

KEY TERMS OF MTRCL'S FINAL PROPOSAL FOR THE RAIL MERGER

A. STRUCTURE AND KEY TERMS OF THE RAIL MERGER

1. Structure of the proposal

The proposal would involve the following key elements (inter alia):

- (a) the expansion of the existing franchise under the MTR Ordinance to provide for the right to operate the MTR Railway as well as the KCRC Railway, for an initial period of 50 years from the Appointed Day and which is extendable;
- (b) the grant by KCRC to MTRCL of a Service Concession to access and use the Concession Assets (being the substantial portion of the KCRC System) to provide the KCRC Services for an initial period of 50 years from the Appointed Day and which is extendable;
- (c) the acquisition by MTRCL from KCRC of the Purchased Rail Assets;
- (d) the provision by MTRCL of the KCRC Services to the Required Standards; and
- (e) the acquisition by MTRCL of a property package (the "Property Package") involving (inter alia):
 - (i) the purchase by MTRCL of (I) certain property development rights along East Rail ("ER"), Ma On Shan Rail, Light Rail ("LR") and the Kowloon Southern Link ("KSL"); (II) certain existing investment properties related to ER and LR (on a completely freely assignable basis with no land use restriction); (III) KCRC's rights to manage certain of KCRC's properties;
 - (ii) an incentive scheme in respect of certain West Rail ("WR") property sites shall apply to MergeCo; and
 - (iii) with respect to the Property Package, the status quo regarding the basis for calculating land premium amounts

payable by MTRCL shall continue to apply to MergeCo under the integrated Operating Agreement (IOA).

2. Payments to KCRC

MergeCo will be required to pay to KCRC the following payments:

- (a) Upfront payments: an amount totalling HK\$4.25 billion being the upfront fee for the Service Concession and the consideration for the Purchased Rail Assets and a further payment of HK\$7.79 billion for the Property Package, in each case payable on the Appointed Day;
- (b) Fixed Annual Payments: a fixed annual payment for the Service Concession of HK\$750 million
- (c) Variable Annual Payments: a variable annual payment for the Service Concession calculated, on an annual basis, as a percentage of revenue generated from the KCRC System for each financial year. The applicable percentage will vary according to the amount of revenue generated from the KCRC System for each financial year as follows: for the first HK\$2.5 billion of revenue generated from the KCRC System, the applicable percentage will be 0.0%; for the next HK\$2.5 billion, the applicable percentage will be 10.0%; for the next HK\$2.5 billion, the applicable percentage will be 15%; for revenue generated from the KCRC System above HK\$7.5 billion, the applicable percentage will be 35.0%. No Variable Annual Payment shall be payable in respect of the first 36 months following the Appointed Day. Thereafter, the Variable Annual Payment will be payable annually in arrears within 60 days after the end of each financial year of the post-merger corporation (MergeCo).

3. Other terms of the rail merger

(a) Payments Relating to Enabling Works:

In relation to an agreed list of property development sites purchased by the post-merger corporation (MergeCo), amounts spent by KCRC in funding the enabling works for those sites and other related costs in an agreed amount in respect of each site (the "Payments Relating to Enabling Works") shall be recovered from the developers of those sites or MergeCo (where appropriate, as described below) and reimbursed by MergeCo in money of the day terms for such payments. The total Payments Relating to Enabling Works to be reimbursed to KCRC will be adjusted in accordance with payments received from developers for the relevant sites awarded prior to the Appointed Day. In the event

that the amount actually received from the developers is different from the relevant Payment Relating to Enabling Works for the relevant site, MergeCo will be responsible for any shortfall, and is entitled to keep any excess actually received. A mechanism dealing with changes to the timing and consequential cost deviations shall be agreed by Government and MTRCL.

