

## Crossrail Access Option

### Table of differences between the Crossrail Access Option and the Model Track Access Contract (Passenger Services)

The following table should be read in conjunction with the Deltaview of the Crossrail Access Option (the “**Access Option**”), which shows the differences between that document and the current version of the Model Track Access Contract (Passenger Services) published by the ORR (the “**Model Contract**”).

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>Clauses</b>			
<b>1 Clause 1 (Interpretation)</b>			
<b>1.1</b> Clause 1.1 (Definitions)			The Access Option contains a large number of definitions that are not contained in the Model Contract. Many of these new definitions are used in the bespoke provisions included in Clauses 5 to 8 of the Access Option. In addition, definitions contained in the Model Contract that are not used in the Access Option have been deleted.
<b>1.2</b> Clause 1.2 (Interpretation)			Minor drafting amendments have been made to the whole of Clause 1.2 of the Access Option.
<b>1.2.1</b> [No equivalent provision]	Clause 1.2.7	No equivalent provision.	An interpretation provision has been included to state that a reference to a contract includes a reference to its schedules and appendices.
<b>1.2.2</b> Clause 1.2(l)	Clause 1.2.13	Definitions by reference to the Act, the Railways (Safety Case) Regulations 2000 and Network Rail's licence.	The reference to the Railways (Safety Case) Regulations 2000 has been deleted as it is not relevant to the Access Option.

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1.2.3 Clause 1.2(m)	No equivalent provision.	Interpretation provision stating that a reference to a possession is to a Restriction of Use.	This clause has been deleted as it is not relevant to the Access Option.
1.2.4 Clause 1.2(n)	Clause 1.1.2	Definitions by reference to the Network Code.	Clause 1.1.2 lists the terms that are defined by reference to the Network Code.
1.2.5 [No equivalent provision]	Clause 1.2.15	No equivalent provision.	An interpretation provision has been included to state that the word “writing” includes faxes, etc.
1.2.6 [No equivalent provision]	Clause 1.2.16	No equivalent provision.	In a number of places, the Access Option refers to sections of the Crossrail Act (based on the current clause numbering in the Crossrail Bill). The clause numbering in the Crossrail Bill may change before the Crossrail Bill is enacted. Therefore, an interpretation provision has been included to address this issue.
<b>2 Clause 2 (Network Code)</b>			
2.1 Clause 2.1		Incorporation of the Network Code into the Model Contract.	<p>As in the Model Contract, the Network Code is incorporated in full into the Access Option. However, this is subject to the following two exceptions:</p> <ul style="list-style-type: none"> <li>• Provisions in Part J of the Network Code which relate to a failure to use passenger access rights do not apply to the Access Option. Instead bespoke use it or lose it provisions have been included in Schedule 11 of the Access Option.</li> <li>• The Optionholder has no obligation under Condition A1.3 of the Network Code in respect of any Crossrail TOC.</li> </ul>

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>3 Clause 3 (Conditions Precedent and Duration)</b>			
<b>3.1</b> Clause 3.1		Effective date.	The Access Option takes effect from signature.
<b>3.2</b> Clause 3.2	No equivalent provision.	Conditions precedent to permission to use the Routes.	The Access Option reserves the right for a Crossrail TOC to operate the Services under a Crossrail Access Agreement, which will be based on the then current Model Contract. The Services are not actually operated under the Access Option. Therefore, these conditions precedent are not relevant to the Access Option.
<b>3.3</b> Clause 3.3	No equivalent provision.	Obligations to satisfy conditions precedent.	Please see comment in respect of Clause 3.2.
<b>3.4</b> Clause 3.4	No equivalent provision.	Failure to satisfy conditions precedent.	Please see comment in respect of Clause 3.2.
<b>3.5</b> Clause 3.5	Clause 3.1	Expiry date.	The Access Option expires [50] years after the Services are first operated by a Crossrail TOC. The duration of the Access Option is inextricably linked to the agreement of provisions in relation to compulsory adjustment of Access Option Rights. The parties are working with the ORR to agree appropriate provisions.  A number of the events of default in Schedule 6 in effect cap the maximum delay that can occur to the start of construction.
<b>3.6</b> Clause 3.6	Clause 3.2	Suspension and Termination	As in the Model Contract, termination provisions are included in Schedule 6. However, as the Services are not actually operated under the Access Option, provisions in respect of suspension are not relevant to the Access Option.
<b>4 Clause 4 (Standard of Performance)</b>			

