

32nd SUPPLEMENTAL AGREEMENT

DATED

14th March 2019

Between

NETWORK RAIL INFRASTRUCTURE LIMITED

-and-

NORTH YORKSHIRE MOORS RAILWAY ENTERPRISES PLC

**relating to the correction of indexation
provisions in Schedule 7**

THIS 32ND SUPPLEMENTAL AGREEMENT is dated the 14th day of March 2019 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) North Yorkshire Moors Railway Enterprises PLC, a company registered in England under number 2490244, having its registered office at Pickering Station, Pickering, North Yorkshire, YO18 7AJ (the "**Train Operator**").

WHEREAS

- (A) The parties entered into a track access agreement dated 17th January 2007 (the "**Agreement**").
- (B) ORR published a review notice on 20 December 2018 to initiate the implementation of the 2018 periodic review in respect of the Agreement. The notice included an error in respect of certain indexation provisions in Schedule 7. On 11 March 2019, ORR published a review implementation notice directing the parties to make to the Agreement the relevant changes set out in the review notice.
- (C) The parties now propose to enter into this Supplemental Agreement in order to correct the error in Schedule 7.

IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

Unless the context otherwise requires, words and phrases defined in, and rules of interpretation set out in, the Agreement 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 or the date on which ORR gives its approval to it under section 22 of the Railways Act 1993, it shall take effect on and from 02:01 hours on 1 April 2019.

3. AMENDMENTS TO THE AGREEMENT

3.1 Amendments to Schedule 7

With the exception of Appendix 7C to Schedule 7 to the Agreement (which shall not be deleted and which shall continue to remain in full force), Schedule 7 to the Agreement shall be deleted in its entirety and replaced with the new Schedule 7 set out in the Appendix to this Supplemental Agreement.

3.2 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.

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

X



Rob McIntosh

Duly authorised for and on behalf of

NETWORK RAIL INFRASTRUCTURE LIMITED

Signed by

Liz Parkes

Duly authorised for and on behalf of

NORTH YORKSHIRE MOORS RAILWAY ENTERPRISES PLC

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Signed by

Rob McIntosh

Duly authorised for and on behalf of

NETWORK RAIL INFRASTRUCTURE LIMITED

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Liz Parkes

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NORTH YORKSHIRE MOORS RAILWAY ENTERPRISES PLC

APPENDIX

Schedule 7

(Track Charges and Other Payments)

Part 1

(Interpretation)

1. Definitions

In Part 1 – Part 7 inclusive, unless the context otherwise requires:

"access charges review" has the meaning ascribed to it by Schedule 4A to the Act;

"Actual Train Movements" means:

- (a) the dates on which trains ran;
- (b) the times at which trains ran; and
- (c) the stations between which trains ran;

"Capacity Charge" means a variable charge, calculated in accordance with paragraph 6 of Part 2;

"CPI" means the Consumer Prices Index (all items) whose value is published each month by the Office for National Statistics in its statistical bulletin on consumer price inflation, or:

- (a) if the Consumer Prices Index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or
- (b) if there is a material change in the basis of the Consumer Prices Index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;

"Default Train Consist Data" means the data listed in Appendix 7C as amended from time to time in accordance with paragraph 10.4 of Part 2;

"Initial Indexation Factor" is derived from the following formula:

$$IIF = \left(1 + \frac{CPI_{2018} - CPI_{2017}}{CPI_{2017}}\right)^2$$

where:

IIF means the Initial Indexation Factor;

CPI₂₀₁₇ means the CPI published or determined with respect to the month of November 2017; and

CPI₂₀₁₈ means the CPI published or determined with respect to the month of November 2018.

