

**Timetable Panel Paper  
Reference 'TTP257'**

**FIRST GB AND NETWORK RAIL JOINT REFERENCE TO TTP257**

**IN THE MATTER OF A REFERENCE TO THE TIMETABLING PANEL  
ENTITLED TTP257**

**1 DETAILS OF PARTIES**

1.1 The names and addresses of the parties to the reference are as follows:-

(a) GB Railfreight Limited whose Registered Office is at 15-25  
Artillery Lane, London E1 7HA ("First GBRf") ("the Claimant");  
and

(b) Network Rail Infrastructure Ltd whose Registered Office is at  
King's Place, 90 York Way, London, N1 9AG ("NR").

(c) First GBRf contact details :

Steve Turner  
Contract Manager  
First GBRf  
15 – 25 Artillery Lane  
London  
E1 7HA

Tel [REDACTED]  
Fax [REDACTED]

Email [REDACTED]

**2 THE PARTIES' RIGHT TO BRING THIS REFERENCE**

2.1 This matter is referred to the Timetabling Panel ("the Panel") for  
determination in accordance with Condition D of the Network Code.

2.2 First GBRf and NR have entered into a Track Access Agreement that  
expires at the Principal Timetable Change Date in December 2016.  
This allows First GBRf to bid and operate freight services on the  
Network. In Clause 5.2 Permission to Use, it states that the parties  
should abide by the Network Code.

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**3 CONTENTS OF REFERENCE**

The Parties have together produced this joint reference and it includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A summary of the issues in dispute in Section 5;
- (c) A detailed explanation of the issues in dispute prepared by the claimant with a paragraph by paragraph response from NR(s) in Section 6;
- (d) Any further issues raised by NR in Section 7;
- (e) The decisions of principle sought from the Panel in respect of legal entitlement and remedies in Section 8; and
- (f) Appendices and other supporting material.

**4 SUBJECT MATTER OF DISPUTE**

- 4.1 This dispute arises from a Spot Bid made by First GBRf and NR's actions following receipt of the Spot Bid.

This dispute arises over interpretation of Condition D4.5.2 of the Network Code.

- 4.2 On 11th November 2008, First GBRF submitted to NR 'First GBRF Bid PELE09PSB000001'.

- 4.3 Informal agreement was reached between NR and First GBRf to extend the response period. Network Rail believes this was agreed within the 5 day response period, however First GBRf are unable to confirm the date.

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- 4.4 On 24<sup>th</sup> November 2008 NR informed First GBRf of clashes within the bid. First GBRf are unable to confirm the date.
- 4.5 By the 24th December 2008, First GBRf had not received a formal response to this bid and wrote to NR advising that as no formal response had been received in accordance with the Network Code Part D, paragraph 4.5.1, these bids are deemed accepted as per Network Code Part D, paragraph 4.5.2.
- 4.6 On 29th December 2008, NR advised that certain pathways were rejected with a commitment to provide further reasoning on the majority of trains. These reasons were clarified by NR on the 5th January 2009 and First GBRf decided to raise the dispute regarding these services.
- 4.7 The main reason that NR provided for the rejection of the paths were two Freightliner services that had also been recently Spot Bid between Ipswich Yard and Felixstowe North.

**5 SUMMARY OF DISPUTE**

- 5.1 It would be unfair for First GBRf to raise this dispute without acknowledging the efforts that both parties have put into trying to amicably resolve the issue. However both parties feel that the process is being frustrated as a consequence of the facts set out below.
- 5.2 The cause of this dispute relates to a Rolling Spot Bid ('RSB') made by First GBRf to NR for paths in connection with additional services between Hams Hall and Felixstowe and related ancillary moves (known as the '27th train' at Felixstowe). First GBRf submitted its bid (reference PELE09PSB000001) on 11th November 2008.
- 5.3 First GBRf has invested considerable time and effort during early 2008 working with Felixstowe Docks & Railway Company ( FDRC ) in analysis of container and rail movements within the Port and on the

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branch line. As a result of this work another loading slot was identified within the port to allow rail movements from Felixstowe to increase.

