



**HS1 Template
Framework Track Access Agreement
Freight Services**

19 March 2013

**FRAMEWORK TRACK ACCESS AGREEMENT
FOR FREIGHT SERVICES**

Dated

[]

Between

HS1 LIMITED

and

[]

THIS AGREEMENT is made the [] day of [] 20[]

BETWEEN:

- (1) HS1 Limited, a company registered in England and Wales under number 03539665 having its registered office at 12th Floor, One Euston Square, 40 Melton Street, London NW1 2FD ("**HS1 Ltd**"); and
- (2) [], a company registered in [] under number [] having its registered office at [] (the "**Train Operator**").

WHEREAS:

- (A) HS1 Ltd is the owner of HS1; and
- (B) HS1 Ltd has agreed to grant to the Train Operator permission to use certain track comprised in HS1 on the terms and conditions of the Contract.

IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

- 1.1 In this Agreement, the "Terms" means the HS1 Freight Access Terms being at the date of this Agreement the edition of the HS1 Freight Access Terms dated [*insert*].
- 1.2 This Agreement shall be interpreted in accordance with the HS1 Network Code and the Terms, for which purpose terms defined therein shall have the same meaning in this Agreement, unless this Agreement expressly provides to the contrary.
- 1.3 Save to the extent expressly provided to the contrary, references to "the Contract" shall include this Agreement (including the Schedules to this Agreement), the Terms, the HS1 Network Code and the HS1 Operational Codes and a reference to a Schedule to the Contract shall be construed to mean a Schedule to this Agreement.
- 1.4 Reference to HS1 Ltd and the Train Operator is to their respective successors and permitted assigns.
- 1.5 In this Agreement, the singular shall include the plural and vice versa.

2. TERMS, HS1 NETWORK CODE & HS1 OPERATIONAL CODES

2.1 Incorporation

The Terms, the HS1 Network Code and each of the HS1 Operational Codes are incorporated in and form part of this Agreement.

2.2 Modifications to the Terms, the HS1 Network Code & the HS1 Operational Codes

If the Terms, the HS1 Network Code and/or the HS1 Operational Codes are modified at any time, this Agreement shall have effect with the modification from the date that such modification comes into force.

2.3 Compliance by other operators

HS1 Ltd shall ensure that all operators of trains having permission to use any track comprised in HS1 agree to comply with the HS1 Network Code and each of the HS1 Operational Codes.

3. INDEMNITY

- 3.1 If the Standard Specified Equipment (as defined in Schedule 5) has satisfied to a qualified extent the requirements of the relevant HS1 Standards in relation to its compatibility with HS1, the Train Operator shall indemnify and hold HS1 Ltd harmless against all costs, losses (including loss of profit and revenue), expenses, payments, damages, liabilities, interest and the amounts by which rights or entitlements to amounts are reduced (including without limitation any of the aforementioned which are incurred by the person appointed by HS1 Ltd to operate and maintain HS1 from time to time) which arise as a consequence of the Standard Specified Equipment (as defined in Schedule 5) satisfying to a qualified extent the requirements of relevant HS1 Standards in relation to its compatibility with HS1.
- 3.2 The indemnity contained in Clause 3.1 of this Agreement shall extend to any of HS1 Ltd's costs, losses (including loss of profit and revenue), expenses, payments, damages, liabilities, interest and the amounts by which rights or entitlements to amounts are reduced (including without limitation any of the aforementioned which are incurred by the person appointed by HS1 Ltd to operate and maintain HS1 from time to time), which are increased as a consequence of the Standard Specified Equipment (as defined in Schedule 5) satisfying to a qualified extent the requirements of relevant HS1 Standards in relation to its compatibility with HS1.

4. MOVEMENTS OF TRAINS ONTO AND/OR OFF HS1

- 4.1 In order that railway vehicles under the control of the Train Operator be promptly:

- (a) accepted off HS1; and/or
- (b) presented onto HS1,

the Train Operator shall ensure that in respect of each Nominated Location suitable access has been granted to it in relation to such Nominated Location by the facility owner and/or infrastructure manager in respect of the relevant facility and/or network connected to HS1 at the Nominated Location.

- 4.2 Where railway vehicles under the control of the Train Operator will move onto and/or off HS1, the parties shall ensure that in respect of each Nominated Location they will facilitate (to the extent that they are able) the prompt presentation of such railway vehicles onto and/or off HS1.
- 4.3 For the purposes of this Clause 4, “**Nominated Location**” shall mean, in relation to a Service, any such location where railway vehicles operating that Service under the control of the Train Operator will move onto and/or off HS1.

