



Department for Transport

XC Trains Limited
5th Floor, Cannon House
18 The Priory Queensway
Birmingham
B4 6BS

Attention: Interim Managing Directors
Julian Edwards & Scott Maynard
CC: [REDACTED³], Head of Strategy

Dear Julian and Scott,

IN RESPECT OF THE NATIONAL RAIL CONTRACT ENTERED INTO DATED 19 SEPTEMBER 2023 (THE "RAIL CONTRACT") BETWEEN THE SECRETARY OF STATE FOR TRANSPORT (THE "SECRETARY OF STATE") AND XC TRAINS LIMITED (THE "OPERATOR") (THE "PARTIES")

REMEDIAL AGREEMENT PURSUANT TO PARAGRAPH 5 OF CHAPTER 9.4.3 OF THE RAIL CONTRACT

1. Words and expressions defined in the Rail Contract have the same meaning when used herein unless the context otherwise implies.
2. This Remedial Agreement (the "**Remedial Agreement**") is supplemental to and shall be read and construed together with the Rail Contract and where there is any conflict between this Remedial Agreement and the Rail Contract, this Remedial Agreement shall take precedence.

Background

3. The Secretary of State and the Operator entered into the Rail Contract under which the Secretary of State, in line with its statutory duties, appointed the Operator to run certain Rail Services.
4. On 26 July 2024, the Secretary of State issued a Remedial Plan Notice outlining that the Operator notified the Secretary of State on 3 July 2024 that it is likely to fall below the Breach Performance Level and Default Performance Level relating to the Enforcement TOC on Self Cancellations Benchmark during one or more of the following Reporting Periods 2505, 2506, 2507 and 2508, if this were to occur it would constitute a contravention of the Rail Contract pursuant to paragraph 8.2 of Chapter 4.4 of the Rail Contract ("**Benchmark Contravention**").

¹ 18 November 2024 (Date of Redactions Approval) (CCT 4760472) Where text has been omitted from the document - this is because the Secretary of State has decided to exclude the text in accordance with the provisions within the Freedom of Information Act 2000

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Date: 9 August 2024

5. On 2 August 2024 the Operator submitted a remedial plan (the "**Remedial Plan**") (as set out in Annex 1) in respect of the Benchmark Contravention and in accordance with paragraph 4 of Chapter 9.4.3 of the Rail Contract, for the purpose of securing and facilitating compliance with the Remedial Plan Notice that sets out all appropriate actions and tasks required for completion of the obligation.
6. The Secretary of State is satisfied that the Remedial Plan submitted by the Operator to the Secretary of State which is annexed in Annex 1 to this letter satisfies the matters referred to in paragraph 4.2(a) to (d) of Chapter 9.4.3 of the Rail Contract.
7. The Parties wish to enter into this Remedial Agreement in respect of the implementation of the following agreed measures and their associated timescales proposed within the Remedial Plan for the purpose of ensuring that the Operator's performance against the TOC On Self Cancellations Enforcement Benchmark (the "**Applicable Benchmark**") will be better than the Breach Performance Level relating to the Applicable Benchmark.
8. The Operator shall use all reasonable endeavours to reinstate passenger services, where this can be achieved effectively and reliably, before 10 November 2024, subject to maintaining the delivery of the outputs required under this Remedial Agreement.

Commencement and Term

9. This Remedial Agreement shall take effect and be binding upon each of the Parties immediately from the date of its signing and shall expire on **[REDACTED⁴]** (being the **[REDACTED⁵]**) or, if earlier, the date of actual termination or expiry of the Rail Contract (such period being the "**Remedial Term**"). In addition to the Operator's other obligations under the Rail Contract, during the Remedial Term the Operator shall hold at least one review meeting in each Reporting Period in order to monitor progress of the Remedial Plan. The final meeting between the Parties in relation to the Remedial Plan shall be held no later than **[REDACTED⁶]**.

Remedial Commitments

10. The Parties acknowledge and agree that:
 - a. the Operator is bound by its obligation under paragraph 5 of Chapter 9.4.3 of the Rail Contract in relation to this Remedial Agreement. The Operator shall ensure the successful completion of the Remedial Plan and successful delivery of the commitments set out in Annex 1 of this Remedial Agreement (the "**Remedial Commitments**") and shall submit to the Secretary of State for approval, valid and acceptable evidence of its compliance with the Remedial Plan and delivery of the Remedial Commitments by no later than the end of the Remedial Term.
 - b. the Operator acknowledges that it has not been authorised to incur any additional expenditure in relation to delivering the Remedial Commitments and the Remedial Plan;
 - c. this Remedial Agreement has been entered into with the overarching objectives of ensuring the Operator's performance against the Applicable Benchmark will be better than the applicable Breach Performance Levels and delivering the necessary

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associated cultural and organisational changes to ensure those performance improvements are embedded and sustained;

