

## **SCHEDULE 4.2**

### **THIS IS SCHEDULE 4.2 REFERRED TO IN THE FOREGOING FRANCHISE AGREEMENT AMONG THE STRATEGIC RAIL AUTHORITY, STRATHCLYDE PASSENGER TRANSPORT EXECUTIVE AND FIRST SCOTRAIL LIMITED**

#### **Persons with Disabilities and Disability Discrimination**

##### **1. RELATIONSHIP WITH OTHER OBLIGATIONS RELATING TO PERSONS WITH DISABILITIES**

1.1 The Franchisee acknowledges that its obligations in this Schedule 4.2 are in addition to and do not limit its obligations to comply with:

- (a) the DDA;
- (b) any applicable condition(s) in any of its Licences (including in respect of persons with disabilities); and
- (c) any other of the requirements of this Agreement.

1.2 This Schedule 4.2 sets out:

- (a) specific arrangements which apply in respect of physical alterations to stations to facilitate accessibility and use by Disabled Persons; and
- (b) specific obligations of the Franchisee directed at meeting the needs of persons with disabilities.

##### **2. PHYSICAL ALTERATIONS AND ACCESSIBILITY OF STATIONS**

2.1 In respect of physical alteration works at stations to facilitate accessibility and use by Disabled Persons, it is acknowledged by the Franchisee that:

- (a) there is limited funding available to the Authority to assist franchisees and/or franchise operators with the carrying out of those works;
- (b) consequently, there is a need for such works to be carried out over a period of time to reflect the availability of funding, and for such works to be prioritised with regard to where there is the greatest need and/or where physical alterations can have the greatest effect; and
- (c) the Authority's national programme of works of physical alterations at stations addresses these issues in a structured way.

2.2 The Franchisee will:

- (a) co-operate reasonably with and assist the Authority in the development and furtherance by the Authority of the programme described in paragraph 2.1(c) by providing to the Authority:
  - (i) information concerning the usage of Stations (including, where and to the extent reasonably practicable, usage of Stations by Disabled Persons); and
  - (ii) advice as to the most economic way in which accessibility for Disabled Persons could, in the Franchisee's reasonable opinion, be improved at Stations;
- (b) co-operate reasonably with other Train Operators and/or Network Rail to seek to ensure that, where it would be advantageous to do so, having regard to the needs of Disabled Persons, any planned work on the Stations to facilitate accessibility and use by Disabled Persons is, so far as reasonably practicable, co-ordinated with other work to be carried out at the Stations and/or other parts of the network; and
- (c) use all reasonable endeavours to secure sources of grant funding (other than from itself or an Affiliate) for improving accessibility for Disabled Persons at Stations (in addition to any funding secured through the Authority pursuant to paragraph 2.5), including from Local Authorities, local development agencies and the Lottery Commission. The Franchisee shall notify the Authority of:
  - (i) any such additional funding which it secures; and
  - (ii) the terms on which such additional funding has been granted.

2.3 In participating in any multi-modal fares scheme, the Franchisee shall, subject to paragraph 3 of Schedule 2.5 (*Transport, Travel and Other Schemes*), use all reasonable endeavours to secure, through the planning and development of such scheme, improvements in disabled access to the entrances of any relevant station, including within and in the immediate proximity of such station.

2.4 If, during the Franchise Term:

- (a) the Franchisee has complied with its obligations in Section 21(2)(d) of the DDA (to take such steps as are reasonable to provide a reasonable alternative method of making services at a Station accessible to a Disabled Person) and its obligations in paragraph 2.7 concerning Minor Works; and
- (b) notwithstanding such compliance, the Franchisee reasonably considers it is still required to carry out or procure physical works of alteration at a Station in order to comply with the DDA Requirements in respect of that Station, and, in so carrying out or procuring, would incur expenditure which it would not otherwise have an obligation to incur,

the Franchisee may seek funding from the Authority in respect of that expenditure.