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
4.1 Clause 4.1		General standard of performance	As the Optionholder is not a train operator, the reference to the degree of skill and foresight expected of a train operator has been deleted.
<b>5 Clause 5 (Permission to Use)</b>			
5.1 Clause 5.1		Permission to operate the Services.	<p>Network Rail grants the Optionholder an option to require it (on one or more occasions) to grant permission to use its Network to enable a Crossrail TOC to operate the Services on the Routes (and, where necessary, the Diversionary Routes) from the Services Commencement Date until the Expiry Date, provided that the Crossrail TOC has entered into a Crossrail Access Agreement with Network Rail in accordance with Clause 7.3 of the Access Option.</p> <p>Network Rail is free to grant third parties permission to use the Routes prior to the Reservation Dates (being the dates from which the Optionholder can exercise the option referred to in the previous paragraph).</p>
5.2 Clause 5.4	No equivalent provision.	Changes to Applicable Rules of the Route and Applicable Rules of the Plan.	The Parties believe that this clause is addressed in Part D of the Network Code, which already forms part of the Access Option.
5.3 Clause 5.5	No equivalent provision.	Rules of the Route, Rules of the Plan and Restrictions of Use.	As the Services are not actually operated under the Access Option, the provisions of Schedule 4 are not relevant in the context of the Access Option.

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>5.4</b> Clause 5.6	Clause 5.4	The Services and Specified Equipment.	The Access Option contains a Schedule 5 which details the Services and the Specified Equipment. The Access Option reserves an “envelope of capacity” in terms of passenger train slots from which the detail of the Services will be derived for inclusion in the Crossrail Access Agreement. The Crossrail Access Agreement will contain the same level of specificity in respect of the Services as is included in the Model Contract.
<b>5.5</b> [No equivalent provision]	Clause 5.6	No equivalent provision.	Clause 5.6 sets out the: <ul style="list-style-type: none"> <li>• consultation procedure the Optionholder must follow prior to procuring the adjustment or surrender of any Conflicting Rights; and</li> <li>• terms on which Network Rail will assist the Optionholder procuring such adjustment or surrender.</li> </ul>
<b>5.6</b> Clause 5.7	No equivalent provision.	Performance.	As the Services are not actually operated under the Access Option, the provisions of Schedule 8 are not relevant in the context of the Access Option. However, Schedule 12 contains detailed principles on the determination and recalibration of the performance regime which will be included in Schedule 8 of the Crossrail Access Agreement.
<b>5.7</b> [No equivalent provision]	Clause 5.7	No equivalent provision.	Clause 5.7 sets out the action to be taken by Network Rail and the Optionholder following the grant of Additional Conflicting Rights.
<b>5.8</b> [No equivalent provision]	Clause 5.8	No equivalent provision.	Clause 5.8 sets out the circumstances in which Network Rail can ask the Optionholder to assist in procuring the adjustment or surrender of any Additional Conflicting Rights and the consequences if the Optionholder fails to do so. In conjunction with Clause 9.4 and paragraph 5 of Schedule 9, this clause also sets out Network Rail’s liability in respect of Additional Conflicting Rights.

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>6 Clause 6 (Operation and Maintenance of Trains and Network) / Clause 6 (Service Introduction and Timetable Development) of the Access Option</b>			
<b>6.1</b> Clauses 6.1 to 6.4	No equivalent provision.	Operation and maintenance, trespass, vandalism, safety and the Railway Systems Code.	As the Services are not actually operated under the Access Option, the provisions of Clause 6 are not relevant to the Access Option.
<b>6.2</b> [No equivalent provision]	Clause 6.1	No equivalent provision.	Clause 6.1 sets out the update and notification mechanisms that exist prior to entering into the First Crossrail Access Agreement. The commitment notice, which is served two years prior to operation of the Services, will include details of the phased introduction of the Services. This clause also sets out the earliest date from which the Services can be operated and regulates the relationship between project delay and Service operation.
<b>6.3</b> [No equivalent provision]	Clause 6.2	No equivalent provision.	Clause 6.2 sets out the process for developing the First Working Timetable, and any subsequent Working Timetables, in accordance with standard industry processes.
<b>6.4</b> [No equivalent provision]	Clause 6.3	No equivalent provision.	Clause 6.3 incorporates Schedule 12, which sets out principles in respect of capability testing and the operations assessment, schedule 8 recalibration and Crossrail performance level improvement phases under the First Crossrail Access Agreement.

