

THIRTY FIFTH SUPPLEMENTAL AGREEMENT

between

NETWORK RAIL INFRASTRUCTURE LIMITED

and

NORTH YORKSHIRE MOORS RAILWAY ENTERPRISES PLC

Relating to Schedules 2, 5 6 and 7 Appendix C of the Track Access Contract (Non-Franchised Passenger Services)

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THIS THIRTY FIFTH SUPPLEMENTAL AGREEMENT is dated 6th August 2020 and made

Between:

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED** ("**Network Rail**"), a company registered in England under company number 2904587, having its registered office at 1 Eversholt Street, London, NW1 2DN; and
- (2) **NORTH YORKSHIRE MOORS RAILWAY ENTERPRISES PLC** (the "**Train Operator**"), a company registered in England under number 2490244, having its registered office at Pickering Station, Pickering, North Yorkshire, YO18 7AJ.

Whereas:

- A. The parties entered into a Track Access Contract (Passenger Services) dated 18 January 2007 in a form approved by the Office of Rail Regulation pursuant to Section 18(7) of the Act as amended by various supplemental agreements in a form approved by the Office of Rail Regulation pursuant to Section 22 of the Act (the "**Contract**").
- B. The parties propose to enter into this Supplemental Agreement in order to amend Schedules 2,5,6 and 7 of the contract.

IT IS HEREBY AGREED as follows:

1. INTERPRETATION

In this Supplemental Agreement:

- 1.1 Words and expressions defined in and rules of interpretation set out in the Contract shall have the same meaning and effect when used in this Supplemental Agreement except where the context requires otherwise; and
- 1.2 "**Effective Date**" shall mean:
 - (a) the later of the Principle Change Date 2020 and the date upon which the Office of Rail Regulation issues its approval, pursuant to Section 22 of the Act, of the terms of this Supplemental Agreement.

2. EFFECTIVE DATE AND TERM

The amendments to the Contract made pursuant to this Supplemental Agreement shall have effect from the Effective Date and shall cease to have effect on the Principal Change Date 2021 or on the earlier termination of the Contract.

3. AMENDMENTS TO THE CONTRACT

3.1 In Schedule 2, paragraph 2. Main Route and the words set against it shall be deleted in its entirety and replaced with the following:

"2. Main Routes

The Main Routes are between:

- (a) Battersby and Whitby
- (b) Sheringham and Cromer."

3.2 Schedule 5 shall be amended as follows:

3.2.1 Table 2.2: Additional Passenger Train Slots shall be amended as follows:

The words "Service Group [nnnn]" shall be deleted and replaced with the words:

"Service Group PR01"

The following new entries and footnote shall be inserted:

"Service Group PR02³

Service description					Additional Passenger Train Slots		
From	To	Via	Description	TSC	Total Weekday	Saturday	Sunday
Sheringham	Cromer	N/A	N/A	22241001	1	1	1
Cromer	Sheringham	N/A	N/A	22241001	1	1	1"

³ These services may only be scheduled to operate up to a maximum of 12 times in any one contract year"

3.2.2 In paragraph 2.5 the following words shall be deleted:

"In order to provide for the Scheduling of part only of Passenger Train Slots specified in Table 2.2 the train operator has:"

and replaced with the words:

"In order to provide for the Scheduling of part only of Passenger Train Slots specified in Table 2.2 Service Group PR01 the train operator has:"

3.2.3 Table 4.1 Calling Patterns shall be amended by the insertion of the following new entries:

"1					2	3
Service Group PR02						
Service description						
Between	And	Via	Description	TSC	Regular Calling Pattern	Additional Stations
Sheringham	Cromer	N/A	N/A	22241001		
Cromer	Sheringham	N/A	N/A	22241001		"

3.2.4 Table 5.1: Specified Equipment shall be amended by the insertion of the following new entries:

"Service Group PR02						
Service description						
Between	And	Via	Description	TSC	Standard Specified Equipment¹	Steam Driven Equipment²
Sheringham	Cromer	N/A	N/A	22241001	BR Class 20 Bo-Bo Diesel Electric	BR Std, Class 4MT 2-6-0 And up to 4 MK1 Coaches"

3.3 In Schedule 6 Paragraph 1 Events of Default clause (g) and the words set out against it shall be deleted in its entirety and replaced with the following words:

"(g) in any Contract Year, or part thereof, three or more incidents shall have occurred in any one service group which in each case cause 203 or more Minutes Delay to Third Party Trains Attributable to the Train Operator. In this paragraph the phrases "Minutes Delay", "Third Party Trains", and "Attributable to the Train Operator" shall have the meanings ascribed to them in Schedule 8: Performance Regime."

3.4 In Schedule 7 APPENDIX 7C the table Default Train Consist Data shall be amended with the following new entries (with table headings included for ease of reference only):

TRAIN SERVICE CODE	TYPE OF TRAIN MOVEMENT	DEFAULT TRAIN CONSIST DATA
"22241001	Train movement(s) between Sheringham and Cromer	Steam locomotive, tender and 4 Mk 1 coaches"

4. EFFECT OF THIS SUPPLEMENTAL AGREEMENT ON THE CONTRACT

The parties agree that the Contract, as amended by this Supplemental Agreement, shall remain in full force and effect in accordance with its terms and with effect from and including the Effective Date and during the period in which the amendments made by the Supplemental Agreement are to have effect all references in the Contract to the "Contract", "herein", "hereof", "hereunder" and other similar expressions shall, unless the context requires otherwise, be read and construed as a reference to the Contract as amended by this Supplemental Agreement.

5. LAW

This Supplemental Agreement shall be governed by, construed and given effect to in all respects in accordance with English law.

6. COUNTERPARTS

This Supplemental Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

7. THIRD PARTY RIGHTS

No person who is not a party to this Supplemental Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Supplemental Agreement.

IN WITNESS WHEREOF Network Rail and the Train Operator have, by their duly authorised representatives, respectively entered into this Supplemental Agreement on the date first above written.



SIGNED by.....

Print name **Matthew Rice**

Duly authorised for and on behalf of
NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED by .....

Print name **LIZ PARKES**.....

Duly authorised for and on behalf of
NORTH YORKSHIRE MOORS RAILWAY ENTERPRISES PLC