

## APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity. If a train operator wants to access the national railway network, it will need a track access agreement with Network Rail which requires ORR's approval under the Railways Act 1993. When determining access to the network, we must have regard to our [statutory duties](#), most of which are set out in section 4 of the Act. We must exercise our functions (which include the approval of access contracts) in a way that we consider best achieves those duties.

Use this form to apply to the Office of Rail and Road (ORR) for a passenger track access contract, or an amendment to an existing contract by a supplemental agreement, under sections 17-22A or the Railways Act 1993.

It sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

This form should be completed up to section 10 and sent to consultees along with a copy of the proposed contract or supplemental agreement. Sections 10 and 11 should be filled in after the consultation and before applying to ORR.

We are happy to talk to you informally before you apply. Please contact us [here](#). You can download a copy of this form, and of our model track access contract, from our [website](#). Please ensure that you are using the latest version of this form as published on our website. We may ask for applications which have not used the latest version to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

## 1. Application Summary

### 1.1 Beneficiary company name:

East Coast Trains Limited (Lumo)

### 1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input type="checkbox"/>	Wales & Western <input type="checkbox"/>	Scotland's Railway <input checked="" type="checkbox"/>
Other Facility Owner:	<input type="checkbox"/>	Please state:			

### 1.3 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
Supplemental Number:						12	
Current contract date:						3 October 2016	
Current contract expiry date:						SCD 2033	

### 1.4 Applicant status:

Public Service Operator <input type="checkbox"/>	Public service contract start date:	
	Public service contract end date:	
	Name of funder (e.g. DfT, Local Authority):	
	Does the funder support this application?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Open Access <input checked="" type="checkbox"/>		
Charter Operator <input type="checkbox"/>		

### 1.5 Executive summary of the proposed contract or amendment:

The application is to extend existing services between London Kings Cross to Newcastle/Edinburgh and vice versa to/from Glasgow Queen Street High Level, stopping at Haymarket and Falkirk High, both as Additional stations.

This application is based on the premise that the 11<sup>th</sup> Supplemental has been approved but it is not dependant on the ESG timetable being introduced, the assumption being that alternative paths can be found.

It is proposed that the service is gradually introduced between SCD 2025 and PCD 2026, as rolling stock availability allows.

Proposed commencement date:	SCD 2025
End date:	SCD 2033
Date approval or directions wanted by:	

### 1.6 Industry consultation:

Who carried out the consultation?	
Consultation start date:	Consultation end date:
Not carried out <input checked="" type="checkbox"/>	

### 1.7 Applicant details

<b>Facility Owner</b> Company: Network Rail Infrastructure Limited ("Network Rail") Contact individual: Mark Garner Job title: Customer Manager Address: Floor 4B, George Stephenson House, Network Operations, Toft Green, York YO1 6JT	<b>Beneficiary</b> Company: East Coast Trains Limited (the "Train Operator") Contact name: Andy Wylie Job title: Head of Regulation & Open Access Contracts, First Rail Holdings.
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Telephone number: [REDACTED]	Address: 8th Floor, The Point, 37 North Wharf Road, London, W2 1AF.
E-mail address: [REDACTED]	Phone: [REDACTED]
	E-mail: [REDACTED]

**1.7 Date of application to ORR:**

17<sup>th</sup> May 2024

**1.8 Checklist of documents attached to the application form:**

- Proposed new contract (S17 or S18) or supplemental agreement (S22 or S22A)
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting documentation required for competing services (see section 6.2)
- Other supporting documents, side letters or collateral agreements (please list):

London to Glasgow and vice versa timetabled paths ("F3 prints")

**2. Licence and railway safety certificate**

**2.1 Please state whether:**

- you intend to operate the services yourself; or
- have them operated on your behalf. 
  - if so, please name the proposed operating company: [REDACTED]

**2.2 Does the proposed operator of the services:**

- (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and**
- (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

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**3. The proposed contract or amendment**

**3.1 Application overview:** Please detail the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

<p>The contract is to be amended by the extension of existing rights for most trains arriving or departing Edinburgh so that they can commence or terminate at Glasgow Queen Street High Level.</p> <p>The additional rights sought (in addition to those included in the 11<sup>th</sup> Supplemental) are shown in red in the revised Schedule 5 rights table, which is included in the draft Supplemental Agreement.</p>
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**3.2 Safety risks:** Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate).