(b) Land Matters

A mechanism which will enable Government to exercise control in exceptional circumstances on the level of flat production (being the number of flats which MergeCo puts out to tender to developers) arising from tender programmes for railway property development will be introduced. This mechanism is expected to involve (inter alia):

- (i) an annual exercise conducted by Government and MergeCo to discuss and draw up a three-year rolling programme on the level of flat production arising from tenders for railway property development by MergeCo for the three succeeding years (on a financial year basis);
- (ii) the level of flat production arising from tenders for railway property development in each of these three years will be reviewed, before Government's Application List for Land Sale is finalised and announced in or around February and March each year;
- (iii) the first year of such three-year rolling programme shall be binding on MergeCo;
- (iv) the agreed level of flat production arising from tenders for railway property development will be revised as and when necessary, if agreed by Government and MergeCo; and
- (v) the annual exercise will be initiated by Government in the last quarter of each year for conclusion before the end of the year (the first year to commence on or around September 2007 if the Appointed Day is before the third quarter of 2007).

(c) KCRC's debts and other obligations:

Following the integration, KCRC will continue to be responsible for its debts and other financing obligations but, in relation to the treatment of KCRC's cross-border leases, MergeCo shall co-operate with Government and KCRC provided MergeCo receives protection from Government and KCRC in a form

satisfactory to it (it being understood that MergeCo shall be in no worse a position as a result of such protection). As between MergeCo and KCRC, KCRC shall remain liable in respect of all lease payments under such cross border leases.

(d) Third party claims:

KCRC shall be responsible for non-project claims made by third parties who are unrelated to MergeCo if the relevant cause of action arose before the Appointed Day and the relevant claim is brought within the first three years following the Appointed Day. MergeCo shall be responsible for all other non-project claims made by third parties.

Subject to the provisions of relevant agreements between KCRC and MergeCo, KCRC shall be responsible for railway project claims made by third parties who are unrelated to MergeCo relating to certain agreed projects.

(e) Construction of KSL:

On the Appointed Day, KCRC shall appoint MergeCo as its agent to complete the construction of the KSL upon conditions to be agreed between MTRCL, KCRC and Government, including (i) an incentive arrangement to encourage MergeCo to complete the KSL below an agreed budget and before the planned completion date; and (ii) MergeCo will be responsible for certain costs and costs overruns.

(f) New projects:

(i) *Natural extensions:* In relation to natural extensions of the MTRC Railway, the existing arrangements contained in the existing Operating Agreement, and the commitments given by Government at the time of MTRCL's initial public offering, relating to project returns, will be preserved. In relation to natural extensions of the KCRC Railway, Government may adopt the Ownership Approach (i.e. with the operator responsible for the finance, construction and operation of the new railway) or the Concession Approach (i.e. with the operator responsible for the operation of the new railway through a separate service concession arrangement). Under the Ownership Approach, MergeCo would be exclusively invited to submit a proposal to Government. If MergeCo and Government cannot agree on principal terms within a reasonable period, Government may either invite third parties to undertake the project following the Ownership Approach or invite MergeCo to operate the railway through a

service concession arrangement. Under the Concession Approach, Government would invite MergeCo to operate the new railway through a service concession.

- (ii) *New Separate Projects*: In relation to New Separate Projects, Government may decide to adopt the Ownership Approach or the Concession Approach. Under the Ownership Approach, Government may decide to invite either MergeCo to submit a proposal, or award the new project through an open tender process. Under the Concession Approach, Government may decide to invite MergeCo and/or third parties to operate the new railway through a service concession arrangement.
- (iii) *Additional Concession Payments*: If Government invites MergeCo to operate a new project under the Concession Approach, Additional Concession Payments are to be determined on the basis of 90% of the discounted Net Cash Flow of the New Project, and are to be reflected in a similar structure as for the existing Service Concession in the form of a fixed annual payment and a variable annual payment.

Government acknowledges that MergeCo shall make a commercial rate of return to be determined on a case-by-case basis for a particular project where the Concession Approach is used.

- (iv) *Entrustment arrangement*: MergeCo shall be entrusted with the design and construction of the new projects which are to be operated by MergeCo through a service concession agreement, subject to Government's approval and MergeCo and Government agreeing on a price.

