

## RAILWAYS ACT 1993

### 2023 PERIODIC REVIEW

#### REVIEW IMPLEMENTATION NOTICE:

#### PUBLIC SERVICE OPERATOR PASSENGER TRACK ACCESS AGREEMENTS

TO:

- (1) the persons whose names are set out in Part 1 of Annex 1 (the “**Train Operators**”);
- (2) the persons whose names are set out in Part 2 of Annex 1;
- (3) Network Rail Infrastructure Limited (“**Network Rail**”); and
- (4) the Secretary of State, the Scottish Ministers and the Treasury,

together, the “**Addressees**”.

1. This notice is a review implementation notice given under paragraph 7 of Schedule 4A to the Railways Act 1993 (as amended) (the “**Act**”).
2. On 20 December 2023, the Office of Rail and Road (“**ORR**”) gave a review notice entitled “Review Notice: Public Service Operator Passenger Track Access Agreements” (the “**public service operator passenger track access review notice**”) specifying the relevant changes (within the meaning of Schedule 4A to the Act) which ORR proposed to make for or in connection with giving effect to its conclusions on a review of:
  - (a) the amounts payable by Network Rail and each of the Train Operators to each other under the relevant track access agreements, which are listed in Annex 1 to this notice (the “**relevant track access agreements**”); and
  - (b) the times at which, and manner in which, those amounts are payable, (the “**public service operator passenger periodic review**”).

Copies of the public service operator passenger track access review notice were served on each of the Addressees.

3. On 12 February 2024, ORR gave a notice of agreement entitled “Notice of Agreement: Public Service Operator Passenger Track Access Agreements” (the “**notice of agreement**”) in respect of the public service operator passenger track access review notice.

4. No relevant person gave a termination notice pursuant to paragraph 6 of Schedule 4A to the Act during a period of 28 days beginning with the day on which the notice of agreement was served on it.
5. ORR is therefore required by paragraph 7(1)(a) of Schedule 4A to the Act to give a review implementation notice, and ORR hereby:
  - (a) gives notice that its conclusions on the public service operator passenger periodic review are to be implemented as proposed in the public service operator passenger track access review notice; and
  - (b) directs Network Rail and each of the Train Operators to amend the relevant track access agreements to which they are a party so that the proposed relevant changes specified in the public service operator passenger track access review notice in relation to each relevant track access agreement come into operation on and from 1 April 2024.
6. Amendments made pursuant to the direction in paragraph 5(b) of this notice shall be made by means of an agreement in the form specified in Annex 2 to this notice.
7. Notwithstanding:
  - (a) the date on which any agreement is made pursuant to the direction in paragraph 5(b) of this notice; or
  - (b) the form in which any such agreement is made,any provision of any such agreement which gives effect to the relevant changes specified in the public service operator passenger track access review notice shall come into operation on and from 1 April 2024.
8. If, before the proposed relevant changes come into operation in relation to any relevant track access agreement, such relevant track access agreement is amended in a manner which is:
  - (a) approved by ORR under section 22 of the Act; or
  - (b) directed by ORR under section 22A or section 22C of the Act, (each a **“regulated amendment”**), then:
    - (i) the proposed relevant changes shall come into operation in relation to that relevant track access agreement subject to the regulated

amendments; and

- (ii) if there is any conflict between the proposed relevant changes and the regulated amendments, the regulated amendments shall take precedence.

9. The following amendments will not be considered regulated amendments for the purpose of this notice:

- (a) amendments made to any provision within Schedule 7, other than Appendix 7C, of a track access agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2023 which came into force on 15 May 2023; and
- (b) amendments made to any provision within Schedule 8 of a track access agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2023 which came into force on 15 May 2023.

10. In this notice, unless the context otherwise requires:

- (a) words and phrases defined in the Act have the same meaning in this notice;
- (b) words and phrases defined in the charter operator track access review notice have the same meaning in this notice;
- (c) the singular includes the plural and *vice versa*.



**WILL GODFREY**  
**Director Economics, Finance and Markets**  
**FOR AND ON BEHALF OF**  
**THE OFFICE OF RAIL AND ROAD**  
Dated 13 March 2024

## ANNEX 1: TRAIN OPERATORS AND RELEVANT TRACK ACCESS AGREEMENTS

### PART 1 - TRAIN OPERATORS

<b>Train Operator</b> (collectively, the “Train Operators” and each a “Train Operator”)	<b>Train Operator Company Number</b>	<b>Original Date of Track Access Agreement</b>
Abellio East Anglia Limited	07861414	10 December 2004
Abellio East Midlands Limited	09860485	1 September 2020
Arriva Rail London Limited	04165861	9 November 2007
Caledonian Sleeper Limited	SC328825	2 March 2018
The Chiltern Railway Company Limited	03007939	7 October 2022
First Greater Western Limited	05113733	4 March 2016
First MTR South Western Trains Limited	07900320	9 April 2019
First Trenitalia West Coast Rail Limited	10349442	1 December 2022
Govia Thameslink Railway Limited	07934306	2 March 2016
London North Eastern Railway Limited	04659712	3 March 2017
Merseyrail Electrics 2002 Limited	04356933	1 April 2019
MTR Corporation (Crossrail) Limited	08754715	21 November 2018
Northern Trains Limited	03076444	3 March 2016
ScotRail Trains Limited	SC328826	3 March 2016
SE Trains Limited	03266762	6 December 2007
TransPennine Trains Limited	12544930	3 March 2016
Transport for Wales Rail Ltd	12619906	6 August 2020
Trenitalia c2c Limited	07897267	3 March 2017
West Midlands Trains Limited	09860466	15 May 2019
XC Trains Limited	04402048	8 August 2017

