

## SUPPLEMENTAL AGREEMENT

This Supplemental Agreement has been entered into on this 18th day of May 2000 by and between

1. AB Storstockholms Lokaltrafik, a company incorporated in Sweden under registration number 556013-0683 ("SL"); and
2. Citypendeln Sverige AB, a company incorporated in Sweden under registration number 556051-7897 ("Cip").

### 1. Background

1.1 Following a procurement SL and Cip have concluded an agreement on traffic operations and maintenance dated 8 and 15 December 1998 (the "Traffic Agreement") as well as a station services agreement (the "Station Services Agreement") regarding the operation of commuter train service in the Stockholm County. In addition thereto, SL Infrateknik AB, a subsidiary of SL, and Cip have concluded an agreement pursuant to which Cip rents commuter train vehicles dated 8 and 12 December 1998 (the "Vehicle Rental Agreement"). The Traffic Agreement, the Station Services Agreement and the Vehicle Rental Agreement are collectively referred to herein as the "Agreements". Traffic operation and station service started as of 6 January 2000 under the Agreements.

1.2 For various reasons not defined herein it has not been possible for Cip to fulfil all of its obligations under the agreements with SL. In order to - as soon as possible - restore the traffic operations and the station service up to the originally agreed level, the parties hereto have concluded this Supplemental Agreement.

1.3 This Supplemental Agreement, as well as the future agreements to be reached in accordance with this Supplemental Agreement, shall constitute an amendment to the Traffic Agreement, the Station Services Agreement and/or the Vehicle Rental Agreement, as appropriate.

### 2. Restoring level and quality of traffic operations

2.1 In addition to what has been agreed in the Agreements, Cip shall implement a committed plan with the aim to restore the full traffic operation and station service at latest on 1 October 2000 and Cip shall do its utmost to reach this target without having to take unreasonable efforts. Cip shall on a monthly basis report its activities to SL. Monthly meetings shall be held at which SL

shall react on such report if SL finds that the activities are unacceptable or that Cip is not doing its utmost to reach the target and identify the shortcomings claimed by SL. In such case, the parties shall jointly identify possible solutions.

- 2.2 During the period from 7 February to the date of this Supplemental Agreement, the actually performed traffic and station service shall be considered as the ordered level of operation. From the date of this Supplemental Agreement to 1 October 2000, traffic operation and station service in accordance with the traffic recovery plan prepared by Cip and submitted latest on 5 June 2000 as provided for under Section 2.5 or any improvement thereof, will be regarded as the base line level of ordered traffic and service for the purposes of price adjustment and application of liquidated damages. The contract price shall be amended as a result of the new base line level agreed in this section. The new contract price shall be calculated pursuant to section 24 of the Traffic Agreement concerning planned changes in the traffic. Any subsequent improvements in the base line level shall result in a new contract price calculated correspondingly. Any shortcoming in respect of the base line level or improvements thereof will result in that Cip shall be liable to pay liquidated damages as provided for in the Traffic Agreement. Liquidated damages will however not be applied should Cip have done their utmost to maintain the base line level or fulfil the traffic recovery plan. Doing or not doing its utmost shall be related to the hiring and training of staff only and shall be assessed as set out under Section 2.3 *mutatis mutandis*. Should there not be a traffic recovery plan submitted latest on 30 June 2000 Cip shall be liable to pay liquidated damages amounting to SEK            per day until the traffic recovery plan has been submitted.
- 2.3 Should SL prior to 1 October 2000 have notified Cip in writing that Cip has not done its utmost to reach the target of having full traffic operation and station service restored at the latest on 1 October 2000 as prescribed above - without having to take unreasonable measures - SL may claim and shall in such case be entitled to liquidated damages from 1 October 2000 under the Traffic Agreement and the Station Services Agreement as if the agreements should have been applied at the originally agreed upon level. However, unless SL has notified Cip in accordance with Section 2.1 that the activities undertaken by Cip are unacceptable and Cip has not taken corrective action, SL shall not be entitled to claim that Cip has not done its utmost to achieve the said target and penalties may not be claimed unless full traffic has not been achieved by 1 December 2000 (see 2.6 below),

