

# RAILWAYS ACT 1993

## 2013 PERIODIC REVIEW

### REVIEW IMPLEMENTATION NOTICE: OPEN ACCESS PASSENGER OPERATOR TRACK ACCESS AGREEMENTS

TO:

- (1) the persons whose names are set out in Annex 1 (the “**Train Operators**”);
- (2) Network Rail Infrastructure Limited (“**Network Rail**”); and
- (3) the Secretary of State, the Scottish Ministers and the Treasury,  
together the “**Addressees**”.

- 1 This notice is a review implementation notice given under paragraph 7 of Schedule 4A to the Railways Act 1993 (the “**Act**”).
- 2 On 20 December 2013, the Office of Rail Regulation (“**ORR**”) gave a review notice entitled “Review Notice: Open Access Passenger Operator Track Access Agreements” (the “**open access passenger track access review notice**”) specifying the relevant changes (within the meaning of Schedule 4A to the Act) which ORR proposed to make for or in connection with giving effect to its conclusions on a review of each of the relevant track access agreements, which are listed in Annex 1 to this notice (the “**relevant track access agreements**”), and in particular of:
  - (a) the amounts payable by Network Rail and each of the Train Operators to each other under each of the relevant track access agreements; and

(b) the times at which, and manner in which, those amounts are payable,

(the “**open access passenger periodic review**”).

Copies of the open access passenger track access review notice were served on each of the Addressees.

- 3 On 11 February 2014, the ORR gave a notice of agreement entitled “Notice of Agreement: Open Access Passenger Operator Track Access Agreements” (the “**open access passenger track access notice of agreement**”) in respect of the open access passenger track access review notice.
- 4 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 open access passenger track access notice of agreement was served on it.
- 5 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 hereby:
  - (a) gives notice that its conclusions on the open access passenger periodic review are to be implemented as proposed in the open access passenger track access review notice; and
  - (b) directs Network Rail and each of the Train Operators to amend the relevant track access agreements to which they are a party so that the proposed relevant changes specified in the open access passenger track access review notice in relation to each relevant track access agreement come into operation on and from 1 April 2014.

6 Amendments made pursuant to the direction in paragraph 5(b) of this notice shall be made by means of an agreement in the form specified in Annex 2 to this notice.

7 Notwithstanding:

(a) the date on which any agreement is made pursuant to the direction in paragraph 5(b) of this notice; or

(b) the form in which any such agreement is made,

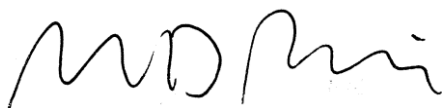
any provision of any such agreement which gives effect to the relevant changes specified in the open access passenger track access review notice shall come into operation on and from 1 April 2014.

8 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;

(b) words and phrases defined in the open access passenger track access review notice have the same meaning in this notice; and

(c) the singular includes the plural and *vice versa*.



**RICHARD PRICE**

**Chief Executive**

**For and on behalf of**

**THE OFFICE OF RAIL REGULATION**

**18 March 2014**



**ANNEX 1: TRAIN OPERATORS AND RELEVANT TRACK ACCESS  
AGREEMENTS**

<b>Train Operator Name</b>	<b>Train Operator Company Number</b>	<b>Original Date of Track Access Agreement</b>
Eurostar International Limited	02462001	31 October 2008
Grand Central Railway Company Limited	03979826	18 January 2007
Grand Central Railway Company Limited	03979826	12 February 2010
Heathrow Express Operating Company Limited	03145133	27 May 2005
Hull Trains Company Limited	03715410	12 February 2010
North Yorkshire Moors Railway Enterprises PLC	02490244	17 January 2007

**ANNEX 2: TEMPLATE SUPPLEMENTAL AGREEMENT**

**(ATTACHED)**

**[•]th SUPPLEMENTAL AGREEMENT**

**DATED**

**Between**

**NETWORK RAIL INFRASTRUCTURE LIMITED**

**- and -**

***[Insert name of Train Operator]***

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**relating to the implementation of the  
2013 periodic review (PR13)**

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THIS [●]th **SUPPLEMENTAL AGREEMENT** is dated the [ ] day of  
[ ] 2014 and made

**BETWEEN**

- (1) Network Rail Infrastructure Limited, a company registered in England under number 2904587, having its registered office at Kings Place, 90 York Way, London N1 9AG (“**Network Rail**”); and
- (2) [*INSERT NAME OF [TRAIN OPERATOR]*], a company registered in [ ] under number [ ] having its registered office [ ] (the “**Train Operator**”).

**WHEREAS**

- (A) The parties entered into a track access agreement dated [ ] (the “**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 2014 in connection with the implementation of the open access passenger periodic review.

**IT IS AGREED AS FOLLOWS:**

**1 INTERPRETATION**

In this Supplemental Agreement, unless the context otherwise requires:

- (a) “**open access passenger periodic review**” means the access charges review known as the 2013 periodic review, implementation of which was initiated by the Office of Rail Regulation publishing and serving the open access passenger track access review notice;

- (b) “**open access passenger track access review notice**” means the document entitled “Review Notice: Open Access Passenger Operator Track Access Agreements” given by the Office of Rail Regulation on 20 December 2013 in relation to the proposed relevant changes to be made to, among other things, the Agreement;
- (c) “**regulated amendments**” has the meaning ascribed to it in paragraph 3.2;
- (d) “**relevant changes**” means the amendments specified, to the extent applicable to the Agreement, in Annexes 2 and 3 of the open access passenger track access review notice;
- (e) “**relevant date and time**” means 1 April 2014 at 02:00 hours; and
- (f) 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, it shall take effect on and from the relevant date and time.

## **3 AMENDMENTS TO THE AGREEMENT**

### **3.1 Standard amendments**

Subject to paragraph 3.2, the relevant changes shall be made to the Agreement.

### **3.2 Regulated amendments**

- 3.2.1 If, before the relevant changes come into operation in accordance with this paragraph 3, the 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 Agreement 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.

3.2.2 The following amendments will not be considered regulated amendments for the purpose of this Supplemental Agreement:

(a) 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

(b) 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.

### **3.3 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.....

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]**