

ANNEX C: DRAFT LICENCE CONDITIONS TO IMPLEMENT CAA PROPOSALS FOR CP3

Condition 1: Interpretation and Construction

Modify definition of "London Approach Service" with effect from 1 April 2011 as follows:

"London Approach Service means, in respect of Heathrow, Gatwick, London City, Luton and Stansted airports, the Airfield Service other than such element of service as is provided to an aircraft on its final approach or initial departure path or on the manoeuvring area or apron of the aerodrome."

The purpose of this modification is to include London City and Luton airports within the definition.

Condition 5: Availability of Resources and Financial Ring-Fencing

Modify paragraph 12 (a) with effect from 1 January 2011 by adding new sub-paragraph (v):

"(v) The provision of air traffic services in conjunction with other air traffic service providers in a Functional Airspace Block established in accordance with Regulation (EC) No.551/2004 of 10 March 2004 on the organisation and use of airspace in the single European sky."

and consequently renumbering current sub-paragraph (v) as (vi)

The purpose of this modification is to add to the types of business that the Licensee may conduct without express CAA consent.

Delete sub-paragraph 14(h) with effect from 1 January 2011 and renumber sub-paragraph 14(i) as 14(h).

Add a new section after paragraph 23:

Financial Indebtedness

24. The Licensee shall use its reasonable endeavours to ensure that at 31 March and 30 September of each year of CP3 and thereafter (the "measurement dates") the total amount of Gearing (defined in Paragraph [6]) of the Licensee and any related undertakings, shall not exceed 65 per cent.
25. If, despite the reasonable endeavours of the Licensee, Gearing of the Licensee and any related undertakings, exceeds 65 per cent at the measurement date, or its best estimate for Gearing at any of the next four measurement dates exceeds 65 per cent, which in itself would not constitute a contravention of a licence condition for the purpose of section 20 of the Act, and the Licensee has not obtained the written consent of the CAA to that limit being exceeded, then the Licensee and any related undertakings:

- a. may not without the prior written consent of the CAA (following disclosure of all material facts) declare or pay dividends and may not transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate, otherwise than by way of:
 - i. payment properly due for any goods, services or assets in relation to commitments entered into prior to the date on which the circumstances described in paragraph 25 arise, and which are provided on an arm's length basis and on normal commercial terms
 - ii. a transfer, lease, licence or loan of any sum or sums, asset, right or benefit on an arm's length basis, on normal commercial terms and where the value of the consideration due in respect of the transaction in question is payable wholly in cash and is paid in full when the transaction is entered into;
 - iii. repayment of, or payment of interest on, a loan which was contracted prior to the date on which the circumstances in paragraph 25 arise, provided that such payment is not made earlier than the original due date for payment in accordance with its terms;
 - iv. further loans to employees in respect of the £25 million facility provided by NSL to the licensee for the purpose of funding employee relocation property transactions; and
 - v. payments for group Corporation Tax relief calculated on a basis not exceeding the value of the benefit received, provided that the payments are not made before the date on which the amounts of tax thereby relieved would otherwise have been due;
- b. shall,
 - i. within two months or other such time periods as the CAA may reasonably notify as being appropriate in the circumstances, provide to the CAA details of the steps the Licensee intends to take to reduce the Gearing to 65 per cent or below;
 - ii. within six months or other time periods as the CAA may reasonably notify as being appropriate in the circumstances take those steps; and
 - iii. within time periods as the CAA may reasonably notify as being appropriate in the circumstances provide to the CAA evidence that it has taken those steps.
- c. If at any time the Licensee, in its reasonable judgement, becomes aware of any circumstance that:

- i. means it is no longer complying with paragraph 25(a) and 25 (b); or
- ii. causes it to have the reasonable expectation that it is no longer likely to comply with paragraph 25(a) and 25(b);

then the Licensee shall notify the CAA immediately in writing of that fact or expectation.

26. The Licensee shall:
- a. provide from time to time as reasonably requested by the CAA and in any event within one month¹ of the measurement date:
 - i. in respect of the measurement date to which it relates, the value of Gearing and its best estimate of Gearing on each of the four subsequent measurement dates;
 - ii. for the four subsequent measurement dates, confirmation it is not aware of any circumstances which will result in Gearing being above 65 per cent or prevent it complying (where applicable) with paragraph 25, or if the Licensee is aware of any such circumstances disclosure of those circumstances; and
 - iii. if so requested by the CAA, the financial model in support of that confirmation;
 - b. provide from time to time as reasonably requested by the CAA and in any event every year:
 - i. its best estimate of expected average Gearing over the period from 1 April 2011 to 31 March 2015 as a whole (as a simple arithmetic average of the eight measurement dates within that period); and
 - ii. a full explanation of any difference between expected average gearing in paragraph 26(b)(i) and the target level of gearing of 60 per cent;
27. The Licensee shall provide no later than 31 January 2011:
- a. its best estimate of expected average gearing over the period from 1 April 2011 to 31 March 2015 as a whole (as a simple arithmetic average of the eight measurement dates within that period); and
 - b. a full explanation of any difference between expected average gearing in paragraph 5 (a) and the target level of gearing of 60 per cent.

¹ The May document proposed one month. However, to align this requirement with the reporting requirements of the finance documents the CAA is considering replacing 'one month' with '25 business days'.

28. The Licensee may request a temporary lifting or suspension of the gearing requirements of paragraph 24 and 25. The request will set out the full explanation of the reasons for the request and details of the steps the Licensee intends to take to reduce the Gearing to 65 per cent or below.

29. For the purposes of paragraphs 24 to 28 of this condition:

“Gearing” means Financial Indebtedness of the Licensee and related undertakings divided by the Value of the RAB of the Licensee and related undertakings and expressed as a percentage

“Financial Indebtedness” means, at any time, the aggregate amount of all obligations of the Licensee and related undertakings for or in respect of Borrowings at that time but:

- a. excluding any such obligations to any related undertaking;
- b. excluding any such obligations in respect of any New Shareholder Injections to the extent they constitute Borrowings;
- c. including the RPI Swap Liability;
- d. in the case of Finance Leases only, including their capitalised value; and
- e. deducting the aggregate amount of Cash and Cash Equivalent Investments held by the Licensee and related undertakings

"Borrowings" means, at any time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of any indebtedness of the Licensee and related undertakings for or in respect of:

- a. moneys borrowed and debit balances at banks or other financial institutions;
- b. any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
- c. any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- d. any Finance Lease;
- e. receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirements for de-recognition under the relevant accounting principles);
- f. any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a related undertaking which liability would fall within one of the other paragraphs of this definition;

- g. any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) or are otherwise classified as borrowings under the relevant accounting principles;
- h. any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 30 days after the date of supply;
- i. any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the relevant accounting principles; and
- j. (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

“Cash” means, at any time, cash denominated in Sterling or euros (or in a currency which is readily available and freely convertible into Sterling) in hand or at bank and (in the latter case) credited to an account in the name of the Licensee or any related undertakings with a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of at least either A- granted by Standard & Poor’s Rating Services or A3 granted by Moody’s Investor Services Limited (or a comparable rating from an internationally recognised credit rating agency) to which the Licensee or related undertaking is beneficially entitled and for so long as that cash is repayable on demand (or within 30 days of a demand) without condition.

“Cash Equivalent Investments” means:

- a. marketable debt securities with a maturity of one year or less which has a credit rating of at least A-1 granted by Standard & Poor’s Rating Services or P-1 granted by Moody’s Investor Services Limited (or a comparable rating from an internationally recognised credit rating agency) to which the Licensee or related undertaking is beneficially entitled;
- b. any other authorised investment made by the Licensee or related undertaking as permitted by the terms of the Licensee’s finance documents from time to time,

provided that all such investments are denominated in Sterling or euros (or in a currency which is readily available and freely convertible into Sterling) and can be promptly realised by the Licensee or related undertaking without condition.

“Finance Lease” means any lease or hire purchase contract which would, in accordance with relevant accounting principles, be treated as a finance or capital lease.

“New Shareholder Injections” means the aggregate amount subscribed for by any person (other than a member of the Group) for equity share capital in the Licensee.

“RPI Swap Liability” means the aggregate amount of the Licensee’s liabilities, if any, under any index-linked hedging arrangements to which it is a party at any time calculated in accordance with the Licensee’s finance document.

The CAA will consider but is under no obligation to accept any amendment to the definition of Financial Indebtedness proposed from time to time by the Licensee, but recognises the advantages of the definition being as similar to the equivalent definition in the Licensee’s finance documents.

The CAA may vary the definition of financial indebtedness from time to time, as it considers reasonable, in order that it is consistent with the economic substance of indebtedness for the purposes of this condition.

“Value of the RAB” means

- (a) at 31 March each year, the value of the Licensee’s assets calculated in accordance with the Regulatory Accounting Guidelines, prepared in accordance with Condition 6 of this Licence, in force at the applicable time; and
- (b) at 30 September each year, the value interpolated between the value of the RAB at preceding 31 March and the forecast value for the following 31 March, taking into account the timing of material transactions affecting the RAB.

