pursuant to this Clause 15-35. The notice must be accompanied by the form of the resolution.
that is proposed and must state a date by which each Operator must submit a signed copy of that resolution by email to the ATOC Secretariat (the "Return Date"). The ATOC Secretariat will not stipulate a Return Date which is earlier than the twelfth Business Day after the date on which the notice is emailed out.

(3) **Deadline for the return of resolutions**

Where a vote is to be taken pursuant to this Clause 15-35, each Operator wishing to vote in favour of the resolution must email a signed copy of the resolution sent to it pursuant to sub-Clause (2) above to the ATOC Secretariat no later than the Return Date.

(4) **Validity of resolution**

A resolution will be as valid and effective as a vote in respect of it at a duly convened and held meeting of the Ticketing and Settlement Scheme Council if the procedure set out in this Clause 15-35 is followed and:-

(a) the resolution is signed by a duly authorised representative of each Operator for the time being entitled to attend and vote at Ticketing and Settlement Scheme Council meetings in respect of the matters included in the resolution; or

(b) the aggregate Voting Percentages of the Operators from which a copy of the resolution, signed by a duly authorised representative of those Operators, is received is equal to or greater than the percentage needed to pass the resolution at a meeting of the Ticketing and Settlement Scheme Council and:-

(i) at a prior meeting of the Ticketing and Settlement Scheme Council duly convened and held, the Ticketing and Settlement Scheme Council resolved that a vote in respect of the particular resolution in question would be effective in such circumstances (such resolution being passed with at least the same majority that is needed to pass the resolution to which the notice relates); or

(ii) the resolution relates to Clause 15-9 or 15-18 above.
(5) Form of resolutions

A resolution which is passed pursuant to this Clause 15-35 may consist of several instruments in substantially the same form each executed by or on behalf of one or more Operators.

(6) Emailing of resolutions

The notice to be sent by the ATOC Secretariat pursuant to sub-Clause (2) above, and the resolution to be submitted by each Operator should be sent by email.

(7) Notification of the result

The ATOC Secretariat will notify each Operator which for the time being is entitled to attend and vote at Ticketing and Settlement Scheme Council meetings whether or not a resolution that is proposed pursuant to this Clause 15-35 has been passed.

15-36 VOTING AT THE TICKETING AND SETTLEMENT SCHEME COUNCIL

(1) Number of votes

(a) Subject to sub-paragraph (c) below the total number of votes exercisable at meetings of the Ticketing and Settlement Scheme Council is 10,000. Each Operator will have a proportion of those votes that is equal to its Voting Percentage (calculated to the same number of decimal places as that Voting Percentage) and its Ticket on Departure Voting Percentage (calculated to the same number of decimal places as that Ticket on Departure Voting Percentage).

(b) These votes may be exercised by an Operator in whole or in part.

(c) Contrary to sub-paragraph (a) above, each Operator shall be entitled to vote on such other basis as may be specifically provided for in this Agreement.

(2) Entitlement to vote

No person other than an Operator which has paid, or which has made arrangements satisfactory to the Ticketing and Settlement Scheme Council to pay, every sum which is
due and payable under this Agreement is entitled to vote at any meeting of the **Ticketing and Settlement Scheme Council**.

(3) **Calculation of votes**

(a) The **Voting Percentage** and the **Ticket on Departure Voting Percentage** exercisable by each **Operator** at meetings of the **Ticketing and Settlement Scheme Council** will be calculated as soon as reasonably practicable after 31 March in each year by reference to the final thirteen complete **Settlement Periods** in the most recent complete financial year of the **RSP**.

(b) The **Voting Percentage** of each **Operator** from the date of this Agreement to the date of the first adjustment of votes made pursuant to sub-Clause (4) below is set out in Part I of Schedule 36.

(c) An **Open-Access Operator** which becomes a party to this Agreement pursuant to Clause 3-1 above is not entitled to any votes during the first three complete **Settlement Periods** after the date on which it does so.

(4) **Adjustment of Voting Percentages**

Each **Operator’s Voting Percentage** and **Ticket on Departure Voting Percentage** will be reviewed by the **ATOC Secretariat** and adjusted if necessary:-

(a) annually, on 1 April or as soon as reasonably practicable thereafter;

(b) following the expiry of three complete **Settlement Periods** after the date on which an **Open-Access Operator** becomes a party to this Agreement;

(c) immediately after any **Franchise Operator** becomes a party to the **Ticketing and Settlement Scheme**; and

(d) immediately after any **Operator** ceases to be bound by the **Ticketing and Settlement Scheme**.
(1) **Validity of resolutions**

No resolution of the **Ticketing and Settlement Scheme Council** will be valid unless, in the case of the matters listed in the first column of the following table, the votes cast in favour of that resolution (expressed as a percentage of the total votes cast in respect of the resolution) is equal to or greater than the percentage specified in the second column of that table.