(g) Board composition and top-level appointments:

In relation to the corporate governance arrangements for MergeCo:

- (i) the majority of MergeCo's directors shall be independent non-executive directors;
- (ii) a Nomination Committee shall be established and shall be composed of seven non-executive directors (including the Chairman of MergeCo and two non-executive directors representing Government) with the majority being independent non-executive directors, and shall be chaired by an independent non-executive director;

- (iii) the Chairman (designate) of MergeCo shall be selected by the Financial Secretary Incorporated and shall become the Chairman of MergeCo upon the Appointed Day;
- (iv) the Chief Executive Officer (designate) of MergeCo on the Appointed Day shall be selected by the Financial Secretary Incorporated in consultation with the Chairman (designate) of MergeCo;
- (v) the Chief Operating Officer (designate) and the Chief Financial Officer (designate) of MergeCo on the Appointed Day shall be selected by a panel consisting of the Secretary for the Environment, Transport and Works, the Secretary for Financial Services and the Treasury, and the Chairman (designate) and the CEO (designate) of MergeCo;
- (vi) the other Executive Directors (designate) shall be selected by the Chairman (designate) and the CEO (designate) of MergeCo; and
- (vii) Government shall determine the number of additional non-executive directors to be appointed to the Board of MergeCo on the Appointed Day.

(h) Interconditionality of documents:

All transaction documents relating to the rail merger shall be inter-conditional on each other and on the enactment of the Merger Ordinance, and satisfaction of Stock Exchange approval requirements.

(i) Service Concession Agreement (SCA) and law and regulation:

(i) The SCA is to address the following:

- (A) the requirement for MergeCo to provide the KCRC Services in accordance with the Required Standards and MergeCo being responsible for the daily operation and maintenance of the Concession Assets and decision making on capital expenditure and asset replacement;
- (B) the coterminous relationship between the Service Concession and the franchise;
- (C) that the franchise shall have an initial term of 50 years from the Appointed Day and shall be extendable in accordance with the existing procedures under the MTR Ordinance and the IOA (subject to an increase in the relevant expenditure thresholds to HK\$15 billion and

the re-settling to zero of the incurred capital expenditure made by MTRCL up to the Appointed Day); and that, upon an extension of the franchise, MergeCo shall continue to make the Fixed Annual Payments and the Variable Annual Payments;

- (D) the Concession Payments being of a “hell and highwater” nature;
- (E) MergeCo to take the Concession Assets as it finds them (i.e. MergeCo shall be liable for any latent defects in any Concession Assets);
- (F) on the expiry or termination of the SCA, the redelivery of the Concession Assets to KCRC in a manner that enable KCRC to provide the KCRC Services to the Required Standards.
- (G) arrangements in relation to the ownership and use of Additional Concession Assets and for compensation, for the Additional Concession Assets, payable to MergeCo upon re-delivery or delivery of the Concession Assets (including Additional Concession Assets) on expiry or termination of the SCA in accordance with the SCA (being limited to compensation for Additional Concession Assets acquired above an agreed threshold);
- (H) restrictions on certain disposals by MergeCo of Concession Assets (and requirements as to the use of disposal proceeds), on certain acquisitions by MergeCo of Additional Concession Assets and on MergeCo creating security over its rights under the SCA;
- (I) restrictions on disposals and the granting of security by KCRC of, and in relation to, Concession Assets;
- (J) MergeCo’s right to lease Concession Assets to third parties, such as commercial and retail areas, advertising space and telecommunications equipment;
- (K) MergeCo’s right to operate the Concession Assets without interference from KCRC;
- (L) that, in relation to the KCRC land the use of which is granted to MergeCo under the SCA, MergeCo shall have no more rights than are necessary for MergeCo to provide the KCRC Services;
- (M) KCRC’s right to inspect the Concession Assets:

- (I) during the last 6 months of the Concession Period ; and/or
- (II) when MergeCo breaches its obligations under the SCA and/or the IOA materially; and/or
- (III) when MergeCo is in default under the franchise,

and to require MergeCo to carry out rectification work at its own cost;