The value derived from this formula shall be rounded to three decimal places;

"New Specified Equipment" means a type of railway vehicle that is not:

- (a) a steam locomotive, with or without a tender;
- (b) a Mk1 coach; or
- (c) a 25/3 diesel locomotive,

and is not included in the section of the Track Usage Price List entitled "North Yorkshire Moors Railway Enterprises PLC Variable Usage Charge rates";

"Period" means each consecutive period for 28 days during the term of this contract commencing on 0000 hours on 1 April in each year, provided that the length of the first and last such period in any year may be varied by up to 7 days on reasonable prior notice from Network Rail to the Train Operator;

"Planned Train Movements" means:

- (a) the dates on which trains are planned to run;
- (b) the times at which trains are planned to run; and
- (c) the stations between which trains are planned to run;

"Proposed Review Notice" means the most recently proposed Review Notice given by ORR, in accordance with Schedule 4A of the Act;

"Relevant Year" means a year commencing at 0000 hours on 1 April and ending at 2359 hours on the following 31 March;

"Relevant Year t" means the Relevant Year for the purposes of which any calculation falls to be made;

"Relevant Year t-1" means the Relevant Year preceding Relevant Year t and similar expressions shall be construed accordingly;

"Review Implementation Notice" has the meaning given to "review implementation notice" in paragraph 7 of Schedule 4A of the Act;

"Review Notice" has the meaning given to "review notice" in paragraph 4 of Schedule 4A of the Act;

"Route-Level Efficiency Benefit Share" has the meaning ascribed to it in paragraph 1 of Part 3;

"RPI" means the General Index of Retail Prices All Items measured by CHAW and published each month, or:

- (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or
- (b) if there is a material change in the basis of the index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;

"Track Usage Price List" means the document entitled "Track Usage Price List" published by Network Rail on or about 20 December 2018 which, for the purposes of this contract, shall be deemed to incorporate any supplements to that document consented to or determined pursuant to paragraph 9.10 of Part 2 of Schedule 7 to this contract or a passenger track access contract previously held by the Train Operator;

"Train Consist Data" means the information relating to the number(s) and type(s) of railway vehicle comprised in a train movement;

"Train Mile" in relation to a train, means a mile travelled by that train on the Network;

"Variable Charges" means the Capacity Charge, the VUC Default Charge and the Variable Usage Charge;

"Variable Usage Charge" means a variable charge, calculated in accordance with paragraph 3.1 of Part 2;

"Vehicle Mile" in relation to a railway vehicle, means a mile travelled by that vehicle on the Network;

"VUC Default Charge" means a variable charge calculated in accordance with paragraph 3.3 of Part 2;

"VUC Default Period" means the period from the later of:

- (a) the date on which the New Specified Equipment is first used on the Network by the Train Operator; or
- (b) 1 April 2019,

until the date on which ORR consents to or determines a supplement to the Track Usage Price List under paragraph 9.10 of Part 2 in respect of that New Specified Equipment; and

"Weekday" has the meaning ascribed to it in paragraph 1.1 of Schedule 5.

Part 2

(Track Charges)

1. Principal formula

During each Relevant Year, Network Rail shall levy and the Train Operator shall pay Track Charges in accordance with the following formula:

$$T_t = V_t + K_t + D_t$$

where:

T_t means Track Charges in Relevant Year t ;

V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the formula in paragraph 3.1;

K_t means an amount in respect of the Capacity Charge in Relevant Year t which is calculated in accordance with paragraph 6; and

D_t means an amount (if any) in respect of the VUC Default Charge in Relevant Year t which is calculated in accordance with paragraph 3.3.

2. Not used

3. Variable Usage Charge

3.1 Variable Usage Charge

For the purposes of paragraph 1, the term V_t means an amount in respect of the Variable Usage Charge in Relevant Year t which is derived from the following formula:

$$V_t = \sum V_{it} \cdot UV_{it}$$

where:

V_{it} means an amount for a type of vehicle i for Relevant Year t , expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived as follows:

- (a) in respect of the Relevant Year commencing on 1 April 2019, V_{it} shall be, in respect of each Vehicle Mile, the appropriate variable usage charge rate set out in (c) below, multiplied by the Initial Indexation Factor;

- (b) in respect of any Relevant Year t commencing on or after 1 April 2020, V_{it} shall be in respect of each Vehicle Mile, the appropriate variable usage charge rate set out in (c) below, multiplied by the phased-in charges indexation adjustment derived from the following formula:

$$PCIA_t = \left(1 + \frac{(CPI_{t-1} - CPI_{2018})}{CPI_{2018}} \right) \times \text{Initial Indexation Factor}$$

where:

$PCIA_t$ means the phased-in charges indexation adjustment in respect of Relevant Year t;

CPI_{t-1} means the CPI published or determined with respect to the month of November in Relevant Year t-1;

CPI_{2018} means the CPI published or determined with respect to the month of November in 2018;

- (c) the appropriate variable usage charge rate for the purposes of (a) and (b) above shall be the corresponding variable usage charge rate per Vehicle Mile as set out in the section of the Track Usage Price List entitled "North Yorkshire Moors Railway Enterprises PLC Variable Usage Charge rates";

UV_{it} means the actual volume of usage (in Vehicle Miles) in Relevant Year t of vehicle type i (referred to in the Track Usage Price List) operated by or on behalf of the Train Operator; and

Σ means the summation across all relevant categories of vehicle types i.

3.2 **Not used**

3.3 **VUC Default Charge**

For the purposes of paragraph 1, the term D_t means the amount of VUC Default Charge payable in respect of New Specified Equipment in Relevant Year t which is derived from the following formula:

$$D_t = \Sigma D_{nt} \cdot UD_{nt}$$

where:

D_{nt} means an amount for that New Specified Equipment for Relevant Year t, expressed in pence per Vehicle Mile and rounded to two decimal places, which is derived as follows:

- (a) in respect of any New Specified Equipment which is a diesel locomotive, D_{nt} shall be the corresponding rate set out in the section of the Track Usage Price List entitled "North Yorkshire Moors Railway Enterprises PLC Variable Usage Charge diesel default rate", multiplied as follows:

- (i) in respect of the Relevant Year commencing on 1 April 2019, D_{nt} shall be multiplied by the Initial Indexation Factor;

- (ii) in respect of any Relevant Year t commencing on or after 1 April 2020, D_{nt} shall be multiplied by the phased-in charges indexation adjustment derived from the following formula:

$$PCIA_t = \left(1 + \frac{(CPI_{t-1} - CPI_{2018})}{CPI_{2018}} \right) \times \text{Initial Indexation Factor}$$

where:

$PCIA_t$ means the phased-in charges indexation adjustment in respect of Relevant Year t;

CPI_{t-1} has the meaning set out in paragraph 3.1(b) above;

CPI_{2018} has the meaning set out in paragraph 3.1(b) above;

- (b) in respect of any New Specified Equipment which is a vehicle other than a diesel locomotive, D_{nt} shall be the corresponding passenger default rate set out in the section of the Track Usage Price List entitled "Passenger Variable Usage Charge default rates", derived from the following formula:

$$D_{nt} = D_{nt-1} \times \left(1 + \frac{(CPI_{t-1} - CPI_{t-2})}{CPI_{t-2}} \right)$$

where:

CPI_{t-1} has the meaning set out in paragraph 3.1(b) above;

CPI_{t-2} means the CPI published or determined with respect to the month of November in Relevant year t-2,

but so that in relation to the Relevant Year commencing on 1 April 2019, D_{nt} shall have, in respect of New Specified Equipment, the corresponding passenger default rate for that New Specified Equipment, multiplied by the Initial Indexation Factor; and in relation to the next following Relevant Year D_{nt-1} shall have the same value;

UD_{nt} means the actual volume of usage of New Specified Equipment in Vehicle Miles during the VUC Default Period in Relevant Year t operated by or on behalf of the Train Operator; and

Σ means the summation across all relevant New Specified Equipment.

4. **Not used.**

5. **Not used.**

6. **Capacity Charge**

6.1 In respect of the Relevant Year ending 31 March 2019, the term K_t means an amount in respect of the Capacity Charge in Relevant Year t which shall be derived from the formula that was contained in paragraph 6 of Part 2 of Schedule 7 of the version of this contract that was in force up until 31 March 2019. For subsequent Relevant Years, K_t shall have a value of zero.

6.2 Not used.

7. **Not used.**

8. **Not used.**

9. **Bilateral supplements to the Track Usage Price List**

9.1 Where the Train Operator intends to use New Specified Equipment on the Network, it shall where reasonably practicable inform Network Rail in writing of the date or likely date from which it intends to do so.