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>VAT compliance procedures</strong></td>
<td>Voting Percentage 75</td>
</tr>
<tr>
<td>A resolution to change the VAT compliance procedures referred to in Clause 3-21 above.</td>
<td></td>
</tr>
<tr>
<td>2. <strong>Product brands</strong></td>
<td>Voting Percentage 75</td>
</tr>
<tr>
<td>A resolution to change the <strong>User Rules</strong>.</td>
<td></td>
</tr>
<tr>
<td>3. <strong>Retailing standards</strong></td>
<td>Voting Percentage 85</td>
</tr>
<tr>
<td>A resolution to approve the methodology for the <strong>Annual Survey</strong> and the <strong>Threshold</strong> pursuant to Clause 6-42.</td>
<td></td>
</tr>
<tr>
<td>A resolution regarding the Retail Performance Monitoring Regime pursuant to Clause 6-43, 6-44, 6-46 and 6-47 above. 67</td>
<td></td>
</tr>
<tr>
<td>4. <strong>Warrants</strong></td>
<td>Voting Percentage 45</td>
</tr>
<tr>
<td>A resolution after the third anniversary of the date of this Agreement to the effect that Clauses 7-21 to 7-31 and 7-43 to 7-47 above will cease to be binding on the <strong>Operators</strong> (or any of them).</td>
<td></td>
</tr>
<tr>
<td>5. <strong>The Routeing Guide</strong></td>
<td>Voting Percentage 75</td>
</tr>
<tr>
<td>A resolution to change the <strong>Routeing Guide</strong> pursuant to</td>
<td></td>
</tr>
</tbody>
</table>
Clause 10-6 above.

6. **ORCATS**
   A resolution to change **ORCATS** in a way that affects the **Percentage Allocations** of any **Operator**.
   
   **Voting**
   **Percentage** 85

7. **Settlement**
   A resolution to change the method of calculating **Interim Payments**.
   
   **Voting**
   **Percentage** 85

8. **Approval of the review etc.**
   The resolutions referred to in Clause 13-5 above.
   
   **Voting**
   **Percentage** 75

9. **Termination or suspension**
   A resolution pursuant to Clause 14-8 above to terminate or suspend any rights or obligations of an **Operator** under the **Ticketing and Settlement Scheme**.
   
   **Voting**
   **Percentage** 85

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting</th>
<th>Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegation</td>
<td>Voting</td>
<td>Percentage 85</td>
</tr>
<tr>
<td>A resolution authorising the delegation by the <strong>Ticketing and Settlement Steering Group</strong> of its powers to any person or approving that person or their terms of appointment.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. **Changes to the Ticketing and Settlement Scheme except Schedule 47)**
    A resolution to change any provision of the **Ticketing and Settlement Scheme**.
    
    **Voting**
    **Percentage** 85

11. **Changes to Clauses 6-21(12), 6-21(13), 6-26(3), 15-37(1) sub-section 1. and Schedule 47.**
    
    **Ticket on Departure** 85
    **Voting**
    **Percentage**
(2) **Other matters**

Any resolution of the **Ticketing and Settlement Scheme Council** other than one which relates to a matter listed in sub-Clause (1) above, will be valid if the majority of the votes cast in respect of that resolution are in favour of it.
PART IX: MEETINGS OF THE TICKETING AND SETTLEMENT STEERING GROUP

15-38 VOTING

Each member of the Ticketing and Settlement Steering Group other than the Chief Executive of Rail Settlement Plan Ltd. is entitled to one vote at meetings of the Ticketing and Settlement Steering Group. No person other than a member of the Ticketing and Settlement Steering Group is entitled to vote at such a meeting.

15-39 QUORUM

No business shall be transacted at any meeting of the Ticketing and Settlement Steering Group unless a quorum is present when the meeting proceeds to business. Such a quorum will be present if more than half the members of the Ticketing and Settlement Steering Group are present at the meeting in person.

15-40 VOTING MAJORITY

No resolution of the Ticketing and Settlement Steering Group is valid unless more than 50 per cent. of the votes cast are in favour of the resolution. Voting at meetings of the Ticketing and Settlement Steering Group shall be determined by a simple majority. In the event of a vote being tied, the Chairman of the Ticketing and Settlement Steering Group will have a second or casting vote.

15-41 PROCEDURES

The Ticketing and Settlement Steering Group will ensure that a complete list of the matters which are to be discussed at its meetings are distributed to all the Operators at least seven days in advance of such meetings and that minutes of all its meetings are taken and distributed to all the Operators.

