

Dated 17 February 2011

between

**HS1 LIMITED**

and

**EUROSTAR INTERNATIONAL LIMITED**

---

**FIRST SUPPLEMENTAL AGREEMENT**  
relating to the  
**FRAMEWORK TRACK ACCESS AGREEMENT**  
for Passenger Services dated 14 August 2009

---

**THIS FIRST SUPPLEMENTAL AGREEMENT** is made the 17 day of February 2011

**BETWEEN:**

- (1) **HS1 LIMITED**, a company registered in England and Wales under number 03539665 having its registered office at 73 Collier Street, London, N1 9BE ("**HS1 Ltd**"); and
- (2) **EUROSTAR INTERNATIONAL LIMITED**, a company registered in England and Wales under number 2462001 having its registered office at Times House, Bravingtons Walk, London N1 9AW (the "**Train Operator**").

**WHEREAS**

- (A) Pursuant to a framework track access agreement for passenger services dated 14 August 2009 (the "**Track Access Agreement**") made between HS1 Ltd and the Train Operator, HS1 Ltd granted the Train Operator permission to use certain track comprised in HS1.
- (B) HS1 Ltd and the Train Operator have agreed to amend the Track Access Agreement as set out in this First Supplemental Agreement.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Save as expressly provided to the contrary in this First Supplemental Agreement, unless the context requires otherwise:
  - (a) words and expressions defined in the Track Access Agreement shall have the same meaning when used in this First Supplemental Agreement; and
  - (b) the rules of interpretation set out in paragraph 1.2 of Section 1 to the Terms have effect in relation to this First Supplemental Agreement.

**2. AMENDMENTS**

- 2.1 With effect from 0159 hours on the Principal Change Date in December 2010, the Track Access Agreement shall be amended by:
  - 2.1.1 deleting schedule 4 of the Track Access Agreement in its entirety and replacing it with the form of schedule 4 set out in Schedule 1 (*Revised Schedule 4*) of this First Supplemental Agreement; and
  - 2.1.2 deleting schedule 5 of the Track Access Agreement in its entirety and replacing it with the form of schedule 5 set out in Schedule 2 (*Revised Schedule 5*) of this First Supplemental Agreement.

**3. CONTINUATION**

- 3.1 This First Supplemental Agreement is supplemental to the Track Access Agreement.

3.2 Except as varied by the terms of this First Supplemental Agreement, the Track Access Agreement will remain in full force and effect and any reference in the Track Access Agreement to the Contract or to any provision of the Contract will be construed as a reference to the Track Access Agreement, or that provision of the Track Access Agreement, as amended by this First Supplemental Agreement.

#### **4. MISCELLANEOUS**

The provisions of paragraphs 1 (*Confidentiality*), 2 (*Assignment and Novation*), 3 (*Dispute Resolution*), 4 (*Railways Regulations*), 5.1 (*Non Waiver*), 5.2 (*Amendment*), 5.3 (*Entire Contract and Exclusive Remedies*), 5.4 (*Notices*), 5.7 (*Contracts (Rights of Third Parties) Act 1999*) and 5.8 (*Invalidity*) of Section 9 of the Terms shall apply to this First Supplemental Agreement as though those paragraphs were set out in this First Supplemental Agreement, but as if references in those paragraphs to "the Contract" were references to "this First Supplemental Agreement".

#### **5. COUNTERPARTS**

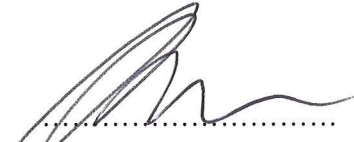
This First Supplemental Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts each of which, when executed and delivered, shall constitute an original but all the counterparts shall together constitute one and the same instrument.

#### **6. GOVERNING LAW**

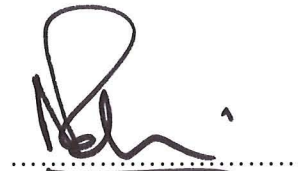
This First Supplemental Agreement and any non-contractual obligations arising out of or connected with this First Supplemental Agreement shall be governed by and construed in accordance with the laws of England.


