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24 October 2019

Tim Wright  
Route Commercial Manager  
Network Rail Infrastructure Ltd  
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Lanita Masi  
Track Access & Network Change Manager  
Abellio East Midlands Ltd  
Prospect House, Prospect Place  
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DE24 8HG

Dear Tim and Lanita

**Approval of the 15th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Abellio East Midlands Limited (EMR)**

1. We have today approved the above supplemental agreement submitted to us formally on 23 October 2019 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.

2. The agreement provides EMR with the necessary access rights for it to operate six Kettering-Corby shuttle services in each direction during off peak-hours on weekdays only, effective from the December 2019 Principal Change Date. The new services will provide additional journey opportunities for customers between Kettering and Corby and improve the connectivity to other Midland Main Line destinations.

3. Industry consultation was undertaken in the usual manner with responses received from DB Cargo and GB Railfreight Limited (GBRf). Both freight operators raised concerns on the planned dwell times at Corby and over a number of iterations, GBRf highlighted cases of non-compliance with Train Planning Rules (TPRs). It also requested confirmation that trains would be manned at Kettering. Network Rail's initial responses to DB Cargo and GBRf described the procedure for the shunts and provided a list of headcodes for the new services with confirmation of reduced dwell times at Corby. Network Rail also provided assurances that the new services were compliant with TPRs and were validated with no issue to existing WTT freights. Over a number of iterations and in response to the other cases of non-compliance raised by GBRf, Network Rail advised that they related to more

general planning concerns as opposed to the new additional shuttles and that this had been resolved by the Capacity Planning Team. EMR provided confirmation that trains at Kettering would be manned.

4. DB Cargo confirmed that Network Rail's response had provided comfort to its queries and withdrew its objection. No formal close out was received by GBRf.

5. We reviewed the application and the concerns raised by GBRf and are content that Network Rail has addressed those relevant to this application as detailed in paragraph 3. We noted that details of the new franchisee had not been incorporated into the draft of the supplemental agreement. We put this to the parties and they have amended the agreement accordingly for the formal submission.

6. In considering the agreement and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with our section 4 duties, in particular those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

7. Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

8. Electronic copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at Department for Transport and to Peter Craig at Network Rail. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'M Albon', written in a cursive style.

**Michael Albon**