

RAILWAYS ACT 1993
ACCESS CHARGES REVIEW 2008
REVIEW IMPLEMENTATION NOTICE:
STATION LONG TERM CHARGES

TO:

- (1) Each of the persons listed in Annex 1 to this notice; and
- (2) The Secretary of State, the Scottish Ministers and the Treasury.

- 1 This notice is a review implementation notice given under paragraph 7 of Schedule 4A to the Railways Act 1993.
- 2 On 18 December 2008, the Office of Rail Regulation (“**ORR**”) gave a review notice (the “**LTC review notice**”) specifying the relevant changes which the ORR proposed to make for or in connection with giving effect to the ORR’s conclusions on a review of:
 - (a) the amount of the Long Term Charge (as defined in the LTC review notice) payable in respect of each Station (as defined in the LTC review notice); and
 - (b) the manner in which, and the dates by which, those amounts are payable,(the “**2008 LTC review**”).
- 3 Copies of the LTC review notice were served on each of the addressees of this notice.
- 4 On 11 February 2009, the ORR gave a notice of agreement (the “**LTC notice of agreement**”) in respect of the LTC review notice.
- 5 No relevant person gave a termination notice pursuant to paragraph 6 of Schedule 4A to the Railways Act 1993 during the period of 28 days beginning with the day on which the LTC notice of agreement was served on it.
- 6 The ORR is therefore required by paragraph 7(1)(a) of Schedule 4A to the Railways Act 1993 to give a review implementation notice, and the ORR now:
 - (a) gives notice that its conclusions on the 2008 LTC review are to be implemented as proposed in the LTC review notice; and

- (b) directs each of the parties to each of the Relevant Access Agreements (as defined in the LTC review notice) to amend each Relevant Access Agreement to which they are a party so that the relevant changes specified in the LTC review notice in relation to each Relevant Access Agreement come into operation on and from 1 April 2009.
- 7 Amendments made pursuant to the direction in paragraph 6(b) of this notice shall be made by means of an agreement in the form specified in Annex 2 to this notice.
- 8 Notwithstanding:
 - (a) the date on which any agreement is made:
 - (i) pursuant to the direction in paragraph 6(b) of this notice; or
 - (ii) by way of implementation of the ORR's conclusions on the 2008 LTC review; or
 - (b) the form in which any such agreement is made,any provision of any such agreement which gives effect to the relevant changes specified in the LTC review notice shall come into operation on and from 1 April 2009.
- 9 In this notice, unless the context otherwise requires:
 - (a) words and phrases defined in the Railways Act 1993 (as amended) have the same meaning in this notice; and
 - (b) the singular includes the plural and *vice versa*.

BILL EMERY
For and on behalf of
THE OFFICE OF RAIL REGULATION
18 March 2009

ANNEX 1

Arriva Trains Wales/Trenau Arriva Cymru Limited
c2c Rail Limited
The Chiltern Railway Company Limited
East Midlands Trains Limited
First Capital Connect Limited
First Greater Western Limited
First ScotRail Limited
First/Keolis Transpennine Limited
London & South Eastern Railway Limited
London Eastern Railway Limited
London & Birmingham Railway Limited
London Overground Rail Operations Ltd
London Underground Limited
Merseyrail Electrics 2002 Limited
NXEC Trains Limited
Network Rail Infrastructure Limited
Northern Rail Limited
Stagecoach South Western Trains Limited
New Southern Railway Limited
West Coast Trains Limited
XC Trains Limited
Hull Trains Company Limited
Grand Central Railway Company Limited
Heathrow Express Operating Company Limited
London & Continental Railways Limited
Wrexham Shropshire & Marylebone Railway Company Limited
Venice Simplon-Orient-Express Limited
North Yorkshire Moors Railway Enterprises PLC

**ANNEX 2: TEMPLATE SUPPLEMENTAL AGREEMENT
(ATTACHED)**

SUPPLEMENTAL AGREEMENT

DATED

Between

[Insert name of SFO]

- and -

[Insert name of Beneficiary]

**relating to the implementation of the
2008 LTC review**

THIS SUPPLEMENTAL AGREEMENT is dated the [] day of [] 2009 and made

BETWEEN

- (1) **[INSERT NAME OF SFO]**, a company registered in [] under number [], having its registered office at [] [the “**SFO**”]; and
- (2) **[INSERT NAME OF BENEFICIARY]**, a company registered in [] under number [] having its registered office [] (the “**Beneficiary**”).

WHEREAS

- (A) The parties entered into [a/the] station access agreement[s] [dated []/listed in the Schedule to this Supplemental Agreement (the “Agreement[s]”) - **see note in the Schedule regarding amendments to multiple access agreements using one Supplemental Agreement**].
- (B) 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 notice given by the Office of Rail Regulation on 18 March 2009 in connection with the implementation of the 2008 access charges review relating to station long term charges.

IT IS AGREED AS FOLLOWS:

1 INTERPRETATION

In this Supplemental Agreement, unless the context otherwise requires:

- (a) “**2008 LTC review**” means the access charges review, implementation of which was initiated by the Office of Rail Regulation giving the LTC review notice;
- (b) “**LTC review notice**” means the review notice relating to the 2008 LTC review and given by the Office of Rail Regulation on 18 December 2008 in relation to the proposed relevant changes to, among other things, the Agreement[s];
- (c) “**regulated amendments**” has the meaning ascribed to it in Clause 3.2;
- (d) “**relevant changes**” means the amendments specified in the LTC review notice to the extent applicable to the Agreements;
- (e) “**relevant date and time**” means 1 April 2009 at 02:00 hours; and

- (f) words and phrases defined in, and rules of interpretation set out in, the Agreement[s] 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, it shall take effect on and from the relevant date and time.

3 AMENDMENTS TO THE AGREEMENT

3.1 Standard amendments

Subject to Clause 3.2, the relevant changes shall be made to [the/each] Agreement.

3.2 Regulated amendments

If, before the relevant changes come into operation in accordance with this Clause 3, [the/any] Agreement is amended in a manner which is:

- (a) approved by the Office of Rail Regulation under section 22 of the Act;
or
- (b) directed by the Office of Rail Regulation under section 22A or 22C of the Act,

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

- (i) the relevant changes shall come into operation in relation to [the/those] Agreement[s] subject to the regulated amendments;
and
- (ii) if there is any conflict between a relevant change and a regulated amendment, the regulated amendment shall take precedence.

3.3 Continuing Agreement

Except as provided in this Clause 3, [the/each] 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] [Scotland].

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.]¹

¹ This Clause is not required in any Supplemental Agreements which are subject to Scottish Law.

IN WITNESS of which the duly authorised representatives of the SFO and the Beneficiary have executed this Supplemental Agreement on the date first above written.

Signed by.....

Print name

Duly authorised for and on behalf of

[SFO]

Signed by

Print name

Duly authorised for and on behalf of

[BENEFICIARY]

SCHEDULE

The Agreements

[Note: if the SFO and Beneficiary have entered into more than one station access agreement, this Supplemental Agreement can be used to amend each of those station access agreements at the same time. This can be achieved by listing in this Schedule all of the relevant station access agreements between the SFO and the Beneficiary, and using the plural “options” in this Supplemental Agreement.]