No important specific safety risks have been identified with this proposal, save the usual risks that are associated with operation of passenger trains and introduction of additional services on the Network

**3.3 Contract duration:** For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

Not applicable – this proposed Supplemental Agreement is due to end at the current end of the existing contract (SCD 2033).

**3.4 Terms not agreed with the facility owner (for applications under sections 17 or 22A only):** Please explain any areas of the application which have **not** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

The commercial need for this service has arisen after discussions with both Transport for Scotland and Network Rail (Scotland) but the deadline for ECML related applications to be submitted to the ORR has precluded any time for contractual discussions.

**3.5 Bespoke provisions (departures from ORR's model access contracts)**

Does the proposed contract include any departures from ORR's model access contract:

Yes  No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

Not applicable

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

Not applicable

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

See above.

### 3.6 Consolidated contract

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

Yes.

## 4. The impacts of the proposal

**4.1 Benefits:** please set out what specific benefits the proposal will achieve. Please describe the benefits to passengers and any impact on other operators, including freight operators.

The benefits of this proposal are to provide through services from Glasgow Queen Street and Falkirk to London Kings Cross and vice versa, to enhance the competitive offer with the Glasgow to London low-cost air market in mind.

Further detail on both the passenger and any economic benefits to the region will be provided (to the ORR only) as part of their decision-making process.

**4.2 Capacity:** How have you satisfied yourself that there is enough network capacity for the services in the proposal? Please include details on all relevant capacity considerations, including but not limited to track, platform availability, and power supply traction.

A timetable study has been carried out, with the help of NR, using the December 2024 database (22/12/23 version) as the basis. The F3 prints (all days) are included with this application.

One SX path from Edinburgh to Glasgow, required for balancing purposes, is yet to be determined but if not found will become an additional ECS for the immediate future, in addition to the one that is already anticipated to be required on all days.

**4.3 Performance:** What is the impact on network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

No detailed performance analysis has yet been carried out but as all paths are TPS compliant and are not "forced", we anticipate minimal impact.

**4.4 Maintenance and renewals:** Are there any implications for the facility owner's maintenance and renewal activities?

None.

## 5. The expression of access rights

**5.1 Changes to rights:** please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

The additional rights sought are for all days and the amended tables for both the paths and station stops are attached to the Draft Supplemental.

Not all services can stop at either or both of Haymarket and Falkirk High so these are shown as Additional station Stops.

**5.2 Flexing rights:** Please explain any limitations on the facility owner's flexing rights in the proposal and the rationale for such limitations.

None.

**5.3 Specified equipment:** Please explain any changes to specified equipment (rolling stock). Has the vehicle and route acceptance procedure in the Network Code (Part F) has been completed? Please explain whether you have, or will have, the rolling stock necessary to exercise the rights.

The necessary route clearance work into Glasgow Queen Street High Level will be undertaken in the usual manner.

**5.4 Contractual obligations:** Are the proposed services necessary to fulfil obligations under a public service contract? For publicly contracted operators seeking additional access rights, we will expect to see evidence of funder support for the specific rights and of operators' intent and ability to operate the new services.

Not applicable.

**5.5 Public funding:** Other than the DfT, Welsh Government or Transport Scotland, are the proposed services subject to financial support from central or local government including PTEs. If so, please give details.

Not applicable.

**5.6 Long Term Planning Process:** Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

None of the rights sought are inconsistent with any Long-Term Planning Process.

## 6. Competing passenger services:

We would expect to apply the 'not primarily abstractive' test to:

- (i) a new open access service which would compete with franchised services and so impact on the public sector funder's budget;
- (ii) a new franchised service which would compete with an existing franchised service, where we would expect to focus the test on areas where the competing franchised services are operated on behalf of different funders or where for some other reason there are particular concerns over the impact on a funder's budget; and
- (iii) a new service, which might be open access or franchised, which would compete with an existing open access service and which, if it caused the existing open access operator to withdraw from the market, could reduce overall competition on the network.