**IN WITNESS** whereof this **FIRST SUPPLEMENTAL AGREEMENT** has been executed and delivered as a deed by the parties hereto on the day and year first written above.

**EXECUTED as a DEED** for and on )  
behalf of **HS1 LIMITED** by: )  
**GRAHAM GUNN** )  
acting under )  
a **POWER OF ATTORNEY** )  
dated 22 December 2010 )

  
.....  
Authorised Signatory

**EXECUTED as a DEED** by )  
**EUROSTAR** )  
**INTERNATIONAL** )  
**LIMITED** acting by: )

  
.....  
Director

  
.....  
~~Director/Secretary/Witness~~

**SCHEDULE 1**  
**Revised Schedule 4**

**SCHEDULE 4: TRACK CHARGES**

**PART 1**

**Other Services Charge – None**

**PART 2**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
<b>Service Group</b>	<b>Vehicle Category</b>	<b>IRC Per Train Per Minute</b>	<b>Discount Factor</b>	<b>Chargeable Journey Time (Minutes)</b>	<b>DI Costs OMRCA1</b>	<b>DI Costs OMRCA2</b>	<b>LTOP Costs OMRCB</b>	<b>Pass Through Costs OMRCC</b>
Paris	Class 373	£69.57	1	31	£7.16	£12.80	£19.50	£8.68
Brussels	Class 373	£69.57	1	31	£7.16	12.80	£19.50	£8.68
Marne la Vallee	Class 373	£69.57	MLV <sub>p</sub>	31	£7.16	£12.80	£19.50	£8.68
Ski	Class 373	£69.57	1	31	£7.16	£12.80	£19.50	£8.68
Avignon	Class 373	£69.57	1	31	£7.16	£12.80	£19.50	£8.68

For the purposes of the table above:

MLV<sub>p</sub> means, for the purpose of calculating the Adjusted IRC Per Train in accordance with paragraph 2.1 of Part 2 to Section 7 to the Terms, the Discount Factor for the Service Group for Marne la Vallee services ("**MLV Services**") in Period p as determined in accordance with Part 3 of this Schedule 4.

### PART 3

#### *Marne la Vallee Discount Factor*

1. The value of  $MLV_p$  in Period p shall be the value specified in column 2 of Table A below which corresponds to the Timetable Year in which Period p occurs provided that where, in respect of a Timetable Year commencing on the Principal Change Date in 2010, 2011, or 2012 (each such year a "**Discount Timetable Year**") it is determined in accordance with paragraph 5 below that the Train Operator has not satisfied the conditions specified in paragraph 2 below, the value of  $MLV_p$  in each Period p in the relevant Discount Timetable Year shall be equal to 1.

*Table A – Marne la Vallee Discount Factor*

<b>Column 1</b>	<b>Column 2</b>
<b>Timetable Year commencing on the Principal Change Date in</b>	<b>Value of <math>MLV_p</math></b>
2010	0.25
2011	0.25
2012	0.25
2013 – onwards	1

#### *Marne la Vallee Requirements*

2. The conditions referred to in paragraph 1 above are as follows:
  - (a) in relation to each Discount Timetable Year specified in column 1 of Table B below, the quantum of MLV Services timetabled is equal to or greater than the quantum specified in column 2 of Table B below which corresponds to the relevant Discount Timetable Year; and
  - (b) no later than 10 Working Days following the end of each month in a Timetable Year specified in column 1 of Table B below, HS1 Ltd is provided, in a form agreed by the parties acting reasonably, with the Passenger Loading Data for the MLV Services which operated in the previous month. For the purposes of this paragraph 2(b) the expression "Passenger Loading Data" means the number of passengers, disaggregated by passenger class of travel, on each MLV Service which operated in the relevant month.

Table B – Marne la Vallee Minimum Service Levels

Column 1	Column 2
<b>Timetable Year commencing on the Principal Change Date in</b>	<b>Discount Threshold of MLV Services</b>
2010	590
2011	590
2012	590

**Note to Table B**

In any Timetable Year, the Discount Threshold of MLV Services shall be reduced if and to the extent that the number of MLV Services able to be timetabled in that Timetable Year is restricted by virtue of any HS1 Restriction of Use or service disruption caused by HS1 Ltd.