Renumber paragraph 24 as paragraph 30.

Condition 20: Price Control Conditions: Definitions

In Conditions 21 to 25, unless the context otherwise requires:

"Average Charge Per Oceanic Flight"	means the Oceanic Revenue in the Oceanic Relevant Year divided by the number of Oceanic Flights attracting an Oceanic Charge in that year.
"Charge Control Conditions"	means Conditions 20 to 25 inclusive, as from time to time modified in accordance therewith or pursuant to sections 11 to 19 of the Act.
"Determined Costs"	Means the costs as defined in Article 15.2(a) and (b) of service provision regulation Regulation (EC) 550/2004 (as amended by Regulation (EC) 1070/2009.
"Eurocontrol"	means the European Organisation for the Safety of Air Navigation, founded by the 1960 Brussels Convention relating to Co-operation for the Safety of Air Navigation, or any successor body.
"Eurocontrol Business"	means the business of the Licensee consisting in the provision of services for which Eurocontrol Charges are paid.
"Eurocontrol Charge"	means any charge collected by the Central Route Charges Office of Eurocontrol on behalf of the United Kingdom and reimbursed to the UK Government and its nominees.
"Eurocontrol Relevant Year"	means a calendar year commencing on 1 January in each year.
"Eurocontrol Relevant Year t"	means that Eurocontrol Relevant Year for the purposes of which any calculation falls to be made; "Eurocontrol Relevant Year $t-1$ " means the Eurocontrol Relevant Year preceding Eurocontrol Relevant Year t or, in respect of the period prior to 1 April 2011, the period of 12 months commencing on 1 April 2010; and similar expressions shall be construed accordingly.
"London Approach Relevant Year"	means a period of 12 months commencing on 1 April in each year.
"London Approach Relevant Year t"	means that London Approach Relevant Year for the purposes of which any calculation falls to be made; "London Approach Relevant Year $t-1$ " means the London Approach Relevant

	Year preceding London Approach Relevant Year t or, in respect of the period prior to 1 April 2011, the period of 12 months commencing on 1 April 2010; and similar expressions shall be construed accordingly.
“London Approach Charge”	means a charge paid to the Licensee from the provision of the London Approach Service
"London Approach Service Revenue"	means the revenue derived beneficially by the Licensee from the London Approach Service.
“Maximum Permitted Average Charge Per Oceanic Flight”	means the amount calculated in accordance with Condition 22.
"National Security Period"	means a period commencing on the date on which any direction issued by the Secretary of State under section 94 of the Act enters into effect and terminating on the date such direction, as varied, is revoked or expires.
"Oceanic Charge"	means a charge paid to the Licensee from the provision of services in the En Route (Oceanic) Area.
"Oceanic Flight"	means a flight in the En Route (Oceanic) Area in an Oceanic Relevant Year.
"Oceanic Relevant Year"	means a period of 12 months commencing on 1 April in each year.
"Oceanic Relevant Year t"	means that Oceanic Relevant Year for the purposes of which any calculation falls to be made; "Oceanic Relevant Year $t-1$ " means the Oceanic Relevant Year preceding Oceanic Relevant Year t or, in respect of the period prior to 1 April 2011, the period of 12 months commencing on 1 April 2010; and similar expressions shall be construed accordingly.
"Oceanic Revenue"	means the revenue derived beneficially by the Licensee from Oceanic Charges.
“Permitted Average Charge per Service Unit”	means the amount calculated in accordance with Condition 21
"Relevant Year t"	means that Relevant Year for the purposes of which any calculation falls to be made; "Relevant Year $t-1$ " means the Relevant Year preceding Relevant Year t and similar expressions shall be construed accordingly.
“Service Units”	means the route service units calculated in

accordance with Annex IV of Regulation (ECU) No 1794/2006 as amended by Commission regulation (EC) No. [To be published in OJEU] but excluding the service units relating to military exempt flights.

Condition 21: Control of Eurocontrol Service Charges

1. Without prejudice to Condition 25 (Suspension and Modification of Charge Control Conditions), for each Eurocontrol Relevant Year beginning on 1 January 2011, 2012, 2013 and 2014, the Permitted Average Charge Per Service Unit shall be calculated as follows:

$$\text{Charge}_t = \frac{\text{DC}_t + \text{RS}_t + \text{FI}_t + \text{Pre2011}_t - \text{VFR}_t + \text{INF}_t}{\text{SUForecast}_t}$$

where:

Charge _t	means the Permitted Average Charge Per Service Unit in Eurocontrol Relevant Year t.	
DC _t	means the Determined Costs for the Eurocontrol Relevant Year t in nominal terms as set out as follows:	
	Year t	£
	2011	552,000,000
	2012	573,000,000
	2013	591,000,000
RS _t	means the Traffic Risk Sharing element from previous years calculated as follows:	
	Year t	
	2011	0
	2012	As calculated in Paragraph 2 of this condition.
	2013	
2014		
FI _t	means the Financial Incentives relating to performance as calculated in Paragraph 5 -17 of this condition.	
Pre2011 _t	means the correction factor for the over- or under- recoveries incurred up to and including the year 2010 and for delay bonuses and penalties in respect of performance in 2010 to be calculated as follows:	
	Year t	

	2011	<p>Is NERL's best estimate of the correction factor from the last year of Control Period 2 (whether of a positive or negative value) and calculated in accordance with the following formula:</p> $\text{Pre2011}_{2011} = \left(\text{MACR}_{2010} - \text{TCR}_{2010} \right) \left[1 + \frac{I_{2010}}{100} \right] - (S_{2010} \times \text{FLIGHTS}_{2010})$ <p>where TCR_{2010}, S_{2010} and FLIGHTS_{2010} have the meanings defined in Condition 21 of the Air Traffic Services Licence for NATS En Route plc [updated 5 April 2007] which was in effect on 1 July 2010;</p> <p>where MACR_{2010} shall have a value of £[m] , calculated after netting off £0.37 times the actual service units for 2010.</p> <p>and where :</p> <p>I_{2010} means the average yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September 2010 where the value of $\text{MACR}_{2010} - \text{TCR}_{2010} - (S_{2010} \times \text{FLIGHTS}_{2010})$ is positive, or 3 percentage points per annum above this average rate where the value is negative.</p>
	2012	<p>Is a correction of NERL's estimate above calculated in accordance with the following formula:</p> $\text{Pre2011}_{2012} = \left(\text{APre2011}_{2011} - \left[\text{Pre2011}_{2011} \frac{\text{Actual SU}_{2011}}{\text{SU Forecast}_{2011}} \right] \right)$ <p>APre2011_{2011} means the recalculation of Pre2011_{2011} based on actual values of TCR_{2010}, S_{2010} and FLIGHTS_{2010}.</p>
	2013	0
	2014	0
VFR _t	<p>means the expected cost of services to traffic operating under Visual Flight Rules as set out as follows:</p>	
	Year t	
	2011	0
	2012	0

	2013	0
	2014	0
INF _t	<p>Means an adjustment to correct for cumulative variances in the value of the HICP (all items) index, to be added to the amount of revenue to be recovered in relevant Eurocontrol year t compared to the reference values established before the reference period calculated as follows:</p> $INF_t = INFest_{t-1} \left[1 + \frac{INT_{t-1}}{100} \right] + INFcor_{t-2} \left[1 + \frac{INT_{t-1}}{100} \right]^2$ <p>except that INF₂₀₁₁=0.</p>	
	where:	INT _{t-1} means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Relevant Year t-2 .
	INFest _{t-1}	<p>means the preliminary adjustment to correct charges for cumulative variances in the value of the HICP (all items) index of inflation up to August in Relevant Eurocontrol Year t-1 and the estimate of cumulative inflation to Relevant Eurocontrol year t-1 which shall be calculated as follows:</p> $INFest_{t-1} = \left(\frac{HICP_{Aug(t-1)} - FHICP_{t-1}}{100} \right) DC_{t-1}$ <p>Where</p> <p>except that INFest₂₀₁₀=0</p>
	INFcor _{t-2}	<p>Means a correction to the preliminary adjustment made in year t-1 for variances in year t-2 which shall be calculated as follows:</p> $INFcor_{t-2} = \left[\begin{array}{l} \left(\frac{HICP_{t-2} - FHICP_{t-2}}{100} \right) DC_{t-2} \\ - INFest_{t-2} \frac{ActualSU_{t-1}}{SUFforecast_{t-1}} \end{array} \right]$ <p>except that INFcor₂₀₁₀=0</p>
	HICP _{Aug(t-1)}	means the monthly value of the HICP (all items) index, (2005=100) in respect of the UK published by Eurostat for August in relevant year t-1.
	HICP _{t-2}	means the HICP (all items) annual average index (2005=100) in respect of the UK published by Eurostat for Eurocontrol Relevant Year t-2.