9.2 Where the Train Operator uses New Specified Equipment on the Network, the Train Operator shall pay Network Rail the relevant VUC Default Charge during the VUC Default Period.

9.3 No supplement to the Track Usage Price List shall have effect unless it has been:

- (a) agreed between the parties and ORR has consented to it; or
- (b) determined by ORR.

9.4 Either the Train Operator or Network Rail shall be entitled to propose that the Track Usage Price List be supplemented as necessary to include a new vehicle type and corresponding rate.

9.5 Any proposal of a kind referred to in paragraph 9.4 shall be made by notice to the other party and shall be accompanied by a specification of the proposal in reasonable detail and

the reasons for it. The parties shall thereafter seek to agree in good faith the necessary supplement to the list in question.

- 9.6 Either party may request from the other such information that it reasonably requires in connection with the proposal and the party from whom the information was requested shall use reasonable endeavours to provide this information promptly.
- 9.7 Where the parties agree to a supplement following a proposal under paragraph 9.4, they shall request ORR's consent to it and provide such information as ORR reasonably requires in order to decide whether to give its consent.
- 9.8 If the parties fail to reach agreement within 45 days of the date of the notice given under paragraph 9.5, at any point thereafter either party shall be entitled to refer the matter to ORR for determination.
- 9.9 Following a reference to ORR under paragraph 9.8, the parties shall, within such timescales as ORR may reasonably specify, furnish ORR with such information and evidence as ORR shall reasonably require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- 9.10 ORR may:
- (a) consent to any supplement that is agreed by the parties and submitted to it under paragraph 9.7, or following consultation with the parties, determine that a different supplement should apply; or
 - (b) following a referral to ORR under paragraph 9.8, determine the supplement that should apply.
- 9.11 Not used.
- 9.12 In the case of a supplement to the Track Usage Price List, the supplement shall have retrospective effect from the first day of the VUC Default Period.
- 9.13 Following ORR's consent or determination under paragraph 9.10 Network Rail shall:
- (a) apply the supplement from the date in accordance with paragraph 9.11 or 9.12 above as applicable; and
 - (b) within 28 days of the date of ORR's consent or determination:
 - (i) issue any adjusting invoice or credit note to the Train Operator. In the case of a supplement to the Track Usage Price List this will reflect the difference between the amount paid by the Train Operator for the VUC Default Charge during the VUC Default Period and the amount that it would have paid during the VUC Default Period in respect of the Variable Usage Charge had the supplement been in place at the time the Train Operator first used the relevant railway vehicle on the Network; and
 - (ii) publish on its website details of the supplement alongside the details of any other such supplements to which ORR has consented or determined pursuant to this or any other track access contract to which Network Rail is a party.
- 9.14 Any supplement to the Track Usage Price List which ORR has consented to or determined pursuant to a passenger track access contract previously held by the Train Operator shall also apply to this contract.

10. **Payment of Track Charges and Other Sums Due under the Contract**

10.1 ***Payment of Track Charges and Other Sums Due under the Contract***

- (a) Save where the contract provides otherwise, the Train Operator shall pay or procure the payment to Network Rail of:
- (i) the Variable Usage Charge;
 - (ii) not used;
 - (iii) the Capacity Charge;
 - (iv) the VUC Default Charge; and
 - (v) any other sums which have fallen due in accordance with any provision of this contract,

attributable to any Period as invoiced by Network Rail on or after expiry of each such Period within 21 days of the invoice date or 28 days after the end of the Period, whichever is later.

- (b) Not used.
- (c) Not used.