## **ANNEX 1**

### **PART 2 – OTHER ADDRESSEES**

Merseyside Passenger Transport Executive (Merseytravel)

Rail for London

Transport for Wales

Welsh Government

**ANNEX 2: TEMPLATE SUPPLEMENTAL AGREEMENT**  
**(ATTACHED)**

**[•]th SUPPLEMENTAL AGREEMENT**

**DATED**

***[insert date]***

**Between**

**NETWORK RAIL INFRASTRUCTURE LIMITED**

**-and-**

***[insert name of train operator]***

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**relating to the implementation of  
the 2023 periodic review (PR23)**

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**THIS [●]th SUPPLEMENTAL AGREEMENT** is dated the [●] day of [●] 2024 and made

**BETWEEN**

- (1) Network Rail Infrastructure Limited, a company registered in England under number 2904587, having its registered office at Waterloo General Office, London, SE1 8SW (“**Network Rail**”); and
- (2) [*insert name of train operator*], a company registered in [●] under number [●], having its registered office at [●] (the “**Train Operator**”).

**WHEREAS**

- (A) The parties entered into a track access agreement dated [●] (the “**Agreement**”).<sup>1</sup>
- (B) The parties now propose to enter into this Supplemental Agreement in order to comply with and give effect to the directions set out in the review implementation notices given by the Office of Rail and Road on 13 March 2024 in connection with the implementation of both the public service operator passenger periodic review and the Traction Electricity Rules periodic review.

**IT IS AGREED AS FOLLOWS:**

**1. INTERPRETATION**

In this Supplemental Agreement, unless the context otherwise requires:

- (a) “**public service operator passenger periodic review**” and “**Traction Electricity Rules periodic review**” together mean the access charges review known as the 2023 periodic review, implementation of which was initiated by the Office of Rail and Road publishing and serving the public service operator passenger track

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<sup>1</sup> Where the track access agreement has previously been novated or transferred, replace recital (A) with the following text, and re-number recital (B) as appropriate. Where there has been more than one such transfer, the text may be revised and new paragraphs added to reflect each successive transfer:  
“(A) Network Rail and [NAME OF FORMER TRAIN OPERATOR] entered into a track access agreement dated [INSERT DATE] (the “**Agreement**”).  
(B) The rights and obligations of [NAME OF FORMER TRAIN OPERATOR] under the Agreement were transferred to the Train Operator pursuant to a transfer scheme made by the Secretary of State for Transport on [INSERT DATE] under Schedule 2 of the Transport Act 2005.”

access review notice and the Traction Electricity Rules review notice;

- (b) “**public service operator passenger track access review notice**” means the document entitled “Review Notice: Public Service Operator Passenger Track Access Agreements” given by the Office of Rail and Road on 20 December 2023 in relation to the proposed relevant changes to be made to, among other things, the Agreement;
- (c) “**Traction Electricity Rules review notice**” means the document entitled “Review Notice: Traction Electricity Rules” given by the Office of Rail and Road on 20 December 2023 in relation to the proposed relevant changes to be made to the Traction Electricity Rules;
- (d) “**regulated amendments**” has the meaning ascribed to it in paragraph 3.2;
- (e) “**relevant changes**” means the amendments specified, to the extent applicable to the Agreement, in Annexes 2 and 3 of the public service operator passenger track access review notice, and Annex 2 of the Traction Electricity Rules review notice;
- (f) “**relevant date and time**” means 1 April 2024 at 02:00 hours;
- (g) “**Traction Electricity Rules**” means the document known as the Traction Electricity Rules published by Network Rail on its website; and
- (h) words and phrases defined in, and rules of interpretation set out in, the Agreement and/or the Traction Electricity Rules shall have the same meaning and effect when used in this Supplemental Agreement.

## **2. EFFECTIVE DATE**

Notwithstanding the date on which the parties signed this Supplemental Agreement, it shall take effect on and from the relevant date and time.

## **3. AMENDMENTS TO THE AGREEMENT**

### **3.1 Standard amendments**

Subject to paragraph 3.2, the relevant changes shall be made to the Agreement and the

Traction Electricity Rules.

### **3.2 Regulated amendments**

If, before the relevant changes come into operation in accordance with this paragraph 3, the Agreement is amended in a manner which is:

- (a) approved by the Office of Rail and Road under section 22 of the Act; or
- (b) directed by the Office of Rail and Road under section 22A or 22C of the Act, (each a “**regulated amendment**”), then:
  - (i) the relevant changes shall come into operation in relation to the Agreement subject to the regulated amendments; and
  - (ii) if there is any conflict between a relevant change and a regulated amendment, the regulated amendment shall take precedence.

### **3.3** The following amendments will not be considered regulated amendments for the purpose of this paragraph 3:

- (a) amendments made to any provision within Schedule 7, other than Appendix 7C, of the Agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2023 which came into force on 15 May 2023; and
- (b) amendments made to any provision within Schedule 8 of the Agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2023 which came into force on 15 May 2023.

### **3.4 Continuing Agreement**

Except as provided in this paragraph 3, the Agreement, as amended by this Supplemental Agreement, shall remain in full force and effect in accordance with its terms.

## **4. GOVERNING LAW**

This Supplemental Agreement shall be governed by and construed in accordance with the

laws of [*England and Wales/Scotland*]<sup>2</sup>.

## 5. 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** of which 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

Duly authorised for and on behalf of

NETWORK RAIL INFRASTRUCTURE LIMITED

Signed by

Print name

Duly authorised for and on behalf of

[*NAME OF TRAIN OPERATOR*]

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<sup>2</sup> Delete as applicable.