**6.1** Please state if your application is for a competing passenger service, and if so please describe the nature of the competition:

This service will compete, in a minor fashion, with Scotrail.

**6.2** For competing services, please also confirm that you have attached as part of your submission to ORR the following:

- Business plan, including details of:
  - forecasts of passenger traffic and revenues, including forecast methodology;
  - pricing strategies;
  - ticketing arrangements;
  - rolling stock specifications (e.g. load factor, number of seats, wagon configuration);
  - marketing strategy;
  - estimated elasticities of the services (e.g. price elasticity, elasticity with respect to quality characteristics of the services).
- Demand forecasting (including associated spreadsheet models) demonstrating modelled generation : abstraction ratio.
- Indicative timetables, including associated .spg files

## 7. Incentives

**7.1 Train operator performance:** please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving operator performance.

None planned.

**7.2 Facility owner performance:** please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving the facility owner's performance.

None planned.

**7.3 Monitoring of services:** Will all proposed services be monitored for performance throughout their journey? If not, please explain.

Yes.

**7.4 Performance regime changes (for applications under sections 17 or 22A only):** where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed.

An amended version of Schedule 11 is needed for alterations to Schedules 4 and 8, because of the introduction of services between Edinburgh and Glasgow Queen Street.

Although Lumo anticipate this to be a near repeat of the present provisions, this is yet to be drafted and discussed between the parties.

## 8. Enhancement

**8.1 Enhancement details:** where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full

details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework).

None envisaged.

**8.2 Enhancement charges:** please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

Not applicable.

## 9. Other

**9.1 Associated applications to ORR:** please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide evidence that this process has been completed.

The amendments to the relevant Station and Depot Access Agreements will be entered into, and it is anticipated that these will be made on a standard and consistent basis.

**9.2 Side letters and collateral agreements:** please confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it.

Not applicable. There are no side letters.

**9.3 Confidential redactions:** please list any information that you have redacted from any documentation sent to consultees. If there has been no pre-application consultation, please list any information you want us to exclude from publication. Please provide full reasons for any redactions.

No redactions are applicable at this stage but the business plan and revenue analysis (to be subsequently submitted to the ORR only) will be regarded as wholly confidential.

## 10. Pre-application consultation

### 10.1 The consultation:

If consultation has not been carried out, explain why not. If it has, please list the consultees.

None, due to the time constraint in meeting the recently set ORR deadline for ECML related applications.

NR Scotland and Transport for Scotland have both been involved in discussions regarding these proposals.

Who conducted the consultation?



Not applicable (yet) but NR would seem to be best placed to carry this out.

List all consultees who responded and include their responses and any associated documentation or correspondence between the parties.

Not applicable (yet).

**10.2 Resolved issues:** please explain any issues raised by consultees which have been resolved.

Not applicable (yet).

**10.3 Unresolved issues:** Please explain any issues raised by consultees which have **not** been satisfactorily resolved and why you think these issues should not stop ORR approving the application.

Not applicable (yet).

**10.4 Subsequent Changes:** Have any changes been made to the proposal following consultation?

Not applicable (yet).

## 11. Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.*

**For agreed applications under section 18 or 22, Network Rail should complete the information below. For disputed applications under section 17 or 22A, the beneficiary should complete it.**

I certify that the information provided in this form is true and complete to the best of my knowledge  
Signed ..... Date 17<sup>th</sup> May 2024.....  
Name (in caps) ...ANDREW WYLIE.....  
Job title ...Head of Regulation and Open Access Contracts.....  
For (company) FirstGroup on behalf of East Coast Trains Limited ("Lumo").....

## 12. Submission

**12.1 What to send:** please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

**12.2 Where to send it:**

Email: [track.access@orr.gov.uk](mailto:track.access@orr.gov.uk)