3. The parties agree that any information provided by the Train Operator in accordance with paragraph 2(b) shall be Confidential Information for the purposes of this Contract.
4. Nothing in this Schedule 4 shall entitle the Train Operator to any Firm Rights or Contingent Rights in relation to MLV Services (whether in respect of the quantum of such services or otherwise) nor require HS1 Ltd to accept any Bids submitted by the Train Operator, prioritise such Bids over the Bids of any other train operator, exercise any flexing rights or act in a manner contrary to the Railways Regulations or Part D of the HS1 Network Code.

*Reconciliation*

5. Following the end of each Discount Timetable Year HS1 Ltd shall determine whether the Train Operator has satisfied each of the conditions in paragraph 2 above. If the Train Operator has not done so, HS1 Ltd shall, when it issues an invoice to the Train Operator pursuant to paragraph 1.1 of Part 4 of Section 7 of the Terms in respect of the final Period of such Discount Timetable Year ("**Final Period Invoice**"), provide the Train Operator with a "Discount Reconciliation Notice" which:
  - (a) states that the Train Operator has not satisfied each of the conditions specified in paragraph 2 above for that Discount Timetable Year and that the value of  $MLV_p$  which should apply to all MLV Services which operated during such Discount Timetable Year should therefore be 1; and
  - (b) specifies the amount of additional IRC payable by the Train Operator in respect of the MLV Services timetabled in the Discount Timetable Year, being the difference between the IRC for the Discount Timetable Year calculated on the basis that the value of  $MLV_p$  for each Period during that Discount Timetable Year is equal to 1 and the IRC for the Discount Timetable Year calculated on the basis that the value of  $MLV_p$  for each Period during that Discount Timetable Year is equal to 0.25 ("**Discount Reconciliation Amount**"), together with all supporting calculations.



6. Where a Discount Reconciliation Notice shows that a Discount Reconciliation Amount is payable by the Train Operator to HS1 Ltd, HS1 Ltd shall be entitled to include such amount on the Final Period Invoice and the provisions of Part 4 of Section 7 of the Terms shall apply to the payment of such amount.
7. If the Train Operator fails to comply with any of the requirements set in out paragraph 2 in respect of a particular Discount Timetable Year, HS1 Ltd shall have the right to review, in its absolute discretion, the continuation of the discount in any subsequent Discount Timetable Year.

**SCHEDULE 2**  
**Revised Schedule 5**

## SCHEDULE 5 – THE SERVICES AND THE SPECIFIED EQUIPMENT

### 1. DEFINITIONS

1.1 In this Schedule unless the context otherwise requires:

<b>"Additional Specified Equipment"</b>	has the meaning ascribed to it in paragraph 3.3;
<b>"Bid"</b>	has the meaning ascribed to it in Part D of the HS1 Network Code;
<b>"Contingent Right"</b>	means a right under this Schedule 5 which is not a Firm Right and which is subject to the fulfilment of all Bids in respect of competing Firm Rights and any additional contingency specified in this Schedule 5;
<b>"Contingent Train Slot"</b>	means a Train Slot to which the Train Operator has Contingent Rights under the Contract as are as specified in paragraph 2.2;
<b>"Day"</b>	means any period of 24 hours beginning at 0200 hours and ending immediately before the next succeeding 0200 hours, and any reference in this Schedule to any named day of the week shall be to such period commencing on that named day;
<b>"Eurotunnel Boundary"</b>	has the meaning ascribed to it in Part A of the HS1 Network Code;
<b>"Firm Right"</b>	has the meaning ascribed to it in Part D of the HS1 Network Code;
<b>"Firm Train Slot"</b>	means a Train Slot to which the Train Operator has Firm Rights under the Contract as specified in paragraph 2.1;
<b>"Scheduled"</b>	means, in relation to the quantum, timing or any other characteristic of a Service, that quantum, timing or other characteristic as included in the Applicable Timetable;
<b>"Standard Specified Equipment"</b>	means, in respect of any Service, the Specified Equipment referred to in paragraph 3.1;
<b>"Timetable Week"</b>	has the meaning given to it in Part D of the HS1 Network Code;
<b>"Week Day"</b>	means any Day (including a Public Holiday), falling within a Timetable Week, which is not a Saturday or a Sunday.