- 2.4 In variation to what has been agreed in the Traffic Agreement SL shall reimburse Cip for bus rental at reasonable market cost while the contract price for traffic operation by commuter trains shall be reduced with the applicable agreed upon prices under the contract for planned changes of traffic. The agreed upon bonus and penalty scheme shall be applied on the above changed level of traffic operation and station service.
- 2.5 In addition to what has been agreed in the Agreements, Cip will provide SL with a detailed operational development plan, including among other things,
- (i) establishing complete management functions;
  - (ii) taking efficient actions for cleaning and against graffiti and vandalism, within the framework of what has been agreed,
  - (iii) securing revenue and
  - (iv) a traffic restoration plan including renewed actions to recruit required employees of all categories.

A plan shall be presented to SL in writing not later than on 30 May 2000 as regards (I) - (III) above. As regards (IV) above, a preliminary traffic restoration plan shall be submitted on 5 June 2000 and a final plan shall be submitted no later than on 30 June 2000.

- 2.6 Under all circumstances the level of traffic operation and station service agreed in the Traffic Agreement and Station Services Agreement shall have been restored and achieved at the latest as from 1 December 2000. If this should not be achieved, full consequences under the originally agreed upon contracts will be applied as from 1 December 2000, including but not limited, to the penalties defined under the respective contracts.

### 3. Finalising the incentive program

The parties shall prior to 1 July 2000 agree on an incentive program for Cip from year 2000 in accordance with the principles laid down in Exhibit 1. The parties shall prior to 1 October 2000 agree upon an incentive program from the year 2001 and onwards in line with the principles defined under Section 2 of Exhibit 1. As a general condition for the incentives to be agreed it shall be established that in order to receive any bonus under any incentive program real and verified improvements must have been achieved. Should the parties fail to reach the agreement anticipated in this Section 3 by 1 October 2000, the issue shall, upon request by either party, be raised and submitted to negotiation, determination and final agreement between the CEO of SL and the top management of the owners of Cip. If such agreement has not been

reached in writing within one month from the date of a party initiating such negotiations, the issue shall be referred for final determination by an independent expert to be jointly appointed by both parties. If the parties fail to agree on an expert, each party shall nominate one expert (who shall be independent of both parties) and the experts nominated shall jointly nominate a third expert. In case of a panel of experts, the opinion of the majority of experts shall prevail. The expert or panel of experts, as the case may be, shall, finally and binding for the parties, resolve the issue referred to them with the application of the principles of this Supplemental Agreement, Traffic Agreement and Station Services Agreement, the existing incentive programs applied by SL in relation to operators and, on internationally and generally accepted professional business practice. The written decision of the expert(s) shall be sent to the parties no later than one month after the appointment of the expert(s). The cost for the expert(s) shall be shared between the parties.

4. Identified exceptional unforeseen costs

SL shall on a yearly basis reimburse Cip for identified exceptional unforeseen costs that have occurred in the amount of MSEK                      per year. The parties shall jointly define the allocation of this amount. The amount for the year 2000 shall be paid with SEK                      on or before 30 June 2000 and the rest for the year 2000 and the amounts for the following years shall be paid with 1/12 per month as per the procedures set out in section 24 of the Traffic Agreement. The amount shall be subject to indexation as set out in the Traffic Agreement.

5. Additional issues to be resolved and agreed

5.1 In addition, the following principles and conditions have or shall be agreed in writing and subsequently applied between Cip and SL or, as the case may be, SL Infrateknik AB (a wholly owned subsidiary of SL):

(a) SL has for the year 2000 ordered changed traffic and thus additional vehicle kilometres from Cip. The amount calculated for this extra ordered traffic is appreciated to the sum of MSEK                      for the year 2000. Should additional traffic be necessary after year 2000, SL may order additional alterations and compensate Cip therefor as agreed upon under the Traffic Agreement.

