

Part A– General Provisions

Explanatory Note

- A. *Part A sets out certain definitions, general provisions and rules of interpretation which apply generally to the CVL Network Code. Definitions which are specific to individual parts of the CVL Network Code are contained in the relevant part.*
- B. *This Explanatory Note does not form part of the CVL Network Code.*

Condition A1 - GENERAL

1.1 **General interpretation**

The paramount objective in the railway industry (including in the operation of the CVL) is to operate a safe and secure railway on which the elements of risk to safety and security are reduced to a level as low as reasonably practicable. Nothing in the CVL Network Code shall be interpreted or construed as compromising that objective or requiring the CVL IM to do anything that is contrary to the CVL IM's network licence.

In the CVL Network Code, unless the context otherwise requires:

(a) *CVL Network Code*

References to the CVL Network Code mean the CVL Network Code as modified from time to time.

(b) *Parts, Conditions and paragraphs*

References to Parts, Conditions and paragraphs are to Parts, Conditions and paragraphs of the CVL Network Code.

(c) *Definitions in the Act*

Terms and expressions defined in the Act shall, unless the contrary intention appears, have the same meaning in the CVL Network Code.

(d) *Statutory provisions*

References to statutory provisions shall be construed as:

- (i) references to those provisions as amended or re-enacted or as their application is modified by other statutory provisions from time to time and shall include references to any statutory provisions of which they are re-enactments (whether with or without modification); and/or

- (ii) such other relevant legislation taking effect in Great Britain in respect of the same subject matter as those statutory provisions (including in relation to the Access Regulations, RIRs and ROGS).
- (e) *Interpretation Act*

Words and expressions defined in the Interpretation Act 1978 shall have the same meaning in the CVL Network Code and the rules of interpretation contained in the Interpretation Act 1978 shall apply to the interpretation of the CVL Network Code.
- (f) *Include*

The words "**include**" and "**including**" and cognate expressions are to be construed without limitation.
- (g) *Other documents etc.*

Any agreement, instrument, licence, standard (including any CVL Standard), timetable, code or other document referred to in the CVL Network Code or entered into, approved, authorised, accepted or issued by a person pursuant to the CVL Network Code shall be construed, at the particular time, as a reference to that agreement, instrument, licence, standard (including any CVL Standard), timetable, code or other document, as it may then have been amended, varied, supplemented or novated.
- (h) *Conflict*

In the event of any discrepancy, inconsistency, divergence or anomaly or any conflict of interpretation between the CVL Network Code and an Access Agreement (not including the CVL Network Code), unless expressly provided to the contrary, the following order of precedence shall apply:

 - (i) the CVL Network Code; and
 - (ii) the Access Agreement.
- (i) *Time limits*

Where in the CVL Network Code any obligation of an Access Party is required to be performed within a specified time limit that obligation shall continue after that time limit if the Access Party fails to comply with that obligation within the time limit.
- (j) *Headings*

The headings and references to headings shall be disregarded in construing the CVL Network Code.

(k) *Ruling language*

All notices served under the CVL Network Code shall be in the English language.

(l) *Use of singular and plural*

Use of the singular shall include the plural and vice versa.

1.2 **Definitions**

In the CVL Network Code, unless the context otherwise requires:

"Access Agreement"	means any particular access contract or framework agreement, whether or not entered into pursuant to any directions of ORR under the Act, incorporating the CVL Network Code;
"Access Beneficiary"	means, in respect of an Access Agreement, the Train Operator or Access Option Holder who is party to that Access Agreement;
"access option"	has the meaning ascribed to it in section 17(6) of the Act;
"Access Option Holder"	means any person who may exercise an access option in respect of a railway facility: (a) which is not a station or a light maintenance depot; and (b) in respect of which the facility owner is the CVL IM;
"Access Parties"	means, in respect of an Access Agreement, the CVL IM and the Access Beneficiary which is party to that Access Agreement;
"Access Regulations"	means The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (as amended from time to time);
"Act"	means the Railways Act 1993;
"Affiliate"	means, in relation to any company:

- (a) a company which is either a holding company or a subsidiary of such company; or
- (b) a company which is a subsidiary of a holding company of which such company is also a subsidiary,

and for these purposes, "**holding company**" and "**subsidiary**" have the meanings ascribed to them in section 1159 of the Companies Act 2006;

"Change of Law"

means the application to any person of any Legal Requirement which did not previously so apply or the change of any Legal Requirement applying to that person (including any such Legal Requirement ceasing to apply, being withdrawn or not being renewed) other than in relation to:

- (a) corporation tax (or any other tax of a similar nature replacing corporation tax on profits or gains); or
- (b) Value Added Tax;

"Compatibility File"

means a document prepared in accordance with the applicable Railway Group Standards which describes:

- (a) the Specified Equipment;
- (b) the proposed changes to the Specified Equipment;
- (c) the methods used to assess compatibility of the proposed changes to the Specified Equipment with the CVL; and
- (d) the criteria used to assess compatibility and how those criteria have been derived;

"Competent Authority"

means any local, national or supra-national agency, authority, department, inspectorate, minister, ministry, official, court, tribunal, or public or statutory person (whether

"CVL"

autonomous or not and including ORR) whether of the United Kingdom or of the European Union, which has, in respect of an Access Agreement, jurisdiction over either or both of the Access Parties to, or the subject matter of, that agreement, provided that "**Competent Authority**" shall not include Her Majesty's Government or the Welsh Ministers (or any department, minister, official or nominee of them) where acting as shareholder of the Access Party in question or other than pursuant to the Crown prerogative or a statutory function or power;

means the railway network known as the Cardiff Core Valley Lines, in respect of which the CVL IM is the facility owner, which connects with the NR Network at two separate connection points:

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(i) at the Core Valley Lines' west boundary, between Ninian Park (exclusive) and Waun-gron Park stations on the Up and Down Treforest lines at 1m 20ch (ELR = RAD); and

(ii) at the Core Valley Lines' east boundary, between Cardiff Central (exclusive) and Cardiff Queen Street stations on the Up and Down Llandaff lines at 0m 13ch (ELR = CEJ),

and includes the following railway lines (locations inclusive unless specified otherwise):

- (a) Rhymney to the Core Valley Lines east boundary at (ii) above;
- (b) Heath Junction to Coryton;
- (c) Ystrad Mynach to Cwmbargoed;
- (d) Merthyr Tydfil to Queen Street, North Junction;
- (e) Aberdare to Abercynon;
- (f) Aberdare to Hirwaun;

- (g) Treherbert to Pontypridd;
- (h) Radyr to Core Valley Lines west boundary at (i) above; and
- (i) Cardiff Queen Street to Cardiff Bay,

~~and includes any changes or extensions to such Core Valley Lines network, which have been notified to ORR and in respect of which ORR has consented.~~

"CVL Access Dispute Resolution Rules" or "CVL ADRR"

mean the set of rules entitled "CVL Access Dispute Resolution Rules" and as may be updated from time to time in accordance with its terms;

"CVL ADRR Forum"

means "Forum" as defined in the CVL ADRR;

"CVL IM"

~~means [Seilwaith Amey Cymru / Amey Infrastructure Wales Limited, a company registered in England and Wales under registered number 11389544](#); means [Amey Keolis Infrastructure / Seilwaith Amey Keolis Limited, a company registered in England and Wales under registered number 11389544](#);~~

"CVL IM Website"

means the infrastructure manager section of the Transport for Wales Rail Services website (<https://tfwrail.wales/>);

"CVL Network Change"

has the meaning ascribed to it in Part G of the CVL Network Code;

"CVL Network Code"

means this document entitled **"CVL Network Code"**;

"CVL Restriction of Use"

means, for the purposes of the CVL Network Code, a restriction of use of all or any part of the CVL;

"CVL Vehicle Change"

has the meaning ascribed to it in Part F of the CVL Network Code;