15-42 REPORTING

The Ticketing and Settlement Steering Group will report to the Ticketing and Settlement Scheme Council at such intervals and on such occasions that the Ticketing and Settlement Scheme Council determines is necessary to enable it to ensure that the Ticketing and Settlement Steering Group is fulfilling its functions.
REGULATION OF PROCEEDINGS

Except to the extent provided in Clauses 15-38 to 15-42 above, the **Ticketing and Settlement Steering Group** may regulate its proceedings as it considers appropriate.
PART X: MEETINGS OF THE TICKETING AND SETTLEMENT SCHEME GROUPS

15-44  APPLICATION OF PART IX

Clauses 15-38 to 15-43 will apply to meetings of each Ticketing and Settlement Scheme Group as if references to the Ticketing and Settlement Steering Group were to the relevant Ticketing and Settlement Scheme Group and references to the Ticketing and Settlement Scheme Council were to the Ticketing and Settlement Steering Group.
PART XI: COSTS ARISING UNDER THE TICKETING AND SETTLEMENT SCHEME

15-45 PREPARATION OF THE BUDGET

(1) Preparation

(a) At least two Settlement Periods before 1 April in each year, the RSP will prepare a budget of the costs (including those for which credit is not available under the VAT Act) expected to be incurred in the 12 months commencing on 1 April of that year in connection with those parts of this Agreement for which it is responsible.

(b) This budget will then be submitted to the Ticketing and Settlement Scheme Council for its approval.

(2) The position if the budget is not approved

If the budget is not approved before the beginning of the period to which it relates, the budget for that period will be equal to the previous year's budget for the equivalent period in the previous financial year of the RSP, increased by the percentage increase in the Retail Prices Index between the start of that equivalent period and the start of the period for which the budget is required.

15-46 LIABILITY OF THE OPERATORS

(1) Proportion to be borne

Subject to sub-Clause (2) below, each Operator will contribute an amount which is equal to the budget set in accordance with Clause 15-45 above multiplied by its Voting Percentage or as otherwise agreed by Operators with regard to any particular RSP service. The Ticketing and Settlement Scheme Council may, from time to time, amend the apportionment of any particular RSP service, by passing a resolution to do so.

(2) Liability of Open-Access Operators

(a) An Open-Access Operator which is bound by Chapters 4 to 6, 8 and 10 to 12 (or any part of them) will contribute to the costs referred to in Clause 15-45 above
only once its Voting Percentage has been determined pursuant to Clause 15-36(4) above.

(b) However, in respect of the budget for the financial year in which the Open-Access Operator becomes bound by those Chapters (or any part of them), it must contribute an amount which is calculated in line with Clause 15-46(1) above.

(3) VAT on contributions

Each Operator must pay any VAT that is due in respect of its contributions under this Clause 15-46.

15-47 ADJUSTMENTS TO THE BUDGET

(1) Making adjustments

The Ticketing and Settlement Scheme Council may, at the request of the Ticketing and Settlement Steering Group, adjust the budget after the start of the period to which it relates and may demand any additional amounts from the Operators as are necessary as a consequence.

(2) Surplus contributions

Any surplus contributions which may arise will be paid to the Operators in direct proportion to their contributions for the relevant period.

15-48 PAYMENT BY OPERATORS

Any amount which is due from an Operator pursuant to Clause 15-46 above will be payable at the direction of the Ticketing and Settlement Steering Group and will be cleared and settled through the RSP pursuant to Clause 12-29 above. The ATOC Secretariat will notify the RSP of each amount which is due from each Operator as soon as reasonably practicable after it has been determined.

15-49 PAYMENT TO THIRD PARTIES
The Ticketing and Settlement Steering Group will arrange for sums due to third parties under any agreement or other arrangement that has been entered into pursuant to the Ticketing and Settlement Scheme to be paid as appropriate.
PART XII: THE RETAIL AGENTS SCHEME COUNCIL

15-50 CONSTITUTION

The Retail Agents Scheme Council consists of each person that is an Operator at the date of this Agreement or that becomes an Operator by signing an Accession Agreement under which it agrees to be bound by all or part of the Retail Agents Scheme. However, it excludes any Operator whose rights and obligations under this Agreement are terminated pursuant to Chapter 14 of this Agreement, as from the date on which the relevant resolution takes effect.
PART XIII: THE RETAIL AGENTS SCHEME MANAGEMENT GROUP

15-51 CONSTITUTION

The Retail Agents Scheme Management Group is elected in accordance with Clause 15-52 below.

15-52 ELECTION PROCEDURE

(1) Nomination and voting

Members of the Retail Agents Scheme Management Group will be elected in accordance with the following procedure:-

(a) Subject to sub-Clause (3) below, the Operators which are parties to the Retail Agents Scheme will be listed in descending order according to the total Credits respectively received by them from Sales made under an ATOC Licence or a New ATOC Licence in respect of the final thirteen complete Settlement Periods in the most recent complete financial year of the RSP.