1.2 Unless otherwise stated, where in this Schedule a period is expressed to be between two specific times that period shall be inclusive of both such times.

1.3 The Train Operator's rights under this Schedule as to numbers of passenger Train Slots per Day are calculated by reference to departures from the Scheduled start point on the Day in question, notwithstanding that a Service may not be Scheduled to arrive at its end point until the immediately succeeding Day.

## **2. QUANTUM OF FIRM TRAIN SLOTS**

2.1 The Train Operator has Firm Rights to the number of passenger Train Slots in the Working Timetable specified in Table 2.1 under the heading "Firm Train Slots" and on the Days so listed, subject to the notes to that Table.

**Table 2.1: Passenger Train Slots**

Service Group	From	To	Description	Applicable Period	Firm Train Slots			
					Week Day (excluding Friday)	Friday	Saturday	Sunday
Paris	St Pancras International	Eurotunnel Boundary	St Pancras International to Paris Nord	All Year	16	18	15	14
Paris	Eurotunnel Boundary	St Pancras International	Paris Nord to St Pancras International	All Year	16	17	13	17
Brussels	St Pancras International	Eurotunnel Boundary	St Pancras International to Brussels Midi	All Year	9	9	7	7
Brussels	Eurotunnel Boundary	St Pancras International	Brussels Midi to St Pancras International	All Year	9	9	7	7
Marne la Vallee	St Pancras International	Eurotunnel Boundary	St Pancras International to Marne La Vallee	All Year (except Tuesdays)	1	1	0	1
Marne la Vallee	Eurotunnel Boundary	St Pancras International	Marne La Vallee to St Pancras International	All Year (except Tuesdays)	1	1	0	1
Ski	St Pancras International	Eurotunnel Boundary	Ski	As per Note 5 below	0	1	1	0
Ski	Eurotunnel Boundary	St Pancras International	Ski	As per Note 5 below	0	0	1	1
Avignon	St Pancras International	Eurotunnel Boundary	Avignon	As per Note 5 below	0	0	1	0
Avignon	Eurotunnel Boundary	St Pancras International	Avignon	As per Note 5 below	0	0	1	0

## Notes to Table 2.1

Table 2.1 applies subject to the following:

1. If there is a public holiday on Friday in the United Kingdom, France or Belgium, the Train Operator shall have Firm Rights to swap the Firm Train Slots to which it would ordinarily be entitled under Table 2.1 on such Friday with the Firm Train Slots applicable on Thursday immediately preceding such Friday, provided that the exercise of this option shall not have the effect of increasing the total number of Firm Train Slots.
2. If there is a public holiday on Monday in the United Kingdom, France or Belgium, the Train Operator shall have Firm Rights to swap the Firm Train Slots to which it would ordinarily be entitled under Table 2.1 on such Monday with the Firm Train Slots applicable on Sunday immediately preceding such Monday, provided that the exercise of this option shall not have the effect of increasing the total number of Firm Train Slots.
3. The quantum of Firm Train Slots for Services in the Ski Service Group shall not exceed 62 Firm Train Slots per Timetable Year.
4. The quantum of Firms Train Slots for Services in the Avignon Service Group shall not exceed 18 Firm Train Slots per Timetable Year.
5. The Firm Passenger Train Slots set out in this Table 2.1 for Ski Service Group and Avignon Service Group shall apply:
  - (a) for the Timetable Year commencing on the Principal Change Date in December 2010, for the Service Group Ski, the period commencing on 19 December 2010 and ending 16 April 2011; and for the Service Group Avignon, the period commencing on 16 July 2011 and ending on 10 September 2011;
  - (b) for the Timetable Year commencing on the Principal Change Date in December 2011, for the Service Group Ski, the period commencing on 17 December 2011 and ending 14 April 2012; and for the Service Group Avignon, the period commencing on 7 July 2012 and ending on 8 September 2012;
  - (c) for each subsequent Timetable Year, the Train Operator shall propose to HS1 Ltd the start and end dates for both the Service Group Ski and for the Service Group Avignon such that the overall quantum of Train Slots for each Service Group in that subsequent Timetable Year is no greater than in the Timetable Year commencing on the Principal Change Date in December 2010. HS1 Ltd and the Train Operator (each acting reasonably) shall seek to agree the start and end dates no later than 12 months prior to the commencement of the applicable Timetable Period. The start and end dates shall apply as agreed between the parties. If the parties fail to agree the start and end dates within 12 months of the commencement of the applicable Timetable Period, either party may refer the matter for resolution to the Disputes Resolution Procedure. Any failure by the Train Operator to submit a Bid in relation to all or any of the Firm Passenger Train Slots in Table 2.1 in accordance with Part D of the HS1 Network Code, shall, in each case, be without prejudice to the right of HS1 Ltd to levy a charge for such Firm Passenger Train Slots, including in accordance with paragraph 6 of Part 2 of Section 7 of the Terms.