"Delay Attribution Principles and Rules"

means, subject to Condition A1.1(g), the document which provides guidance on the attribution of delay across the NR Network, entitled "Delay Attribution Principles of Rules" as issued by the Board (as defined in Part B of

	the CVL Network Code) and which the CVL IM has adopted to attribute responsibility for capacity, lateness and service interval failures on the CVL (as may be updated from time to time in accordance with its terms);
"Direction"	means, in respect of an Access Agreement, any direction, requirement, instruction or rule binding on either or both of the Access Parties, and includes any modification, extension or replacement of any such direction, requirement, instruction or rule for the time being in force;
"Franchised Services"	has the meaning ascribed to it in Condition A1.6;
"Freight Customer Access Option Holder"	means an Access Option Holder whose access option is an Access Agreement with the CVL IM pursuant to which that Access Option Holder can draw down rights to a Train Operator to enable it to operate services for the carriage of goods by railway for or on behalf of that Access Option Holder;
"hard copy information"	means any relevant item which it is not reasonably practicable for the CVL IM to Publish on its Website, having regard, in particular, to whether such relevant item is, or is likely to be: <ul style="list-style-type: none"> (a) unavailable in electronic form; or (b) incapable of being downloaded and/or printed by any class of persons accessing the CVL IM Website; or (c) exceptionally costly to Publish on its Website.
"Legal Requirement"	means, in relation to any person, any of the following: <ul style="list-style-type: none"> (a) any enactment to the extent that it applies to that person; (b) any regulation made by the Council or the Commission of the European Union

to the extent that it applies to that person or a decision taken by the Commission of the European Union which is binding on that person to the extent that it is so binding; and

- (c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within paragraphs (a) or (b) above to have effect in a way which is different to that in which it previously had effect;

"Network Rail"	means Network Rail Infrastructure Limited, a company registered in England and Wales under registered number 2904587 having its registered office at 1 Eversholt Street, London NW1 2DN;
"Network Rail Network Code"	means the document commonly known as the "Network Code" published by Network Rail which applies to the operation of railway vehicles on the NR Network;
"New Working Timetable"	means the version of the New Working Timetable (to the extent applicable to the CVL) published by Network Rail (on behalf of the CVL IM) at D-26 in accordance with Condition D2.7.1;
"non-sensitive version"	means a version of a relevant item: <ul style="list-style-type: none">(a) from which Sensitive Information has been excised; and/or(b) in which Sensitive Information has been replaced by a summary containing no Sensitive Information;
"NR Network"	means the network in respect of which Network Rail is the facility owner and which is situated in England, Wales and Scotland;

"Office of Rail and Road"	has the meaning ascribed to it in section 15 of the Railways and Transport Safety Act 2003 and references to "ORR" shall be construed accordingly;
"Potential Access Party"	means any person who proposes in good faith to enter into an Access Agreement or become an Access Option Holder provided that such person has first undertaken to the CVL IM to be bound by the relevant provisions of the CVL Network Code and the CVL ADRR;
"Principal Change Date"	has the meaning ascribed to it in Part D of the CVL Network Code;
"Publish on its Website"	means, in relation to any Specified Information to be published on the CVL IM Website, placing such Specified Information on the CVL IM Website in a prominent position and with links which enable visitors to that site to locate it quickly and without difficulty, and "Published on its Website" and "Publication on its Website" shall be construed accordingly;
"Railway Funding Authority"	has the meaning ascribed to it in section 45 of the Railways Act 2005;
"Railway Group Standards"	means technical standards and operating procedures authorised pursuant to the Railway Group Standards Code issued by the Rail Safety and Standards Board Limited and approved by ORR, and the Railway Industry Standards;
"Railway Industry Standards"	means the railway industry standards produced under governance arrangements approved by the Industry Standards Coordination Committee on behalf of the railway industry;
"relevant item"	means, in respect of any Specified Information, the whole or part of any information, statement, proposal, draft, instrument or other document which constitutes or forms part of that specified information;