10.2 ***Train Consist Data***

- (a) The Train Operator shall, 28 days before the start of each Period, provide to Network Rail details of its Planned Train Movements for that Period, including the Planned Train Consist Data for each train movement (the "Period Plan");
- (b) Network Rail shall, within 14 days of receiving the Period Plan, calculate the Variable Charge payable by the Train Operator in respect of the Period Plan (the "VTUCP") using the Train Consist Data supplied by the Train Operator and, to the extent such Train Consist Data is not available to Network Rail, the Default Train Consist Data;
- (c) The Train Operator shall pay the Variable Usage Charge in accordance with the provisions of paragraph 10.1 of this Schedule 7;
- (d) The Train Operator shall, within 7 days of the end of each Period, provide to Network Rail details of its Actual Train Movements for that Period, including the Train Consist Data for each train movement (the "Period Actual");
- (e) Network Rail shall, within 14 days of receiving the Period Actual, calculate the Variable Usage Charge payable by the Train Operator in respect of the Period Actual (the "VTUCA") using the Train Consist Data supplied by the Train Operator and, to the extent such Train Consist Data is not available to Network Rail, the Default Train Consist Data; and
- (f) Network Rail shall, each period, compare the VTUCP with the VTUCA for the same period and:
- (i) if the VTUCP exceeds the VTUCA, shall credit the Train Operator with the difference between the VTUCP and the VTUCA on the next following invoice issued in accordance with paragraph 10.1 of this Schedule 7; or
 - (ii) if the VTUCA exceeds the VTUCP, shall debit the Train Operator with the difference between the VTUCA and the VTUCP on the next following invoice issued in accordance with paragraph 10.1 of this Schedule 7.

10.3 ***Invoices and right to object to invoices***

- (a) For each Period, Network Rail shall be entitled to invoice the Train Operator for Variable Charges in respect of any and all train movements operated by the Train Operator during the following Period based on either:

- (i) Train Consist Data provided by the Train Operator in respect of any train movement at or prior to the time that such train movement is completed; or
- (ii) (to the extent that (i) above does not apply) Default Train Consist Data.

Each such invoice will be payable in accordance with the provisions of paragraph 10.1.

- (b) Either party shall be entitled, at any time prior to the later of 2359 hours on the fourteenth day following receipt by the Train Operator of the relevant invoice or credit note, to notify the other that it objects to any Train Consist Data (including, where applicable, the use of Default Train Consist Data) on which the whole or any part of the Variable Charges included in the relevant invoice or credit note are based and any such notice shall specify in reasonable detail what that party believes to be the Train Consist Data for the relevant train movement(s) ("**notice of objection**"). In the absence of any notice of objection being served within such time the Train Consist Data used in the relevant invoice or credit note shall be final and binding on the parties. The Train Operator shall supply data to Network Rail in the format:

Train ID	Start date & time	Train Slot origin	Train slot destination	Train Consist (actual): Specified Equipment used

- (c) The parties shall seek to agree the Train Consist Data specified in any notice of objection and any consequential financial adjustment required to the relevant invoice or credit note. If the parties are unable to agree such Train Consist Data within 14 days following receipt of a notice of objection, either party may refer the matter for resolution in accordance with the ADRR.
- (d) Within 14 days of any Train Consist Data being agreed or determined in accordance with paragraph 10.3(d), Network Rail shall, if any consequential or financial adjustment of the relevant invoice is required, issue a further invoice to, or (as the case may be) a credit note in favour of, the Train Operator in the amount of the relevant adjustment. The invoice or credit note shall be payable at the same time as the invoice for Variable Charges for the relevant Period or, if issued later than 21 days after the end of the relevant Period, within 7 days after the date of its issue.
- (e) Where, as a result of any invoice or credit note issued pursuant to paragraph 10.3, any sum of money which has been paid shall become repayable or any sum of money which has been unpaid shall become payable the party to whom such sum shall be paid shall be paid or allowed interest at the Default Interest Rate on such sum from the date when it (if repayable) was paid or the date when such sum (if payable) ought to have been paid until the date of payment or repayment.

10.4 Unrepresentative Train Consist Data

- (a) If at any time during this contract either party considers the Default Train Consist Data specified in Appendix 7C is not representative of the Train Operator's Services and in particular, but without limitation, the type(s) of railway vehicles then in use and the regular number of carriages forming part of those railway vehicles in the operation of its Services, either party shall be entitled on written notice to the other to request that the Default Train Consist Data be amended. Any such request shall specify in reasonable detail the grounds for the request and the proposed amendments to the Default Train Consist Data.
- (b) The parties shall endeavour to reach agreement on any amendments to the Default Train Consist Data within 21 days of the date of the request referred to in paragraph 10.4(a) and if the parties are unable to agree such amendments within such time period, either party may refer the matter for resolution in accordance with the ADRR.