- d. the Operator shall provide within the periodic reports (the form of which shall be agreed with the Secretary of State), that it produces pursuant to paragraph 5.1 of Chapter 1.1 of the Rail Contract, periodic updates on the Operator's progress in delivering the Remedial Commitments;
- e. the Operator shall provide any information reasonably requested by the Secretary of State from time to time in relation to its delivery of any part of the Remedial Plan and/or Remedial Commitments, including but not limited to: crowding impact assessments, train formation capacity plan, fleet resilience and alternative road transport;
- f. where a Remedial Commitment or element of the Remedial Plan involves providing, implementing or installing something the provisions of paragraph 4.5 of Chapter 7.7 of the Rail Contract (Continuation of Availability) shall apply to the same mutatis mutandis;
- g. for the duration of the Remedial Term any costs that are incurred in implementing and/or complying with this Remedial Agreement (including any costs incurred in preparing the Remedial Plan and entering into this Remedial Agreement) shall be borne by the Operator as a Disallowable Cost;
- h. [REDACTED⁷] and
- i. the Operator's obligations pursuant to this clause 10 shall survive the termination or expiry of this Remedial Agreement.

11. [REDACTED⁸]

12. The Parties acknowledge and agree that the Operator's obligations under paragraph 10.a are subject to meeting the following benchmarks in relation to absence and retirement within each period ("**Headcount Benchmarks**"):

[REDACTED⁹]

Forecast Train Driver Retirements									
2505	2506	2507	2508	2509	2510	2511	2512	2513	Total
[REDACTED ¹⁰]									

If the Headcount Benchmarks are not met within each period, then the Parties shall act reasonably and in good faith to agree such amendments to this Remedial Agreement, the Remedial Plan and the Remedial Commitments as are necessary to reflect the failure to meet the Headcount Benchmarks.

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13. As specified in the SoS's grant of consent (dated 26 July 2024) to the operation of an alternative Timetable ("**Resilience Timetable**"):

a. [REDACTED¹¹]

b. [REDACTED¹²]

in each case, during the period in which the Passenger Services are operated in accordance with the Resilience Timetable.

Implementation of the Remedial Agreement

14. [REDACTED¹³]

Entire Agreement

15. This Remedial Agreement contains all the terms which the Parties have agreed in relation to the subject matter of this Remedial Agreement and supersedes any prior written or oral agreements, representations or understandings between the Parties in relation to such subject matter.

Counterparts

16. This Remedial Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

Governing Law and Jurisdiction

17. This Remedial Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the law of England and Wales.

18. The courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with this Remedial Agreement, including (without limitation) in relation to any non-contractual obligations.

Please sign and return the enclosed copy of this Remedial Agreement to indicate your agreement to these terms.

Yours sincerely,

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SIGNED FOR AND ON BEHALF OF The Secretary of State for Transport))))	[REDACTED ¹⁴]
Print Name of Authorised Signatory:		Eddie Muraszko
Position:		Market Lead, Deputy Director, Midlands, North & Wales Market, DfT
Date:		9 August 2024

SIGNED FOR AND ON BEHALF OF XC Trains Limited))))	[REDACTED ¹⁵]
Print Name of Authorised Signatory:		Harj Singh
Position:		Finance Director
Date:		9 August 2024

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ANNEX 1 – REMEDIAL COMMITMENTS

1. The Operator shall, by no later than 10 November 2024:

- (a) [REDACTED¹⁶]
- (b) [REDACTED¹⁷]

	03-Aug	11-Aug	18-Aug	25-Aug	01-Sep	08-Sep	15-Sep	22-Sep	29-Sep	06-Oct	13-Oct	20-Oct	27-Oct	03-Nov
Birmingham	[REDACTED ¹⁸]													
Bournemouth														
Bristol														
Cambridge														
Derby														
Edinburgh														
Leeds														
Leicester														
Manchester														
Newcastle														
Plymouth														
Total														

2. [REDACTED¹⁹]

3. Subject to paragraph 3(b), the Operator shall, by no later than the relevant date specified in the table below, achieve the outcomes for both 'Qualified FTE to Establishment +/-' and 'Productive FTE to Establishment +/-', as set out in the table below, in order to demonstrate an improvement in operational resilience and performance:

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Driver Forecast	2505	2506	2507	2508	2509	2510	2511	2512	2513	2601
Establishment	[REDACTED ²⁰]									
Full Headcount										
Qualified Headcount										
Qualified FTE										
Attrition										
Qualified FTE to Establishment +/-										
Productive FTE										
Productive FTE to Establishment +/-										
Trainee Headcount										
Ind Quals Productive										
Trainees Qualifying										

(b) [REDACTED²¹]

(c) In complying with its obligations under this commitment 3, the Operator [REDACTED²²] and will keep the Secretary of State informed on the recruitment process throughout the Remedial Term.

4. The Operator shall, for the duration of the Resilience Timetable, not exceed the following projection of TOC on self cancellations:

[REDACTED ²³]	

For the avoidance of doubt, all operational performance levels and benchmarks as set out within the Rail Contract including, where applicable, their breach and default levels, shall remain applicable throughout the Remedial Term.

5. The Operator shall, up until 9 November 2024, operate the Resilience Timetable (as consented to by the SoS on 26 July 2024 in accordance with its terms.

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