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>7 Clause 7 (Track Charges) / Clause 7 (Access Agreements) of the Access Option</b>			
<b>7.1</b> Clause 7	No equivalent provision.	Incorporation of Schedule 7, which details the track charges payable by the train operator.	As the Services are not actually operated under the Access Option, the provisions of Clause 7 are not relevant to the Access Option.
<b>7.2</b> [No equivalent provision]	Clause 7.1	No equivalent provision.	Clause 7.1 sets out the process for agreeing a connection agreement between Network Rail's network and the Central Section, should one be required. Any such connection agreement is likely to be bespoke.
<b>7.3</b> [No equivalent provision]	Clause 7.2	No equivalent provision.	Clause 7.2 acknowledges that new rolling stock will be introduced as part of the Crossrail Project and sets out the process for agreeing a track access agreement to test and bring that rolling stock into service. The rights required to test and bring that rolling stock into service do not form part of the Access Option.
<b>7.4</b> [No equivalent provision]	Clause 7.3.1	No equivalent provision.	Clause 7.3.1 sets out the process and intended timescales for agreeing the First Crossrail Access Agreement. The First Crossrail Access Agreement will be based on the then current Model Contract.
<b>7.5</b> [No equivalent provision]	Clause 7.3.2	No equivalent provision.	The conditions precedent set out in Clause 7.3.2 are in addition to the conditions precedent included in the Model Contract. The conditions precedent in Clause 7.3.2 include: <ul style="list-style-type: none"> <li>• the removal of Conflicting Rights and Additional Conflicting Rights;</li> <li>• the agreement of complementary access arrangements in respect of the Central Tunnel Section and the BAA Network;</li> <li>• the satisfactory conclusion of the capability testing; and</li> <li>• the satisfaction of the relevant provisions of the ROGS in respect of any train and infrastructure used for delivering the Services.</li> </ul>

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>7.6</b> [No equivalent provision]	Clause 7.3.3	No equivalent provision.	Clause 7.3.3 sets out the process for agreeing amendments to the First Crossrail Access Agreement to introduce each phase of the Services.
<b>7.7</b> [No equivalent provision]	Clause 7.3.4	No equivalent provision.	Clause 7.3.4 sets out the process and intended timescales for agreeing replacement Crossrail Access Agreements.
<b>7.8</b> [No equivalent provision]	Clause 7.3.5	No equivalent provision.	Clause 7.3.5 states that the Optionholder is not obliged to remove Conflicting Rights or certain Additional Conflicting Rights as a condition precedent, where those Conflicting Rights or Additional Conflicting Rights (as applicable) arise as a result of a Network Change. Network Rail's liability (if any) in the event of a conflict is limited by reference to Part G of the Network Code.
<b>7.9</b> [No equivalent provision]	Clause 7.4	No equivalent provision.	If Network Rail proposes any change to any Crossrail Access Agreement, it must give notice of that change to the Optionholder.
<b>8 Clause 8 (Liability) / Clause 8 (Change Control) of the Access Option</b>			
<b>8.1</b> [No equivalent provision]	Clause 8.1	No equivalent provision.	Clause 8.1 sets out the key provisions for the maintenance and operation of the Railway Systems Model, including who is responsible for its operation, how changes are made to it and the Model Assumptions, version control and the consequence of the occurrence of force majeure.
<b>8.2</b> [No equivalent provision]	Clause 8.2	No equivalent provision.	Clause 8.2 sets out the period during which the Railway Systems Model is operated under the Access Option and details those provisions which will cease to have effect on the expiry of that period.
<b>8.3</b> [No equivalent provision]	Clause 8.3	No equivalent provision.	Clause 8.3 sets out the obligation to run the Railway Systems Model as a result of Relevant Action and the mechanism as to how the Railway Systems Model is run. It also provides that Network Rail has the right to run the Railway Systems Model at any time.