- 5.4 This work culminated in a letter to freight operators by FDRC dated 4th August 2008 ( see Appendix A ) asking operators to submit a business case to be awarded the '27th Train' from Felixstowe Docks.
- 5.5 All operators had to submit a business case by the 1st September 2008 to allow FDRC to select the successful operator.
- 5.6 On 31<sup>st</sup> October 2008, FDRC selected First GBRf as the successful operator and they were awarded the '27th slot' from Felixstowe ( see Appendix B ).
- 5.7 Once First GBRf had been awarded the loading slot on the 31<sup>st</sup> October 2008, it completed the timing work and submitted a spot bid to NR for the pathways on the 11<sup>th</sup> November 2008.
- 5.8 These bids were made into what appeared to be white space as 4R60 and 4R61 did not exist in either Trainplan or TRUST for the December 2008 Working Timetable, as the December 2008 rollovers were being processed in parallel to First GBRf making their submission.
- 5.9 Paths sought were as follows:
- 0R03 09:53 MO Ipswich Yard – Parkeston CS
- 4R03 11:15 MO Parkeston CS – Felixstowe North
- 4L02 04:39 MSX Hams Hall – Felixstowe North
- 4L02 04:39 04:50 SO Hams Hall – Felixstowe South
- 4M02 16:41 SX Felixstowe North – Hams Hall
- 4A03 09:00 SO Felixstowe South – Parkeston CS
- 0E03 11:15 SO Parkeston CS – Peterborough Shed

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- 5.10 First GBRf has made its bid pursuant to Schedule 5 of its Track Access Agreement, under the general provisions for spot bids contained therein. This, in common with other Freight Track Access Agreements, permits Spot Bids to be made, and run, for up to six months, during which period it is expected that an application will be made to ORR for Firm Contractual Rights.
- 5.11 Unbeknown to First GBRf on 22<sup>nd</sup> August Freightliner Intermodal also submitted a spot bid to operate a service between Ipswich Yard and Felixstowe North into the May 2008 Working Timetable.
- 5.12 This spot bid was 'rolled over' by NR into the December 2008 Working Timetable, and thus rendered the 27th slot on the docks unworkable.
- 5.13 The paths are :
- 4R60 11:46 SX Ipswich Yard to Felixstowe North
- 4R61 16:43 SX Felixstowe North to Ipswich Yard
- 5.14 In the recent Section 22 application made by Freightliner Intermodal, Freightliner included a request for both 4R60 and 4R61 to become Level 1 rights within its Schedule 5.
- 5.15 When this was consulted by NR with other operators both FDRC ( see Appendix D ) and First GBRf objected to these trains being included as they render the new 27th slot at Felixstowe unworkable and thus stop this new commercial First GBRf service from running.
- 5.16 Throughout this period conversations took place between the parties however NR and First GBRf have been unable to secure Freightliner's agreement to relinquish the timetable slots for 4R60 and 4R61.
- 5.17 Ralph Goldney, Deputy Managing Director, First GBRf raised this matter with Peter Maybury, Managing Director, Freightliner Intermodal, on the 18th December 2008 asking for Freightliner's co-operation in resolving the pathway issue for the 27th train. Peter Maybury agreed to review.

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- 5.18 As it appeared that Freightliner were only actually using this SX path on each Friday, First GBRf also requested Freightliner to release the capacity on a FX basis to allow the 27th train to commence operation whilst a longer term solution was reached ( see Appendix C ).
- 5.19 Freightliner has since refused this request.
- 5.20 Ralph Goldney again contacted Peter Maybury on the 22nd December 2008 for an update and was advised that there would be no response until after Christmas.
- 5.21 Ralph Goldney contacted Peter Maybury on 8th January 2009 and Peter Maybury advised that Freightliner would not agree to First GBRf using the slots between Ipswich and Felixstowe on any day of the week.
- 5.22 Investigations reveal that Freightliner was using the pathways between Ipswich and Felixstowe on a Friday only basis. This is achieved by 4L89 22:00 SX Coatbridge FLT to Felixstowe North being terminated at Ipswich Yard at 11:17 to forming 4R60 11:46 Ipswich Yard to Felixstowe North and 4S88 16:07 Felixstowe North to Coatbridge FLT starting right time from Ipswich Yard at 17:44 after being formed by 4R61 16:43 Felixstowe North to Ipswich Yard.
- 5.23 Therefore both 4S88 and 4L89 are actually using two timetable slots over the Network without being 'Y' services. This prevents NR from using the 'use it or lose it' conditions within contracts to withdraw the pathways from Freightliner.
- 5.24 NR made a partial offer on 29th December 2008 in respect of that bid, and First GBRf is dissatisfied that NR has been unable to implement the slots requested to its satisfaction.
- 5.25 The paths requested were offered on 29<sup>th</sup> December were as above, with the following exceptions:
- 4R03 MO was offered between Parkeston and Ipswich only

