**[●]th SUPPLEMENTAL AGREEMENT**

**DATED**

**[*insert date*]**

**Between**

**NETWORK RAIL INFRASTRUCTURE LIMITED**

**-and-**

**[*insert name of train operator*]**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**relating to the implementation of the**

**2018 periodic review (PR18)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**THIS [●]th SUPPLEMENTAL AGREEMENT** is dated the [●] day of [●] 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. **[*insert name of train operator*]**, a company registered in [●] under number [●], having its registered office at [●] (the “**Train Operator**”).

WHEREAS

1. The parties entered into a track access agreement dated [●] (the “**Agreement**”)[[1]](#footnote-1).
2. The parties now propose to enter into this Supplemental Agreement in order to comply with and give effect to the directions set out in the review implementation notices given by the Office of Rail and Road on 11 March 2019 in connection with the implementation of both the franchised passenger periodic review and the Traction Electricity Rules periodic review.

**IT IS AGREED AS FOLLOWS:**

1. **INTERPRETATION**

In this Supplemental Agreement, unless the context otherwise requires:

1. “**franchised** **passenger periodic review**” and “**Traction Electricity Rules periodic review**” together mean the access charges review known as the 2018 periodic review, implementation of which was initiated by the Office of Rail and Road publishing and serving the franchised passenger track access review notice and the Traction Electricity Rules review notice;
2. “**franchised** **passenger track access review notice**” means the document entitled “Review Notice: Franchised Passenger Track Access Agreements” given by the Office of Rail and Road on 20 December 2018 in relation to the proposed relevant changes to be made to, among other things, the Agreement;
3. “**Traction Electricity Rules review notice**” means the document entitled “Review Notice: Traction Electricity Rules” given by the Office of Rail and Road on 20 December 2018 in relation to the proposed relevant changes to be made to the Traction Electricity Rules;
4. “**regulated amendments**” has the meaning ascribed to it in paragraph 3.2;
5. “**relevant changes**” means the amendments specified, to the extent applicable to the Agreement, in Annexes 2 and 3 of the franchised passenger track access review notice, and Annex 2 of the Traction Electricity Rules review notice;
6. “**relevant date and time**” means 1 April 2019 at 02:00 hours;
7. “**Traction Electricity Rules**” means the document known as the Traction Electricity Rules published by Network Rail on its website; and
8. words and phrases defined in, and rules of interpretation set out in, the Agreement and/or the Traction Electricity Rules shall have the same meaning and effect when used in this Supplemental Agreement.
9. **EFFECTIVE DATE**

Notwithstanding the date on which the parties signed this Supplemental Agreement, it shall take effect on and from the relevant date and time.

1. **AMENDMENTS TO THE AGREEMENT**
	1. **Standard amendments**

Subject to paragraph 3.2, the relevant changes shall be made to the Agreement and the Traction Electricity Rules.

* 1. **Regulated amendments**

If, before the relevant changes come into operation in accordance with this paragraph 3, the Agreement is amended in a manner which is:

1. approved by the Office of Rail and Road under section 22 of the Act; or
2. directed by the Office of Rail and Road under section 22A or 22C of the Act,

(each a “**regulated amendment**”), then:

1. the relevant changes shall come into operation in relation to the Agreement subject to the regulated amendments; and
2. if there is any conflict between a relevant change and a regulated amendment, the regulated amendment shall take precedence.
	1. The following amendments will not be considered regulated amendments for the purpose of this paragraph 3:
3. amendments made to any provision within Schedule 7, other than Appendix 7C, of the Agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2009 issued by ORR on 25 November 2009; and
4. amendments made to any provision within Schedule 8 of the Agreement under the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2009 issued by ORR on 25 November 2009.
	1. **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.

1. **GOVERNING LAW**

This Supplemental Agreement shall be governed by and construed in accordance with the laws of [*England and Wales/Scotland*][[2]](#footnote-2).

1. **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

Print name

Duly authorised for and on behalf of

NETWORK RAIL INFRASTRUCTURE LIMITED

Signed by

Print name

Duly authorised for and on behalf of

[*NAME OF TRAIN OPERATOR*]

1. Where the track access agreement has previously been novated or transferred, replace recital (A) with the following text, and re-number recital (B) as appropriate. Where there has been more than one such transfer, the text may be revised and new paragraphs added to reflect each successive transfer:

“(A) Network Rail and [NAME OF FORMER TRAIN OPERATOR] entered into a track access agreement dated [INSERT DATE] (the “**Agreement**”).

(B) The rights and obligations of [NAME OF FORMER TRAIN OPERATOR] under the Agreement were transferred to the Train Operator pursuant to a transfer scheme made by the Secretary of State for Transport on [INSERT DATE] under Schedule 2 of the Transport Act 2005.” [↑](#footnote-ref-1)
2. Delete as applicable. [↑](#footnote-ref-2)