

78th Supplemental Agreement

between

NETWORK RAIL INFRASTRUCTURE LIMITED

as Network Rail

and

FIRST MTR SOUTH WESTERN TRAINS LIMITED

as Train Operator

relating to

the Track Access Contract (Passenger Services) dated 20 May 2004

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THIS 78th SUPPLEMENTAL AGREEMENT is dated 29 August '18 and made between:

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED**, a company registered in England under 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 under number 07900320 having its registered office at, 4th Floor, Capital House, 25 Chapel Street, London NW1 5DH (the "Train Operator").

WHEREAS:

- (A) Network Rail and South West Trains Limited entered into a Track Access Contract (Passenger Services) dated 20 May 2004 in a form approved by the Office of Rail and Road ("ORR") pursuant to Section 18(7) of 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 rights and obligations of South West Trains Limited under the Contract were transferred to Stagecoach South Western Trains Limited pursuant to a transfer scheme made by the Secretary of State for Transport on 4 February 2007 under Schedule 21 of the Transport Act 2000.
- (C) The rights and obligations of Stagecoach South Western Trains Limited under the Contract were transferred to the Train Operator pursuant to a transfer scheme made by the Secretary of State for Transport on 20 August 2017 under Schedule 2 of the Transport Act 2005.
- (D) The parties now propose to enter into this Supplemental Agreement to vary the Contract in the manner and on the terms set out below.

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; and
- (B) "Effective Date" means the later of:
 - i. The date upon which the Office of Rail and Road issues its approval pursuant to Section 22 of the Act of the terms of this Supplemental Agreement; and
 - ii. 0200 on Friday 31st August 2018.

2. **EFFECTIVE DATE AND TERM**

The amendments to the Contract as set out in 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 SCHEDULE 5**

Schedule 5 Table 2.1 of Annex 5A of the Contract shall be amended by adding the row relating to the service shown in Table 1.

Table 2.1: Passenger Train Slots											
1						2					
Service Group: HY01											
Service description: Main Suburban						Passenger Train Slots					
From	To	Via	Description	TSC	Timing Load	Peak times		Off-Peak times	Weekday	Saturday	Sunday
						morning Peak	evening Peak				
Epsom	Guildford	(L)	Stopping	24673705	455	~	~	1	1	~	~

Table 1 (rows to be added in Table 2.1 in Annex 5A)

Schedule 5 Table 2.1 of Annex 5C of the Contract shall be amended by adding the row relating to the service shown in Table 2.

Table 2.1: Passenger Train Slots											
1						2					
Service Group: HY03											
Service description: Waterloo – West of England						Passenger Train Slots					
From	To	Via	Description	TSC	Timing Load	Peak times		Off-Peak times	Weekday	Saturday	Sunday
						morning Peak	evening Peak				
Weymouth	Boundary with Swanage Railway	Direct	Stopping	24623104	159	~	~	~	~	1SP	~
Boundary with Swanage Railway	Wareham	Direct	Stopping	24623104	159	~	~	~	~	2SP	~
Wareham	Boundary with Swanage Railway	Direct	Stopping	24623104	159	~	~	~	~	2SP	~
Boundary with Swanage Railway	Weymouth	Direct	Stopping	24623104	159	~	~	~	~	1SP	~

Table 2 (rows to be added in Table 2.1 Annex 5C)

Schedule 5 Table 4.1 of Annex 5C of the Contract shall be amended by adding the row relating to the service shown in Table 3.

Table 4.1: Calling Patterns						
1			2		3	
Service Group: HY03						
Service description: Waterloo – West of England						
From	To	Via	Description	TSC	Regular Calling Pattern	Additional stations
Weymouth	Boundary with Swanage Railway	Direct	Stopping	24623104	Dorchester South, Moreton, Wool, Wareham	

Table 3 (rows to be added in Table 4.1 Annex 5C)

5. GENERAL

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.

6. 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.

7. LAW

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

8. 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 *B. Lumlock*
Print name BECKY LUMLOCK

duly authorised for and on behalf of
NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED by *Andy Nelson*
Print name ANDY NELSON

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