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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.

"**PMMD**" 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** intended primarily for work, study or business purposes which entitles the holder to make either an unlimited or a specified 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.

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**.

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 **Fare 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.

4-21 DUTY OF THE LEAD OPERATOR TO ACT IN AN EVEN-HANDED MANNER

In **Creating** a **Fare** pursuant to Clause 4-20 above, the **Lead Operator**:-

(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 **Operator**s 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**.

PART VIII: RESERVATIONS

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: UPGRADES

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**.

(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.

5-17 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.

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:-

(i) 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.

Operator	Location of **Sale**	Product **Sold**	Rate of commission
Any **Operator**	On a train	**Basic Product**	**National Standard Rate of Commission**
Any **Operator**	On a train	Any **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
Lead Retailer	**Station** where it is the **Lead Retailer**	**Basic Product**	**National Standard Rate of Commission**
Lead Retailer	**Station** where it is the **Lead Retailer**	Any **Rail Product** which is not a **Basic Product**	Nil unless otherwise agreed between the **Lead Retailer** and any of the **Operators** which are bound to honour the **Rail Product**
Any **Operator**	**Telephone Sales Office** that is an **Impartial Point of Sale**	**Basic Product**	**National Standard Rate of Commission**
Any **Operator**	**Telephone Sales Office** that is an **Impartial Point of Sale**	Any **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**	**Internet Site** that is an **Impartial Point of Sale**	**Basic Product** that is not a **Season Ticket**	4.5% on all sales from 01 April 2025.
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**	3.5% on all sales from 01 April 2025.
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**.

(3) 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**.

(4) 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**.

6-45 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**.

6-46 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**.

6-47 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 Card**s 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 Card**s, **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 Card**s.

(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**.

7-38 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**.

PART V: NON-RAIL PRODUCTS

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 **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-Clause (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 Card**s, **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.

(c) 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:-

$$\textbf{Suspense Amount} = \textbf{Current Credit} \times \frac{\textbf{Settlement Period Validity}}{\textbf{Total Validity}}$$

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:-

$$\textbf{Adjustment} = (\textbf{New Credit} - \textbf{Original Credit}) \times \frac{\textbf{Remaining Validity Amount}}{\textbf{Total Validity}}$$

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**

Type of **Fare**	**Percentage Allocation**
A **Fare Created** by a Lead **Operator**	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.
A **Dedicated Fare**	If the relevant **Operator** runs the trains on which the **Dedicated 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.

2. **Fares** for other **Flows**

Type of **Fare**	**Percentage Allocation**
A **Fare Created** by a **Major Flow Operator**	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.
A **Dedicated Fare**	If the relevant **Operator** runs the trains on which

	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.

PART IV: MANUAL ALLOCATIONS

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.

(2) Effect on other **Operators**

Each **Operator** which is not a party to the agreement referred to in Sub-Clause (1) above will continue to receive the **Percentage Allocations** it would have received in the absence of the agreement.

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

(b) 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 re-creating **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**

(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**;

(j) 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

(k) 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 **Sale**s 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-Clause (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:-

(i) 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:-

$$\textbf{Interim Payment} = \frac{\textbf{Historical Settlement Amount}}{\textbf{Number of Payments}} \times 70\%$$

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:-

Final Payment	=	**Compulsory Settlement Amount**	+	**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 Period**s, 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**.

PART VII: DEFAULTS

12-41 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.

12-42 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:-

Shared Loss = Overdue Amount x 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 the 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 **Operator**s 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 **ATOC Secretariat** not later than the date notified by the **ATOC 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 **Operator**s 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 **Operator**s.

(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 **Operator**s 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 **Operator**s. 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**.

15-37 VOTING MAJORITIES

(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.