- (N) consequences for the SCA from, and arrangements in relation to, the suspension or revocation of the franchise;
 - (O) the use of a revenue allocation system to apportion fare revenue of the Integrated Railway between the MTRC Railway and the KCRC Railway;
 - (P) arrangements in respect of liabilities arising from, or in connection with, the Concession Assets (including Additional Concession Assets); and
 - (Q) KCRC's right to assign its rights under the SCA.
- (ii) The Merger Ordinance will address the following:
- (A) franchise and regulatory matters, to empower MergeCo to operate the KCRC System, to provide for and regulate the operation of the KCRC System, to provide for arrangements in relation to suspension, default, revocation (whether relating to the Integrated Railway or the KCRC Railway only) and expiry of the franchise, and to provide for the access arrangements in relation to the access and use of the MergeCo Common Assets and KCRC Common Assets at franchise expiry or revocation;
 - (B) vesting arrangements, in order to vest in MergeCo on the Appointed Day the Purchased Assets and to provide for certain covenants and to deal with employee arrangements; and
 - (C) enabling and consequential provisions, to facilitate the completion of the possible rail merger in an efficient manner, including provisions to empower KCRC to consummate the proposed transactions under the possible rail merger and effect changes required to implement the set up and role of KCRC on and from the

Appointed Day, to deal with land matters and to provide that MergeCo's right to operate the TSA Buses shall be co-terminous with the franchise as it relates to the KCRC Railway,

with the aim that changes to the existing regulatory regime for MTRCL should be those necessary to facilitate the completion of the integration in an efficient manner.

(j) Name of MergeCo:

MergeCo will retain MTRCL's existing English name but will change its Chinese name.

B. THE FIVE PARAMETERS

1. Adoption of a more objective and transparent fare adjustment mechanism

(a) *Fare Adjustment Formula*

A "direct drive" fare adjustment formula (together with the other provisions described in this section B1, the "Fare Adjustment Mechanism", or "FAM") should be adopted. The FAM would provide that any adjustment to fares should be linked to changes in the Composite Consumer Prices Index and changes in the Nominal Wage Index (Transport Sector) published by the Census & Statistics Department, and taking into account a productivity factor.

The Fare Adjustment Mechanism would work as follows:

$$"\Delta \text{ fare} = 0.5 * \Delta \text{ CCPI} + 0.5 * \Delta \text{ wage index} - t"$$

where:

" Δ CCPI" means the percentage change in Government Composite Consumer Prices Index;

" Δ wage index" means the percentage change in the Census & Statistics Department Nominal Wage Index (Transport Sector); and

"t" is a productivity factor. "t" will be deemed to be zero in the first five years following the Appointed Day. "t" will have a value of 0.1% starting from the sixth year following the Appointed Day. The value of "t" will be subject to review in the tenth year following the Appointed Day under the agreed review mechanism

for the FAM. For the avoidance of doubt, the value of “t” will not be subject to review before then.

(b) *Applicability of the Fare Adjustment Mechanism*

The FAM would, from the Appointed Day, apply to fares of all existing and new railway lines on the Integrated Railway (other than the Airport Express Line, the TCC, the Intercity Trains and those new railway lines which are New Separate Projects not intended for the use by daily commuters for domestic travel). Government and MergeCo shall agree whether the FAM shall apply to the fares of such New Separate Projects on a case by case basis. For the avoidance of doubt, Light Rail and the TSA Buses shall be subject to the application of FAM from the Appointed Day.

For the setting of initial fares for new railway lines, MergeCo shall brief the LegCo Transport Panel and Transport Advisory Committee if the initial fares are consistent with the prevailing fare table of MergeCo; and shall consult with the LegCo Transport Panel and Transport Advisory Committee if the fares are inconsistent with the prevailing fare table of MergeCo.

For adjustments to fares of the Airport Express Line, MergeCo shall be subject to consultation requirements in accordance with the relevant provisions in the existing Operating Agreement.

The definition of “fares” for the purposes of the FAM shall include monthly passes (excluding promotions) and any “time of day” surcharge and/or discount introduced/removed by MergeCo (such as peak surcharges and non-peak discounts), but exclude any promotional fares.

“ Δ fare” shall apply to the basket of fares on the Integrated Railway as set out above. The MergeCo can adjust individual fares, within specified bands of rates of adjustment, subject to overall compliance of its fare basket with the FAM.

(c) *Trigger Mechanism of Fare Adjustment*

If, in a given year, Δ fare is within the range of $\pm 1.5\%$, there shall be no fare adjustment and the unadjusted percentage shall be rolled over to the next annual fare review.