- 2.2 The Train Operator has Contingent Rights to 3 passenger Train Slots per Timetable Week in each direction between St Pancras International and the Eurotunnel Boundary.
- 2.3 If in any Timetable Period, either the Train Operator does not Bid for all the Firm Train Slots to which it is entitled under Table 2.1 or the Firm Train Slots for which it Bids are not all Scheduled, the Train Operator shall have a Contingent Right to Bid for the unused quantum of such Firm Train Slots to be Scheduled at any other time in that Timetable Period.
- 2.4 A Firm Train Slot or a Contingent Train Slot in either direction between St Pancras International and the Eurotunnel Boundary which is routed to/from Ashford West Boundary via Ashford West Junction and to/from Ashford East Boundary via Ashford East Junction shall be treated as a single Train Slot.
- 2.5 Subject to paragraph 2.6, the Train Operator has Firm Rights to make Ancillary Movements of Specified Equipment to the extent necessary or reasonably required to give full effect to other Firm Rights of the Train Operator, including:
- (a) movements of the Specified Equipment for the purpose of maintenance of the Specified Equipment to and from maintenance depots;
  - (b) movements for crew training purposes; and
  - (c) empty stock movements.
- 2.6 For the purpose of paragraph 2.5, Ancillary Movements shall not include movements of rolling stock for the purpose of crew training to the extent that the rolling stock concerned has not achieved vehicle and route acceptance necessary for its use in the carriage of passengers on the Route concerned.
- 2.7 Subject to paragraph 2.8 and the notes to Table 2.1, the entitlement of the Train Operator to passenger Train Slots on any Public Holiday will be in accordance with the Firm Train Slots specified in Table 2.1 for the Day of the Timetable Week on which the Public Holiday falls.
- 2.8 HS1 will be closed on 25 December every year and save as otherwise agreed in writing the Train Operator shall not have rights to operate Services on this day.
- 2.9 The exercise of a Stabling right or the making of an Ancillary Movement shall not count against the number of Firm Train Slots or Contingent Train Slots.

#### *Service Frequency*

- 2.10 The Train Operator has Firm Rights for its Firm Train Slots to be Scheduled such that the Train Operator enjoys a reasonable distribution of Services over the hours of operation of HS1 during a Day.