(b) Until September 2002, that list will be divided into four bands, of which:-

(i) band A will, in descending order, comprise those Operators which together received the first 82.5 per cent. of the Total Retail Agents Income (or the nearest smaller percentage of it) unless this would result in band A comprising fewer than four Operators, in which case band A will comprise the first four Operators on the list;

(ii) band B will, in descending order, comprise those Operators which together received the next 13.5 per cent. of the Total Retail Agents Income (or the nearest smaller percentage of it) unless this would result in band B comprising fewer than three Operators, in which case band B will comprise the next three Operators on the list;

(iii) band C will comprise those Operators which together received the remainder of the Total Retail Agents Income; and
(iv) band D will comprise those Operators whose Owning Group is not otherwise represented on the Retail Agents Scheme Management Group at the time of the issue of the first New ATOC Licence.

(c) Following the issue of the first New ATOC Licence each of the Operators within band D (as defined above) shall be deemed to be nominated for election as a member of the Retail Agents Scheme Management Group.

(d) A list of such candidates will be distributed to each Operator which is a party to the Retail Agents Scheme by the ATOC Secretariat.

(e) Each such Operator may vote for three candidates in band D. Operators may not cast more than one vote in favour of any one candidate.

(f) the three candidates with the highest numbers of votes will be appointed to the Retail Agents Scheme Management Group with effect until the election of 1 September 2002.

(g) For the election to be held in September 2002, the list referred to in paragraph (a) above will be divided into three bands, of which:-

(i) band A will, in descending order, comprise those Operators which together received the first 82.5 per cent of the Total Retail Agents Income (or the nearest smaller percentage of it) unless this would result in band A comprising fewer than four Operators, in which case band A will comprise the first four Operators on the list;

(ii) band B will, in descending order, comprise those Operators which together received the next 13.5 percent of the Total Retail Agents Income (or the nearest smaller percentage of it) unless this would result in band B comprising fewer than three Operators, in which case band B will comprise the next three Operators on the list;

(iii) band C will comprise those Operators which together received the remainder of the Total Retail Agents Income.
(h) Each of the Operators within each band may, by giving written notice to the ATOC Secretariat, nominate one candidate for election as a member of the Retail Agents Scheme Management Group.

(i) A list of the candidates, including the band in which the Operator nominating each candidate falls, will be distributed to each Operator which is a party to the Retail Agents Scheme by the ATOC Secretariat.

(j) Each such Operator will be entitled to a total of nine votes and may vote for four candidates in band A, three in band B and two in band C. Operators may not cast more than one vote in favour of any one candidate.

(k) In respect of each band, the candidates with the highest numbers of votes will be appointed to the Retail Agents Scheme Management Group, subject to the limits on the number of representatives for that band set out above and provided that no Owning Group may, with effect from 1 September 2002 have more than two of its Operators elected to the Retail Agents Scheme Management Group.

For the purposes of this sub-Clause, “Total Retail Agents Income” means the total Credits (exclusive of VAT) received by all the Operators which are parties to the Retail Agents Scheme in respect of Sales made under an ATOC Licence and/or New ATOC Licence, measured over the thirteen Settlement Periods used for the purposes of paragraph (a) above.

(2) Equality of votes

If the election procedure set out in sub-Clause (1) above results in a tie in respect of any band, or the election of more than two Operators from any one Owning Group, the voting in relation to that band or those Operators must be repeated.

(3) Initial bands

The band in which each Operator falls prior to the issue of the first New ATOC Licence is set out in Part II of Schedule 36.
Clauses 15-7 to 15-11, 15-20 and 15-21 above also apply to the Retail Agents Scheme as if each reference to the Ticketing and Settlement Scheme were to the Retail Agents Scheme, each reference to the Ticketing and Settlement Scheme Council were a reference to the Retail Agents Scheme Council and each reference to the Ticketing and Settlement Steering Group were to the Retail Agents Scheme Management Group.
PART XIV: AUTHORITY TO ACT UNDER THE RETAIL AGENTS SCHEME

15-54  AUTHORITY OF THE RETAIL AGENTS SCHEME COUNCIL

The Retail Agents Scheme Council has authority to take any decision and authorise a specified person or persons to enter into any agreement or other arrangement that it considers necessary or desirable in connection with the matters contemplated by the Retail Agents Scheme.

15-55  AUTHORITY OF THE RETAIL AGENTS SCHEME MANAGEMENT GROUP

The Retail Agents Scheme Management Group has authority to take such decisions and authorise a specified person or persons to enter into such agreements or arrangements as may be delegated to it in writing, either generally or in any particular case, by the Retail Agents Scheme Council.