"RIRS"	means the Railways (Interoperability) Regulations 2011;
"ROGS"	means The Railways and Other Guided Transport Systems (Safety) Regulations 2006;
"Routes"	means, in respect of an Access Agreement, those parts of the CVL which a Train Operator has permission to use pursuant to that agreement;
"Secure Information"	means a relevant item, the publication of which may, in the reasonable opinion of the CVL IM, create any risk to the safety or security of the CVL;
"Sensitive Information"	means a relevant item, the publication of which by the CVL IM: <ul style="list-style-type: none"> (a) is likely materially to compromise or otherwise prejudice the commercial interests of any Access Party or any of its Affiliates; or (b) may reasonably be expected seriously and prejudicially to affect the interests of any person;
"Services"	means, in respect of an Access Agreement: <ul style="list-style-type: none"> (a) the services for the carriage of passengers by railway; (b) the services for the carriage of goods by railway; and (c) any other train movement for the purpose of testing the physical or operational characteristics or capabilities of any railway asset, in each case as provided for in that Access Agreement;
"Specified Equipment"	means, in respect of an Access Agreement, any railway vehicle the use of which is permitted on all or part of the CVL pursuant to that Access Agreement;

"Specified Information"	means any information, statement, proposal, draft, instrument or other document;
"Statement of Compatibility"	<p>means the written statement containing the information prescribed by the applicable Railway Group Standards, including:</p> <ul style="list-style-type: none"> (a) the compatibility between the Specified Equipment and the CVL; (b) the configuration of the Specified Equipment; (c) operational requirements and limitations; (d) route constraints; and (e) network factors, <p>within which compatibility of the Specified Equipment and the CVL has been assessed;</p>
"Systems Code"	means the document known as the "Code of Practice for the Management and Development of Railway Code Systems" issued by Network Rail, as may be updated from time to time in accordance with its terms, or such alternative documents as may be identified by the CVL IM from time to time;
"Technical Specification for Interoperability"	has the meaning ascribed to the term "TSI" in the RIRS;
"Timetable Period"	has the meaning ascribed to it in Part D of the CVL Network Code;
"Train Operator"	means (without prejudice to Condition A1.3), in respect of an Access Agreement, a person (whether or not an operator of trains) who has permission to use the track pursuant to that Access Agreement;
"Transport for Wales"	is a private limited company incorporated in England and Wales with company number 09476013 and with its registered address at Qed Centre Main Avenue, Treforest Industrial

Estate, Pontypridd, Rhondda Cynon Taff, CF37 5YR;

- "Value Added Tax"** means value added tax as provided for in the Value Added Tax Act 1994, and any tax similar or equivalent to value added tax or any turnover tax replacing or introduced in addition to this and "VAT" shall be construed accordingly;
- "Welsh Ministers"** means the Welsh Ministers whose principal place of business is at Crown Buildings, Cathays Park, Cardiff, CF10 3NO, or any successor to all or part of their rights and functions;
- "Working Day"** means each of Monday to Friday (inclusive) excluding common law and statutory public holidays on which banks in the City of London are not open for business; and
- "Working Timetable"** has the meaning ascribed to it in Condition D2.1 of the CVL Network Code;

1.3 **References to Train Operator**

Each reference to a Train Operator, or to any obligation of a Train Operator, shall, insofar as the Train Operator is not an operator of a train, be construed as a reference to the person whose operation of trains on the CVL derives from that Train Operator's Access Agreement or (as the case may be) to that person's obligation and, in the latter case, the Train Operator shall procure that the person concerned performs the relevant obligation.

1.4 **Notices**

1.4.1 Any notice, consent or approval to be given under the CVL Network Code by any person:

- (a) shall be in writing; and
- (b) shall be duly given if signed by or on behalf of a person duly authorised to do so by the party giving the notice and:
 - (i) delivered by hand at, or sent by prepaid first class post or recorded delivery to, the intended recipient's registered address or principal business address within Great Britain; or

- (ii) sent by email to the email address of the intended recipient most recently provided by the intended recipient to the sender, or sent by other electronic means.

1.4.2 For the purposes of Condition A1.4.1, delivery by hand shall include delivery by a reputable firm of couriers.

1.4.3 Any notice, consent or approval given in accordance with Condition A1.4.1 shall be deemed to have been received in accordance with Condition A4.2.