#### *Earliest and latest Firm Train Slots*

- 2.11 Subject to the notes to Table 2.11, in respect of each Service specified in Table 2.1, the Train Operator has Firm Rights to the earliest Firm Train Slots no later than and the latest Firm Train Slots no earlier than the times specified in Column 2 of Table 2.11



**Table 2.11: Earliest and latest Firm Train Slots**

1		2					
		<b>Earliest and latest Firm Train Slots (FTS)</b>					
		<b>Week Day</b>		<b>Saturday</b>		<b>Sunday</b>	
<b>From</b>	<b>To</b>	<b>earliest FTS no later than</b>	<b>latest FTS no earlier than</b>	<b>earliest FTS no later than</b>	<b>latest FTS no earlier than</b>	<b>earliest FTS no later than</b>	<b>latest FTS no earlier than</b>
St Pancras International	Eurotunnel Boundary	05:20	23:30	05:20	23:30	07:00	23:30
Eurotunnel Boundary	St Pancras International	05:20	23:30	05:20	23:30	07:00	23:30

**Notes to Table 2.11**

1. All times stated in Table 2.11 are by reference to the time of departure from or arrival to St Pancras International, by the Services.
2. The times stated in Table 2.11 may be varied by HS1 Ltd to comply with the Applicable Rules of the Route determined in accordance with Part D of the HS1 Network Code.

### **3. SPECIFIED EQUIPMENT**

#### *Standard Equipment*

- 3.1 The Train Operator has Firm Rights to use the Standard Specified Equipment set out below for providing Services:
- (a) Class 373/1 Eurostar Intercapitals Units of a length no greater than 2 power cars and 18 trailer cars; and
  - (b) Class 373/2 Eurostar North of London Units of a length no greater than 2 power cars and 14 trailer cars.
- 3.2 No Standard Specified Equipment may be used until and unless the necessary route clearance has been obtained.

#### *Additional Equipment*

- 3.3 The Additional Specified Equipment set out below may be used in an emergency and as a temporary measure only:
- (a) Class 08 locomotives; and
  - (b) Match wagons
- provided that for the purpose of determining the maximum length of a Train, the length of the type of Additional Specified Equipment shall be added to the length of the rolling stock to which it is coupled.
- 3.4 No Additional Specified Equipment may be used until and unless the necessary route clearance has been obtained.

### **4. INFRASTRUCTURE CAPABILITY**

- 4.1 HS1 Ltd shall provide or procure the provision of sufficient infrastructure capability on HS1 for a Class 373/1 Eurostar Intercapitals Unit or a train with equivalent performance characteristics to travel in either direction between St Pancras International at a stand in the platform and the Eurotunnel Boundary without stopping in not more than 31 minutes and nil seconds under normal signalling conditions.

### **5. TURNAROUND TIMES, PLATFORMS AND STATION CALLS**

#### *Turnaround Times*

- 5.1 Subject to paragraphs 5.2 and 5.3, for each Service terminating at St Pancras International, the Train Operator has a Firm Right to a turnaround time of not less than 55 minutes at St Pancras International.
- 5.2 If HS1 Ltd reasonably considers it necessary to specify a turnaround time of less than 55 minutes at St Pancras International for the Train Operator:
- (a) in order for HS1 Ltd to make efficient use of railway capacity at St Pancras International; and/or

- (b) in order to provide an equitable and non-discriminatory distribution among all train operators operating international train services from St Pancras International, of the capacity for turnaround times available at St Pancras International,

and that other time is sufficient to meet the reasonable requirements of an international train operator for the turning around of an international passenger services train at St Pancras International, then HS1 Ltd shall promptly notify the Train Operator and the parties shall negotiate in good faith concerning how to fulfil the requirement and meet the reasonable needs of the Train Operator with regard to turnaround times. If the parties are unable to reach an agreement on such revised turnaround times within 6 weeks of the notification referred to above, the turnaround times with regard to St Pancras International as set out in the Applicable Rules of the Plan shall prevail.

#### *Platforms*

- 5.3 The Train Operator has Firm Rights for its Firm Train Slots to be Scheduled in a manner consistent with the security requirements at St Pancras International.

#### *Station Calls*

- 5.4 In respect of all Services, the Train Operator has Firm Rights to call at St Pancras International and Ebbsfleet International.
- 5.5 The Train Operator has Firm Rights for its Firm Train Slots to be routed on the Network via the high speed lines and not via Ashford International Station, except to the extent that the Train Operator requests otherwise in its Bid for the relevant Services