- (c) Upon the earlier of agreement between the parties or determination by a relevant ADRR Forum, the parties shall notify ORR of the proposed amendments to the Default Train Consist Data and, subject to ORR not objecting to the proposed amendments within 14 days (the "**14 day period**") of receipt of the notification by ORR, such amendments shall take effect from the first day of the next Period following the earlier of ORR confirming its consent to the proposed amendments and the expiry of the 14 day period. If ORR objects to the proposed amendments within the 14 day period, the parties shall endeavour to reach agreement with ORR on the appropriate amendments, if any, to the Default Train Consist Data which shall then take effect on the first day of the Period next following that in which agreement is reached.

10.5 Disputed amounts repayment and interest rate

- (a) Where a party wishes to contest any invoice issued to it under this Schedule 7 (including any invoice in respect of Track Charges) it shall, within 14 days of receipt of the invoice, notify the other party in writing of the amount which is in dispute but shall pay the full amount of the invoice, including the disputed amount, in accordance with the terms of the invoice.
- (b) Where a party has given notice under paragraph 10.5(a) that it disputes part of any invoiced amount:
- (i) payment of such sum shall be without prejudice to the determination of whether such sum is properly due or not; and
 - (ii) if it is subsequently determined that the disputed sum, or part of it, was not properly due the payee shall repay the disputed sum, or relevant part, to the payer together with interest (to accrue daily and be compounded monthly) at the Default Interest Rate from the date of payment until the actual date of repayment.

Part 3

(Route level Efficiency Benefit Share Mechanism)

1. For the purposes of the calculation and payment of the Route-Level Efficiency Benefit Share for the Relevant Year ending 31 March 2019, Part 3 and Appendix 7A and Appendix 7B of Schedule 7 of the version of this contract that was in force up until 31 March 2019 shall continue to apply.

Part 3A

(Not used)

Part 4

(Not used)

Part 5

(Additional Charges)

1 The Training Charge

In respect of Network Rail providing training in the use of signalling equipment to the Train Operator's nominated staff, the Train Operator shall pay to Network Rail a signalling training charge (the "**Training Charge**"). The Training Charge shall be £522 and shall be applied to each group of two staff nominated by the Train Operator for the said signalling training. The Training Charge shall apply in circumstances where Network Rail, acting reasonably, requires the Train Operator's staff to be trained in the use of signalling equipment. While the Training Charge shall not be index linked, the parties hereby agree that the charge may be increased by Network Rail by such amount as is necessary to cover any reasonable additional costs incurred by Network Rail such as, but not limited to, salary increases, outsourcing of training and changes in technology. The Training Charge shall not represent any additional costs related to refresher training and/or additional training

required due to the overall level of competency of the Train Operator's staff members at the time of the training.

2 The Monitoring Charge

Network Rail shall carry out random monitoring ("**Monitoring**") to observe staff of the Train Operator who have previously had training in the use of signalling equipment. Network Rail may carry out Monitoring on up to 12 occasions in any Relevant Year where Network Rail has required further of the Train Operator's staff to be trained in the use of signalling equipment, and the Train Operator shall pay to Network Rail a charge (the "**Monitoring Charge**"). A Monitoring Charge of £276 shall apply on each occasion that Monitoring is carried out.

3 Additional Weekend Passenger Train Slots Costs

Such costs in respect of those additional Passenger Train Slots provided for in paragraph 2.4 and Table 2.2 to Schedule 5 incurred by Network Rail for the purpose of enabling the Train Operator to operate those additional Passenger Train Slots on Weekends, for example but not limited to, all costs relating to the opening of signal boxes. Such costs shall be in addition to any other amount payable by the Train Operator to Network Rail under the contract. All provisions of the contract relating to invoicing and payment of Track Charges shall apply to the payment of Track Charges in respect of the additional Passenger Train Slots.