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<b>8.4</b> [No equivalent provision]	Clause 8.4	No equivalent provision.	Clause 8.4 states that if the Model Report shows that there is no conflict, the Relevant Action may be taken and the Model Assumptions will be updated accordingly.
<b>8.5</b> [No equivalent provision]	Clause 8.5	No equivalent provision.	Clause 8.5 sets out the consequences of the Model Report showing that there is a conflict. The consequences depend on whether the Relevant Action constitutes a Mandatory Change, an Optionholder Optional Change or a Network Rail Optional Change.
<b>8.6</b> [No equivalent provision]	Clause 8.6	No equivalent provision.	Clause 8.6 sets out Network Rail's obligation to run the Railway Systems Model prior to granting Access Rights on the Routes and the consequences of the Model Report showing that there is/is not a conflict.
<b>8.7</b> [No equivalent provision]	Clause 8.7	No equivalent provision.	Clause 8.7 sets out the process if a Party believes that there is an error in the Model Assumptions.
<b>8.8</b> [No equivalent provision]	Clause 8.8	No equivalent provision.	Clause 8.8 sets out the process if a Party believes that there is an error in the Railway Systems Model.
<b>8.9</b> [No equivalent provision]	Clause 8.9	No equivalent provision.	Clause 8.9 sets out the circumstances in which the Railway Systems Model may be replaced or amended.
<b>8.10</b> [No equivalent provision]	Clause 8.10	No equivalent provision.	Clause 8.10 sets out the consequences if (a) the Railway Systems Model predicted that taking any Relevant Action would lead to a conflict and (b) taking such Relevant Action did indeed lead to a conflict.
<b>8.11</b> [No equivalent provision]	Clause 8.11	No equivalent provision.	Clause 8.11 sets out the obligations and liabilities of the Parties in respect of the intellectual property rights that are required to operate the Railway Systems Model.
<b>8.12</b> [No equivalent provision]	Clause 8.12	No equivalent provision.	Clause 8.12 provides the Optionholder audit rights in respect of the Railway Systems Model, the Model Assumptions and the Model Report.

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<b>8.13</b> [No equivalent provision]	Clause 8.13	No equivalent provision.	Clause 8.13 sets out the Model Expert determination procedure, which applies if the Parties cannot agree certain matters in respect of the operation of the Railway Systems Model. Certain other matters are referred to the ORR as opposed to the Model Expert.
<b>8.14</b> Clauses 8.1 and 8.2	Clauses 9.1 and 9.2	Performance Orders and compensation for breach.	For the avoidance of doubt, Clause 9.2 of the Access Option specifies that the indemnity for breach also applies to Events of Default.
<b>8.15</b> [No equivalent provision]	Clause 9.3	No equivalent provision.	In Clause 9.3, the Optionholder indemnifies Network Rail against third party claims in respect of Conflicting Rights. It also sets out the claims handling mechanism.
<b>8.16</b> [No equivalent provision]	Clause 9.4	No equivalent provision.	In Clause 9.4, the Optionholder indemnifies Network Rail in respect of Additional Conflicting Rights in circumstances where Network Rail is not liable to indemnify the Optionholder in accordance with Clause 5.8.2.
<b>9 Clause 9 (Local Outputs – Performance Orders)</b>			
<b>9.1</b> Clause 9	No equivalent provision.	Performance orders for failure to achieve a local output commitment.	As the Services are not actually operated under the Access Option, the provisions of Clause 9 are not relevant to the Access Option. Schedule 12 sets out the principles of the performance level improvement phase under the Crossrail Access Agreement, which may consist of a JPIP.
<b>10 Clause 10 (Liability - Other Matters)</b>			
<b>10.1</b> Clauses 10.1 and 10.2	No equivalent provision.	Reciprocal indemnities in respect of failure to comply with safety obligations and environmental and other damage.	As the Services are not actually operated under the Access Option, the provisions of Clause 10 are not relevant to the Access Option.

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<b>11 Clause 11 (Restrictions on Claims)</b>			
<b>11.1</b> Clause 11.2	Clause 10.2	Restrictions on claims by Network Rail.	The exclusion in respect of payments under any Access Agreement is not relevant in the context of the Access Option. The indemnities (other than for breach of the Access Option) are excluded from the relevant restrictions.
<b>11.2</b> Clause 11.3	Clause 10.3	Restrictions on claims by the Train Operator.	The exclusion in respect of delays to, or cancellations of, trains is not relevant in the context of the Access Option. The indemnities (other than for breach of the Access Option) are excluded from the relevant restrictions.
<b>11.3</b> Clause 11.4	Clause 10.4	Restrictions on claims by both parties.	The indemnities (other than for breach of the Access Option) are excluded from the relevant restrictions. Indemnity claims are expressed to exclude Project Debt and the costs of construction of the Central Section.
<b>11.4</b> [No equivalent provision]	Clause 10.5	No equivalent provision.	Neither Party can make any claim for any costs to the extent that it has already been compensated in respect of those costs under the Access Option.
<b>11.5</b> [No equivalent provision]	Clause 10.6	No equivalent provision.	While any Crossrail Access Option is in effect, both Parties' rights under the Access Option exclude the Concurrent Rights.
<b>11.6</b> Clause 11.5	Clause 10.7	Limitations on liability.	The references to Schedules 4, 5, 7 and 8 are not relevant in the context of the Access Option. Schedule 9 is expressed to limit the Parties' liabilities under the Access Option, save in respect of certain indemnities.
<b>11.7</b> Clause 11.6	No equivalent provision.	Claims Allocation and Handling Agreement.	As the Services are not actually operated under the Access Option, the provisions of Clause 11.6 are not relevant to the Access Option.