15-56  STATUS OF AGREEMENTS ENTERED INTO

Any agreement that is entered into pursuant to Clause 15-54 or 15-55 above will be binding on each Operator which is a party to the Retail Agents Scheme and each such Operator will be jointly and severally liable under it.
PART XV: PROCEEDINGS OF THE RETAIL AGENTS SCHEME COUNCIL

15-57 APPLICATION OF PART VIII

Clauses 15-26 to 15-36 above will apply to the Retail Agents Scheme as if references to the Ticketing and Settlement Scheme were to the Retail Agents Scheme and references to the Ticketing and Settlement Scheme Council were to the Retail Agents Scheme Council, with the addition of the following provisions, which for the purposes of the Retail Agents Scheme only, shall be deemed included as part of Clause 15-36:

(1) Adjustment of Scheme Voting Percentages

Each Operator’s Scheme Voting Percentage will be reviewed by the ATOC Secretariat and adjusted if necessary:-

(a) at least every six months or as soon as reasonably practicable thereafter;

(b) following the expiry of three complete Settlement Periods after the date on which an Open-Access Operator becomes a party to this Agreement;

(c) immediately after any Franchise Operator becomes a party to the Ticketing and Settlement Scheme; and

(d) immediately after any Operator ceases to be bound by the Ticketing and Settlement Scheme.

(2) Adjustment of Licence Voting Percentages

For the first thirteen Settlement Periods following the grant of the first New ATOC Licence, each Operator’s Licence Voting Percentage shall be equal to its Voting Percentage. Thereafter, each Operator’s Licence Voting Percentage shall be reviewed by the ATOC Secretariat and shall be adjusted if necessary:-

(a) at least every six months or as soon as reasonably practicable thereafter;

(b) following the expiry of three complete Settlement Periods after the date on which an Open-Access Operator becomes a party to this Agreement;
(c) immediately after any Franchise Operator becomes a party to the Ticketing and Settlement Scheme; and

(d) immediately after any Operator ceases to be bound by the Ticketing and Settlement Scheme.

15-58 VOTING MAJORITIES

(1) Validity of resolutions on Scheme Matters

Subject to Part VIII of this Chapter as applied to this Part XV, no resolution of the Retail Agents Scheme Council will be valid in relation to Scheme Matters unless, in the case of the matters listed in the first column of the following table, the votes cast using Scheme Voting Percentages or Licence Voting Percentages (as provided below) in favour of that resolution (expressed as a percentage of the total votes cast in respect of the resolution) is equal to or greater than the percentage specified in that table except that no resolution to terminate the Retail Agents Scheme or, as the case may be, to terminate a particular category of ATOC Licence or New ATOC Licence shall be effective unless approved by the Authority and, in any event, such termination shall be without prejudice to the continued operation of the Retail Agents Scheme in respect of ATOC Licences and New ATOC Licences in force as at the date of termination of the Retail Agents Scheme or particular category of New ATOC Licence or ATOC Licence.

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting Percentage</th>
<th>Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Termination or suspension</td>
<td></td>
<td>90</td>
</tr>
<tr>
<td>A resolution pursuant to Clause 14-8 above to terminate or suspend any rights or obligations of an Operator under the Retail Agents Scheme.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Changes to the Retail Agents Scheme</td>
<td></td>
<td>90</td>
</tr>
<tr>
<td>A resolution to change any provision of the Retail Agents Scheme.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Termination of Categories of licence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A resolution to terminate one or more categories of ATOC Licence or New ATOC Licence.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. if such resolution proposed within two years of the issue of the first New ATOC Licence</td>
<td>Scheme Voting</td>
<td>90</td>
</tr>
<tr>
<td>2. if such resolution proposed two years or more</td>
<td>Licence Voting</td>
<td>90</td>
</tr>
</tbody>
</table>
after the issue of the first New ATOC Licence. Percentage

(2) Other Scheme Matters

Any resolution of the Retail Agents Scheme Council other than one which relates to a matter listed in sub-Clauses (1) above, will be valid if the majority of the votes cast in respect of that resolution are in favour of it, provided that if the resolution is in respect of the delegation of authority by the Retail Agents Scheme Council to the Retail Agents Scheme Management Group, then such a resolution will not be valid unless, in the case of matters listed in the first column of the following table, a majority of the votes cast using the Licence Voting Percentages or Scheme Voting Percentages (as specified in the second column of that table) is in favour of that resolution:

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting Percentage</th>
<th>Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. if such resolution proposed within two years of the issue of the first New ATOC Licence.</td>
<td>Scheme Voting Percentage</td>
<td>90</td>
</tr>
<tr>
<td>2. if such resolution proposed two years or more after the issue of the first New ATOC Licence.</td>
<td>Licence Voting Percentage</td>
<td>90</td>
</tr>
</tbody>
</table>

(3) Validity of resolutions on Licence Matters

Subject to Part VIII of this Chapter as applied to this Part XV, no resolution of the Retail Agents Scheme Council will be valid in relation to Licence Matters unless, in the case of matters listed in the first column of the following table, the votes cast using the Voting Percentage, Licence Voting Percentages, Scheme Voting Percentages or Season Ticket Percentages (as specified in the second column of that table) in favour of that resolution (expressed as a percentage of the total votes cast in respect of that resolution) is equal to or greater than the percentage specified in the third column of that table:

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting Percentage</th>
<th>Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Changes to ATOC Licences issued under the Scheme</td>
<td>Licence Voting Percentage</td>
<td>simple majority of the votes cast on the resolution</td>
</tr>
</tbody>
</table>
| 2. Changes to New ATOC Licences issued under the Scheme | | than specific changes set out below:
2.1 if such resolution proposed within two years of the issue of the first New ATOC Licence

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting Percentage</th>
<th>Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. To change the maximum target rate for the Agent’s Fee within two years of the issue of the first New ATOC Licence:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1. if the ATOC Retail Agent is not authorised to Sell Season Ticket Fares</td>
<td>Agent’s Fee</td>
<td>70</td>
</tr>
<tr>
<td>1.2. if the ATOC Retail Agent is authorised to Sell Season Ticket Fares</td>
<td>Voting Percentage</td>
<td>70</td>
</tr>
</tbody>
</table>

2.2 if such resolution proposed two years or more after the first New ATOC Licence

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Voting Percentage</th>
<th>simple majority of the votes cast on the resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. To change the maximum target rate for the Agent’s Fee within two years of the issue of the first New ATOC Licence:</td>
<td>simple majority of the votes cast on the resolution</td>
<td></td>
</tr>
<tr>
<td>1.1. if the ATOC Retail Agent is not authorised to Sell Season Ticket Fares</td>
<td>Agent’s Fee</td>
<td>70</td>
</tr>
<tr>
<td>1.2. if the ATOC Retail Agent is authorised to Sell Season Ticket Fares</td>
<td>Voting Percentage</td>
<td>70</td>
</tr>
</tbody>
</table>

3. Management and administration of licences

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Scheme Voting Percentage</th>
<th>simple majority of the votes cast on the resolution</th>
</tr>
</thead>
</table>

4. Approval of the annual budget associated with licence under the Retail Agents Scheme

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Licence Voting Percentage</th>
<th>simple majority of the votes cast on the resolution</th>
</tr>
</thead>
</table>

5. To authorise ATOC Retail Agents to Sell Season Ticket

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Percentage</th>
<th>65</th>
</tr>
</thead>
</table>

(4) Validity of resolutions on Agent’s Fee

Subject to Part VIII of this Chapter as applied to this Part XV, no resolution of the Retail Agents Scheme Council will be valid in relation to the Agent’s Fee unless, in the case of matters listed in the first column of the following table, the votes cast using the Agent’s Fee Voting Percentage, Season Ticket Percentages or the Licence Voting Percentages (as specified in the second column of that table) in favour of that resolution (expressed as a percentage of the total votes cast in respect of that resolution is equal to or greater than the percentage specified in the third column of that table):

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Relevant Voting Percentage</th>
<th>Percentage Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. To change the maximum target rate for the Agent’s Fee within two years of the issue of the first New ATOC Licence:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1. if the ATOC Retail Agent is not authorised to Sell Season Ticket Fares</td>
<td>Agent’s Fee</td>
<td>70</td>
</tr>
<tr>
<td>1.2. if the ATOC Retail Agent is authorised to Sell Season Ticket Fares</td>
<td>Voting Percentage</td>
<td>70</td>
</tr>
</tbody>
</table>
Season Ticket Fares

2. To change the maximum target rate for the Agent’s Fee two years or more after the issue of the first New ATOC Licence:

2.1. if the ATOC Retail Agent is not authorised to Sell Season Ticket Fares

<table>
<thead>
<tr>
<th>Agent’s Fee</th>
<th>Voting Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>70</td>
<td></td>
</tr>
</tbody>
</table>

2.2. if the ATOC Retail Agent is authorised to Sell Season Ticket Fares

<table>
<thead>
<tr>
<th>Licence Voting Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>70</td>
</tr>
</tbody>
</table>

3. To set the initial maximum target rate for the Agent’s Sale of Season Ticket Fares

<table>
<thead>
<tr>
<th>Season Ticket Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
</tr>
</tbody>
</table>
PART XVI: MEETINGS OF THE RETAIL AGENTS SCHEME MANAGEMENT GROUP

15-59 APPLICATION OF PART IX

Clauses 15-38 to 15-43 above will apply to the Retail Agents Scheme as if references to the Ticketing and Settlement Steering Group were to the Retail Agents Scheme Management Group and reference to the Ticketing and Settlement Scheme Council were to the Retail Agents Scheme Council with the addition of the following provisions:

(1) Voting

Any Operators who are elected as members of band D shall be entitled to attend meetings of the Retail Agents Scheme Management Group but may only vote at such meetings on matters that relate to the New ATOC Licence.