(d) *Review of fares*

Fares subject to the FAM shall be reviewed annually in accordance with the FAM. None of the fares of MergeCo

(irrespective of whether or not they are subject to the FAM) shall be adjusted more than once in any given year.

(e) *Implementation of fare adjustment*

Within a reasonable period before making a public announcement and informing LegCo of fare adjustments, MergeCo shall provide to Government two independent third party certifications with supporting data that fare adjustments are in compliance with the FAM.

(f) *Review of FAM*

The FAM shall be subject to review every five years upon request by either MergeCo or Government.

If MergeCo and Government do not reach agreement on amendments to the FAM within a specified period after commencement of the review, the prevailing FAM shall continue to apply.

2. Abolition of the second boarding charge and review of the fare structure with the objective of reducing fares

On the Appointed Day, the following fare adjustments shall be implemented in respect of the Integrated Railway (other than the Airport Express Line, Light Rail, cross boundary trips to and from Lo Wu and Lok Ma Chau, Intercity Trains and the TCC): (a) removal of the “second boarding charge” of HK\$1-7; (b) reduction of all fares by HK\$0.20; and (c) a reduction of fares for all journeys with fares at or above HK\$12, by an additional HK\$1; (d) for each journey of HK\$12 or above, if (a), (b) and (c) above when combined result in less than a 10% fare reduction for that journey, there will be a further reduction to achieve a minimum of 10% fare reduction for that journey; and (e) for each journey between \$8.50 and \$11.90 (inclusive), if (a) and (b) above when combined result in less than a 5% fare reduction for that journey, there will be a further reduction to achieve a minimum of a 5% fare reduction for that journey.

The fare reductions referred to in (a), (b), (c), (d) and (e) above shall be applicable to Octopus card users on and from the Appointed Day. The fare reductions referred to in (a) above shall apply to single journey ticket users within one year from the Appointed Day. From (and including) the Appointed Day up to (but excluding) the date on which the integrated ticketing system for single journey ticket users is completed, the fare reductions referred to in (c), (d) and (e) above shall apply only to single journey ticket users travelling within a single system provided that each fare reduction resulting from the

application of paragraphs (d) or (e) shall be rounded up or down (as the case may be) to the nearest interval of HK\$0.50. From the date on which the integrated ticketing system for single journey ticket users is completed, the fare reductions set out in (c), (d) and (e) above shall apply for all single journey ticket users provided that each fare reduction resulting from the application of paragraphs (d) or (e) shall be rounded up or down (as the case may be) to the nearest interval of HK\$0.50. There shall be arrangements for the technical implementation of the fare reductions described above (e.g. arrangements to ensure that the fare for an Octopus card user for a particular journey will not be more than the fare for a single journey ticket user for the same journey).

MergeCo shall provide a concessionary fare of HK\$2 for the elderly on Sundays and public holidays in the first year of the rail merger. MergeCo shall maintain the status quo with respect to student fare discounts by continuing to provide a 50% discount on student fares for the MTRC Railway whilst not offering any discount on student fares for the KCRC Railway.

For the period commencing on 11 April 2006 and ending on the earlier of: (a) the date that is 24 months after 11 April 2006; and (b) the date on which merger negotiations between the parties are terminated, MTRCL or MergeCo (as appropriate) shall not increase the fares to which the FAM will or would apply.

3. Provision of seamless interchange arrangements in the long run

MTRCL will, together with KCRC and Government, agree a programme for ensuring seamless interchange, which shall incorporate:

- (a) the provision of an integrated ticketing system for Octopus card users, to be implemented on the Appointed Day;
- (b) an integrated ticketing system for single journey ticket users to be implemented within one year of the Appointed Day; and
- (c) the provision of barrier free interchange at Nam Cheong, Mei Foo and Kowloon Tong Stations, to be implemented within one year of the Appointed Day.

4. Early resolution of interchange arrangements for rail projects under planning, notably the Shatin-Central Link (SCL)

(a) *Components*

The SCL would consist of two components:

- (i) an extension of the MOSR from Tai Wai to Hung Hom; and

(ii) an extension of the East Rail from Hung Hom to Central.