2.5 If the Franchisee seeks funding from the Authority under paragraph 2.4, and demonstrates to the Authority's satisfaction that the criteria in paragraph 2.4 have been satisfied, then the Authority may agree to adjust the amount of Franchise Payments in respect of some or all of the works and/or expenditure. In considering its response to any such request, the Authority will have regard to the availability of funding and the priorities set out in the national programme described in paragraph 2.1(c), together with any other available sources of funding described in paragraph 2.2(c). If and to the extent the Authority agrees to adjust Franchise Payments in accordance with this paragraph 2.5 in any Franchisee Year:

- (a) the Authority shall make such adjustment to the Franchise Payments; and
- (b) the Franchisee shall spend such additional funds:
  - (i) in order to comply with the DDA Requirements referred to in paragraph 2.4(b); and
  - (ii) in accordance with any conditions the Authority may notify the Franchisee of.

2.6 If and to the extent the Franchisee is required to pay any increased access charges as a result of additional expenditure required to be incurred by another station Facility Owner for the purpose of complying with the DDA Requirements in respect of a station at which the Passenger Services are permitted to call under this Agreement, provided that the Franchisee:

- (a) notifies the Authority within 7 days of becoming aware of any proposal for the increase in such charges (or the works to which they relate); and
- (b) complies with the Authority's reasonable directions regarding the exercise of any rights the Franchisee may have in respect thereof,

the imposition of the increased access charges shall be a Change.

2.7 The Franchisee shall:

- (a) establish and manage the Minor Works Budget to fund the carrying out of Minor Works. For the purposes of this paragraph 2.7, *Minor Works* means small scale physical alterations or additions to improve accessibility of Stations to Disabled Persons, not involving substantial works of construction or reconstruction. The Minor Works:
  - (i) may, but shall not necessarily include, the Minor Works described in the Appendix (*Minor Works*);
  - (ii) shall not include any works which Network Rail, the Franchisee or any other person has a separate obligation to carry out, except where:
    - (A) such obligation is an obligation of the Franchisee under the DDA; or

- (B) the inclusion of such works would lead to the acceleration of the timescale for their completion and the Authority gives its consent pursuant to paragraph 2.7(a)(iii);
  - (iii) shall only include works other than those permitted by paragraphs 2.7(a)(i) and (ii) with the prior consent of the Authority; and
  - (iv) must comply with the standards provided for in the Code of Practice, unless otherwise agreed with the prior consent of the Authority;
- (b) before the start of each Franchisee Year:
- (i) develop a Minor Works Programme and consult with the Disabled Persons Transport Advisory Committee and relevant Rail Passenger's Committees in relation thereto;
  - (ii) in conjunction with its activities in paragraph 2.7(b)(i), and, consistent with its obligations under paragraph 2.2(b), liaise with Network Rail and other Train Operators as necessary with regard to the determination and implementation of each Minor Works Programme; and
  - (iii) following the consultation and liaison described in paragraphs 2.7(b)(i) and (ii), obtain the Authority's prior approval (such approval not to be unreasonably withheld) of each Minor Works Programme;
- (c) carry out or procure the carrying out of the Minor Works' Programme in each Franchisee Year and in doing so, spend at least the amount of the Minor Works Budget for the relevant Franchisee Year in such Franchisee Year (unless otherwise agreed by the Authority);
- (d) report progress to the Authority in determining and carrying out the Minor Works' Programme no less than once every 3 Reporting Periods; and
- (e) co-operate, as the Authority may reasonably require, with Network Rail or any other person seeking to carry out or procure Minor Works at the Stations or any other stations.