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4L02 MSX was offered between Hams Hall and Ipswich only

4M02 SX was not offered

4R03 MO / 4L02 MSX were not offered due to the presence of 4R60 11:46 SX Ipswich to Felixstowe North Freightliner Intermodal service

4M02 SX was not offered due to 4R61 16:43 SX Felixstowe North – Ipswich Freightliner Intermodal service, and also due to a clash at Wembley Central with 2K21 London Midlands service and also 4S83 Freightliner service. Work is being undertaken to find an alternative solution to the latter problem.

- 5.26 First GBRf disputed the offer made on the basis that the offer was later than stipulated in the Network Code and so that the paths bid should be deemed accepted in accordance with Condition D4.5.2. NR contends that agreement was reached with First GBRf to extend the review period to enable further investigations and that it has made reasonable endeavours to accommodate First GBRf's requirements. Unfortunately no solution can be found without contradicting other provisions of the Network Code.
- 5.27 In TTP10 ( Dispute between EWS & NR over access to Willesden Princess Royal Distribution Centre, held 9<sup>th</sup> June 2005 ), paragraph 20.2, the Panel concluded that 'NR in the discharge of its responsibilities for the efficient management of the Timetabling process in accordance with the provisions of Part D of the Network Code, can, and does, exercise its discretion in the securing of Train Slots against identified traffic prospects and "expectations of rights" in accordance with Condition D6(h)'.
- 5.28 First GBRf contend that whilst Train Slots can be secured against identified traffic prospects, should the party not be successful in securing that traffic, then the relevant Train Slots should be assigned to

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the successful operator of that traffic. First GBRf believe this is confirmed by Network Code Decision Criteria parts ( c ), ( k ) and ( m ).

5.29 Also the Model Freight Track Access Contract, used as the basis for Freightliners Track Access Contract, paragraph 6.4.1. states :

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

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

the Train Operator shall ensure that in respect of each Nominated Location suitable access rights has been granted to it in relation to such location by the party which controls the relevant facility connected to the Network at the Nominated Location.'

5.30 First GBRf believe that this paper demonstrates that both parties believe no such access has been granted in respect of 4R60 and 4R61 by FDRC.

5.31 Chronological table of events :

Date	Item	Comment
4th Aug 2008	FDRC issue ITT identifying 27th slot	
22nd Aug 2008	Freightliner submit bids to NR for 4R60 and 4R61	Verbally advised by NR
1st Sep 2008	Final date for operators to submit bids to FDRC	
8th Sep 2008	Freightliner granted 4R60 and 4R61 pathways by NR	Verbally advised by NR
31 <sup>st</sup> Oct 2008	FDRC formally advise First GBRf that they have been awarded the 27th slot	
10th Nov 2008	First GBRf submit bid PELE09PSB000001 to NR	



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14 <sup>th</sup> November 2008	Informal agreement reached between NR and First GBRf to extend the review period due to high level of December 2008 rollovers.	First GBRf unable to confirm date
24 <sup>th</sup> November 2008	NR advise First GBRf of conflicts between First GBRf spot bid and paths 4R60 and 4R61	First GBRf unable to confirm date
29th Dec 2008	NR reject pathways	
5th Jan 2009	NR provide clarifications for each rejection	
7th Jan 2009	First GBRf raise dispute	

5.32 We therefore find ourselves in a situation where the Facility Owner (FDRC) has awarded a loading slot to an operator (First GBRf) by competitive tender and a party (Freightliner) has bid timetable slots only to find that they have not been awarded the loading slot. With no contractual mechanism that allows NR to alter the operator of the slots on the Network without coming to Timetable Committee, this situation prevents the growth of First GBRf and more importantly prevent the growth in services from the UK's primary deep sea container port.

