

DATED 6th October 2016

Network Rail Infrastructure Limited (1)

and

**London Overground Rail Operations Limited (2)
as Transferor**

and

**Arriva Rail London (3)
as Transferee**

DEED OF NOVATION

**relating to the Track Access Contract
between**

Network Rail Infrastructure Limited

and

**London Overground Rail Operations
Limited**

THIS DEED OF NOVATION is made the 6th day of October 2016, BETWEEN

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED**, a company registered in England under number 2904587, whose registered office is at 1 Eversholt Street, London NW1 2DN ("**Network Rail**");
- (2) **LONDON OVERGROUND RAIL OPERATIONS LIMITED**, a company registered in England under number 05668786, whose registered office is at Overground House, 125 Finchley Road, London NW3 6HY (the "**Transferor**"); and
- (3) **ARRIVA RAIL LONDON LIMITED**, a company registered in England under number 04165861, whose registered office is at 1 Admiral Way, Doxford International Business Park, Sunderland, Tyne & Wear SR3 3XP (the "**Transferee**").

RECITALS

- (A) This Novation is made pursuant to the terms of an agreement dated 09th November 2007 and made between (1) Network Rail Infrastructure Limited and (2) the Transferor ("**the Track Access Contract**") relating to the use of the Network.
- (B) The Transferor wishes to transfer its interest in the Track Access Contract to the Transferee, and Network Rail has agreed to give its consent to the transfer upon the terms contained in this Novation.
- (C) The Office of Rail and Road has issued its approval and direction (as appropriate) pursuant to the powers vested in it under the Railways Act 1993 in respect of the terms of this Novation.

1 Definitions

- (i) **"Effective Date"** means 02:00 on November 13th 2016.

All terms, unless otherwise defined in this Novation, shall have the same meaning given to those terms in the Track Access Contract.

2 Provisions

2.1 Network Rail now consents to the Transferor transferring all of its interest in the Track Access Contract to the Transferee, but so that this consent shall only be valid in relation to a transfer completed within a period of three months commencing on the date of this Novation.

2.2 As from the Effective Date:

- (a) The Transferee undertakes to Network Rail that it will discharge the obligations of the Transferor under the Track Access Contract as if the Transferee were a party to the Track Access Contract in lieu of the Transferor, it being acknowledged by the parties that the Transferee shall not be liable for any breaches by the Transferor of the Track Access Contract prior to the Effective Date;
- (b) Network Rail releases and discharges the Transferor from all liabilities, claims and demands of any kind arising from breaches which in each case occur after the Effective Date under or in connection with the Track Access Contract, Network Rail accepting in place of that performance and those liabilities, claims and demands the undertaking of the Transferee set out in Clause 2.2(a), it being acknowledged by all parties that Network Rail's release and discharge of the Transferor is without prejudice to any liabilities, claims and demands of or made against the Transferor arising from breaches by the Transferor which occurred prior to the Effective Date, which shall continue to be the responsibility of the Transferor;
- (c) Network Rail undertakes to the Transferee that it will discharge its obligations under the Track Access Contract and otherwise observe all the provisions of the Track Access Contract and be liable to the

Transferee for any breaches of the Track Access Contract on its part, on or after the Effective Date;

- (d) The Transferor shall cease to have any rights under or in connection with the Track Access Contract in respect of any acts or omissions of Network Rail from and including the Effective Date; but this is without prejudice to the rights of the Transferor in respect of any breach of the Track Access Contract on the part of Network Rail prior to the Effective Date.

3 Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original, but all the counterparts together constitute the same document.

4 Governing Law

This Agreement shall be governed by, and construed in accordance with, English Law.

5 Contracts Rights of Third Parties

No person who is not a party to this Agreement shall have any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

IN WITNESS whereof Network Rail, the Transferor and the Transferee have each executed this Novation as a deed on the date shown above.

EXECUTED as a deed by NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED as a DEED by

acting by

R. Schofield

R. Schofield

a Director in the presence of

L. Southwell

Name LAURIE SOUTHWELL
Address ONE STRATFORD PLACE
MONTFICHT RD, STRATFORD E20 1EJ
Occupation PERSONAL ASSISTANT

EXECUTED as deed by The TRANSFEROR

SIGNED as a DEED by

acting by

J. Long

X
J. Long

a Director in the presence of

Inga Dingle

Name INGA DINGLE
Address 356 RIPPLE ROAD
BARKING, ESSEX, IG11 7RR
Occupation PERSONAL ASSISTANT

EXECUTED as deed by The TRANSFEREE

SIGNED as a DEED by

acting by

Will Rogers

Arriva Rail
London Ltd

W. Rogers

a Director in the presence of

GRAHAM CROSS

Graham Cross

Name FOCUS POINT
Address 21 CALEDONIAN ROAD
LONDON N19 6B
Occupation CONCESSION TRANSFORMATION DIRECTOR

