

**16<sup>th</sup> SUPPLEMENTAL AGREEMENT**

**between**

**NETWORK RAIL INFRASTRUCTURE LIMITED**

**-and-**

**First MTR South Western Trains Limited**

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**Relating to amendments to the  
Track Access Contract (Passenger Services)  
dated 9th April 2019**

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**Schedule 5, paragraph 5: addition of Class 701 railway vehicles  
under ORR's Passenger Access (Short Term Timetable and Miscellaneous  
Changes) General Approval 2009**

**THIS 16<sup>th</sup> SUPPLEMENTAL AGREEMENT is dated March 15<sup>th</sup> 2022, and made**

**BETWEEN:**

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED**, a company registered in England under company number 2904587, having its registered office at 1 Eversholt Street, London NW1 2DN ("**Network Rail**"); and
- (2) **First MTR South Western Trains Limited**, a company registered in England and Wales under company number 07900320, having its registered office at 4<sup>th</sup> Floor, Capital House, 25 Chapel Street, London NW1 5DH (the "**Train Operator**").

**WHEREAS:**

- (A) The parties entered into a Track Access Contract dated 09<sup>th</sup> April 2019, in a form approved by the Office Of Rail and Road (ORR), pursuant to directions under section 18 (7) of the Railways Act 1993 (the Act), as amended by various supplemental agreements, each in a form approved by ORR pursuant to section 22 of the Act (which track access contract as subsequently amended is hereafter referred to as the "Contract").
- (B) The parties wish to amend the Contract in the terms described below.

**IT IS HEREBY AGREED** as follows:

**1. INTERPRETATION**

In this Supplemental Agreement, unless the context otherwise requires:

- a) 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; and
- b) "**Effective Date**" means 02:00hrs on 01<sup>st</sup> April 2022.

**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 at either 01:59hrs on the Expiry Date, or upon earlier termination of the Contract.

**3. OFFICE OF RAIL and ROAD GENERAL APPROVAL**

This Supplemental Agreement is entered into pursuant to the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2009, paragraph 7.

**4. AMENDMENTS TO THE CONTRACT**

Schedule 5 paragraph 5, 'Specified Equipment', shall be deleted in its entirety, and replaced by the version contained in Appendix 1 to this Supplemental Agreement.

**5. 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.

During the period in which the amendments made by this 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.

**6. LAW**

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

**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.

**8. 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 one and the same instrument.

**IN WITNESS** of which 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: Mark Killick (Wessex Route Director)

Duly authorised for and on behalf of  
**NETWORK RAIL INFRASTRUCTURE LIMITED**

Signed by: Clare Mann

Print name CLAIRE MANN

Duly authorised for and on behalf of  
**FIRST MTR SOUTH WESTERN TRAINS LIMITED**

## Appendix 1: Revised Version of Schedule 5 paragraph 5, 'Specified Equipment'

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### 5. Specified Equipment

#### *Specified Equipment*

5.1 In order to provide the Services specified in this Schedule 5, subject to obtaining any necessary route clearance for the route in question, the Train Operator has:

(a) Firm Rights to operate the following railway vehicles:

Class 158, 159, 444, 450, 455, 456, 458 and 458/5, 701 and 707
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and

(b) Contingent Rights to operate any railway vehicles registered with RSSB's R2 system (incorporating the former Rolling Stock Library).

For the purposes of this contract, the railway vehicles specified in paragraph 5.1(a) and 5.1(b) are known as the "Specified Equipment".

#### *Train Length*

5.2 The Train Operator has a Firm Right to the maximum train length, in metres, which the Network can from time to time accommodate, subject to a right of Network Rail to vary the train length in cases where the Network cannot accommodate all Access Proposals and Rolled Over Access Proposals to operate to the maximum length.

5.3 Nothing in paragraph 5.2 precludes the operation of trains in excess of platform lengths, where appropriate measures have been taken to control, so far as is reasonably practicable, any risks introduced by the use of such longer trains.

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