## **6 EXPLANATION OF EACH ISSUE IN DISPUTE WITH RESPONSE**

### **6.1 Issue 1 by Claimant.**

NR did not respond to First GBRf bid as required by the Network Code Part D paragraph 4.5.1.

### **6.2 Response to Issue 1 by Respondent.**

6.2.1 NR agreed an extension of the response timeframe with GBRf on 14<sup>th</sup> November 2008 (First GBRf is unable to confirm the date). Additionally NR informed all customers that there were delays in responding to all

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companies' RSBs within the 5 day period in an email of 20 November 2008. This was due to bids from the previous timetable still being rolled forward, following the substantial changes made in the December 2008 timetable. NR undertook an initial review of First GBRf's bid in order to determine whether the path would work on the Felixstowe branch, and also other ancillary moves. This identified a number of issues with the ancillary services which have been subsequently resolved. At this stage it was clear that there was a direct clash on the Felixstowe branch with Freightliner Intermodal services 4R60 and 4R61 as detailed above.

- 6.2.3 4R60/61 are Freightliner Intermodal services, that were bid as additional slots on 14th August 2008 and accepted into the working timetable with effect from 8th September 2008, and rolled into subsequent timetables.
- 6.2.4 First GBRf were notified of this (verbally) on 24th November 2008 and were asked to negotiate with Freightliner to take over these slots, as per the provisions of National Rules of the Plan (paragraph 1.12.2 refers). First GBRf are unable to confirm this date.
- 6.2.5 In order to ascertain its position, First GBRf requested information as to whether Freightliner had Firm Contractual Rights for 4R60/61, whether 4R60/61 were being used and whether Freightliner had access to the third-party terminal at Felixstowe North
- 6.2.6 In response to these point, it was found that no Firm Contractual Rights were held, the paths were being used on Fridays only and Freightliner had not formally requested terminal access for additional services.
- 6.2.7 In the first point, it is noted that Freightliner had bid for paths under its right to do so under the general provisions of its contract (similar to all FOCs), and that a Section 22 application for Firm Contractual Rights has been made since the date of its RSB.
- 6.2.8 Secondly, 4R60/61 is being used on Fridays only to convey traffic that would otherwise be conveyed on 4L89/4S88. 4L89 is scheduled to

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arrive at Felixstowe North terminal 15 minutes later than 4R60, and 4S88 is scheduled to depart Felixstowe North terminal 36 minutes earlier than 4R61.

6.2.9 On the third point, when asked, the Port of Felixstowe noted that it was unaware that Freightliner had made alternative arrangements for its 4L89/4S88 traffic on Fridays. As there are frequent examples of early and late running on the Felixstowe branch, together with the use of alternative reporting numbers, it had not specifically noticed that Freightliner was using 4R60/61 instead of 4L89/4S88 paths.

6.2.10 At a meeting on 17th December at Felixstowe between Port of Felixstowe and NR (convened to discuss general issues regarding the Felixstowe branch), the Port indicated that it was expecting First GBRf to operate trains to/from Felixstowe in respect of the 27th train in broadly the timings of 4R60/61.

6.2.11 In discussion with First GBRf on 24 December, it was noted that negotiations with Freightliner had not succeeded, so a partial offer was made to GBRf on 29th December, as described in 5.22 above.

6.3 Issue 2 by Claimant.

NR has not agreed to accept the bids as required by the Network Code Part D paragraph 4.5.2.

6.4 Response to Issue 2 by Respondent.

6.4.1 In this case the 5-day response time specified in the Network Code was not adhered to in respect of a formal acceptance or rejection of the bid. As described in this paper a number of actions were taken to enable First GBRf to address the clashes in services.

