

3rd Supplemental Agreement

between

NETWORK RAIL INFRASTRUCTURE LIMITED

as Network Rail

and

WEST COAST RAILWAY COMPANY LIMITED

as Train Operator

relating to the Track Access Contract (Passenger Services) (“The Jacobite”) dated 28 May 2020 and concerning corrections to paragraph identification.

CONTENTS

| | | |
|----|---|---|
| 1. | INTERPRETATION | 2 |
| 2. | EFFECTIVE DATE AND TERM | 2 |
| 3. | AMENDMENTS TO THE CONTRACT | 3 |
| 4. | EFFECT OF THIS SUPPLEMENTAL AGREEMENT ON THE CONTRACT | 3 |
| 5. | THIRD PARTY RIGHTS | 3 |
| 6. | LAW | 3 |
| 7. | COUNTERPARTS | 3 |
| 8. | APPENDIX 1 – amendments to Schedule 4 Part 3 Paragraph 2.6 & 2.7 and 7.1 | 4 |

THIS THIRD SUPPLEMENTAL AGREEMENT is dated 4th August 2023 and made

BETWEEN:

- 1) **NETWORK RAIL INFRASTRUCTURE LIMITED**, (“Network Rail”), a company registered in England under number 2904587 having its registered office at Waterloo General Office, London, SE1 8SW; and
- (2) **WEST COAST RAILWAY COMPANY LIMITED**, (the “Train Operator”), a company registered in England under number 03066109 having its registered office at Jesson Way, Crag Bank, Carnforth, Lancashire LA5 9UR.

WHEREAS:

- (A) The parties entered into a Track Access Contract (Passenger Services) (“The Jacobite”) dated 28 May 2020 in a form approved by the Office of Rail and Road pursuant to Section 18(7) of the Act (which Track Access Contract is hereafter referred to as the “Contract”).
- (B) The parties now propose to enter into this Supplemental Agreement in order to amend the Contract as described herein.

IT IS HEREBY AGREED as follows:

1. **INTERPRETATION**

In this Supplemental Agreement:

- (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 except where the context requires otherwise;
- (B) “Effective Date” means the date upon which the ORR 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 pursuant to this Supplemental Agreement shall have effect from the Effective Date and shall cease to have effect on the expiry or earlier termination of the Contract.

3. **AMENDMENTS TO THE CONTRACT**

Schedule 4 Part 3. Paragraph 2.6 Type 2 Restriction of Use & 2.7 Type 3 Restriction of Use shall be amended to reflect the wording in Appendix 1 as the paragraph numbering and headings in current consolidated agreement had become merged.

Schedule 4 Part 3. Paragraph 7 7.1 Compensation arrangements shall be amended to reflect the wording in Appendix 1 as the paragraph numbering was out of order.

4. **EFFECT OF THIS SUPPLEMENTAL AGREEMENT ON THE CONTRACT**

The Contract, as amended by this Supplemental Agreement, shall remain in full force and effect in accordance with its terms, and 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.

5. **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.


6. **LAW**

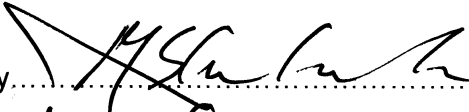
This Supplemental Agreement shall be governed by, construed and given effect to in all respects in accordance with English Law.

7. **COUNTERPARTS**

This Supplemental Agreement may be executed in two counterparts which, taken together, shall constitute one and the same document. Either party may enter into this Supplemental Agreement by signing either of such counterparts.

IN WITNESS whereof the duly authorised representatives of Network Rail and the Train Operator have executed this Supplemental Agreement on the date first above written

SIGNED by 
Print name HENRY BATES
Duly authorised for and on behalf of
NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED by 
Print name JAMES SOUTHWOOD
Duly authorised for and on behalf of
WEST COAST RAILWAY COMPANY LIMITED

Appendix 1

Schedule 4 Part 3 Paragraph 2.6 & 2.7:

2.6 *Type 2 Restriction of Use*

Where a Train Operator's RoU Liability exceeds £10,000 in respect of any Type 2 Restriction of Use Network Rail shall make payments to the Train Operator (in accordance with the procedure in paragraph 13) calculated in accordance with paragraph 7 in respect of any Type 2 Restriction of Use.

2.7 *Type 3 Restriction of Use*

Where a Train Operator's RoU Liability exceeds £10,000 in respect of any Type 3 Restriction of Use Network Rail shall make payments to the Train Operator (in accordance with the procedure in paragraph 13) calculated in accordance with paragraph 7 in respect of any Type 3 Restriction of Use.

Schedule 4 Part 3 Paragraph 7:

7.1 *Compensation arrangements*

- (a) Following receipt of an RoU Claim Notice in respect of a Type 2 Restriction of Use or a Type 3 Restriction of Use (as the case may be), Network Rail and the Train Operator shall (if they have not already done so) commence negotiations in respect of the RoU Liability compensation to be paid by one party to the other in respect of such Restriction of Use and, subject to paragraph 10, shall continue such negotiations in good faith until they are concluded.
- (b) Once the compensation referred to in paragraph 7.1(a) has been agreed or determined the compensation to be paid by Network Rail to the Train Operator shall be the full amount of the RoU Liability actually incurred by the Train Operator less any amounts received by the Train Operator from Network Rail in respect of such Restriction of Use.
- (c) Network Rail shall include in the statement provided by it in respect of each Period under paragraph 13.1(a) details of the compensation agreed or determined under this paragraph 7 and paragraph 10 to be payable in respect of any Type 2 Restriction of Use or Type 3 Restriction of Use (as the case may be) taken in that Period and that compensation shall be due and payable by the relevant party to the other in accordance with paragraph 13.1.