

Application to the Office of Rail Regulation for approval of a passenger framework agreement or an amendment to an existing framework agreement under The Railways Infrastructure (Access and Management) Regulations 2005

1. Introduction

Please use this form to apply to the Office of Rail Regulation (ORR) for:

- approval under The Railway Infrastructure (Access and Management Regulations) (“the Regulations”) for a new framework agreement; and
- approval under the Regulations for amendments to an existing framework agreement.

The Regulations provide for ORR to approve framework agreements between an applicant, and the infrastructure manager, which in the case of the HS1 network (“HS1”) is HS1 Limited. This form should be completed up to section 6.3 before carrying out a pre-application consultation to inform potentially affected parties of the proposed contract. Following this consultation, the remainder should be completed before applying to ORR under the Regulations.

This form sets out ORR’s standard information requirements for considering applications. It cross-refers throughout to our HS1 criteria and procedures (“C&Ps”), which applicants are strongly advised to read and take advice on if necessary. The C&Ps explain the process and timing for our consideration of access applications and discuss the issues we will need to consider. Applicants should use the published template framework agreement as their starting point when drafting the contract they would like.

ORR is happy to discuss prospective applications. Please contact us [here](#).

A copy of this form, and of HS1 Limited’s template framework agreement, can be accessed electronically and downloaded via the [ORR website](#).

2. The application

2.1 Title of proposed contract:

Sixth Supplemental Agreement to existing Framework Track Access Agreement for Passenger Services between HS1 Limited and Eurostar International Limited Dated XX August 2019 (as amended)

2.2 Contact details (Company and named individual for queries):

<u>HS1 Limited</u>	<u>Applicant</u>
Contact individual: James Mackay	Company: Eurostar International Limited
Job title: Head of Regulation	Contact Individual: Jason Lewis
Address:	Job title: Head of Rail Network Strategy
5 th Floor Kings Place 90 York Way London N1 9AG	Times House, Bravingtons Walk Regent Quarter London N1 9AW
Telephone number:	Telephone number:
Fax number:	Fax number:
E-mail address: james.mackay@highspeed1.co.uk	E-mail address: jason.lewis@eurostar.com

2.3 Licence and railway safety certificate: please state whether the applicant intends to operate the services itself or have them operated on its behalf

Does the proposed operator of the services (a) hold a valid European licence and Statement of National Regulatory Provisions for operating the proposed services in Great Britain under the Railway (Licensing of Railway Undertakings) Regulations 2005, and (b) have 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 which the proposed operator has reached in obtaining a licence, exemption and/or safety certificate.

Eurostar International Limited holds:

- a) a valid licence and Statement of National Regulatory Provisions for operating the proposed services in Great Britain under the Railway (Licensing of Railway Undertakings) Regulations 2005,
and
- b) has a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

3. The proposed contract or amendment

3.1 Executive summary: please provide an executive summary of the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. The summary in this section should also explain (here or by cross-reference to the answers in the sections below):

- where there is an existing agreement in respect of the services in question, any differences between the existing agreement and the proposed contract (e.g. calling patterns, frequency, routes, rolling-stock, commercial terms etc); **C&Ps para: 3.10**
- the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, where contracts would be for longer than five years, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#) **C&Ps para: 3.40**; and

any material safety risks that have been identified arising from the proposed contract or amendment and how these will be controlled (by reference to the provisions of the relevant safety authorisation and the train operator's safety certificate). **C&Ps para: 3.6-3.8**

The proposed Sixth Supplemental Agreement seeks to update the current Framework Track Access Agreement between HS1 Ltd and Eurostar International Limited, which is due to expire in August 2019. The agreement matches access rights to their revised needs on the Network and updates the agreement to add a new service category.

3.2 Departures from HS1's template framework agreement: please set out here, with reasons, any:

- areas where the drafting of the proposed contract or amendment omits, amends or adds to HS1's published template framework agreement (as appropriate, cross-referencing to the answers below). **C&Ps para: 5.2**
- 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 the template framework agreement, including the financial implications. **C&Ps chapter 4**

new processes which have been added. Please demonstrate how the process is robust, internally consistent and complete. **C&Ps para: 5.9**

The Sixth Supplemental Agreement to the Framework Track Access Agreement is consistent with the ORR's model template.

The amended Framework Track Access Agreement expresses the access rights in the same manner as the existing Framework Track Access Agreement between HS1 Ltd and Eurostar International Limited dated 14 August 2009 (as amended).

4. The expression of access rights and the consumption of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please fully describe any new rights required, as compared to the existing contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps para: 3.11-3.18**

Following the introduction into service, from November 2015, of new Siemens Vélaro D Class 374 Rolling Stock, which offer 20% greater seating capacity than its original Alstom TMST Class 373 Rolling Stock, and also as a consequence of the shrinking of the international rail market in the aftermath of terror attacks in Europe in 2015 and 2016, EIL now operates a reduced timetable in comparison to 2015 and earlier years.