1.5 **Good faith**

The Access Parties shall, in exercising their respective rights and complying with their respective obligations under the CVL Network Code (including when conducting any discussions or negotiations arising out of the application of the CVL Network Code or exercising any discretion under it) at all times act in good faith.

1.6 **Franchised services**

References to Franchised Services include:

- (a) railway passenger services which the appropriate designating authority has designated as eligible for provision under franchise agreements pursuant to section 23 of the Act;
- (b) railway passenger services provided by a person appointed as a concessionaire or concession operator by a Railway Funding Authority; and
- (c) railway passenger services provided by the relevant franchising authority, or another person on behalf of the relevant franchising authority, under section 30 of the Act.

1.7 **Standard forms**

If the CVL IM Publishes on its Website any standard forms for the purposes of notifications made, or responses to such notifications, under the CVL Network Code, these standard forms shall be used by any person notifying or responding to a notification under the CVL Network Code unless it is not reasonably practicable to do so.

1.8 **Dispute resolution procedures**

Nothing in this CVL Network Code shall prevent an Access Party from referring any dispute to be dealt with in accordance with a dispute resolution procedure other than the CVL ADRR where this is permitted by the relevant access contract.

Condition A2 - STANDARDS OF DOCUMENTATION

Where in the CVL Network Code any person is required to prepare, produce or publish any Specified Information, that obligation is an obligation to ensure that the Specified Information:

- 2.1 is in terms which are, to the greatest extent reasonably practicable, precise, clear and unambiguous; and
- 2.2 contains the information specified for its contents by the provision of the CVL Network Code which requires its preparation, production or publication, and this Condition A2 is without prejudice to any further or other requirements specified in the CVL Network Code and/or the Access Agreement in relation to the Specified Information.

Condition A3 - PUBLICATIONS

3.1 *General Obligation*

3.1.1 Where in the CVL Network Code the CVL IM is required to publish any Specified Information, the CVL IM shall have satisfied that obligation if the Specified Information is, subject to Condition A3.1.2, Published on its Website.

3.1.2 Any Train Operator shall be entitled to request a hard copy of any information published pursuant to Condition A3.1.1 subject to paying the CVL IM's reasonable copying and administration charges.

3.2 *Sensitive Information*

Where in the CVL Network Code the CVL IM is required to publish any Specified Information which includes relevant items which are Sensitive Information, that obligation shall be satisfied in respect of any relevant item if it publishes a non-sensitive version (such as a redacted version) of that relevant item.

3.3 *Secure information*

Where in the CVL Network Code the CVL IM is required to publish any Specified Information which includes relevant items which are Secure Information, that obligation shall be satisfied if it:

- (a) indicates on the CVL IM Website:
 - (i) in general terms, the nature of the relevant item; and
 - (ii) that it will comply with all reasonable requests to supply any person to whom the CVL IM owes an obligation under Condition A3.1.2 with a paper copy of the

relevant item, which may be redacted at the CVL IM's discretion; and

- (b) complies with requests of the kind specified in Condition A3.3(a)(ii).

3.4 **Hard copy information**

3.4.1 Where in the CVL Network Code the CVL IM is required to publish any Specified Information which includes relevant items which are hard copy information, but are not Sensitive Information, that obligation shall be satisfied if it:

- (a) indicates on the CVL IM Website:
 - (i) the nature of the relevant item; and
 - (ii) that it will comply with all reasonable requests to supply any person with a paper copy of the relevant item; and
- (b) complies with requests of the kind specified in Condition A3.4.1(a)(ii).

3.5 **Hard copy Sensitive Information**

3.5.1 Where in the CVL Network Code the CVL IM is required to publish any Specified Information which includes relevant items which are hard copy information and are Sensitive Information, that obligation shall be satisfied if it:

- (a) indicates on the CVL IM Website:
 - (i) the nature of the relevant item; and
 - (ii) that it will comply with all reasonable requests to supply any person with a paper copy of the non-sensitive version of the relevant item; and
- (b) complies with requests of the kind specified in Condition A3.5.1(a)(ii).