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<b>12 Clause 12 (Governing Law)</b>			
12.1 Clause 12	Clause 11	Governing law.	No change.
<b>13 Clause 13 (Dispute Resolution)</b>			
13.1 [No equivalent provision]	Clause 12.1	No equivalent provision.	Before a Relevant Dispute is referred to arbitration, it is first subject to an internal dispute resolution procedure, which consists of a reference to senior representatives of both Parties.
13.2 Clause 13.1	Clause 12.2	Arbitration.	The references to Schedules 4, 5, 7 and 8 are not relevant in the context of the Access Option.
13.3 Clause 13.2	Clause 12.3	Unpaid sums.	The references to Schedules 4, 5, 7 and 8 are not relevant in the context of the Access Option. This clause has been amended so as to apply to specified payments due between the Parties.
13.4 Clause 13.4	Clause 12.5	Performance Orders.	The cross-reference to Clause 17.8 has been deleted as that clause is not relevant in the context of the Access Option.
<b>14 Clause 14 (Confidentiality) / Clause 14 (Freedom of Information) of the Access Option</b>			
14.1 [No equivalent provision]	Clause 13.1.4	No equivalent provision.	Clause 13.1.4 sets out a process whereby information is agreed, or determined, to be Confidential Information following disclosure.
14.2 Clause 14.2	Clause 13.2	Entitlement to divulge.	Clause 14.2 has been amended to include references to additional persons to whom Confidential Information may be disclosed.
14.3 [No equivalent provision]	Clause 13.3	No equivalent provision.	Clause 13.3 sets out the obligation to ensure that the recipient of Confidential Information is subject to equivalent obligations of confidentiality. It also obliges a Party to consult where it is required to disclose Confidential Information (unless it is prohibited from doing so).

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<b>14.4</b> [No equivalent provision]	Clause 13.4	No equivalent provision.	Clause 13.4 contains a prohibition on using Confidential Information otherwise than for the purpose of the Access Option.
<b>14.5</b> [No equivalent provision]	Clause 13.5	No equivalent provision.	Clause 13.5 contains an obligation on each Party to disclose any breach of its obligations in respect of Confidential Information.
<b>14.6</b> [No equivalent provision]	Clause 13.6	No equivalent provision.	Clause 13.6 obliges each Party to keep a record of Confidential Information disclosed to it and to store such Confidential Information securely.
<b>14.7</b> Clause 14.6	No equivalent provision.	Network Code and Schedule 7.	This clause has been deleted, as Schedule 7 is not relevant in the context of the Access Option.
<b>14.8</b> [No equivalent provision]	Clause 14	No equivalent provision.	Standard provisions have been included in respect of the application of the Freedom of Information Act and the Environmental Information Regulations.
<b>15 Clause 15 (Assignment and Novation)</b>			
<b>15.1</b> Clause 15		Assignment.	<p>Clause 15 has been amended to allow assignment or novation by the Optionholder to specified persons without Network Rail's consent, subject to ORR consent and, in certain circumstances, to that person satisfying a financial standing test. Network Rail is prohibited from assigning or novating its rights/obligations without the consent of the Optionholder and the ORR.</p> <p>Two other new clauses have been added stating that:</p> <ul style="list-style-type: none"> <li>• Network Rail has no greater liability following an assignment or novation than it had before; and</li> <li>• Network Rail must take certain action to give effect to an assignment or novation.</li> </ul>