	FHICP _t	means the reference values of the HICP (all items) index (2005=100) in respect of the UK for Eurocontrol Relevant Year t established prior to the control period, consistent with the projections in nominal prices which shall be:	
		t	
		2011	115.2
		2012	117.1
		2013	119.1
		2014	121.4
Forecast SU _t	means the forecast of Service Units for relevant year t established at the beginning of the reference period as set out as follows:		
	Year t		
	2011	10,196,067	
	2012	10,505,540	
	2013	10,860,686	
	2014	11,200,551	
EstimateSU _{t-1}	means NERL's best endeavours estimate of Service Units for relevant year t-1 made when setting charges for year t		
ActualSU _t	means the Service Units as recorded by the Central Route Charges Office of Eurocontrol.		

Calculation of the traffic risk sharing element

2. RS_t shall be calculated as follows:

$RS_t = \left[RSest_{t-1} \left[1 + \frac{INT_{t-1}}{100} \right] \right] + \left[RScor_{t-2} \left[1 + \frac{I_{t-1}}{100} \right]^2 \right]$		
except that RS ₂₀₁₁ = 0		
Where	RSest _{t-1}	means NERL's estimate of risk sharing relating to Eurocontrol Relevant year t-1 based on NERL's best endeavours estimate of the service units made when setting charges for year t which shall be calculated as set out in paragraph 3.
	RScor _{t-2}	means a correction to adjust for the difference between NERL's best estimate of service units in year t-2 and the actual service units made when setting charges for year t which shall be calculated as $RScor_{t-2} = \left[RSact_{t-2} - RSest_{t-2} \frac{ActualSU_{t-1}}{SUForecast_{t-1}} \right]$
Where	RSact _{t-2}	means the risk sharing relating to Eurocontrol Relevant year t-2 based on the actual number of Service Units which shall be calculated as set out in paragraph 4.
	INT _{t-1}	Means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills

		published weekly by the UK Debt Management Office, during the 12 months from 1 September in Relevant Year t-2.
	I_{t-1}	means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Relevant Year t-2 where the value of $RScor_{t-2}$ is positive, or 3 percentage points above this average rate where the value is negative.

3. $RSest_{t-1}$ shall be calculated as follows:

For relevant years 2012, 2013 and 2014	
Where:	$0.98 \leq \frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} \leq 1.02$ $RSest_{t-1} = 0$
Where:	$1.02 < \frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} \leq 1.10$ $RSest_{t-1} = -0.7 \left[\frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} - 1.02 \right] [DC_{t-1}]$
Where:	$0.90 \leq \frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} < 0.98$ $RSest_{t-1} = -0.7 \left[\frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} - 0.98 \right] [DC_{t-1}]$
Where:	$\frac{EstimateSU_{t-2}}{ForecastSU_{t-2}} < 0.90$ $RSest_{t-1} = - \left[\frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} - 0.90 \right] [DC_{t-1}] + 0.7[0.08(DC_{t-1})]$
Where:	For $\frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} > 1.10$ $RSest_{t-1} = - \left[\frac{EstimateSU_{t-1}}{ForecastSU_{t-1}} - 1.10 \right] [DC_{t-1}] - 0.7[0.08(DC_{t-1})]$

4. $RSact_{t-2}$ shall be calculated as follows:

For relevant years 2013 and 2014	
Where:	$0.98 \leq \frac{ActualSU_{t-2}}{ForecastSU_{t-2}} \leq 1.02$ $RSact_{t-2} = 0$
Where:	$1.02 < \frac{ActualSU_{t-2}}{ForecastSU_{t-2}} \leq 1.10$ $RSact_{t-2} = -0.7 \left[\frac{ActualSU_{t-2}}{ForecastSU_{t-2}} - 1.02 \right] [DC_{t-2}]$
Where:	$0.90 \leq \frac{ActualSU_{t-2}}{ForecastSU_{t-2}} < 0.98$ $RSact_{t-2} = -0.7 \left[\frac{ActualSU_{t-2}}{ForecastSU_{t-2}} - 0.98 \right] [DC_{t-2}]$
Where:	$\frac{ActualSU_{t-2}}{ForecastSU_{t-2}} < 0.90$ $RSact_{t-2} = - \left[\frac{ActualSU_{t-2}}{ForecastSU_{t-2}} - 0.90 \right] [DC_{t-2}] + 0.7[0.08(DC_{t-2})]$
Where:	<p>For $\frac{ActualSU_{t-2}}{ForecastSU_{t-2}} > 1.10$</p> $RSact_{t-2} = - \left[\frac{ActualSU_{t-2}}{ForecastSU_{t-2}} - 1.10 \right] [DC_{t-2}] - 0.7[0.08(DC_{t-2})]$

Calculation of financial incentives

5. In respect of Eurocontrol Relevant Year 2011:

$$FI_t = 0$$

In respect of Eurocontrol Relevant Years t, 2012, 2013 and,2014

$FI_t = FT1_{t-1} + FT2_{t-1} + FT3_{t-1} + FE_{t-1} + KFI_{t-2}$	
Where:	
$FT1_{t-1}$	means the element of bonus or penalty relating to measure $T1_{t-1}$ in respect of relevant year t-1 as calculated in Paragraphs 6 and 7.
$FT2_{t-1}$	means the element of bonus or penalty relating to measure $T2_{t-1}$ in respect of relevant year t-1 as calculated in Paragraphs 8 and 9.
$FT3_{t-1}$	means the element of bonus or penalty relating to measure $T3_{t-1}$ in respect of relevant year t-1 as calculated in Paragraphs 11 and 12.
FE_{t-1}	means the element of bonus or penalty relating to measure FE_{t-1} in respect of relevant year t-1 as calculated in Paragraphs 15 .
KFI_{t-2}	means the correction of the financial incentives for the differences between actual performance in relevant year t-2 and forecast performance in year t-2 as calculated in Paragraph 16.
In respect of all the elements of the Financial Incentives:	
NERL Attributable En Route ATFM Delay	means En Route ATFM Delay attributed to NERL's Eurocontrol Business (subject to adjustment in accordance with methods approved by the CAA) other than where the cause is recorded as: Weather, Airport Operations (en route holding), Military Activity, Non ATC Equipment, Other ANSP Industrial Action, Accident/Incident, Aerodrome Capacity, De-icing or Special Event. (Special Event shall not include the Olympic Games or Paralympic Games for this purpose.)
En Route ATFM Delay	means en route air traffic flow management delay calculated by the central unit of ATFM as defined in Commission Regulation (EC) No 255/2010 on ATFM and expressed as the difference between the take-off time requested by the aircraft operator in the last submitted flight plan and the calculated take-off time allocated by the central unit of ATFM.
$AFLIGHTS_{t-1}$	means the actual aggregate number of flights in relevant year t-1 to be calculated by reliance on figures of chargeable flights reported to the CAA by the Central Route Charges Office of Eurocontrol (subject to any adjustment in accordance with methods approved by the CAA).
$FLIGHTS_{t-1}$	means NERL's best endeavours estimate of $AFLIGHTS_{t-1}$ made at the time of setting charges for relevant year

	t.
CHAW _{Aug(t-1)}	Means the value the CHAW index published or determined with respect to August in Eurocontrol Relevant Year t-1 and the index published or determined with respect to August in Eurocontrol Relevant Year t-2.

The Calculation of FT1_{t-1}

6. For the purpose of Paragraph 5, the term FT1_{t-1} shall be calculated in accordance with the following formulae where Eurocontrol Relevant Years t-1 are 2011 and 2013 (relating to penalties or bonuses in 2012 and 2014 respectively):

Where	T1 _{t-1}	means NERL's best endeavours estimate of the average NERL Attributable En Route ATFM Delay per flight in year t-1 made at the time of setting the Eurocontrol service charge for Eurocontrol relevant year t.
Where	T1 _{t-1} is greater than or equal to T1Upper _{t-1}	
	and:	T1 _{t-1} is greater than or equal to 45
		$FT1_{t-1} = T1PenRate_{t-1}(45 - T1Upper_{t-1})FLIGHTS_{t-1}$
Where:	T1 _{t-1} is greater than or equal to T1Upper _{t-1}	
	and:	T1 _{t-1} is less than 45
		$FT1_{t-1} = T1PenRate_{t-1}(T1_{t-1} - T1Upper_{t-1})FLIGHTS_{t-1}$
Where:	T1 _{t-1} is greater than T1Lower _{t-1} and less than T1Upper _{t-1}	
		$FT1_{t-1} = 0$
Where:	T1 _{t-1} is less than or equal to T1Lower _{t-1}	
		$FT1_{t-1} = T1BonusRate_{t-1}(T1Lower_{t-1} - T1_{t-1})FLIGHTS_{t-1}$
Where	T1PenRate _{t-1}	Means the penalty rate for the reduction of revenues relating to the T1 score in the relevant year t-1 (to take effect in relevant year t) calculated as follows:
		t-1
	2011	$-£0.0630 \left(\frac{CHAW_{Aug(2011)}}{198.1} \right)$