(b) Interchange arrangement

The proposed SCL scheme in the context of the rail merger will provide for fully integrated interchange stations and interchanging passenger will not be required to pay second boarding charge.

(c) *Approach for implementation*

If, in its absolute discretion, the Government decides to implement the SCL, MergeCo would be invited to implement the project on the basis of the approach (i.e. Ownership Approach or Concession Approach) to be adopted for that project.

5. Ensuring job security for frontline staff of both corporations at the time of the rail merger

On the Appointed Day, MergeCo will undertake to all frontline staff that it will provide job security, as it relates to the merger (other than in the case of cause) to them. On the Appointed Day, all serving staff of MTRCL and KCRC will be employed by MergeCo on existing terms.

C. NEXT STEPS

Liaison committees will be established, consisting of members from Government, MTRCL and KCRC, which shall discuss material decisions to be taken by KCRC and the financial impact of such decisions. Upon signing of the definitive transaction documents, KCRC will not implement a material decision without prior agreement of MTRCL's members on the relevant liaison Committee .

D. DEFINITIONS

“Additional Concession Asset”	means any asset purchased by MergeCo to maintain, repair, replace or improve the Initial Concession Assets that is capitalised on the balance sheet of MergeCo, to be more particularly defined;
“Additional Concession Payments”	means concession payments in respect of new projects operated by MergeCo under a service concession;
“Appointed Day”	means the day designated pursuant to the Merger Ordinance as the day on which the rail merger is completed;
“Concession Assets”	means the assets of the KCRC System to be used by MergeCo to provide the KCRC Services including the assets of the KCRC Railway, the TSA Buses, the Intercity Trains and the assets of the KCRC Related

	Businesses;
“Concession Payments”	means the fee for the Service Concession and the consideration for the Purchased Rail Assets, which forms part of the upfront payment totalling HK\$4.25 billion payable by MergeCo to KCRC on the Appointed Day, the Fixed Annual Payment and the Variable Annual Payment;
“Concession Period”	means a period of 50 years from the Appointed Day, as may be extended pursuant to the IOA and the MTR Ordinance;
“Fixed Annual Payment”	means the payment described in paragraph A2(b) of this Annex;
“Government”	means the Government of the Hong Kong Special Administrative Region;
“Hong Kong”	means the Hong Kong Special Administrative Region of the People’s Republic of China;
“Initial Concession Assets”	means the Concession Assets as at the Appointed Day;
“Integrated Railway”	means the KCRC Railway and the MTRC Railway;
“Integrated Services”	means the KCRC Services and the MTRC Services;
“Intercity Service”	means the railway service provided through the operation of the Intercity Trains;
“Intercity Trains”	means the intercity passenger and freight rail system from time to time;
“IOA” or “Integrated Operating Agreement”	means the Integrated Operating Agreement expected to be entered into by Government and MergeCo in relation to the operation of the Integrated Railway, as amended from time to time;
“KCRC”	means the Kowloon-Canton Railway Corporation;
“KCRC Common Assets”	means assets that are owned, used, or kept by KCRC (excluding MTRC assets) and that are used both in the provision of the MTRC Services and the provision of the KCRC Services;
“KCRC Ordinance”	means the Kowloon-Canton Railway Corporation Ordinance (Chapter 372 of the Laws of Hong Kong), as amended from time to time;
“KCRC Railway”	means: (a) the “Kowloon-Canton Railway” as defined in the KCRC Ordinance (composed of ER and WR); (b) the Light Rail from time to time; (c) the Intercity Trains; (d) the ERE from time to time; (e) the MOSR from time to time; (f) each of KSL and LMCSL on the date of its completion and from time to time; and (g) any other railway which is part of the “railways” as defined in the KCRC Ordinance from time to time;
“KCRC Related Businesses”	means KCRC’s businesses related to the KCRC Railway including KCRC’s advertising,