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<b>16 Clause 16 (Payments, Interest and VAT)</b>			
<b>16.1</b> Clause 16.1		Payment.	Clause 16.1.2 has been deleted as amounts will not be payable under Schedules 4, 5, 7 and 8 of the Access Option. The contents of any invoice are addressed in Clause 16.4.
<b>16.2</b> [No equivalent provision]	Clause 16.4	No equivalent provision.	Clause 16.4: <ul style="list-style-type: none"> <li>provides for the reimbursement of Network Rail's costs under the Access Option;</li> <li>sets out the supporting information that must be provided with any invoice; and</li> <li>provides that the Optionholder has certain audit rights.</li> </ul>
<b>16.3</b> [No equivalent provision]	Clause 16.5	No equivalent provision.	Clause 16.5, provides that, although no access charges are payable under the Access Option at the date of its execution, the ORR may carry out Access Charges Reviews of the Access Option.
<b>17 Clause 17 (Force Majeure Events)</b>			
<b>17.1</b> Clause 17	No equivalent provision.	Force Majeure.	As the Services are not actually operated under the Access Option, the provisions of Clause 17 are not relevant to the Access Option. Force majeure is likely to be addressed in the Crossrail Access Agreement. A concept of force majeure is used in Clause 8 in the context of the operation of the Railway Systems Model (see definition of Railway Systems Model FM Event).

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<b>18 Clause 18 (Miscellaneous)</b>			
<b>18.1</b> Clause 18.3.1(a)	No equivalent provision.	Entire agreement.	This clause has been deleted as there will be other agreements between the Parties in connection with the Crossrail Project.
<b>18.2</b> [No equivalent provision]	Clause 17.3.2(ii)	No equivalent provision.	A new provision has been included in Clause 17.3.2 to: <ul style="list-style-type: none"> <li>• set out which clauses constitute the exclusive remedies of the Parties in respect of Additional Conflicting Rights;</li> <li>• provide that remedies under the Access Option should be exercised to the exclusion of equivalent remedies under the Network Code;</li> <li>• provide that the exclusive remedies for breach of Clauses 8.5.5, 8.6.1 and 8.6.2 are the remedies in respect of Additional Conflicting Rights.</li> </ul>
<b>18.3</b> Clause 18.6	Clause 17.6	Survival.	This clause has been amended to refer to a number of other mainly bespoke clauses that should survive termination.
<b>18.4</b> [No equivalent provision]	Clause 17.8	No equivalent provision.	A standard partial invalidity clause has been included.
<b>18.5</b> [No equivalent provision]	Clause 17.9	No equivalent provision.	A standard further assurance clause has been included, which has been amended to reflect that the Optionholder is the Secretary of State for Transport.
<b>19 Clause 19 (Transition)</b>			
<b>19.1</b> Clause 19	No equivalent provision.		As the Services are not actually operated under the Access Option, the provisions of Clause 19 are not relevant to the Access Option.

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<b>Schedules</b>			
<b>1 Schedule 1 (Contract Particulars)</b>			
1.1 Schedule 1		Contact details for notices.	No change.
<b>2 Schedule 2 (The Routes)</b>			
2.1 Schedule 2		The Routes.	Schedule 2 of the Model Contract has been populated to include details of the Main Routes, the Ancillary Routes and the Diversionary Routes.
<b>3 Schedule 3 (Collateral Agreements)</b>			
3.1 Schedule 3	No equivalent provision. Schedule left blank.	Collateral Agreements.	As the Services are not actually operated under the Access Option, the provisions of Schedule 3 are not relevant to the Access Option.
<b>4 Schedule 4 (Rules of the Route, Rules of the Plan and Restrictions of Use)</b>			
4.1 Schedule 4	No equivalent provision. Schedule left blank.	Rules of the Route, Rules of the Plan and Restrictions of Use.	As the Services are not actually operated under the Access Option, the provisions of Schedule 4 are not relevant to the Access Option.
<b>5 Schedule 5 (The Services and the Specified Equipment)</b>			
5.1 Schedule 5		The Services and the Specified Equipment.	A number of provisions in schedule 5 of the Model Contract are not relevant in the context of the Access Option, because Schedule 5 of the Access Option only reserves an “envelope of capacity” in terms of passenger train slots. These provisions, which have been deleted, include (a) peak service intervals and frequency (b) clockface departures (c) earliest/latest passenger train slots (d) journey times (e) platform rights (f) connections and (g) turnaround times. Schedule 5 of the Crossrail Access Agreement will contain the same level of specificity in respect of the Services as is included in the Model Contract.