		2013	$-\text{£}0.0630 \left(\frac{\text{CHAW}_{\text{Aug}(2013)}}{198.1} \right)$
	$T1\text{BonusRate}_{t-1}$	Means the bonus rate for the increase of revenues relating to the T1 score in the relevant year t-1 (to take effect in relevant year t) calculated as follows:	
		t-1	
		2011	$\text{£}0.0921 \left(\frac{\text{CHAW}_{\text{Aug}(2011)}}{198.1} \right)$
		2013	$\text{£}0.0921 \left(\frac{\text{CHAW}_{\text{Aug}(2013)}}{198.1} \right)$
	$T1\text{Upper}_{t-1}$	Is the value of the T1 score in relevant year t-1 above which a penalty becomes payable calculated as follow: $T1\text{Upper}_{t-1} = T1\text{Par}_{t-1} + 2.5$	
	$T1\text{Lower}_{t-1}$	Is the value of the T1 score in relevant year t-1 below which a bonus becomes payable calculated as follows. $T1\text{Lower}_{t-1} = T1\text{Par}_{t-1} - 2.5$	
	$T1\text{Par}_{t-1}$	Is defined in Paragraph 17.	

7. For the purpose of Paragraph 5, the term $FT1_{t-1}$ shall be calculated in accordance with the following formulae where relevant year t-1 is 2012 (relating to penalties or bonuses in 2013) :

$$FT1_{2012} = FT1'_{\text{games}} + FT1'_{\text{other}}$$

$FT1'_{\text{games}}$	means the element of bonus or penalty relating to measure $T1_{t-1}$ relating to the period 1 July to 15 September 2012 inclusive.
$FT1'_{\text{other}}$	means the element of bonus or penalty relating to measure $T1_{t-1}$ relating to the aggregate of the two periods 1 January to 30 June 2012 inclusive and 16 September to 31 December 2012 inclusive.
Subscript s below means either "games" or "other" for all terms in the relevant expression.	
Subject to	An absolute limit on penalties arising from the calculation of $FT1'_{\text{games}}$ and $FT1'_{\text{other}}$ such that:

	$FT1'_{\text{games}} \geq -\frac{2.5}{12} FT1\text{Max}_{2012}$
	$\text{and } FT1'_{\text{other}} \geq -\frac{9.5}{12} FT1\text{Max}_{2012}$
	$\text{Where: } FT1\text{Max}_{2012} = \text{£}4,800,000 \frac{CHAW_{\text{Aug}(2012)}}{198.1}$
Where	$T1_s$ is greater than or equal to $T1\text{Upper}_s$
	and: $T1_s$ is greater than or equal to 45
	$FT1'_s = T1\text{PenRate}_{2012} (45 - T1\text{Upper}_s) \text{FLIGHTS}'_s$
Where:	$T1_s$ is greater than or equal to $T1\text{Upper}_s$
	and: $T1_s$ is less than 45
	$FT1'_s = T1\text{PenRate}_{2012} (T1_s - T1\text{Upper}_s) \text{FLIGHTS}'_s$
Where:	$T1_s$ is greater than $T1\text{Lower}_s$ and less than $T1\text{Upper}_s$
	$FT1'_s = 0$
Where:	$T1_s$ is less than or equal to $T1\text{Lower}_s$
	$FT1'_s = T1\text{BonusRate}_{2012} (T1\text{Lower}_s - T1_s) \text{FLIGHTS}$
Where	Means the penalty rate for the reduction of revenues based on the T1 score relating to Eurocontrol relevant year 2012 calculated as follows:
	$T1\text{PenRate}_{2012} = \left[\frac{CHAW_{\text{Aug}(2012)}}{198.1} \right]$ <p>-£0.0630</p>
	Means the bonus rate for the increase of revenues based on the T1 score relating to Eurocontrol year 2012 calculated as follows
	$T1\text{BonusRate}_{2012} = \left[\frac{CHAW_{\text{Aug}(2012)}}{198.1} \right]$ <p>£0.0921</p>
	means the value of the T1 score in the games period or other period respectively in relevant year 2012 above which a penalty becomes payable calculated as follows:.
	$T1\text{Upper}_s = T1\text{Par}_s + 2.5$

		means the value of the T1 score in the games period or other period respectively in relevant year 2012 below which a bonus becomes payable calculated as follows: $T1Lower_s = T1Par_s - 2.5$
		means the par value of the T1 score for the games period or other period in relevant year 2012 as calculated in Paragraph 17.
		Means the number of $FLIGHTS_{2012}$ falling in the period of the Games as specified above.
		Means the number of $FLIGHTS_{2012}$ falling outside the period of the games as specified above calculated as : $FLIGHTS'_{other} = FLIGHTS_{2012} - FLIGHTS'_{games}$

The Calculation of $FT2_{t-1}$

8. For the purpose of Paragraph 5, the term $FT2_{t-1}$ shall be calculated in accordance with the following formulae where Eurocontrol relevant years t-1 are 2011 and 2013 (relating to penalties or bonuses in 2012 and 2014 respectively):

Where	$T2_{t-1}$	Means NERL's best endeavours estimate of the weighted delay score per flight calculated as set out in Paragraph 10.
Where	$T2_{t-1}$ is greater than or equal to $T2Upper_{t-1}$	
	and:	$T2_{t-1}$ is greater than or equal to 126
		$FT2_{t-1} = T2PenRate_{t-1}(126 - T2Upper_{t-1})FLIGHTS_{t-1}$
Where:	$T2_{t-1}$ is greater than or equal to $T2Upper_{t-1}$	
	and:	$T2_{t-1}$ is less than 126
		$FT2_{t-1} = T2PenRate_{t-1}(T2_{t-1} - T2Upper_{t-1})FLIGHTS_{t-1}$
Where:	$T2_{t-1}$ is greater than $T2Lower_{t-1}$ and less than $T2Upper_{t-1}$	
		$FT2_{t-1} = 0$
Where:	$T2_{t-1}$ is less than or equal to $T2Lower_{t-1}$	
		$FT2_{t-1} = T2BonusRate_{t-1}(T2Lower_{t-1} - T2_{t-1})FLIGHTS_{t-1}$

Where	T2PenRate _{t-1}	Means the penalty rate for the reduction of revenues relating to the T2 score relevant year t-1 (to take effect in relevant year t)	
		t-1	
		2011	- £0.0439 $\left(\frac{\text{CHAW}_{\text{Aug}(2011)}}{198.1} \right)$
		2013	- £0.0439 $\left(\frac{\text{CHAW}_{\text{Aug}(2013)}}{198.1} \right)$
	T2BonusRate _{t-1}		
		t-1	
		2011	£0.0614 $\left(\frac{\text{CHAW}_{\text{Aug}(2011)}}{198.1} \right)$
		2013	£0.0614 $\left(\frac{\text{CHAW}_{\text{Aug}(2013)}}{198.1} \right)$
	T2Upper _{t-1}	Is the value of the T2 score in relevant year t-1 above which a penalty becomes payable calculated as follows: $\text{T2Upper}_{t-1} = \text{T2Par}_{t-1} + 5$	
	T2Lower _{t-1}	Is the value of the T1 score in relevant year t-1 below which a bonus becomes payable calculated as follows. $\text{T2Lower}_{t-1} = \text{T2Par}_{t-1} - 5$	
	T2Par _{t-1}	Is defined in Paragraph 17	

9. For the purpose of Paragraph 5, the term FT2_{t-1} shall be calculated in accordance with the following formula where Eurocontrol relevant year t-1 is 2012 (relating to penalties or bonuses in 2013):

$$\text{FT2}_{2012} = \text{FT2}'_{\text{games}} + \text{FT2}'_{\text{other}}$$

FT2' _{games}	means the element of bonus or penalty relating to measure T2 _{t-1} relating to the period 1 July to 15 September 2012 inclusive.
FT2' _{other}	means the element of bonus or penalty relating to measure T2 _{t-1} relating to the aggregate of the two periods 1 January to 30 June 2012 inclusive and 16 September to 31 December 2012 inclusive.
Subscript s	below means either "games" or "other" for all terms in the relevant expression.
Subject to	An absolute limit on penalties arising from the calculation of FT2' _{games} and