(2) Quorum

Until 1 September 2002 a meeting of the Retail Agents Scheme Management Group shall be quorate if there is at least one member from each of bands A, B and C present. After 1 September 2002 a meeting of the Retail Agents Scheme Management Group shall be quorate if there are at least four members present.
PART XVII: COSTS ARISING UNDER THE RETAIL AGENTS SCHEME

15-60 APPLICATION OF PART X

Clauses 15-45 to 15-49 above will apply to the Retail Agents Scheme as if references to the Ticketing and Settlement Scheme Council were to the Retail Agents Scheme Council and references to the Ticketing and Settlement Steering Group were to the Retail Agents Scheme Management Group and as if references to Voting Percentage were to Scheme Voting Percentage.
PART XVIII: ALTERATIONS TO THIS AGREEMENT

15-61 RESOLUTIONS TO ALTER THIS AGREEMENT

(1) Resolutions of the Ticketing and Settlement Scheme Council

Subject to Clause 15-62 below, the Ticketing and Settlement Scheme may be changed from time to time by the Ticketing and Settlement Scheme Council, voting in accordance with Clause 15-37 above. The resolution must set out the wording of the changes to the Ticketing and Settlement Scheme that are proposed.

(2) Resolutions of the Retail Agents Scheme Council

Subject to Clause 15-62 below, the Retail Agents Scheme may be changed from time to time by the Retail Agents Scheme Council voting in accordance with Clause 15-58 above. The resolution must set out the wording of the changes to the Retail Agents Scheme that are proposed.

(3) Effect on Chapters 2 and 3

A resolution passed by the Ticketing and Settlement Scheme Council or the Retail Agents Scheme to change Chapters 2, 3, 13 or 14 will only be valid insofar as it relates to the Ticketing and Settlement Scheme or the Retail Agents Scheme respectively.

15-62 APPROVAL OF ALTERATIONS

(1) Approval of the Authority

(a) No resolution to alter or waive, or which has the effect of altering or waiving, any Operator’s rights or obligations under any provision of this Agreement will be effective unless and until it is approved in writing by the Authority. This paragraph (a) does not apply to:-

(i) Chapter 5;

(ii) Clause 6-20(5)(g)
(iii) Parts II to X of Chapter 7; and

(iv) Schedules 6, 9, 12 to 15, 20, 22, 25 to 27, 32 to 35, 37, 39 and 47.

(b) Any other changes may be made by the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council without the approval of the Authority, but it must inform him as soon as reasonably practicable:-

(i) if such resolution is proposed; and

(ii) of the outcome of the voting by the Operators on the resolution.

(c) An Operator may not do anything which alters, or has the effect of altering or waiving, any Operator’s rights or obligations under the provisions of this Agreement specified in Schedule 39, other than in accordance with Part XVIII of this Chapter.

15-63 PROCEDURE FOR OBTAINING THE APPROVAL OF THE AUTHORITY

(1) The request for the approval

(a) A request for the approval of the Authority to any amendment of this Agreement pursuant to Clause 15-62 above must be by the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council (or a person authorised by it). The request must be supported by written representations from the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council.

(b) The request may be made before or after the relevant resolution is voted upon. However, if the approval of the Authority has not been obtained by the time the resolution is voted upon it must be conditional on the obtaining of such approval.

(2) Notification to other Operators

Following the receipt of such a request, the Authority will if the amendment has not been passed by a unanimous resolution:-
(a) notify each of the Operators; and

(b) consider the representations made by the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council or by any of the Operators;

(3) Contents of representations to the Authority

The representations referred to in this Clause 15-63 must be made in such form and within such times, and must contain such details, as the Authority may specify from time to time, either generally or in any particular case.

(4) Representations by the Operators

(a) In seeking the views of the Operators pursuant to sub-Clause (2) above, the Authority may give them any information about the request and the representations made by the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council that it considers appropriate.

(b) However, the Ticketing and Settlement Scheme Council or, as the case may be, the Retail Agents Scheme Council may ask the Authority to keep any representations it makes confidential. The Authority will comply with such a request, but may refuse to consider further the request for its approval if it believes it will not be possible properly to seek the views of the Operators if the information is not disclosed.

(c) The Authority may require any Operator making any of the representations referred to in this Clause 15-63 to provide any further information that it needs, either orally or in writing. Paragraphs (a) and (b) above will also apply to this information.

(5) Notification of the decision

(a) The Authority will notify its decision to the Operators as soon as reasonably practicable and, in any event, will respond to the request (either with its decision or to say that it needs more time to consider the matter) within a period of twenty Business Days of receiving it.
(b) If the Authority has not responded to the Operators within that period, the relevant consent will be deemed to have been given and notified to the Operators.

15-64 EFFECT OF A RESOLUTION

If a resolution of the Ticketing and Settlement Scheme Council or the Retail Agents Scheme Council is passed pursuant to Clause 15-37 or, as the case may be, Clause 15-58 above and, where required by Clause 15-62 above, the approval of the Authority is obtained (or is deemed to have been given), this Agreement will be amended in accordance with the terms of the resolution.

15-65 THE EFFECT OF CEASING TO BE BOUND

(1) Accrued rights and obligations

The fact that an Operator ceases to be bound by any part of this Agreement will not affect the accrued rights and obligations of the parties at that time. Nor will it affect any accrued rights and obligations of that Operator under any agreement that has been entered into under this Agreement at that time.