5. PRECEDENCE OF DOCUMENTS

- 5.1 In the event of any discrepancy, inconsistency, divergence or anomaly arising between the provisions of the Contract, the order of priority shall be as follows, save where expressly provided to the contrary:
- (a) first, the HS1 Network Code;
 - (b) second, this Agreement;
 - (c) third, the Terms; and
 - (d) fourth, the HS1 Operational Codes.

6. SCHEDULES TO THIS AGREEMENT

6.1 Schedules 1 to 6 (inclusive) to this Agreement shall have effect.

SCHEDULE 1: CONTRACT PARTICULARS

1. HS1 Ltd's address for service of notices is:

HS1 Limited
12th Floor
One Euston Square
40 Melton Street
London
NW1 2FD

All written notices to be marked:

"URGENT: ATTENTION []"

2. The Train Operator's address for the service of notices is:

[]

All written notices to be marked:

"URGENT: ATTENTION []"

3. The Secretary of State's address for the service of notices is

The Secretary of State
Department for Transport
33 Horseferry Road
London SW1P 4DR

4. Commencement Date: []

5. Expiry Date: []

SCHEDULE 2: THE ROUTES

[To be inserted]

SCHEDULE 3: COLLATERAL AGREEMENTS

1. The CTRL Claims Allocation and Handling Agreement and the agreement under which the Train Operator agrees to become a party to the CTRL Claims Allocation and Handling Agreement.
2. The Disputes Resolution Agreement dated 18 February 1999 between the Secretary of State for the Environment, Transport and the Regions; London & Continental Railways Limited; Railtrack Group Plc and others as amended pursuant to a Deed of Amendment and Restatement between HS1 Limited, The Secretary of State for Transport, Network Rail Infrastructure Limited and others dated 16 December 2010 ("**Disputes Resolution Agreement**"), and the agreement under which the Train Operator agrees to become a party to the Disputes Resolution Agreement.
3. [The Direct Agreement between the Secretary of State for Transport, the Train Operator and HS1 Ltd with respect to the Contract.]

[Note: Include 3 if applicable.]

SCHEDULE 4: TRACK CHARGES

PART 1

Other Services Charge

[]

PART 2

A	B	C	D	E	F	G
Service Group	Vehicle Category	Relevant Distance (Kilometres)	DI Costs OMRCA1	DI Costs OMRCA2	OMRC Discount Factor	Capacity Reservation Charge Multiplier
Freight night services – [Origin] to [Destination]						

SCHEDULE 5: THE SERVICES AND THE SPECIFIED EQUIPMENT

1. Definitions

1.1 In this Schedule, unless the context otherwise requires:

- “Access Proposal”** has the meaning ascribed to it in Part D of the HS1 Network Code;
- “Catalogue Path”** means a Train Slot reserved for the operation of a freight service, as established in accordance with the processes for reviewing the Engineering Access Statement set out in Part D of the HS1 Network Code and published by HS1 Ltd from time to time;
- “Contingent Right”** means a right under this Schedule 5 which is not a Firm Right and which is subject to the fulfilment of all Access Proposals in respect of competing Firm Rights and any additional contingency specified in this Schedule 5;
- “Contingent Train Slot”** means a Catalogue Path to which the Train Operator has Contingent Rights under the Contract as specified in Table 2.1;
- “Dollands Moor Boundary”** has the meaning ascribed to it in Schedule 2;
- “Firm Right”** has the meaning ascribed to it in Part D of the HS1 Network Code;
- [“Intermodal Wagons”]** [means railway vehicles which convey goods in fully enclosed and sealed containers or compartments;]
- “Night”** means:
(i) the period from 2330 to 0700; and
(ii) for the purposes of establishing any additional freight train paths which may be available on HS1 under paragraph 2.2 of this Schedule and where agreed by HS1 Ltd and the Train Operator (each acting reasonably), the period which falls [45] minutes either side of those periods set out in paragraph (i) of this definition;
- “Operating Constraints”** means:
(a) the Engineering Access Statement;
(b) the Timetable Planning Rules; and
(c) the Working Timetable and all appendices to the Working Timetable including the sectional appendices as defined in the Working Timetable and all supplements to the sectional appendices;
- “Ripple Lane Boundary”** has the meaning ascribed to it in Schedule 2;

