

# Twenty-eighth Supplemental Agreement

between

**NETWORK RAIL INFRASTRUCTURE LIMITED**  
as Network Rail

and

**MERSEYRAIL ELECTRICS 2002 LIMITED**  
as Train Operator

relating to the Track Access Contract (Passenger Services) dated 17 July 2003

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**THIS TWENTY-EIGHTH SUPPLEMENTAL AGREEMENT** is dated 10<sup>th</sup> March, 2017 and made

**BETWEEN:**

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED**, a company registered in England under number 2904587 having its registered office at Network Rail, 1 Eversholt Street, London NW1 2DN ("Network Rail"); and
- (2) **MERSEYRAIL ELECTRICS 2002 LIMITED**, a company registered in England under number 04356933 having its registered office at Rail House, Lord Nelson Street, Liverpool, Merseyside L1 1JF (the "Train Operator").<sup>2nd</sup>

**WHEREAS:**

- (A) The parties entered into a Track Access Contract (Passenger Services) dated 17 July 2003 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 (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, unless the context otherwise requires:

- (A) words and phrases defined in, and rules of interpretation set out in, the Contract shall have the same meaning and effect when used in this Supplemental Agreement; and
- (B) "Effective Date" means the date upon which the ORR issues its approval, pursuant to the Section 22 of the Act, of the terms of this Supplemental Agreement.

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 Date or earlier termination of the Contract.

3. **RETROSPECTIVE EFFECT**

Notwithstanding the Effective Date, the amendments to the contract shall be applied retrospectively from 8 January 2017.

4. **AMENDMENTS TO SCHEDULE 1 AND SCHEDULE 8**

- 4.1 In the preamble and in Schedule 1 to the Contract, the registered offices of Network Rail Infrastructure Limited shall be deleted and replaced with the following:

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");

- 4.2 Appendix 1 to Schedule 8 for Service Group HE02 shall be deleted and replaced with the version set out in Appendix A to this Supplemental Agreement.

5. **GENERAL**

The parties agree that 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" or, as the case may be, the "Agreement", "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 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..... *M.J. Frobisher* .....

Print name..... *M.J. Frobisher* .....

Duly authorised for and on behalf of  
**NETWORK RAIL INFRASTRUCTURE LIMITED**

SIGNED by..... *A. Heath* .....

Print name..... *A. Heath* .....

Duly authorised for and on behalf of  
**MERSEYRAIL ELECTRICS 2002 LIMITED**

**Appendix A**

A	B	C	D	E	F	G	H	I	J	K	L		M	N	O
Service Group	Network Rail				Train Operator				Cancellation Minutes	CAP	Train Service Code		Direction	Monitoring Point	Weighting
	Performance Point (Minutes)	Payment Rate			Performance Point (Minutes)	Payment Rate									
		Not Used	Not used	Total		Train Operator Rate	Passenger Charter Rate	Total							
HE02 – Wirral Lines All Trains									23	90	305 305 305	Liv Loop – New Bri/West Kirby Liv Loop – New Bri/West Kirby Liv Loop – New Bri/West Kirby	Forw ard Forw ard Forw ard	Birkenhead North New Brighton West Kirby	
											306 306 306	Liv Loop – Forw Chester /E. Port Liv Loop – Forw Chester /E. Port Liv Loop – Forw Chester /E. Port	ard ard ard ard	Birkenhead Central Ellesmere Port Chester	