

DRAFT

Twenty Eighth Supplemental Agreement

between

Network Rail Infrastructure Limited

and

Freightliner Heavy Haul Limited

relating to

The amendment of a track access agreement

THIS TWENTY EIGHTH SUPPLEMENTAL AGREEMENT is dated
and made

BETWEEN:

- (1) NETWORK RAIL INFRASTRUCTURE LIMITED a company registered in England (number 04402220) having its registered office at Waterloo General Office, London, United Kingdom, SE1 8SW ("Network Rail"); and
- (2) FREIGHTLINER HEAVY HAUL LIMITED a company registered in England (number 03831229) having its registered office at 6th Floor The Lewis Building, 35 Bull Street, Birmingham, United Kingdom, B4 6EQ (The "Train Operator").

WHEREAS

- (A) The parties entered into a Track Access Contract (Freight Services) dated 11 December 2016 in a form approved by the Office of Rail and Road ("ORR") pursuant to section 17 of the Act (which track access contract as subsequently amended is hereafter referred to as the "Contract").
- (B) The parties propose to enter into this Twenty Eighth Supplemental Agreement in order to vary the Contract as described below.

IT IS HEREBY AGREED as follows:

1. INTERPRETATION

In this Twenty Eighth Supplemental Agreement:-

- (A) Words and expressions defined in and rules of interpretation set out in the Agreement shall have the same meaning and effect when used in this Twenty Eighth Supplemental Agreement except where the context requires otherwise; and
- (B) "Effective Date" means the date upon which the ORR issues its approval pursuant to Section 22A of the Act of the terms of this Twenty Eighth Supplemental Agreement.

2. EFFECTIVE DATE AND TERM

The amendments to the Agreement as set out in this Twenty Eighth Supplemental Agreement shall have effect from the Effective Date and shall cease to have effect when the Contract shall cease to have effect.

3. AMENDMENTS TO THE AGREEMENT

The Rights Table in Schedule 5 of the Contract shall be amended with the details listed in Annex 1.

4. GENERAL

The parties agree that the Contract, as amended by this Twenty Eighth Supplemental Agreement, shall remain in full force and effect in accordance with its terms, and with effect from and including the Effective Date and during the period in which the amendments made by this Twenty Eighth Supplemental Agreement are to have effect, all references in the Contract to "the Contract", "herein", "hereof", "hereunder" and other similar expressions shall, unless the context requires otherwise, be read and construed as a reference to the Contract as amended by this Twenty Eighth Supplemental Agreement.

5. LAW

This Twenty Eighth Supplemental Agreement shall be governed by, construed and given effect to in all respects in accordance with English Law.

6. COUNTERPARTS

This Twenty Eighth Supplemental Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

7. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No person who is not a party to this Twenty Eighth Supplemental Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Twenty Eighth Supplemental Agreement.

IN WITNESS WHEREOF Network Rail and the Train Operator have, by their duly authorised representatives, respectively entered into this Twenty Eighth Supplemental Agreement on the date first above written.

SIGNED by

for and on behalf of
NETWORK RAIL INFRASTRUCTURE LIMITED

SIGNED by

for and on behalf of
FREIGHTLINER HEAVY HAUL LIMITED