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Dear Julie and Lanita

Sixth supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and East Midlands Trains Limited (EMT), (jointly “the parties”)

1. We have today approved the above supplemental agreement submitted to us formally on 19 May 2017 following an informal submission on 29 March 2017.

Purpose of the agreement

2. This agreement amends Table 2.1 of Schedule 5 in the parties' track access contract, giving EMT rights to operate two additional round trips on Sunday between Derby and Matlock. Three of these proposed services are extensions of existing services between Nottingham and Derby and the fourth is a new service between Derby and Matlock. As a result of these service changes, the parties are also amending the Additional Resource Costs in Part 5 of Schedule 7.

Industry consultation

3. Network Rail undertook a 28 day industry consultation ending on 8 March 2017. It received responses from Derbyshire County Council, Cross Country, DB Cargo, West Coast Railway Ltd (WCR) and Peak Rail. Derbyshire County Council expressed strong support for the proposal highlighting the benefits it would provide to the local communities

and local economy in Nottingham and Derby. Cross Country asked for some details on the application before confirming it had no objections. DB Cargo supported the proposal in principle but asked for confirmation that there would still be opportunities for charter services to access Peak Rail's network on Sundays should the need arise. Network Rail confirmed there would be opportunities.

Objections from WCR and Peak Rail

4. WCR wrote on 8 February 2017 objecting to the additional services as they could be incompatible with the occasional charter service operated by WCR onto Peak Rail's network which needed to depart from Matlock around 17:00 on Sundays to ensure an optimal arrival time back into London before 22:00.

5. Peak Rail wrote on 9 March 2017 also highlighting the potential loss of opportunities for occasional charter services to access its network on Sundays which it said could have a negative effect on its future income. Despite EMT responding to Peak Rail on 21 April 2017 pointing out the remaining opportunities for charter services, Peak Rail did not consider its concerns to be satisfactorily addressed and maintained its objection.

6. In order to address these concerns EMT and WCR have been discussing an arrangement whereby EMT would agree to cancel services on up to two occasions per annum (with the potential of more subject to agreement) on condition of 16 weeks' notice and WCR covering EMT's reasonably incurred costs.

ORR's review

7. When we consider access applications we must do so in a way which we consider best fulfils our statutory duties which are set out in section 4 of the Railways Act 1993. The duties we consider most relevant in this context are to:

- protect the interests of users of railway services;
- promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of that railway network, to the greatest extent that it considers economically practicable;
- promote measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator; and
- enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance

8. EMT's proposal will improve the Matlock - Derby/Nottingham local services and provide Matlock with better connections at Derby for the London and Birmingham services on Sundays, benefitting the local communities. The proposed services will provide commuters in the villages with improved access on Sundays to employment in Derby and Nottingham. It will also provide improved journey opportunities for leisure travel on Sundays throughout the year with better access to Matlock. We would expect this also to

benefit visitors to Peak Rail. The application has been supported by Derbyshire County Council and the Friends of the Derwent Valley Line.

9. Having considered the reasons for the objections against the benefits of the proposed services, on balance, we believe that the benefits of the additional services outweigh the potential effect on the occasional charter service operating from Matlock station and that approving EMT's application best fulfils our statutory duties, in particular, those listed in paragraph 7 above.

10. We do, however, welcome the willingness of EMT to work with WCR (and any other potential charter operator for that matter) and trust that suitable arrangements can be put in place to accommodate occasional charter services in the interests of all parties and users of the railway.

Public register and administration

11. Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. ORR's copy should be sent for my attention.

12. Electronic copies of this letter, the approval notice and the agreement will be sent to Peter Craig at Network Rail and Keith Merritt at the DfT. Copies of the approval notice and the agreement will be placed on ORR's public register and copies of this letter and the agreement will be placed on our website.

Yours sincerely



Michael Albon