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Susan Evans  
Customer Relationship Executive  
Network Rail Infrastructure  
Limited  
1 Eversholt Street  
London  
NW1 2DN

Warren Johnson  
Planning and Performance Manager  
Heathrow Express Operating Company  
Room 3560 South Wing  
Terminal Three  
Heathrow Airport  
Hounslow  
Middlesex  
TW6 1AA

Dear Susan and Warren

## **Approval of the Sixteenth Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and Heathrow Express Operating Company**

The Office of Rail and Road (ORR) has today approved the Sixteenth Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Heathrow Express Operating Company (HEOC) submitted to us formally on 22 December 2016 under section 22 of the Railways Act 1993 (the Act). The purpose of this letter is to set out the reasons for our decision.

### **Purpose**

The purpose of this agreement is to correct an error made in Appendix 1 of Schedule 8 during the Periodic Review as explained in John Larkinson's letter to the Train Operators on 3<sup>rd</sup> November 2015.

### **Consultation**

No consultation was carried out on the application as this was to correct an error in the contract and the change has no effect on any other party.

### **ORR review**

Approval of this correction has been delayed by several factors. The amendment was initially submitted to ORR on 18 April 2016, to an incorrect email address. This was noted by Network Rail in June 2016. Such amendments cannot usually be back-dated. However, under these specific circumstances ORR agreed that the amendment could be approved

from the original intended date once the original email had been located and provided to us. That email was provided to ORR in July 2016.

Our review of the agreement found that it was drafted to be effective from the latter of 31 March 2016 and the date of ORR's approval. As such, the agreement would need to be redrafted to remove reference to the effective date being dependent on the date of ORR's approval in order for the effect of the amendment to be back-dated. We also noted that the period between the original submission and 31 March would in any event have been insufficient for us to review and approve the correction. As such we agreed that we would approve a re-drafted agreement that made the correction effective from 1 May 2016.

You advised in December 2016 that the amended and re-signed contract had been misplaced, and that a new contract would need to be signed. This was submitted to ORR on 22 December 2016.

ORR's further review of the contract showed that the effective date had been altered to be the latter of 1 May 2016 and the date of ORR's approval. We advised you that the drafting that made the effective date of the contract dependent on the date of ORR's approval had not been removed. We noted the effect of this on the effective date of the correction. On 8 February 2017 you confirmed that you did not wish to withdraw the agreement, and asked that ORR approve it in the form that you submitted on 22 December 2016, to be effective on the date of ORR's approval.

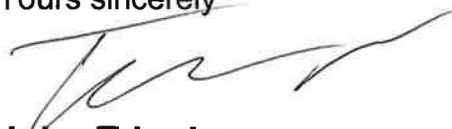
### **Conformed copy of the track access contract**

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.

### **Public register and administration**

In accordance with section 72 of the Act, we will place a copy of the approval notice and the agreement on our public register. Copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at the Department for Transport. Copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Peter Craig at Network Rail.

Yours sincerely



**John Trippier**