	$FT2'_{other}$ such that:	
	$FT2'_{games} \geq -\frac{2.5}{12} FT2Max_{2012}$	
	and	
	$FT2'_{other} \geq -\frac{9.5}{12} FT2Max_{2012}$	
	Where:	
	$FT2'_{Max}_{2012} = \text{£}9,600,000 \frac{CHAW_{Aug(2012)}}{198.1}$	
Where	$T2_s$ is greater than or equal to $T2Upper_s$	
	and:	$T2_s$ is greater than or equal to 126
		$FT2'_s = T2PenRate_s (126 - T2Upper_s) FLIGHTS'_s$
Where:	$T2_s$ is greater than or equal to $T2Upper_s$	
	and:	$T2_s$ is less than 126
		$FT2'_s = T2PenRate_{2012} (T2_s - T2Upper_s) FLIGHTS'_s$
Where:	$T2_s$ is greater than $T2Lower_s$ and less than $T2Upper_s$	
		$FT2'_s = 0$
Where:	$T2_s$ is less than or equal to $T2Lower_s$	
		$FT2'_s = T2BonusRate_{2012} (T2Lower_s - T2_s) FLIGHTS'_s$
Where	$T2PenRate_{2012}$	means the penalty rate for the reduction of revenues based on the T2 score relating to relevant year 2012 (to take effect in relevant year 2013) calculated as follows:
	$T2PenRate_{2012} =$	$-\text{£}0.0439 \left(\frac{CHAW_{Aug(2012)}}{198.1} \right)$
	$T2BonusRate_{2012}$	means the bonus rate for the increase of revenues based on the T2 score relating to relevant year 2012 (to take effect in relevant year 2013) calculated as follows
	$T2BonusRate_{2012} =$	$\text{£}0.0614 \left(\frac{CHAW_{Aug(2012)}}{198.1} \right)$

	$T2Upper_s$	means the value of the T2 score in the games period or other period respectively in relevant Eurocontrol year 2012 above which a penalty becomes payable calculated as follows: $T2Upper_s = T2Par_s + 5$
	$T2Lower_s$	means the value of the T2 score in the games period or other period respectively in relevant Eurocontrol year 2012 below which a bonus becomes payable calculated as follows: $T2Lower_s = T2Par_s - 5$
	$T2Par_s$	means the par value of the T2 score for the games period or other period in Eurocontrol relevant year 2012 as calculated in Paragraph 17.
	$FLIGHTS_{games}$	Is as calculated in Paragraph 7
	$FLIGHTS'_{other}$	Is as calculated in Paragraph 7

Calculation of $T2_{t-1}$

10. $T2_{t-1}$ shall be calculated as follows:

$T2_{t-1}$	$T2_{t-1} = \frac{\sum w_{p,l} d_{p,l}}{FLIGHTS_{t-1}}$ For all flights in year t-1	
Where:	Where p denotes that each flight in relevant year t-1 shall be considered as falling into three periods:	
	Morning Peak (p=1)	Means flights in relevant year t-1 with an off-block estimated time between 0400 and 0759 UTC in Summer (April –October inclusive) and between 0500 and 0859 UTC in Winter (January -March inclusive and November-December inclusive).
	Evening Peak (p=2)	Means flights in relevant year t-1 with an off-block estimated time between 1500 and 1859 UTC in Summer (April –October inclusive) and between 1600 and 1959 UTC in Winter (January-March inclusive and November-December inclusive).
	Other	All other relevant flights in relevant year t-1.

	(p=3)																					
and	l	Denotes bands of delay for each flight where																				
		<table border="1"> <tr> <td>$d_{p,1}$</td> <td>means the NERL Attributable En Route ATFM Delay for each flight in seconds up to and including 15 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.</td> </tr> <tr> <td>$d_{p,2}$</td> <td>means the NERL Attributable En Route ATFM Delay in seconds over 15 minutes but less than or equal to 30 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.</td> </tr> <tr> <td>$d_{p,3}$</td> <td>means the NERL Attributable En Route ATFM Delay in seconds over 30 minutes but less than or equal to 60 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.</td> </tr> <tr> <td>$d_{p,4}$</td> <td>means the NERL Attributable En Route ATFM Delay in seconds over 60 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.</td> </tr> </table>	$d_{p,1}$	means the NERL Attributable En Route ATFM Delay for each flight in seconds up to and including 15 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.	$d_{p,2}$	means the NERL Attributable En Route ATFM Delay in seconds over 15 minutes but less than or equal to 30 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.	$d_{p,3}$	means the NERL Attributable En Route ATFM Delay in seconds over 30 minutes but less than or equal to 60 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.	$d_{p,4}$	means the NERL Attributable En Route ATFM Delay in seconds over 60 minutes per flight in relevant year t-1 of flights which fall into relevant period p as defined above.												
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	$w_{p,l}$	<p>means the weighting to be applied to bands of delay l for each flight subject to the period of the flight p where the weightings applied shall be:</p> <table border="1"> <thead> <tr> <th></th> <th>p=1 Morning Peak Period</th> <th>p=2 Evening Peak Period</th> <th>p=3 Other Times</th> </tr> </thead> <tbody> <tr> <td>$l=1$ (Delay > 0 and <=15 minutes)</td> <td>3</td> <td>2</td> <td>1</td> </tr> <tr> <td>$l=2$ (Delay >15 and <= 30 minutes)</td> <td>6</td> <td>3</td> <td>2</td> </tr> <tr> <td>$l=3$ (Delay >30 and <= 60 minutes)</td> <td>9</td> <td>6</td> <td>3</td> </tr> <tr> <td>$l=4$ (Delay >60 minutes)</td> <td>18</td> <td>9</td> <td>6</td> </tr> </tbody> </table>		p=1 Morning Peak Period	p=2 Evening Peak Period	p=3 Other Times	$l=1$ (Delay > 0 and <=15 minutes)	3	2	1	$l=2$ (Delay >15 and <= 30 minutes)	6	3	2	$l=3$ (Delay >30 and <= 60 minutes)	9	6	3	$l=4$ (Delay >60 minutes)	18	9	6
	p=1 Morning Peak Period	p=2 Evening Peak Period	p=3 Other Times																			
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$l=3$ (Delay >30 and <= 60 minutes)	9	6	3																			
$l=4$ (Delay >60 minutes)	18	9	6																			

The Calculation of $FT3_{t-1}$

11. For the purpose of Paragraph 5, $FT3_{t-1}$ shall be calculated in accordance with the following formulae where relevant years t-1 are 2011 and 2013 (relating to penalties or bonuses in 2012 and 2014 respectively):

Where	$T3_{t-1}$	means NERL's best endeavours estimate of the annual sum of the weighted daily excess delay score calculated as set out in Paragraph 13.	
Where	$T3_{t-1}$ is greater than or equal to $T3Upper_{t-1}$		
	and:	$T2_{t-1}$ is greater than or equal to 4,320	
		$FT3_{t-1} = T3PenRate_{t-1}(4,320 - T3Upper_{t-1})FLIGHTS_{t-1}$	
Where:	$T3_{t-1}$ is greater than or equal to $T3Upper_{t-1}$		
	and:	$T3_{t-1}$ is less than 4,320	
		$FT3_{t-1} = T3PenRate_{t-1}(T3_{t-1} - T3Upper_{t-1})FLIGHTS_{t-1}$	
Where:	$T3_{t-1}$ is greater than $T3Lower_{t-1}$ and less than $T3Upper_{t-1}$		
		$FT3_{t-1} = 0$	
Where:	$T3_{t-1}$ is less than or equal to $T3Lower_{t-1}$		
		$FT3_{t-1} = T3BonusRate_{t-1}(T3Lower_{t-1} - T3_{t-1})FLIGHTS_{t-1}$	
Where	$T3PenRate_{t-1}$	Means the penalty rate for the reduction of revenues relating to the T3 score relevant year t-1 (to take effect in relevant year t)	
		t-1	
		2011	$-\text{£}0.0006 \left(\frac{\text{CHAW}_{\text{Aug}(2011)}}{198.1} \right)$
		2013	$-\text{£}0.0006 \left(\frac{\text{CHAW}_{\text{Aug}(2013)}}{198.1} \right)$
	$T3BonusRate_{t-1}$		
		t-1	
		2011	$\text{£}0.0009 \left(\frac{\text{CHAW}_{\text{Aug}(2011)}}{198.1} \right)$
		2013	$\text{£}0.0009 \left(\frac{\text{CHAW}_{\text{Aug}(2013)}}{198.1} \right)$
	$T3Upper_{t-1}$	Is the value of the T3 score in relevant year t-1 above which a penalty becomes payable calculated as follow: $T3Upper_{t-1} = T3Par_{t-1} + 150$	

	T3Lower _{t-1}	Is the value of the T1 score in relevant year t-1 below which a bonus becomes payable calculated as follows. $T3Lower_{t-1} = T3Par_{t-1} - 150$
	T3Par _{t-1}	Is defined in Paragraph 17.