“Timetable Planning Rules”	has the meaning ascribed to it in Part D of the HS1 Network Code;
“Engineering Access Statement”	has the meaning ascribed to it in Part D of the HS1 Network Code;
“Single Line Working”	means the movement of the Services on one line of HS1 in accordance with the relevant provisions of the Rule Book (as updated from time to time) whilst one line (or a section of one line) is closed to traffic;
“Train Operator Variation”	has the meaning ascribed to it in Part D of the HS1 Network Code;
“Standard Specified Equipment”	means, in respect of any Service, the Specified Equipment referred to in paragraph 3;
“Timetable Week”	has the meaning ascribed to it in Part D of the HS1 Network Code
“Timetable Year”	has the meaning ascribed to it in Part A of the HS1 Network Code;
“Week Night”	means any Night, falling within a Timetable Week, which does not commence on a Saturday or a Sunday; and
“Working Timetable”	has the meaning ascribed to it in Part A of the HS1 Network Code.

1.2 Unless otherwise stated, where in this Schedule a period is expressed to be between two specific times that period shall be inclusive of both such times.

1.3 With respect to the Services and for the purposes of Table 2.1 below, the following convention shall be used to denote days of the week:

M	means a Night commencing on a Monday;
T	means a Night commencing on a Tuesday;
W	means a Night commencing on a Wednesday;
Th	means a Night commencing on a Thursday; and
F	means a Night commencing on a Friday.

2. Firm Train Slots

Table 2.1: Firm Train Slots

1		2				
Description:		Firm Train Slots				
From	To	M	T	W	Th	F
[Dollands Moor Boundary]	[Ripple Lane Boundary]					
[Ripple Lane Boundary]	[Dollands Moor Boundary]					

- 2.1 The Train Operator has Firm Rights to the number of Catalogue Paths in the Working Timetable as listed against each Service specified in Table 2.1 under the heading “Firm Train Slots” specified in Table 2.1 and on the Nights so listed.
- 2.2 The Train Operator has a Contingent Right to such other Catalogue Paths and/or any additional freight Train Slots at Night which may be available from time to time which (in either case) is not the subject of an Access Proposal or a Train Operator Variation which has been accepted by HS1 Ltd.
- 2.3 When submitting an Access Proposal or Rolled Over Access Proposal or a Train Operator Variation for a Catalogue Path or any additional freight Train Slot, the Train Operator shall provide reasonable supporting evidence that it will operate a Service using such Train Slot. HS1 Ltd shall be entitled to reject any such Access Proposal or Rolled Over Access Proposal or Train Operator Variation unless the Train Operator has provided such reasonable supporting evidence and HS1 Ltd (acting reasonably) is satisfied that the Train Operator will operate a Service using such Train Slot.
- 2.4 HS1 will be closed every year from 23:00 hours on 24 December to 02:40 hours on 26 December and, save as otherwise agreed in writing, the Train Operator shall not have rights to operate Services during this period.
- 2.5 HS1 will be closed on Nights other than Week Nights and, save as otherwise agreed in writing, the Train Operator shall not have rights to operate Services at such times.
- 2.6 The Services will be subject to Single Line Working and timetabled in accordance with the relevant restrictions as required by the HS1 Standards (as updated from time to time).

3. Standard Specified Equipment

Standard Specified Equipment

- 3.1 The Train Operator has Firm Rights to operate [class [] locomotives] which have been modified for use on HS1, [together with Intermodal Wagons] (the “**Standard Specified Equipment**”) in accordance with the Operating Constraints. Any Standard Specified Equipment may not be used until and unless the necessary route clearance has been obtained.

4. Special Conditions

- 4.1 The Train Operator shall comply with any special conditions applied by HS1 Ltd to the operation of the Standard Specified Equipment.

SCHEDULE 6: PERFORMANCE REGIME

A	B	C	D	E	F	G	H	I
Traffic Type	HS1 Poor Performance Threshold (average delay per train expressed in minutes)	Payment Rate (per minute of average delay)	HS1 Good Performance Threshold (average delay per train expressed in minutes)	Bonus Payment Rate (per minute of average delay)	Cancellation Minutes	Train Operator's Performance Benchmark (average delay per train expressed in minutes)	HS1 Ltd Performance Benchmark	TOC on TOC Receipt Benchmark
Freight – night services								

IN WITNESS whereof the duly authorised representatives of HS1 Ltd and the Train Operator have executed this Agreement on the date first above written.

Signed by

Print name

Duly authorised for and on behalf of

HS1 LIMITED

under a power of attorney dated []

Signed by

Print name

Duly authorised for and on behalf of

[]