

# RAILWAYS ACT 1993

## 2013 PERIODIC REVIEW

### REVIEW IMPLEMENTATION NOTICE: FREIGHT CUSTOMER TRACK ACCESS AGREEMENTS

TO:

- (1) Crossrail Limited (Company Number 04212657) (“**Crossrail**”);
- (2) Network Rail Infrastructure Limited (“**Network Rail**”); and
- (3) the Secretary of State for Transport, 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**”).

(a) On 20 December 2013, the Office of Rail Regulation (“**ORR**”) gave a review notice entitled “Review Notice: Freight Customer Track Access Agreements” (the “**freight customer 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 the amounts payable by Network Rail and Crossrail to each other under the track access agreement between Network Rail and Crossrail dated 16 March 2012 (the “**relevant track access agreement**”); and

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

(the “**freight customer periodic review**”).

- 2 Copies of the freight customer 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: Freight Customer Track Access Agreements” (the “**freight customer track access notice of agreement**”) in respect of the freight customer 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 freight customer 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 freight customer periodic review are to be implemented as proposed in the freight customer track access review notice; and
  - (b) directs Network Rail and Crossrail to amend the relevant track access agreement so that the proposed relevant changes specified in the freight customer track access review notice 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 the Annex 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,

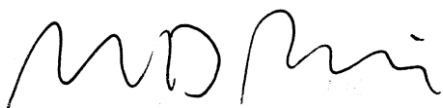
any provision of any such agreement which gives effect to the relevant changes specified in the freight customer track access review notice shall come into operation on and from 1 April 2014.

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 freight customer 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: TEMPLATE SUPPLEMENTAL AGREEMENT**

**(ATTACHED)**

**[●]th SUPPLEMENTAL AGREEMENT**

**DATED**

**Between**

**NETWORK RAIL INFRASTRUCTURE LIMITED**

**- and -**

**Crossrail Limited**

---

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

---

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) Crossrail Limited, a company registered in the United Kingdom under number 04212657, having its registered office at 25 Canada Square, Canary Wharf, London, E14 5LQ (the “**Train Operator**”).

**WHEREAS**

- (A) The parties entered into a track access agreement dated 16 March 2012 (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 freight customer periodic review.

**IT IS AGREED AS FOLLOWS:**

**1 INTERPRETATION**

In this Supplemental Agreement, unless the context otherwise requires:

- (a) “**freight customer 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 freight customer track access review notice;

- (b) “**freight customer track access review notice**” means the document entitled “Review Notice: Freight Customer 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 Annex 1 of the freight customer 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.

### **3.3 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

**CROSSRAIL LIMITED**