(b) The principles between SL Infrateknik AB and Cip for short term rental of vehicles shall be clarified, agreed and followed up prior to 30 June 2000 in order to ensure fair application of agreed upon principles.

Neither of SL or SL Infrateknik AB shall send invoices regarding short term rental for the period January to May 2000 (inclusive) in order to allow an agreement to be reached between the parties.

- (c) SL shall reimburse Cip for costs caused by maintenance backlog in the amount to be agreed upon between the parties prior to 30 June 2000, and for maintenance activities to be defined between the parties.
- (d) The fair benchmark for sharing of all costs for vandalism and removal of graffiti as identified in the Traffic Agreement will be the verified actual annual costs. The parties shall agree on the definition of the costs which shall be deemed as costs for vandalism and removal of graffiti ("benchmark") and subject to sharing as set out above. Until such benchmark has been established the actual cost shall be reimbursed to Cip. Short term rent of vehicles will not be charged for a period of maximum of 48 hours should the volume of graffiti and/or vandalism be exceptionally high with respect to a certain vehicle which due to this is in need of extensive cleaning and/or repair and under the condition also that Cip does not have access to additional vehicles for traffic operation.
- (e) The agreed upon open book procedure under the Station Services Agreement shall be implemented and applied from 6 January 2000 with respect to ambulating staff and cash handling;
- (f) The contract price under the Station Service Agreement shall, in accordance with the agreements, be reduced due to non-presence or non-availability of ambulating staff.
- (g) The implementation of the agreed conditions for take-over of the station service, SL Center and the revenue protection shall be postponed until 31 July 2000;
- (h) SL shall in a positive manner treat and investigate the possibility of investing in improvements of the X10-vehicles for pre-heating purpose and energy supply. Cip shall improve handling routines for the staff concerned and actively promote the application of these handling routines.
- (i) SL Infrateknik AB and Cip shall prior to 30 May 2000 agree on proper principles for sharing responsibilities for maintenance of vehicles based upon the rules applied under the Tramc Agreement and Vehicle Rental Agreement and thereafter implement and follow up on those principles;

- (j) Cip accepts to incur penalties up to and including 6 February 2000 as suggested by SL and cost of bus services and bus rentals up to 6 February 2000;
- (k) Weights of the indexation formula under the Tramc Agreement as well as under the Station Services Agreement shall be adjusted as set out in Exhibit 2. The revised formula shall be applied as from January 1998.
- (l) The parties shall, prior to 30 June 2000, revise and agree the settlement of payments, including liquidated damages if any, covering the period 1 February to 31 May 2000.

5.2 SL and Cip hereby agree to continue the negotiations in good faith and SL shall procure that SL Infrateknik AB acts correspondingly in order to conclude the agreements mentioned in section 5.1 above according to the provisions set out therein. The involved parties' negotiations must be conducted and structured to ensure that the services to be performed by Cip continuously and significantly improve during the entire period. Further, Cip undertakes not to take any action which could be detrimental to Cip's financial position or operational performance during such negotiations.

5.3 Should the parties fail to reach the agreements anticipated in Section 5.1, the issue in question shall, upon request by either party, be raised and submitted to negotiation, determination and final agreement between the CEO of SL and the top management of the owners of Cip. If such agreement has not been reached in writing within one month from the date of a party initiating such negotiation, a new time limit shall be set. Should the parties fail to reach an agreement or should there be a delay in reaching an agreement, this shall have no effect on any obligations or undertakings agreed between the parties hereunder. However, any dispute referable to such subject matters shall be resolved pursuant to the dispute resolution procedure set forth in the Traffic Agreement.