	Resolution	Relevant Voting Percentage	Percentage Required
1.	**VAT** compliance procedures A resolution to change the **VAT** compliance procedures referred to in Clause 3-21 above.	**Voting Percentage**	75
2.	Product brands A resolution to change the **User Rules.**	**Voting Percentage**	75

	Resolution	Relevant Voting Percentage	Percentage Required
3.	Retailing standards A resolution to approve the methodology for the **Annual Survey** and the **Threshold** pursuant to Clause 6-42.	**Voting Percentage**	85
	A resolution regarding the Retail Performance Monitoring Regime pursuant to Clause 6-43, 6-44, 6-46 and 6-47 above.		67
4.	**Warrants** 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 **Operators** (or any of them).	**Voting Percentage**	45
5.	The **Routeing Guide** A resolution to change the **Routeing Guide** pursuant to	**Voting Percentage**	75

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

	Resolution	Relevant Voting Percentage	Percentage Required
10.	Delegation A resolution authorising the delegation by the **Ticketing and Settlement Steering Group** of its powers to any person or approving that person or their terms of appointment.	**Voting Percentage**	85
11.	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
12.	Changes to Clauses 6-21(12), 6-21(13), 6-26(3), 15-37(1) sub-section 1. and Schedule 47.	**Ticket on Departure Voting Percentage**	85

(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.

15-43 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.

15-53 OTHER PROVISIONS RELATING TO THE **RETAIL AGENTS SCHEME MANAGEMENT GROUP**

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**.

	Resolution	Relevant Voting Percentage	Percentage Required
1.	Termination or suspension A resolution pursuant to Clause 14-8 above to terminate or suspend any rights or obligations of an **Operator** under the **Retail Agents Scheme.**		90
2.	Changes to the **Retail Agents Scheme** A resolution to change any provision of the **Retail Agents Scheme**.		90
3.	Termination of Categories of licence A resolution to terminate one or more categories of **ATOC Licence** or **New ATOC Licence**.		
	1. if such resolution proposed within two years of the issue of the first **New ATOC Licence**.	**Scheme Voting Percentage**	90
	2. if such resolution proposed two years or more	**Licence Voting**	90

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-Clause (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:

	Resolution	Relevant Voting Percentage	Percentage Required
1.	if such resolution proposed within two years of the issue of the first **New ATOC Licence**.	**Scheme Voting Percentage**	90
2.	if such resolution proposed two years or more after the issue of the first **New ATOC Licence**.	**Licence Voting Percentage**	90

(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:

	Resolution	Relevant Voting Percentage	Percentage Required
1.	Changes to **ATOC Licences** issued under the Scheme	**Licence Voting Percentage**	simple majority of the votes cast on the resolution
2.	Changes to **New ATOC Licences** issued under the S than specific changes set out below:		

2.1	if such resolution proposed within two years of the issue of the first **New ATOC Licence**	**Voting Percentage**	simple majority of the votes cast on the resolution
2.2	if such resolution proposed two years or more after th first **New ATOC Licence**	**Licence Voting Percentage**	simple majority of the votes cast on the resolution
3.	Management and administration of licences	**Scheme Voting Percentage**	simple majority of the votes cast on the resolution
4.	Approval of the annual budget associated with licenc under the **Retail Agents Scheme**	**Licence Voting Percentage**	simple majority of the votes cast on the resolution
5.	To authorise **ATOC Retail Agents** to **Sell Season Ti**	**Season Ticket Percentage s**	65

(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:

	Resolution	Relevant Voting Percentage	Percentage Required
1.	To change the maximum target rate for the **Agent's Fee** within two years of the issue of the first **New ATOC Licence**:		
1.1.	if the **ATOC Retail Agent** is not authorised to **Sell Season Ticket Fares**	**Agent's Fee Voting Percentage**	70
1.2	if the **ATOC Retail Agent** is authorised to **Sell**	**Voting Percentage**	70

	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**	**Agent's Fee Voting Percentage**	70
2.2	if the **ATOC Retail Agent** is authorised to **Sell Seas Fares**	**Licence Voting Percentage**	70
3.	To set the initial maximum target rate for the **Agent's Sale** of **Season Ticket Fares**	**Season Ticket Percentages**	65

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**.