

**Steve Jones**

Access and Licensing  
Email: [steve.jones@orr.gov.uk](mailto:steve.jones@orr.gov.uk)



21 April 2021

Sarah Whitman  
Customer Manager  
Network Rail Infrastructure Limited  
By email:

Chris Matthews  
Track Access Manager  
Freightliner Heavy Haul Ltd  
By email:

Dear Sarah and Chris

**Amendment of a track access contract between Network Rail Infrastructure Limited (Network Rail) and Freightliner Heavy Haul Ltd: Ninth Supplemental Agreement.**

1. On 21 April 2021 the Office of Rail and Road (**ORR**) approved the Ninth Supplemental Agreement (**SA**) to the track access contract (**TAC**) between Network Rail Infrastructure Limited (**Network Rail**) and Freightliner Heavy Haul Limited (**FHHL**) under section 22 of the Railways Act 1993 (**the Act**), submitted to us on 20 April. This letter sets out the reasons for our decision.

**Background**

2. This Supplemental Agreement creates 28 additional one-hour window firm rights; the surrender of 37 firm rights and amendment of 65 rights to better reflect current operations and working timetable slots. These reflect the actual services which FHHL inherited from DB Cargo Ltd when it won the contract with Mendip Rail to transport aggregates traffic, primarily between Somerset and Acton and other destinations in the South East.
3. This SA contains those services where agreement was reached between NR & FHHL for Mendip Rail rights. Disputed rights have been submitted to ORR as a Section 22A application (the 10<sup>th</sup> SA). Although FHHL only took over the contract to run Mendips aggregates traffic in November 2019, that traffic has run on the British Rail network since the 1970's. In line with aggregates rail freight generally, this traffic has grown steadily over the past 20 years and is strategically important to the construction sector in London.
4. All rights sought in the proposed supplemental agreement have WTT paths offered in the December 2020 working timetable. All rights in this application have met NR's threshold's for performance and are to run to 2026 and do not require heavy axle weight dispensations.

**Consultation**

5. Industry consultation took place between 23 October 2020 and 23 November 2020. There were no unresolved issues with this SA.



## **ORR Decision**

6. This application is under section 22 of the Act and therefore is agreed between the parties and there are no outstanding issues. Therefore, we are content to approve this agreement.
7. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
  - (i) to protect the interests of users of railway assets;
  - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
  - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
  - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
8. Under clause 18.2.4 of the TAC, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and FHHL. I look forward to receiving the conformed copy.

Yours sincerely

*S Jones*

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