

SEVENTH SUPPLEMENTAL AGREEMENT
between
NETWORK RAIL INFRASTRUCTURE LIMITED
and
SOUTH YORKSHIRE SUPERTRAM LIMITED

**Relating to the expiry date, novation clause and Schedule 3
of the Track Access Contract
(Non-Franchised Passenger Services)**

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THIS SEVENTH SUPPLEMENTAL AGREEMENT is dated 18th April 2023 and made

Between:

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED** (“**Network Rail**”), a company registered in England under company number 2904587, having its registered office at Waterloo General Office, London, SE1 8SW; and
- (2) **SOUTH YORKSHIRE SUPERTRAM LIMITED** (the “**Train Operator**”), a company registered in England under number 02634683 having its registered office at c/o Stagecoach Services Limited, One Stockport Exchange, 20 Railway Road, Stockport, Cheshire, SK1 3SW;

Whereas:

- A. The parties entered into a Track Access Contract (Passenger Services) dated 4 May 2018 (the “**Contract**”) in a form approved and directed by the Office of Rail and Road pursuant to Section 18(7) of the Railways Act 1993 (“the Act”).
- B. The parties propose to enter into this Supplemental Agreement in order to amend the expiry date, novation clause and Schedule 3 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:

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 at 01.59 hours on the Expiry Date or on the earlier termination of the Contract.

3. AMENDMENTS TO THE CONTRACT

3.1 In clause 1 INTERPRETATION 1.1 Definitions the words:

“Expiry Date means the Subsidiary Change Date 2023”

Shall be deleted and replaced with the words:

“Expiry Date means the 1st April 2028”

3.2 Clause 15.2 Novation shall be deleted in its entirety and replaced with the wording in Appendix A to this Supplemental Agreement.

3.3 Schedule 3: Collateral Agreements shall be deleted in its entirety and replaced with the wording in Appendix B to this Supplemental Agreement.

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...Tim Bilby.....

Duly authorised for and on behalf of
SOUTH YORKSHIRE SUPERTRAM LIMITED

Appendix A

15.2 Novation

Network Rail (and any assignee of all or part of Network Rail's rights under this contract) shall:

- (a) agree to the novation of the rights and obligations of the Train Operator under this contract in favour of another person (including the Secretary of State, South Yorkshire Mayoral Combined Authority or a person nominated by either of them) in any circumstances where:
 - (i) the Secretary of State requests Network Rail to participate in such a novation in the course of exercising its powers under section 30 of the Act; or
 - (ii) South Yorkshire Mayoral Combined Authority or a person nominated by them requests Network Rail to participate in such a novation; and
- (b) execute such contracts and do such things as the Secretary of State or South Yorkshire Mayoral Combined Authority may reasonably request to give effect to the novation.

15.3 Novation terms

Any novation under Clause 15.2 shall be on terms that:

- (a) the Train Operator shall not be released from:
 - (i) any accrued but unperformed obligation;
 - (ii) the consequences of any breach of this contract which is the subject of any proceedings (arbitral or otherwise) for the resolution of a dispute between the parties; or
 - (iii) any liability in respect of anything done under this contract before, or as at the date of, any such novation (except to the extent that such other person agrees to assume and be responsible for it); and
- (b) such other person shall not be required by Network Rail, as a term of or a condition to the novation, to agree to assume and be responsible for any unperformed obligation, liability or consequence of a breach of the kind referred to in Clause 15.3(a), but this shall not prevent any such agreement being a term or condition of the novation if required by the Secretary of State or South Yorkshire Mayoral Combined Authority.

Appendix B

SCHEDULE 3: COLLATERAL AGREEMENTS

1. Not used.
2. An agreement under which the Train Operator agrees to become a party to the Claims Allocation and Handling Agreement and, for the purpose of Schedule 6, the Claims Allocation and Handling Agreement.
3. Tram Train Agreement between (1) South Yorkshire Mayoral Combined Authority and (2) South Yorkshire Supertram Limited under which the Operator undertakes to provide the Services, dated 21st May 2013.
4. Concession Agreement between (1) South Yorkshire Mayoral Combined Authority and (2) South Yorkshire Supertram Limited, dated 21st March 2000.
5. An accession agreement to the document entitled Emergency Access Code as approved or directed by ORR and, for the purpose of Schedule 6, the Emergency Access Code.
6. An agreement between (1) South Yorkshire Mayoral Combined Authority and (2) Network Rail to allow connection, suitable for passenger trains, between Network Rail Managed Infrastructure and the South Yorkshire Supertram Network to be made.