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>6 Schedule 6 (Events of Default, Suspension and Termination)</b>			
6.1.1 Paragraph 1.1		Train Operator Events of Default.	As the Services are not actually operated under the Access Option, a number of the Events of Default in the Model Contract are not relevant to the Access Option. A number of bespoke Events of Default have been included to address delay to, or abandonment of, the Crossrail Project.
6.1.2 Paragraph 1.2		Network Rail Events of Default.	As the Services are not actually operated under the Access Option, a number of the Events of Default in the Model Contract are not relevant to the Access Option.
6.1.3 Paragraph 2		Suspension.	As the Services are not actually operated under the Access Option, the concept of suspension is not relevant to the Access Option. However, some of the architecture of paragraph 3 has been used to create an event of default concept prior to termination.
6.1.4 Paragraph 4	No equivalent provision.	Consequences of Termination.	As the Services are not actually operated under the Access Option, paragraph 4 is not relevant to the Access Option.
<b>7 Schedule 7 (Track Charges)</b>			
7.1 Schedule 7	No equivalent provision. Schedule left blank.	Track Charges.	As the Services are not actually operated under the Access Option, the provisions of Schedule 7 are not relevant to the Access Option. However, a provision acknowledging that the ORR may carry out Access Charges Reviews of the Access Option has been included in Clause 16.5.
<b>8 Schedule 8 (Performance Regime)</b>			
8.1 Schedule 8	No equivalent provision. Schedule left blank.	Performance Regime.	As the Services are not actually operated under the Access Option, the provisions of Schedule 8 are not relevant to the Access Option.

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<b>9 Schedule 9 (Limitation on Liability)</b>			
9.1 Paragraph 5		Disapplication of limitation.	Provisions have been included to state what “conscious and intentional breach” means in the context of Network Rail.
9.2 Paragraph 7		Exclusion of certain Relevant Losses.	The indemnities in respect of Conflicting Rights and Additional Conflicting Rights have been carved out of this exclusion.
<b>10 Schedule 10 (Network Code Modifications)</b>			
10.1 Schedule 10		Network Code Modifications.	Schedule 10 has been amended to reflect that Schedule 11 sets out bespoke use it or lose it provisions for the Access Option. Therefore, any change to the Network Code which altered these bespoke provisions would only have effect on the Access Option with the prior written consent of the Optionholder.
<b>11 Schedule 11 (Incorporation of Part J of the Network Code)</b>			
11.1 [No equivalent provision]	Definition of “Reasonable Ongoing Requirement”	No equivalent provision.	After the expiry of the Stabilisation Period, the Optionholder has to satisfy this test in respect of any period proposed for the surrender of any Undrawn Access Option Right or Access Option Right (as applicable). The test looks at both whether the Optionholder will draw-down the relevant right into a Crossrail Access Agreement and whether, following such drawdown, a Crossrail TOC will use such right on an ongoing basis.
11.2 [No equivalent provision]	Definition of “Stabilisation Period”	No equivalent provision.	This period will be five years, assuming the duration of the first Crossrail Access Agreement is equal to or in excess of five years. During this period, the full bespoke “use it or lose it” mechanism in Schedule 11 will not apply. This is to enable the Crossrail Services to be phased-in and reach steady state operation before there is the potential for Access Option Rights to be lost for long periods (e.g. in excess of five years).

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>11.3</b> [No equivalent provision]	Paragraph 1.3	No equivalent provision.	The Parties agree that appropriate provisions need to be included in the Access Option (either directly or through the Network Code) in relation to compulsory adjustment of Access Option Rights. The Parties are currently working with the ORR to agree appropriate provisions in sufficient time so as not to delay the Access Option.
<b>11.4</b> [No equivalent provision]	Paragraph 2	No equivalent provision.	Paragraph 2 sets out the impact on an Access Option Right of an equivalent Access Agreement Right being extinguished from a Crossrail Access Agreement as a result of the application of Part J of the Network Code. The impact depends on whether the extinguishment occurs on or after the expiry of the Stabilisation Period.
<b>11.5</b> [No equivalent provision]	Paragraphs 3.1 and 3.2	No equivalent provision.	Paragraph 3.1 obliges the Optionholder to surrender any Access Option Right which it has not drawn-down into a Crossrail Access Agreement.
<b>11.6</b> [No equivalent provision]	Paragraph 3.3	No equivalent provision.	Paragraph 3.3 gives Network Rail a right to require the Optionholder to surrender an Undrawn Access Option Right during the Stabilisation Period for a period of up to the end of the Stabilisation Period. This right exists irrespective of whether the Optionholder has voluntarily surrendered that Undrawn Access Option Right under paragraph 3.1. The Optionholder can object to the proposed duration of surrender and propose an alternative period of surrender. If the Parties cannot agree the period of surrender, the matter may be referred to the ORR for determination. The Parties do not believe it would be appropriate to refer such a dispute in accordance with the ADRR.