5.4 The parties shall in writing confirm when the conditions under b), c), h) i) and l) have been agreed. The agreements concluded shall be considered as amendments to the Traffic Agreement, the Station Services Agreement and the Vehicle Rental Agreement, as appropriate and constitute an integral part of said agreements.

## Information

SL shall against reimbursement at cost (not to exceed SEK            per year) have the right and obligation to make one person employed by SL available for Cip full time for as long as Cip and SL deem necessary. This person shall be fully involved, integrated and operational in Cip and informed of the operation of Cip and shall assist and support Cip in establishing the required routines of the operation, the reporting as prescribed under the agreements and planning. This includes that an open book procedure shall be applied in order to follow up on all such matters which are of importance for the traffic operation and maintenance as well as the station services. Cip shall have the right to have this person exchanged for another if the person in question does not fit in. The parties have agreed that the individual suggested by SL is a suitable person for this function.

## 7. Conditions precedent

7.1 Notwithstanding signature by the parties hereto, this Supplemental Agreement shall not come into force until the parties have also approved and signed the Master agreement and the Guarantee (as defined in the Master Agreement).

7.2 In the event that the conditions precedent have not been met or waived by SL on 18 May 2000, this Supplemental Agreement shall automatically lapse and no party shall have the right to make any claim based hereon.

7.3 In the event that this Supplemental Agreement lapses pursuant to Section 7.2 above each party shall remain with and reserves for itself all and full rights under the present contracts, including but not limited to, SL's right to cancel the contracts forthwith due to default on the side of Cip.

## 8. Term

Once this Supplemental Agreement has come into force pursuant to Section 7 above it shall continue to be in force until the expiry of the term of Traffic Agreement, the Vehicle Rental Agreement and the Station Services Agreement or said agreements have expired following termination.

## 9. Confidentiality and announcements

9.1 The parties hereto agree that SL and Cip shall jointly agree upon the contents of information to be given to staff and to media regarding the contents of this Supplemental Agreement. SL and Cip shall in close co-operation produce a format and contents of information to be given. No external contacts shall be made without prior consultations between SL and Cip. No information will be disclosed by SL or Cip prior to the parties mutually agree to do so, unless so required by mandatory laws or regulations or if necessary in order to complete the transactions contemplated herein.

9.2 The parties hereto agree not do disclose any information regarding the contents of this Supplemental Agreement or regarding negotiations, proposals, drafts or other information exchanged between the parties or with Cip unless required by mandatory laws or regulations or as deemed necessary in order to complete transactions contemplated herein.

## 10. Notices

10.1 Any and all notices or other information to be given by a party to another shall be deemed sufficiently given when forwarded by prepaid, registered or certified first class air mail or by facsimile, or hand delivery to the other party at the following address:

(a) If to SL:

AB Storstockholms Lokaltrafik  
SE-120 83 Stockholm  
Fax +46 8 686 14 60  
Attention: Managing director

(b) If to Cip

Citypendeln Sverige AB  
Varuvägen 34  
125 30 ÄLVSJÖ  
Fax +46 8 762 27 75  
Attention: Managing Director

10.2 Such notices shall be deemed to have been received five business days after mailing if forwarded by mail, and the following business day if forwarded by facsimile transmission or by hand.

10.3 The aforementioned address of either party may be changed at any time by giving prior notice to the other parties in accordance with the foregoing.

## 11. Governing law

This Master Agreement shall be governed by and construed in accordance with the substantive laws of Sweden.

This Supplemental Agreement shall itself be governed by the general provisions set forth in the Traffic Agreement save for any variations stipulated herein.

This Supplemental Agreement has been executed in two (2) originals of which each

Party has taken one original.

Executed in Stockholm on the date first written above

AB STORSTOCKHOLMS LOKALTRAFIK  
by

CITYPENDELN SVERIGE AB  
by

Gunnar Schön   Lars Nordstrand

Andre Binder   Tommy Nilson