(2) Costs of withdrawal from Chapter 7

An Operator which ceases to be bound by Chapter 7 will pay all costs and expenses (including any VAT for which credit is not available under the VAT Act) directly caused by such cessation, as determined by the Ticketing and Settlement Steering Group.

(3) Costs of withdrawal from the Retail Agents Scheme

An Operator which ceases to be bound by the Retail Agents Scheme will pay all costs and expenses (including any VAT for which credit is not available under the VAT Act) directly caused by such cessation, as determined by the Retail Agents Scheme Management Group.

PART XIX: PREJUDICIAL CONDUCT

15-66 APPLICATION OF THIS PART

(1) Relevant bodies
This Part applies in relation to any **Decision** of any of the following bodies which affects or, if made, would affect the rights and/or liabilities of the **Operators**, whether under this Agreement or otherwise:

(a) the **Ticketing and Settlement Scheme Council**;

(b) the **Ticketing and Settlement Steering Group**;

(c) the **Retail Agents Scheme Council**;

(d) the **Retail Agents Scheme Management Group**;

(e) the directors of the **RSP**;

(f) the shareholders of the **RSP**;

(g) any person or group of persons to whom any of the bodies referred to above has delegated any of its powers, when exercising those powers.

(2) **Meaning of a "Decision"**

For the purpose of sub-Clause (1) above, a "**Decision**" means:-

(a) a resolution passed by the relevant body or a decision made by that body;

(b) a rejection of a resolution proposed to, or a failure to make the decision requested of, the relevant body;

(c) a failure to propose a resolution, or to put a request for a decision, to the relevant body.

(3) **Meaning of "Scheme Decision"**

Any **Decision** that falls within this Clause 15-66 is referred to as a "**Scheme Decision**".
15-67 PREJUDICIAL SCHEME DECISIONS

(1) Application of this Clause

This Clause 15-67 applies where:-

(a) a Scheme Decision is unfairly and materially prejudicial to the interests of one or more Operators (each referred to as an "Oppressed Operator"); and

(b) some or all of the Operators which caused the Scheme Decision to occur or actively co-operated in the making of the Scheme Decision (or the events which led to it) intended this result or knew that it would be the result.

(2) Rights of an Oppressed Operator

(a) Any Operator that believes it is an Oppressed Operator and that the criteria set out in sub-Clause (1) above are satisfied may within ten Business Days of the occurrence of the Scheme Decision give written notice to the person acting as Disputes Secretary under the ATOC Dispute Resolution Rules (referred to as the "Disputes Secretary") to this effect. A copy of the notice must also be sent at the same time to the members of the body referred to in sub-Clause 15-66(1) above which was responsible for the Scheme Decision.

(b) If the notice is served within that period, notwithstanding anything to the contrary contained in this Agreement or in the constitution of ATOC, the Scheme Decision (if it consists of a resolution) will not come into effect for ten Business Days after the receipt of the notice by the Disputes Secretary.

(c) The Disputes Secretary will ensure that the matter is considered by an arbitrator selected from the register maintained by him pursuant to the ATOC Dispute Resolution Rules within the period of ten Business Days referred to in paragraph (b) above. The parties to the arbitration will be each Operator which served the notice referred to in paragraph (a) above and the body referred to in Clause 15-66 which was responsible for the relevant Scheme Decision.

(3) The position if the criteria are satisfied
If the arbitrator concludes that the criteria in sub-Clause (1) above are satisfied:

(a) if the relevant **Scheme Decision** consists of a resolution that has been passed, it will be invalid;

(b) if the **Scheme Decision** consists of a failure to pass a resolution or of a failure to make the decision requested, that resolution or that decision will be deemed to have been passed or made;

(c) if the **Scheme Decision** consists of a failure to propose a resolution or to put a request for a decision, that resolution will be proposed or, as the case may be, that request will be put to the relevant body.

Each of the **Operators** will be bound accordingly.

(4) **The position if the criteria are not satisfied**

If the arbitrator concludes that the criteria in sub-Clause (1) above are not satisfied:

(a) (notwithstanding anything to the contrary in the **ATOC Dispute Resolution Rules**) the **Operator(s)** which served the relevant notice pursuant to Sub-Clause (2)(a) above will bear all the costs of the arbitration, including those of the body referred to in Clause 15-66 which was responsible for the relevant **Scheme Decision**; and

(b) the suspension of the relevant **Scheme Decision** pursuant to Clause 15-67(2)(b) will be lifted.

(5) **Factors to be taken into account**

A **Scheme Decision** may satisfy the criteria in sub-Clause (1) above even if:

(a) none of the procedural rules set out in this Agreement have been breached; and/or
(b) in addition to the **Operator** serving the notice pursuant to sub-Clause (2) above, one or more other **Operators** (including those referred to in sub-Clause (1)(b) above) were prejudiced by the **Scheme Decision**.