3.6 **Determination**

3.6.1 A determination as to whether any relevant item is Sensitive Information may be made:

- (a) in relation to a relevant item submitted to the CVL IM by another person, by the person submitting the relevant item, in the exercise of his rights under Condition A3.7.1; and

(b) in relation to any other relevant item, by the CVL IM.

3.6.2 A determination as to whether any relevant item is Secure Information or hard copy information may be made by the CVL IM.

3.7 **Non-sensitive versions**

3.7.1 Any person who is obliged to submit Specified Information to the CVL IM may submit a non-sensitive version of particular relevant items, provided that they also submit such relevant items in their entirety and the CVL IM shall publish the non-sensitive version of those relevant items.

3.7.2 If no non-sensitive version of a particular relevant item is submitted to the CVL IM, the CVL IM shall be entitled to assume that the relevant item does not contain any Sensitive Information and shall publish that relevant item in its entirety.

3.8 **Appeals**

3.8.1 If any Access Party is dissatisfied with a determination made by:

- (a) the CVL IM under Condition A3.6.1(b) or Condition A3.6.2; or
- (b) any other person under Condition A3.6.1(a),

it may refer the matter for determination in accordance with the CVL ADRR.

3.8.2 If any Access Party or Potential Access Party is dissatisfied with any decision of the relevant CVL ADRR Forum in relation to any matter referred to it under Condition A3.8.1, that Access Party may refer the matter to the Office of Rail and Road for determination under Part M.

Condition A4- NOTICE BY ORR

4.1 **Giving of Notice**

Where in the CVL Network Code there is provision for a notice to be given by ORR for any purpose, such notice:

- (a) may be given from time to time; and
- (b) shall only have effect if it has been:
 - (i) given to every Access Party, Transport for Wales, the Welsh Ministers and every other person who has notified ORR that it wishes to receive any such notice; and

- (ii) Published on its Website and placed on the register maintained under section 72 of the Act (as a document issued or made by it under an access agreement).

4.2 **Deemed Receipt**

A notice given under the CVL Network Code shall be deemed to have been received:

- (a) if sent by hand or recorded delivery, at the time of delivery;
- (b) if sent by prepaid first class post from and to any place within the United Kingdom, three Working Days after posting unless otherwise proven; and
- (c) if sent by email or other electronic means (subject to confirmation of receipt of delivery):
 - (i) on the day of transmission if sent before 1700 hours on a Working Day; or
 - (ii) in any other case, at 0900 hours on the first Working Day following the day of transmission.

4.3 **Reasons for decisions**

An express provision of the CVL Network Code which requires or contemplates that ORR should give reasons for its decision in any case does not affect the right of any person to be given reasons for any other decision of ORR in any other case.

Condition A5 - LIMITATION ON LIABILITY

5.1 **General**

If an Access Party fails to perform an obligation under the CVL Network Code, the provisions of its Access Agreement limiting the liability of such Access Party under that contract shall have effect in relation to such failure unless and to the extent that:

- (a) an express provision states otherwise in any Part of the CVL Network Code; or
- (b) an express provision states otherwise in the relevant Access Agreement.

5.2 ***Saving***

Condition A5.1 does not apply to an obligation to pay compensation under Condition F3, Condition G2 or Condition G4 of the CVL Network Code.

Condition A6 - CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

6.1 ***Application to third parties***

Except as provided in this Condition A6, no person who is not an Access Party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of the CVL Network Code.

6.2 ***Application to CVL Network Code***

Where in the CVL Network Code a right is given to any person who is not an Access Party, that person shall be entitled to enforce directly any such right under the Contracts (Rights of Third Parties) Act 1999 but only by way of injunction or other performance order of a court or competent tribunal and not by way of damages or other compensatory award. The consent of such person who is not an Access Party, other than ORR (where applicable), shall not be required to any amendment to the CVL Network Code.

Condition A7 - CONSULTATION

7.1 ***Consultation by a meeting***

Where in the CVL Network Code a person is required to consult with other persons on any matter, such consultation may take place at a meeting to which such persons are invited.