	telecommunications, duty free, kiosk rental, station trading, car park rental, machine and terminal rental businesses from time to time (but excluding, for the avoidance of doubt, the property development, property investment and property management rights that are part of the Property Package);
“KCRC Services”	means the services provided through the operation of the KCRC System;
“KCRC System”	means: (a) the KCRC Railway from time to time; (b) the TSA Buses; and (c) the KCRC Related Businesses;
“LegCo”	means the Legislative Council of Hong Kong;
“Light Rail”	means the “North-west Railway” as defined in the KCRC Ordinance;
“LMCSL”	means the railway line known as Lok Ma Chau Spur Line;
“MTRCL”	Means the MTR Corporation Limited
“MergeCo Common Assets”	means assets that are owned, used or kept (excluding KCRC assets) by MergeCo and that are used in both the provision of the MTRC Services and the provision of the KCRC Services, to be more particularly defined in the definitive transaction documents;
“Merger Ordinance”	means the Ordinance expected to be enacted in relation to the integration;
“MOSR”	means the railway line known as Ma On Shan Rail;
“MTR Ordinance”	means the Mass Transit Railway Ordinance (Chapter 556 of the Laws of Hong Kong), as amended from time to time;
“MTRC Railway”	means the “railway” as defined in the MTR Ordinance;
“MTRC Services”	means the services provided through the operation of the MTRC Railway;
“Net Cash Flow of the New Project”	means, for the purposes of calculating any Additional Concession Payment, the incremental revenues received as a consequence of operating the new project with that of MergeCo System, minus the incremental operating cost and incremental tax charge and the on-going capital expenditure of the new project;
“New Separate Projects”	means projects that are not natural extensions of the MTRC Railway or the KCRC Railway;
“Operating Agreement”	means the Operating Agreement dated 30th June, 2000 between the Secretary for Transport (on behalf of Government) and MTRC, as amended from time to time;

“Payments Relating to Enabling Works”	means the payments defined in paragraph A3(a) of this Annex;
“MergeCo”	Means MTRCL on and from the Appointed Day;
“Property Package”	means the property interests that MergeCo will purchase from Government and the terms of such purchase, as summarised in paragraph A(1)(e) of this Annex;
“Purchased Assets”	means the Purchased Rail Assets and the Property Package;
“Purchased Rail Assets”	means: (a) certain assets of KCRC as at the Appointed Day that are used by KCRC to provide the KCRC Services as at the Appointed Day (such assets shall be agreed by Government and MTRC in the SPA); and (b) contractual rights of KCRC that are necessary for MergeCo to provide the KCRC Services (to the extent that MergeCo does not obtain the right to do so pursuant to the SCA), including certain stores, spares, equipment and tools;
“Railways Ordinance”	means the Railways Ordinance (Chapter 519 of the Laws of Hong Kong), as amended from time to time;
“Related Business”	means KCRC’s businesses related to the KCRC Railway, including advertising, telecommunications, duty free, kiosk rental, station trading, carpark rental, machine and terminal rentals;
“Required Standards”	means: (a) the safety, performance and other operational standards prescribed in the MTR Ordinance and the IOA for the Integrated Services (other than those to be provided by the TSA Buses) from time to time (but, for the avoidance of doubt, excludes the Customer Service Pledges as defined in the IOA); and (b) the safety, performance and other operational standards prescribed in such other instruments, agreements or other documents (to be agreed by Government and MergeCo) for the Integrated Services to be provided by the TSA Buses from time to time;
“SCA” or “Service Concession Agreement”	means the service concession agreement to be entered into to document the terms and conditions of the Service Concession;
“SCL”	means the Shatin to Central Link;
“Service Concession”	means a service concession that KCRC shall grant MergeCo to access and use the Concession Assets to provide the KCRC Services;
“SPA” or “Sale and Purchase Agreement”	means the sale and purchase agreement to be entered into between MergeCo and KCRC which documents the terms and conditions of the sale to MergeCo of the Purchased Assets (or any part thereof);

“Stock Exchange”	means The Stock Exchange of Hong Kong Limited;
“TCC”	means the Tung Chung Cable Car, now known as Ngong Ping 360;
“TSA bus”	means KCRC bus service within the North-west Transit Service Area as defined in the KCRC Ordinance; and
“Variable Annual Payment”	means the payment described in paragraph A2(c) of this Annex; and

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