

69th Supplemental Agreement

between

NETWORK RAIL INFRASTRUCTURE LIMITED

as Network Rail

and

FIRST GREATER WESTERN LIMITED

as Train Operator

relating to the Track Access Contract (Passenger Services) dated 8th December 2006

CONTENTS

| | | |
|----|---------------------------------|---|
| 1. | INTERPRETATION | 1 |
| 2. | EFFECTIVE DATE AND TERM | 1 |
| 3. | ORR - GENERAL APPROVAL | 1 |
| 4. | AMENDMENTS TO THE CONTRACT..... | 2 |
| 5. | GENERAL | 4 |
| 6. | THIRD PARTY RIGHTS | 4 |
| 7. | LAW..... | 4 |
| 8. | COUNTERPARTS..... | 4 |

THIS 69TH SUPPLEMENTAL AGREEMENT is dated 7 December 2011 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) **FIRST GREATER WESTERN LIMITED**, (the “Train Operator”), a company registered in England under number 05113733 having its registered office at Milford House, 1 Milford Street, Swindon SN1 1HL.

WHEREAS:

- (A) The parties entered into a Track Access Contract (Passenger Services) dated 8th December 2006 on terms approved, and pursuant to directions issued, by ORR under section 18 of the Act which has been amended by various Supplemental Agreements, each in a form approved by ORR pursuant to section 22 of the Act (the “Contract”).
- (B) The parties propose to enter into this Supplemental Agreement in order to extend the opening hours of Goonbarrow Junction signal box and St Blazey signal box on the Newquay branch on Sundays to accommodate additional services from the December 2011 Timetable Change Date.

IT IS HEREBY AGREED as follows:

1 INTERPRETATION

In this Supplemental Agreement, unless the context otherwise requires:

Words and phrases defined in, and rules of interpretation set out in, the Contract shall have the same meaning and effect when used in this Supplemental Agreement; and

“**Effective Date**” means 11 December 2011.

2 EFFECTIVE DATE AND TERM

The amendments made to the Contract shall have effect from 02:00 on the Effective Date and shall cease to have effect on the 9th December 2012 or earlier termination of the Contract.

3 ORR – GENERAL APPROVAL

This Supplemental Agreement is entered into pursuant to the Passenger Access (Short Term Timetable and Miscellaneous Changes) General Approval 2009.

4 AMENDMENTS TO THE CONTRACT

4.1 Paragraph 1 of Schedule 1 to be deleted and be replaced with:

1. Network Rail's address for service of notices is:

Network Rail Infrastructure Limited

Kings Place

90 York Way

London

N1 9AG

Tel: 020 3356 9595

Fax: 020 3356 9300

All written notices to be marked:

"URGENT: ATTENTION THE COMPANY SECRETARY AND SOLICITOR"

and copied to:

Route Managing Director

Network Rail Western Route

Western House

1 Holbrook Way

Swindon SN1 1BD

Tel: 01793 389 643

Fax: 01793 389 318

4.2 Schedule 7 Part 5 shall be amended as set out below:

After the end of paragraph 4 and before Part 6 two new paragraphs shall be inserted:

4.4 For any services in service code 25477001 (Par-Newquay) which are Scheduled (as defined in Schedule 5) to operate on the route between Par and Newquay on Sundays, outside a maximum of seventeen weekends each year during the period from the May Passenger Change date to the end of September the same year, within the hours 10:15 and 18:30 and which, in order to be operative, require the signal box at Goonbarrow Junction to be open and manned, an additional permitted charge of GBJ per hour (which includes part of an hour) during which the signal box at Goonbarrow Junction is open and manned on the day in question as a result will be charged calculated in accordance with the following formula:

$$GBJ_t = GBJ_{t-1} \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year t-1 and the index published or determined with respect to November in Relevant Year t-2,

but so that during the Relevant Year commencing on 1 April 2011, GBJ_t shall be £33.76 per hour (or part hour, as the case may be) and during the next following Relevant Year, GBJ_{t-1} shall have the same value.

4.5 For any services in service code 25477001 (Par-Newquay) which are Scheduled (as defined in Schedule 5) to operate on the route between Par and Newquay on Sundays, outside a maximum of seventeen weekends each year during the period from the May Passenger Change date to the end of September the same year, within the hours 10:15 and 18:30 and which, in order to be operative, require the signal box at St Blazey to be open and manned, an additional permitted charge of STB per hour (which includes part of an hour) during which the signal box at St Blazey is open and manned on the day in question as a result will be charged calculated in accordance with the following formula:

$$STB_t = STB_{t-1} \left[1 + \frac{RPI_{t-1}}{100} \right]$$

where:

RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year t-1 and the index published or determined with respect to November in Relevant Year t-2,

but so that during the Relevant Year commencing on 1 April 2011, STB_t shall be £33.76 per hour (or part hour, as the case may be) and during the next following Relevant Year, STB_{t-1} shall have the same value.

5 GENERAL

The parties agree that the Contract, as amended by this Supplemental Agreement, shall remain in full force and effect in accordance with its terms, and during the period in which the amendments made by this Supplemental Agreement are to have effect, all references in the Contract to “the contract” or, as the case may be, the “Agreement”, “herein”, “hereof”, “hereunder” and other similar expressions shall, unless the context requires otherwise, be read and construed as a reference to the Contract as amended by this Supplemental Agreement.

6 THIRD PARTY RIGHTS

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

7 LAW

This Supplemental Agreement shall be governed by, construed and given effect to in all respects in accordance with English Law.

8 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..... P. WALLACE

Duly authorised for and on behalf of
NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED by 

Print name..... MATTHEW GOLTON

Duly authorised for and on behalf of
FIRST GREATER WESTERN LIMITED