12. For the purpose of Paragraph 5, the term FT3_{t-1} shall be calculated in accordance with the following formula where relevant year t-1 is 2012 (relating to penalties or bonuses in 2013):

$$FT3_{2012} = FT3'_{games} + FT3'_{other}$$

FT3' _{games}	means the element of bonus or penalty relating to measure T3 _{t-1} relating to the period 1 July to 15 September 2012 inclusive.	
FT3' _{other}	means the element of bonus or penalty relating to measure T3 _{t-1} relating to the aggregate of the two periods 1 January to 30 June 2012 inclusive and 16 September to 31 December 2012 inclusive.	
Subscript s	below means either "games" or "other" for all terms in the relevant expression.	
Subject to	An absolute limit on penalties arising from the calculation of FT3' _{games} and FT3' _{other} such that: $FT3'_{games} \geq -\frac{2.5}{12} FT3Max_{2012}$ and $FT3'_{other} \geq -\frac{9.5}{12} FT3Max_{2012}$ Where: $FT3'_{Max}_{2012} = \text{£}4,800,000 \frac{CHAW_{Aug(2012)}}{198.1}$	
Where	T3 _s is greater than or equal to T3Upper _s	
	and:	T3 _s is greater than or equal to 4,320
		$FT3'_s = T3PenRate_{2012} (4,320 - T3Upper_s) . FLIGHTS'_s$
Where:	T3 _s is greater than or equal to T3Upper _s	
	and:	T3 _s is less than 4,320
		$FT3'_s = T3PenRate_{2012} (T3_s - T3Upper_s) FLIGHTS'_s$
Where:	T3 _s is greater than T3Lower _s and less than T3Upper _s	

		$FT3'_s = 0$	
Where:	$T3_s$ is less than or equal to $T3Lower_s$		
		$FT3'_s = T3BonusRate_s (T3Lower_s - T3_s) FLIGHTS'_s$	
Where	$T3PenRate_{2012}$	means the penalty rate for the reduction of revenues based on the T3 score relating to Eurocontrol relevant year 2012 calculated as follows:	
		$T3PenRate_{2012} =$	-£0.0006 $\left[\frac{CHAW_{Aug(2012)}}{198.1} \right]$
	$T3BonusRate$	means the bonus rate for the increase of revenues based on the T2 score relating to relevant year 2012 calculated as follows	
		$T3BonusRate_{2012} =$	£0.0009 $\left[\frac{CHAW_{Aug(2012)}}{198.1} \right]$
	$T3Upper_s$	means the value of the T2 score in the games period or other period respectively in relevant year 2012 above which a penalty becomes payable calculated as follows: $T3Upper_s = T3Par_s + 150$	
	$T3Lower_s$	means the value of the T2 score in the games period or other period respectively in relevant year 2012 below which a bonus becomes payable calculated as follows: $T3Lower_s = T3Par_s - 150$	
	$T3Par_s$	means the par value of the T2 score for the games period or other period in relevant year 2012 as calculated in Paragraph 17.	
	$FLIGHTS'_{games}$	Is as calculated in Paragraph 7	
	$FLIGHTS'_{other}$	Is as calculated in Paragraph 7	

Calculation of $T3_{t-1}$

13. $T3_{t-1}$ shall be calculated as follows:

$T3_{t-1}$	$T3_{t-1} = \sum T3DailyScore_d$ for all days in year t-1 except where an exemption applies as defined in paragraph 14.	
Where:	d is a day in the months January to March inclusive or November to December inclusive:	
	Where	$\frac{DT1_d}{DailyFlights_d} \leq 40$
		$T3DailyScore_d = 0$
	Where	$40 < \frac{DT1_d}{DailyFlights_d} \leq 80$
		$T3DailyScore_d = \frac{DT1_d}{DailyFlights_d} - 40$
	Where	$80 < \frac{DT1_d}{DailyFlights_d}$
		$T3DailyScore_d = 40 + 2\left(\frac{DT1_d}{DailyFlights_d} - 80\right)$
Where:	d is a day in the months April to October inclusive	
	Where	$\frac{DT1_d}{DailyFlights_d} \leq 60$
		$T3DailyScore_d = 0$
	Where	$60 < \frac{DT1_d}{DailyFlights_d} \leq 110$
		$T3DailyScore_d = \frac{DT1_d}{DailyFlights_d} - 60$
	Where	$110 < \frac{DT1_d}{DailyFlights_d}$

		$T3DailyScore_d = 50 + 2 \left(\frac{DT1_d}{DailyFlights_d} - 110 \right)$
Where:	DT1 _d	means total NERL Attributable En Route ATFM Delay in seconds on day d.
	DailyFlights _d	means the actual aggregate number of flights on day d to be calculated by reliance on figures of chargeable flights reported to the CAA by the Central Route Charges Office of Eurocontrol (subject to any adjustment in accordance with methods approved by the CAA).

Exemptions for T3_{t-1}

14. Daily scores shall not be counted for the purposes of calculating T3_{t-1} where all the following conditions apply:

The day falls into a period designated by NERL in advance as a period when a new system is being implemented;

Users have been notified consulted in advance over the timing of such exemptions;

The total number of days falling into such periods designated by NERL shall not exceed 10 in any Eurocontrol Relevant year.

Calculation of FE_{t-1}

15. [The form of a Flight efficiency term is under consideration.]

Calculation of KFI_{t-2}

16. The calculation of the correction element of the financial incentives shall be calculated as follows:

$$KFI_{t-2} = Correction_{t-2} \left[1 + \frac{I_{t-1}}{100} \right]$$

Correction _{t-2}	means a correction factor for differences in the best endeavours estimates made by NERL and the outturn values for relevant year t-2 calculated as follows: $\text{Correction}_{t-2} = \frac{(AFT1_{t-2} - FT1_{t-2}) + (AFT2_{t-2} - FT2_{t-2}) + (AFT3_{t-2} - FT3_{t-2}) + (AFE_{t-2} - FE_{t-2})}{\dots}$
AFT1 _{t-2}	means the value that FT1 _{t-2} would have if NERL's estimate had been based on the actual value of T1 _{t-2} and AFLIGHTS _{t-2} rather than FLIGHTS _{t-2} in the calculations in Paragraphs 6 and 7.
AFT2 _{t-2}	means the value that FT2 _{t-2} would have if NERL's estimate had been based on the actual value of T2 _{t-2} and AFLIGHTS _{t-2} rather than FLIGHTS _{t-2} in the calculations in Paragraphs 8 and 9.
AFT3 _{t-2}	means the value that FT3 _{t-2} would have if NERL's estimate had been based on the actual value of FE _{t-2} and AFLIGHTS _{t-2} rather than FLIGHTS _{t-2} in the calculations in Paragraphs 11 and 12.
AFE _{t-2}	means the value that FE _{t-2} would have if NERL's estimate had been based on the actual flight efficiency in the calculations in Paragraph 15.
I _{t-1}	means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Relevant Year t-2 where the value of Correction _{t-2} is positive, or 3 percentage points above this average rate where the value is negative.

Definition of Par Values

17. The par values for each of the measures shall be calculated as follows:

Where:	$LFT_{t-1} \leq FLIGHTS_{t-1} \leq UFT_{t-1}$
	$T1Par_{t-1} = 12.5$

		$T2Par_{t-1} = 35$ $T3Par_{t-1} = 1200$								
Where:	$LFT_{t-1} > FLIGHTS_{t-1}$									
		$T1Par_{t-1} = 12.5 \left(1 + \frac{4(FLIGHTS_{t-1} - LFT_{t-1})}{LFT_{t-1}} \right)$ $T2Par_{t-1} = 35 \left(1 + \frac{4(FLIGHTS_{t-1} - LFT_{t-1})}{LFT_{t-1}} \right)$ $T3Par_{t-1} = 1200 \left(1 + \frac{1(FLIGHTS_{t-1} - LFT_{t-1})}{LFT_{t-1}} \right)$								
	$FLIGHTS_{t-1} > UFT_{t-1}$									
		$T1Par_{t-1} = 12.5 \left(1 + \frac{8(FLIGHTS_{t-1} - UFT_{t-1})}{UFT_{t-1}} \right)$ $T2Par_{t-1} = 35 \left(1 + \frac{8(FLIGHTS_{t-1} - UFT_{t-1})}{UFT_{t-1}} \right)$ $T3Par_{t-1} = 1200 \left(1 + \frac{2(FLIGHTS_{t-1} - UFT_{t-1})}{UFT_{t-1}} \right)$								
Were:	UFT_{t-1}	<p>Means the upper threshold forecast of flights in relevant year t-1, above which the par values are modulated which are set as follows:</p> <table border="1"> <thead> <tr> <th>t-1</th> <th></th> </tr> </thead> <tbody> <tr> <td>2011</td> <td>2,408,000</td> </tr> <tr> <td>2012</td> <td>2,491,000</td> </tr> <tr> <td>2013</td> <td>2,559,000</td> </tr> </tbody> </table>	t-1		2011	2,408,000	2012	2,491,000	2013	2,559,000
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2012	2,491,000									
2013	2,559,000									
	LFT_{t-1}	<p>Means the lower threshold forecast of flights in relevant year t-1 above which the par values are modulated which are set as follows:</p>								

		t-1	
		2011	2,225,000
		2012	2,290,000
		2013	2,374,000
For relevant year 2012	The values of par values shall be calculated from the values of $T1Par_{2012}$, $T2Par_{2012}$ and $T3Par_{2012}$ derived above as follows:		
	$T1Par_{\text{games}} = 18.75 \left(\frac{T1Par_{2012}}{12.5} \right)$		
	$T1Par_{\text{other}} = 10.5 \left(\frac{T1Par_{2012}}{12.5} \right)$		
	$T2Par_{\text{games}} = 52.5 \left(\frac{T2Par_{2012}}{35.0} \right)$		
	$T2Par_{\text{otther}} = 30 \left(\frac{T2Par_{2012}}{35.0} \right)$		
	$T3Par_{\text{games}} = 250 \left(\frac{T3Par_{2012}}{1200} \right)$		
	$T3Par_{\text{other}} = 950 \left(\frac{T3Par_{2012}}{1200} \right)$		