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
11.7 [No equivalent provision]	Paragraph 3.4	No equivalent provision.	Paragraph 3.4 essentially replicates the provisions in paragraph 3.3 in respect of the period after the Stabilisation Period. Under paragraph 3.4, Network Rail has a right to require the Optionholder to surrender an Undrawn Access Option Right for a period of up to the end of the relevant Crossrail Access Agreement (as opposed to the end of the Surrender Period) unless the ORR has effectively already approved a shorter period of surrender. If the Optionholder objects to the duration of any proposed surrender, it must justify any alternative period of surrender by reference to the Reasonable Ongoing Requirement test. Any dispute as to the period of surrender may be referred to the ORR.
11.8 [No equivalent provision]	Paragraph 4	No equivalent provision.	After the expiry of the Stabilisation Period, if any of the circumstances set out in paragraph 4.1 arise, Network Rail can serve an Extended Surrender Notice. Again, the mechanism in paragraph 4 essentially replicates the mechanisms in paragraphs 3.3 and 3.4. The key difference is that under paragraph 4 Network has a right to require the Optionholder to surrender an Undrawn Access Option Right for a period of up to the end of the Crossrail Access Option (as opposed to the end of the Surrender Period or the expiry of the relevant Crossrail Access Agreement). Again, if the Optionholder objects to the duration of any proposed surrender, it must justify any alternative period of surrender by reference to the Reasonable Ongoing Requirement test. Any dispute as to the period of surrender may be referred to the ORR.

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
11.9 [No equivalent provision]	Paragraph 5	No equivalent provision.	<p>Unless:</p> <ul style="list-style-type: none"> <li>• there has been a material change or a material event has occurred since the date of surrender; or</li> <li>• information provided in connection with the surrender process was incorrect,</li> </ul> <p>and such change, circumstance or information would have affected the period of surrender, once a period of surrender has been agreed or determined in accordance with paragraphs 3.3, 3.4 or 4, Network Rail cannot require a further period of surrender until the first period of surrender has expired.</p>
<b>12 Schedule 12 (Capability Testing and Development of the Performance Regime)</b>			
12.1 [No equivalent provision]	Schedule 12	No equivalent provision.	<p>Schedule 12 sets out the objective and principles of the capability testing regime.</p> <p>In addition, it contains the principles of the performance regime that will form part of the Crossrail Access Agreement, including:</p> <ul style="list-style-type: none"> <li>• the Operations Assessment Phase, during which the performance level of the Services will be measured in order to determine whether they can be operated in accordance with the Working Timetable;</li> <li>• the Schedule 8 Recalibration Phase, which sets out the process of how the initial agreed performance regime is recalibrated based on the operation of the Services over a period of between 13 and 26 Periods; and</li> <li>• the Crossrail Performance Improvement Phase, during which, where relevant, the Parties attempt to improve the performance level to enable all of the Services to be operated.</li> </ul>

Reference in Model Contract	Reference in Access Option (if different from Model Contract)	Model Contract	Access Option
<b>12.2</b> [No equivalent provision]	Appendix 1 to Schedule 12	No equivalent provision.	Appendix 1 sets out an indicative and non-binding timeline of the relationships between the time periods and notifications envisaged by the Access Option.
<b>13 Schedule 13 (First Crossrail Access Agreement)</b>			
<b>13.1</b> [No equivalent provision]	Schedule 13	No equivalent provision.	Schedule 13 sets out an indicative and non-binding timeline of the development and approval of the First Crossrail Access Agreement in accordance with Clause 7.3.1.
<b>14 Schedule 14 (Forms of Notices)</b>			
<b>14.1</b> [No equivalent provision]	Schedule 14	No equivalent provision.	Schedule 14 contains the forms of: <ul style="list-style-type: none"> <li>• Commitment Notice that the Optionholder has to serve in accordance with Clause 6.1.3; and</li> <li>• Option Drawdown Notice that the Optionholder has to serve in accordance with Clause 7.3.4.</li> </ul>