As a result of this, EIL is in possession of a quantity of Firm Rights to operate Passenger Services on HS1 that it no longer requires, and, in line with ORR guidelines on Firm Rights Capacity, wishes to cede a number of these, in order to bring its Quantum to a level commensurate with its current operational output.

EIL's existing Quantum of Firm Rights, as set out in the Track Access Agreement between HS1 and EIL, and its subsequent Supplemental Agreements, defined the Firm Rights by day of the week, and by route, with this Quantum applying to all First Working Timetables.

To better reflect the seasonal demand of its product, EIL wishes to additionally define its Firm Rights by Timetable Period, as defined in Table 2.1, Schedule 5 of the proposed TAA.

Additionally, to reflect the introduction of train services to Rotterdam and Amsterdam from April 2018, EIL wishes to transfer a number of its existing Brussels route rights to a new Service Group for Amsterdam.

4.2 Adequacy: please set out how the applicants have satisfied themselves that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and HS1 Limited's maintenance and renewal activities. **C&Ps para: 3.11**

The proposed change should not require additional network capacity. However, in any case, no part or parts of the HS1 network has been declared congested by HS1 Ltd, under regulations 23-25 of the Railways Infrastructure (Access and Management) Regulations 2005.

4.3 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of the vehicle and route acceptance procedure in the HS1 Network Code (Part F) has been completed. Please explain whether you have, or will have, the rolling stock necessary to exercise the rights being sought.

There are no proposed changes to specified equipment.

4.4 Franchise obligations: please explain the extent to which the services in the proposed amendment are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps para: 3.34**

N/A

4.5 Public funding: please state whether (and if so to what extent) the services in the proposed amendment are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), and provide a point of contact at that body. **NB: this applies to GB operators only.**

N/A

4.6 Consumer organisations: please state whether (and if so to what extent) the services in the proposed contract have been discussed with Passenger Focus and London TravelWatch, and any other relevant consumer body, whether domestic or international, and provide copies of any relevant correspondence.

N/A

5. Incentives

5.1 Charges and performance: please set out, and explain the reasons for, any instances where the proposed contract departs from the charging and/or performance regimes established by ORR's periodic review of charges as reflected in HS1's template framework agreement, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps chapter 4**

N/A

5.2 Train operator performance: please describe any planned initiatives associated with the operation of the services in the proposed contract aimed at improving the train operator's own performance.

N/A

5.3 HS1 Limited performance: **please describe any planned initiatives associated with the operation of the services in the proposed amendment aimed at improving HS1 Limited's own performance.**

N/A

5.4 Performance regime issues: where applicable, please provide justification for any changes to Schedule 8 of the framework agreement in the proposed amendment. If necessary, please provide any relevant information in support of the changes proposed.

N/A

6. Other

6.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other current or future applications to ORR (i.e. in respect of other track framework agreements).

N/A

6.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the application, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para: 5.17**

confirm here that the whole of the proposed contract between the parties has been submitted with this application and that there are no side letters or other documents which purport to qualify or otherwise affect the proposed access contract. **C&Ps para: 5.17**

Appendix 2: Sixth Supplemental Agreement

Appendix 3:

6.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 2.26-2.30**

N/A

Note: The remainder of this application should not be completed until after a pre-application consultation has been carried out.

7. Details of the pre-application consultation

7.1 Please confirm here that a pre-application consultation been carried out in line with the C&Ps. Please:

- state who conducted the consultation, and the period allowed for it (if less than 28 days, explain the reasons for this); and
- list all parties which were consulted, stating which parties, if any, made representations (other than nil returns) in response and attach their responses and any associated documentation to this form.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any

concerns which they raised. **C&Ps paras 2.35-2.80**

7.2 Resolved issues and changes to the application: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes to the application which have occurred as a result of the consultation. **C&Ps paras 2.69**

7.3 Unresolved issues: please set out any issues raised by consultees that have ***not*** been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you do not think these issues should not stop ORR approving the application. **C&Ps paras 2.69**

8. Certification

Warning: Under Regulation 37 of the Regulations, any person who, in giving any information or making any application under or for the purposes of any provision of the Regulations, 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
C&Ps paras 5.18

I certify that the information provided in this form is true and complete to the best of my knowledge and that the facility owner and the beneficiary are willing to enter into the attached contract as submitted

<u>HS1 Limited</u>	<u>Train Operator</u>
Signed:	Signed:
Date:	Date:

OFFICE OF RAIL REGULATION
ONE KEMBLE STREET, LONDON, WC2B 4AN

Switchboard 020 7282 2000 • Fax 020 7282 2043 • Website www.rail-reg.gov.uk

Form **P**

Name (in caps):

Name (in caps):

Job title:

Job title:

For (company):

9. Submission

9.1 What to send:

Please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or documents) and any other attachments, supporting documents or information. **C&Ps paras: 2.31-2.34**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps paras: 2.31-2.34**

9.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

ORR HS1 Passenger Form P January 2013