### 3. DEALING WITH CLAIMS RELATING TO STATIONS

3.1 If during the Franchise Period the Franchisee receives notification of a claim under the DDA in respect of any alleged non-compliance with the DDA Requirements or otherwise in respect of any Station (a *DDA Claim*) then the Franchisee shall:

- (a) notify the Authority within 7 days of receiving notification of the DDA Claim. The Franchisee shall at the same time notify the Authority of any reasonable alternative methods of making services at the Station accessible to Disabled Persons that it has considered and/or put in place pursuant to Section 21(2)(d) of the DDA;

- (b) if required by the Authority, defend the DDA Claim or any aspect of the DDA Claim (which may include appealing the judgment or decree). The Authority will, subject to paragraph 3.4, pay the Franchisee's reasonable costs of:
  - (i) any defence or appeal required by the Authority; and/or
  - (ii) compliance with the Authority's instructions in accordance with paragraph 3.1(c); and
- (c) act in accordance with the reasonable instructions of the Authority to defend the DDA Claim (or any aspect of it) as required under paragraph 3.1(b) and shall not (without the prior consent of the Authority) settle or enter into any compromise in relation to the DDA Claim (or the relevant aspect of it), including by entering into mediation.

3.2 If, in the reasonable opinion of the Franchisee, it will be more cost effective to settle the DDA Claim rather than act in accordance with the Authority's requirement under paragraph 3.1, it shall produce for the Authority's approval a settlement proposal (the *Settlement Proposal*).

3.3 If the Authority does not accept the Settlement Proposal and still requires the Franchisee to defend the DDA Claim (or any aspect of it) then the Franchisee shall defend the DDA Claim in accordance with paragraph 3.1.

3.4 If the Franchisee is required to defend a DDA Claim where it has submitted a Settlement Proposal to the Authority and an award is made in respect of the DDA Claim in favour of the person bringing it which is higher than the figure set out in the Settlement Proposal, then, subject to paragraph 3.5, the Authority shall pay to the Franchisee:

- (a) the difference between such an award and the figure set out in the Settlement Proposal; and
- (b) the further reasonable costs incurred or payable by the Franchisee in defending the DDA Claim, to the extent that such costs have not already been paid by the Authority under paragraph 3.1(b).

3.5 The Authority shall not have any obligation to make the payments described in paragraphs 3.1(b) or 3.4 where it is determined or, if no declaration or determination by the court on this point has been sought or made, the Authority, in its reasonable opinion, considers that the Franchisee has not taken such steps as it is reasonable, in all the circumstances of the case, for it to take to provide a reasonable alternative method of making services at the Station accessible to Disabled Persons.

## APPENDIX TO SCHEDULE 4.2

### Minor Works

1. Providing additional signage, where it does not currently exist, to allow better way finding around the station by Disabled Persons.
2. Removing:
  - (a) thresholds (above 15 millimetres) which do not comply with the Code of Practice; or
  - (b) less than 3 steps,from the entrances to booking halls or platforms to enable those facilities to have step-free access.
3. Providing contrasting manifestations on glazed areas where contrasting manifestations do not currently exist.
4. Providing additional handrails around the station where handrails do not currently exist and where the Franchisee reasonably believes they may be required by a Disabled Person.
5. Providing new accessible stair nosings where stair nosings do not currently exist.
6. Providing new tactile surfaces, including at the top and bottom of flights of steps, but excluding at platform edges, where tactile surfaces do not currently exist.
7. Providing additional seating that is accessible to Disabled Persons, but not replacing existing seating.
8. Providing induction loops for ticket office windows where induction loops do not currently exist.
9. Replacing non-standard fittings with fittings that are compliant with the Code of Practice in existing disabled toilets, which would include replacing non-standard fittings in respect of toilet bowls and sinks, but would not include making major changes to plumbing or to the dimensions of the toilet area.
10. Providing dropped kerbs at drop off/set down points or station car parks to enable access/egress thereto where dropped kerbs do not currently exist.
11. Marking out existing car-parking bays for use by persons with disabilities which comply with the Code of Practice, where such car parking bays do not currently comply.

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12. Providing portable light-weight ramps (and appropriate restraining devices for such ramps) and any required assistance with the use of such ramps. Any such ramps shall be:

- (a) compliant with the Rail Vehicle Accessibility Regulations 1998; and
- (b) carried on board trains to provide a method of facilitating access to or egress from a rolling stock vehicle, acknowledging that their use is subject to availability of staff:
  - (i) on the train of which the rolling stock vehicle comprises part; or
  - (ii) at the station.