Part 6

(Supplemental Provisions)

Each invoice or credit note issued by Network Rail to the Train Operator shall contain or be accompanied by separate itemisation of the following charges and other information (as relevant) in respect of the period covered by the invoice or credit note:

- (a) not used;
- (b) the rate of Variable Usage Charge, Infrastructure Cost Charge and any VUC Default Charge and the relevant number of Vehicle Miles or Train Miles applicable to vehicles for each service so charged;
- (c) not used;
- (d) not used;
- (e) not used;
- (f) not used;
- (g) not used;
- (h) not used;
- (i) not used;
- (j) the amount of any sum K_i payable as provided in paragraph 6 of Part 2; and
- (k) in respect of any other sums which have fallen due in accordance with any provisions of this contract, separately the amount payable in respect of each head of charge.

Part 7

(Future Access Charges Reviews)

1. General

ORR may carry out one or more access charges reviews of all or part of this contract as follows:

- (a) an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation on and from 1 April 2024 or such later date as may be specified in that review; and
- (b) not used.

2. **Not used.**

3. **Interpretation**

In this Part 7, references to ORR carrying out an access charges review shall be construed as including references to its initiating implementation of that review.

4. **Interim treatment of future access charges reviews**

4.1 ***Interim treatment prior to implementation***

If the terms of a Proposed Review Notice proposing amendments to the Contract are not implemented in accordance with paragraph 7 of Schedule 4A to the Act on the date stipulated that they will come into operation in the Proposed Review Notice for any reason, then, irrespective of such terms not having been so implemented, each proposed amendment to the Contract set out in the Proposed Review Notice shall have effect for the period (the "Interim Period") commencing on that date (or from any later date (or dates) specified in the Proposed Review Notice in respect of any individual amendment), in each case until such time as:

- (a) following the service of a Review Implementation Notice relating to the Proposed Review Notice, the changes specified in that Review Implementation Notice come into operation; or
- (b) following a reference to the Competition and Markets Authority in accordance with paragraph 9 of Schedule 4A to the Act, any amendments to the Contract, made in accordance with paragraphs 12(8), 12(9) or 14(3) of Schedule 4A to the Act, come into operation.

4.2 ***Reconciliation Payment***

- (a) Within 28 days after the end of the Interim Period, Network Rail shall calculate whether a reconciliation payment is due to or from the Train Operator. In order to calculate such a reconciliation payment, Network Rail shall compare (i) the sums paid by the Train Operator during the Interim Period, with (ii) the sums which would have been payable if the amendments required by either paragraphs 4.1(a) or (b) above had taken effect on the ~~date(s) stipulated in the Proposed Review Notice, and shall provide to the Train Operator:~~
 - (i) a statement of the amount due to or from the Train Operator; and
 - (ii) such background data and workings as may reasonably be required for a proper understanding of the calculation.
- (b) Within 14 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above, the Train Operator shall notify Network Rail of any aspects of the statement which it disputes, giving reasons for any dispute. Save to the extent that disputes are so notified, the Train Operator shall be deemed to have agreed the contents of the statement.
- (c) If any dispute is notified under paragraph 4.2(b) above, it shall be resolved according to the following procedure:
 - (i) within seven days of service of the relevant notice, the parties shall meet to discuss the disputed aspects with a view to resolving all disputes in good faith;
 - (ii) if, for any reason, with seven days of the meeting referred to in paragraph 4.2(c)(i) above, the parties are still unable to agree any disputed aspects, each party shall promptly and in any event within seven days prepare a written summary of the

disputed aspects and the reasons for each such dispute and submit such summaries to the senior officer of each party;

- (iii) within 28 days of the first meeting of the parties, the senior officers of the parties shall meet with a view to resolving all disputes; and
 - (iv) if no resolution results before the expiry of 14 days following that meeting, then either party may refer the matter for resolution in accordance with the ADRR.
- (d) Within 28 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 4.2(a) above (if not disputed) or 28 days of resolution or determination if any dispute in accordance with paragraph 4.2(c) above, any amount due shall be invoiced (or presented in a credit note, as the case may be) for payment, and payable, as provided under this Contract.

Appendix 7A
(Not used)