Condition 21a: Control of London Approach Charges

- Without prejudice to Condition 25 (Suspension and Modification of Charge Control Conditions) the Licensee shall use its best endeavours to ensure that in each London Approach Relevant Year beginning on 1 April 2011, 2012, 2013 and 2014 the Maximum Permitted Total Controlled Revenue from London Approach Charges shall not exceed the amount calculated in accordance with the following paragraphs of this Condition. The Licensee shall not be in breach of this Condition if it sets charges on the basis of its best endeavours forecasts for each London Approach Relevant Year.
- The Maximum Permitted Total Controlled Revenue shall be calculated as follows:

$$ML_t = (UL_t \times \text{Inflation}_t) + KL_t$$

where:	
ML_t	means the Maximum Permitted Total Controlled Revenue from the London Approach Charge in London Approach Relevant Year t.
UL_t	is a the base Maximum Permitted Total Controlled Revenue from the London Approach Charge in Relevant Year t
	Year t
	2011/12
	£10.6m $\frac{CHAW_{Aug2010}}{215.8}$
	2012/13
	£10.6m $\frac{CHAW_{Aug2011}}{215.8}$
	2013/14
	£10.4m $\frac{CHAW_{Aug2012}}{215.8}$
	2014/15
	£10.6m $\frac{CHAW_{Aug2013}}{215.8}$
$CHAW_{Aug(t-1)}$	Means the value the CHAW index published or determined with respect to August in Eurocontrol Relevant Year t-1 and the index published or determined with respect to August in Eurocontrol Relevant Year t-2.
KL_t	means the correction factor (whether of a positive or negative value) which is calculated in accordance with the following formula: $KL_t = [ML_{t-1} - AL_{t-1}] \left[1 + \frac{IL_{t-1}}{100} \right]$

	where:	
	AL_{t-1}	means the Actual Total Controlled Revenue from the London Approach Charge in Relevant Year t.
	IL_{t-1}	means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Relevant Year t-2 where the value of $(ML_{t-1}-AI_{t-1})$ is positive, or 3 percentage points above this average rate where the value is negative

Condition 22: Oceanic Charges

1. Subject to paragraph 2 of this Condition and without prejudice to Condition 25 (Suspension and Modification of Charge Control Conditions) the Licensee shall use its best endeavours to ensure that in each Oceanic Relevant Year beginning on 1 April 2011, 2012, 2013 and 2014 the Average Charge Per Oceanic Flight shall not exceed the Maximum Permitted Average Charge Per Oceanic Flight calculated in accordance with the following formula:

$$O_t = U_t + L_t$$

where:

O_t	means the Maximum Permitted Average Charge Per Oceanic Flight in Oceanic Relevant Year t.	
U_t	<p>Is a base charge per Oceanic Flight in Oceanic Relevant Year t calculated in accordance with the following formula:</p> $U_t = U_{t-1} \left[1 + \frac{RPI_t - Z_t}{100} \right]$ <p>For the purpose of the above calculation for the Oceanic Relevant Year beginning on 1 April 2012 the value of U_{t-1} shall be £64.54.</p>	
RPI_t	means the percentage points change (whether of a positive or a negative value) in the Retail Price Index between the index published or determined with respect to August in Oceanic Relevant Year t-1 and the index published or determined with respect to August in Oceanic Relevant Year t-2.	
Z_t	means a value set by the CAA in respect of each of the Oceanic Relevant Years beginning on 1 April 2012, 2013 and 2014 shall have the following values:	
	Year t	
	2012/2013	4
	2013/2014	4
	2014/2015	4
L_t	means the correction factor (whether of a positive or negative value) which is calculated in accordance with the following formula:	

	$L_t = \frac{(QO_{t-1}O_{t-1}) - TO_{t-1}}{QO_t} \left[1 + \frac{IO_{t-1}}{100} \right]$	
	where:	
	QO_{t-1}	means the quantity of Oceanic Flights in Oceanic Relevant Year t-1 attracting an Oceanic Charge. Where t-1 is the year beginning on 1 April 2010, the quantity of Oceanic Flights for that year shall be those in accordance with Condition 22 as in effect on 1 July 2010.
	O_{t-1}	means the Maximum Permitted Average Charge Per Oceanic Flight in Oceanic Relevant Year t-1. Where t-1 is the year beginning on 1 April 2010, the Maximum Permitted Average Charge per Oceanic Flight for that year shall be calculated in accordance with Condition 22 as in effect on 1 July 2010.
	TO_{t-1}	means the total Oceanic Revenue in Oceanic Relevant Year t-1. Where t-1 is the year beginning on 1 April 2010, the total Oceanic Revenue for that year shall be calculated in accordance with Condition 22 as in effect on 1 July 2010.
	IO_{t-1}	means the average of the yield (expressed as an annual percentage interest rate) on 3 month Treasury Bills published weekly by the UK Debt Management Office, during the 12 months from 1 September in Oceanic Relevant Year t-2 where the value of $((QO_{t-1}O_{t-1}) - TO_{t-1})$ is positive, or 3 percentage points per annum above this average rate where the value is negative

2. For the Oceanic Relevant Year beginning on 1 April 2011 the value of O_t shall be £64.54.

Condition 24: Information to be provided to the CAA in connection with the Charge Control Conditions

1. The Licensee shall, not later than 1st June on a provisional basis in the year preceding the Eurocontrol Relevant Year t in which such change is to take effect, provide the CAA with:
 - i. a written forecast of the average charge per Service Unit in respect of the Eurocontrol Relevant Year t in which such change is to take effect and in respect of the next following Relevant Year t+1;
 - ii. to the extent that such information has not already been provided to the CAA under paragraph 6, a written estimate of the average charge per Service Unit in respect of the Eurocontrol Relevant Year t-1 immediately preceding the Eurocontrol Relevant Year in which the change is to take effect; and
 - iii. a reconciliation of the forecast under (i) and the Licensee's best estimate of the Maximum Allowed Controlled Revenue in respect of Eurocontrol Relevant Year t and its components.
2. The Licensee shall, not later than 1st November on a final basis in the year preceding the Eurocontrol Relevant Year t in which such change is to take effect, provide the CAA with:
 - i. a written forecast of the average charge per Service Unit, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Eurocontrol Relevant Year t in which such change is to take effect and in respect of the next following Eurocontrol Relevant Year t+1; and
 - ii. to the extent that such information has not already been provided to the CAA under paragraph 6, a written estimate of the average charge per Service Unit, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Eurocontrol Relevant Year t-1 immediately preceding the Eurocontrol Relevant Year in which the change is to take effect.
3. Where the Licensee is intending to make any change in Oceanic Charges, the Licensee shall, not later than one month prior to the date it intends to give effect to such change, provide the CAA with:
 - i. a written forecast of the maximum Average Charge Per Oceanic Flight, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Oceanic Relevant Year t in which such change is to take effect and in respect of the next following Oceanic Relevant Year t+1; and

- ii to the extent that such information has not already been provided to the CAA under paragraph 7, a written estimate of the maximum Average Charge Per Oceanic Flight, together with its components, and a reconciliation of the components to the overall forecast, in respect of the Oceanic Relevant Year t-1 immediately preceding the Oceanic Relevant Year in which the change is to take effect.
- 4. Where the Licensee is intending to make any change in London Approach Service charges, the Licensee shall, not later than one month prior to the date it intends to give effect to such change, provide the CAA with:
 - i a written forecast of the charge(s) to be applied in respect of the London Approach Service for London Approach Relevant Year t; and
 - ii a written forecast of the Total Controlled Revenue from the London Approach Service charge for London Approach Relevant Year t.
- 5. If within six weeks prior to the commencement of any Oceanic Relevant Year or London Approach Relevant Year the Licensee has not published an intention to make any change in Oceanic Charges or London Approach Service Charges (respectively) the Licensee shall in any event provide the CAA with the information specified in paragraph 3 or 4 above (as appropriate).
- 6. The Licensee shall comply with any directions issued by the CAA providing that any forecast or estimate provided in accordance with paragraphs 1 or 2 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the CAA to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 7. On publication to any interested parties, and in any event not later than seven months after the end of a Eurocontrol Relevant Year or four months after the end of an Oceanic Relevant Year or four months after a London Approach Relevant Year the Licensee shall send the CAA a statement, in respect of that year containing the items set out in paragraph 9. If this statement does not also comply with the requirements of paragraph 8, the Licensee shall send a further statement at the time it is published to any interested parties, and in any event not later than seven months after the end of a Relevant Year or four months after the end of an Oceanic Relevant Year or four months after the end of a London Approach Relevant Year meeting both the requirements in paragraph 8 and containing the items set out in paragraph 9.
- 8. The requirements referred to in paragraph 7 shall be that the statement is:
 - a) accompanied by a report from the Auditors that in their opinion such statement:

- b) fairly presents each of the specified items referred to in paragraph 9 in accordance with the requirements of the Charge Control Conditions and
- c) the amounts shown in respect of each of those specified items are in accordance with the Licensee's accounting records which have been maintained in accordance with Condition 6; and
- d) certified by a director of the Licensee on behalf of the Licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:
 - there is no element included in its calculations under Conditions 21, 21a and 22 which represents other than:
 - (aa) bona fide Eurocontrol Service Charges or Oceanic Charges or London Approach Total Controlled Revenue as appropriate; or
 - (bb) an element permitted under the Charge Control Conditions to be so included;
 - all amounts which should properly be taken into account for the purposes of the Charge Control Conditions have been taken into account.

9. The items to be contained in the statement referred to in paragraph 7 shall be the following:

- a) the information relating to data for the relevant year specified in Annex II and annex IV of the revised Charging Regulation Regulation (ECU) No 1794/2006 as amended by Commission regulation (EC) No. [To be published in OJEU];
- b) in relation to Eurocontrol Charges an estimate of Service Units for relevant years t+1 and a forecast for relevant year t+2;.
- c) in relation to the Financial Incentives for Eurocontrol Charges:
 - i actual data for flights in year t and estimates for the number of flights for year t+1 and t+2;
 - ii a report on the calculation of each of the T1, T2, and T3 metrics for each of: the actual relevant year t, and an estimate for relevant year t+1 with a reconciliation to data collected by the Eurocontrol Central Flow Management unit and a reconciliation of the actual performance in year t and the estimate made one year earlier;
 - iii a report on the calculation of the Flight Efficiency measure.
- d) In relation to the London Approach Charge, the actual Total Controlled Revenue from London Approach service in year t and an estimate of Total Controlled Revenue for year t+1 and year t+2.
- e) In relation to Oceanic Charges, the quantity of Oceanic flights which attract an Oceanic Charge.

Condition 25: Suspension and Modification of Charge Control Conditions

A. Suspension and Modification other than during a National Security Period

1. Subject to paragraph 4, the Licensee may, only on the occurrence of any Exceptional Circumstances where it would not be reasonable for the circumstances not to be taken into account prior to the next price review, give notice in writing to the CAA suspending, insofar as they apply to Eurocontrol Charges, application of such of the Charge Control Conditions as may be specified in the notice, with effect from a specified date being not less than three months after the date of receipt of the notice by the CAA.
2. Subject to paragraph 4, the Licensee may, in the following circumstances only, give notice in writing to the CAA suspending, insofar as they apply to the Oceanic Charges, application of such of the Charge Control Conditions as may be specified in the notice with effect from a specified date being not less than three months after the date of receipt of the notice by the CAA:
 - (a) on the occurrence of any Exceptional Circumstances where it would not be reasonable for the circumstances not to be taken into account prior to the next price review; or
 - (b) where the Licensee is able to demonstrate to the reasonable satisfaction of the CAA that, after proper consultation with users and other interested parties, there is an acceptable level of support for the Licensee's proposals and that they would be in the general interests of users.
3. Where the Licensee gives notice under paragraph 1 or 2, and the CAA has not, before the end of the period of three months which will end with the specified date, or such longer period as it may agree with the Licensee in writing, either:
 - (a) agreed in writing to the suspension;
 - (b) made a reference to the Competition Commission under Section 12 of the Act relating to the modification of the Charge Control Conditions; or
 - (c) given written notice to the Licensee that it does not accept the requirements of paragraph 1 or 2 (as appropriate) entitling the Licensee to serve the notice have been met,

the Licensee may deliver written notice to the CAA terminating the application of such of the Charge Control Conditions (or any part or parts thereof) as are specified in the notice given under paragraph 1 or 2 (as appropriate) with effect from the specified date or a later date.

4. Where the CAA gives notice to the Licensee under paragraph 3(c) above, then the Licensee may within three months serve notice on the CAA requesting it to refer to the members of the board of the CAA the question whether the requirements of paragraph 1 or 2 (as appropriate) entitling the Licensee to serve the notice have been met. If the CAA has not within one month either sought to modify the Charge Control Conditions or made the requested reference, then the Licensee may deliver written notice to the CAA terminating the application of such of the Charge Control Conditions (or any part or parts thereof) as are specified in the notice given under paragraph 1 or 2 (as appropriate) with effect from the specified date or a later date. Where a reference is made for determination by the members of the board of the CAA, and provided the requirements that apply to hearings under the Civil Aviation Authority Regulations 1991 (other than as to the right of appeal) are complied with, so far as appropriate, in respect of the reference, a written decision of the CAA shall be definitive.
5. If the Competition Commission makes a report on a reference made by the CAA relating to the modification of the Charge Control Conditions (or any part or parts thereof) specified in the notice given under paragraph 1 or 2 (as appropriate) and such report does not include a conclusion that the cessation of such Charge Control Conditions, in whole or in part, operates or may be expected to operate against the public interest, the Licensee may within one month after the publication by the CAA of the report in accordance with Section 13 of the Act deliver to the CAA written notice terminating the application of such Charge Control Conditions with effect from the disapplication date or later.
6. Paragraphs 1 to 5 above shall not apply during a National Security Period.

B. Provisions in relation to National Security Periods

7. The Licensee may, during a National Security Period, give notice in writing to the CAA suspending application of such of the Charge Control Conditions as may be specified in the notice with effect from a specified date (the "disapplication date") being not less than one month after the date of receipt of the notice by the CAA.
8. In the event that the Licensee gives notice under paragraph 7, and the CAA has not either agreed to the suspension in writing or within a reasonable period not exceeding one month after the date of receipt of such notice issued directions under paragraph 9 as to the application of the Charge Control Conditions for the duration of the National Security Period, the Licensee may deliver written notice to the CAA terminating the application of such of the Charge Control Conditions (or any part or parts thereof) as are specified in the notice under paragraph 7 with effect from the disapplication date or a later date.
9. If at any time during a National Security Period, the CAA (having regard to its duties under the Act) issues directions:

- (a) suspending or modifying for the remainder of the National Security Period the Charge Control Conditions or any part or parts thereof; or
- (b) introducing for the remainder of the National Security Period new Charge Control Conditions

the Licensee shall comply with the terms of any directions so issued.

10. If at any time following a National Security Period, the CAA (following such consultation with the Licensee and others as the CAA consider appropriate) issues directions suspending or modifying the Charge Control Conditions or any part or parts thereof applying during a National Security Period or replacing such directions as may have been made during the National Security Period and introducing such new Charge Control Conditions as in the opinion of the CAA are appropriate in all the circumstances to take account of effects arising out of the National Security Period, the Licensee shall comply with any directions so issued.
11. At any time within three months after the issue of directions by the CAA under paragraph 10, the Licensee may serve on the CAA a notice under paragraph 7 in respect of such of the Charge Control Conditions or any part or parts thereof as are specified in the request.
12. If within three months of the receipt by the CAA of the notice referred to in paragraph 11, the CAA has not either agreed in writing to such disapplication request or made a reference to the Competition Commission under Section 12 of the Act relating to the modification of the Charge Control Conditions, the Licensee may deliver one month's written notice to the CAA terminating the application of the Charge Control Conditions (or any part or parts thereof) as were specified in the notice.
13. If the Competition Commission makes a report on a reference made by the CAA relating to the modification of the Charge Control Conditions (or any part or parts thereof) specified in the notice under paragraph 7 and such report does not include a conclusion that the cessation of such Charge Control Conditions, in whole or in part, operates or may be expected to operate against the public interest, the Licensee may within one month after the publication by the CAA of the report in accordance with Section 13 of the Act deliver to the CAA written notice terminating the application of such Charge Control Conditions with effect from the disapplication date or later.
14. In the event of a modification of the Charge Control provisions under Part B of this Condition, such account shall be taken of the following matters as in the opinion or estimation of the CAA is requisite or appropriate in all the circumstances:
 - (a) any increase or decrease in the Licensee's costs during or following a National Security Period;

- (b) any profit that has been or will be gained or foregone by the Licensee during or following the National Security Period;
- (c) the extent to which the Licensee has otherwise recovered or been compensated for matters within (a) and (b) above.

15. This condition shall expire on 31 December 2011.