1. First GBRf were informed at the earliest opportunity of the problem with the Felixstowe branch paths
2. the provision of more time was agreed between First GBRf and NR to enable First GBRf to negotiate with Freightliner.

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Both parties recognise that a firm completion date was not agreed.

3. general delay in responding to all December 2008 RSBs (as advised to all customers by OPSU on 20/11/08)

6.4.2 In circumstances where the 5-day response time is not adhered to, for whatever reason, it is normally the practice to negotiate with the FOC concerned in order to affect a solution. In this case, NR has taken reasonable endeavours to find a solution satisfactory to First GBRf.

6.4.3 The following steps were taken: an assessment of whether the paths could be put into the Working Timetable as bid; an assessment of whether alternative paths were available; consideration of whether the provisions of the Network Code Part J could be invoked.

6.4.4 NR finds itself unable to satisfy the original bid, as to put the slots between Ipswich and Felixstowe into the Working Timetable pursuant to Condition D4.5.2 would give rise to a conflict in the Working Timetable. This contradicts the provisions of Condition D4.5.1(e)(ii), and would run the risk of two operators attempting each to run a service in the same slots and the delays this could cause.

6.4.5 NR and First GBRf were unable to identify any alternative slots between Ipswich and Felixstowe that could reasonably match the loading slots made available at Felixstowe North terminal.

6.4.6 The Network Code Part J does not appear to provide for a solution to this case. As Freightliner Intermodal does not yet hold any Firm Contractual Rights corresponding to 4R60 and 4R61, and also uses each slot on a Friday, none of the scenarios contained within Part J appear to be applicable in order to either serve notice to transfer rights or enact the 'Use It Or Lose It' mechanism.

6.4.7 While it would seem appropriate that First GBRf - having been awarded a contract to run the services by the Port of Felixstowe, and secured

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appropriate access to the third party terminal at Felixstowe - should be allocated the corresponding slots on the Felixstowe branch, NR is unable to do so, as the slots have been allocated to Freightliner as the result of an earlier Spot Bid. While Freightliner has applied for Firm Contractual Rights for 4R60/61, even if those Rights are not approved, NR is still unable to remove previously-offered paths from an operator. Condition D.4.7.1 states that once an offer of train slots has been made to an operator, then that is binding on both parties. It would then be logical to assume that NR is unable to renege on its earlier offer to Freightliner.

**7 ANY FURTHER ISSUES RAISED**

7.1 None

**8 DECISION SOUGHT FROM THE PANEL**

8.1 The Panel is asked to determine by NR :

whether NR has interpreted the Network Code D4.5 correctly in coming to its conclusions, specifically:

- (a) whether NR is able to enter the slots which GBRf have requested into the Working Timetable, given that this would raise a conflict with Freightliner's 4R60/61.
- (b) whether NR is empowered to remove 4R60/61 from Freightliner.
- (c) if NR is unable to take further action in respect of 4R60/61, whether the Panel is empowered to do so.

8.2 The Panel is asked to determine by First GBRf :

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- (a) to deem all 10 pathways within First GBRf's Rolling Spot Bid PELP09PSB000001 accepted in accordance with Network Code D 4.6.2
- (b) to direct NR to withdraw 4R60 and 4R61 SX pathways as they do not have the required permission from the Facility Owner to occupy the '27<sup>th</sup> slot' at Felixstowe North
- (c) to direct NR to upload the pathways contained within First GBRF's Rolling Spot Bid PELP09PSB000001 in accordance with Network Code D 4.6.3

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**9      SIGNATURES**

For and on behalf of First GBRf

For and on behalf of NR

Signed

Signed

Print name

Print name

Position:    Contract Manager

Position:    Train Planning Manager

Date:        14<sup>th</sup> January 2009

Date:        14<sup>th</sup> January 2009





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**9 SIGNATURES**

For and on behalf of First GBRf

For and on behalf of NR

Signed

Signed

Print name

Print name

Position: Contract Manager

Position: Train Planning Manager

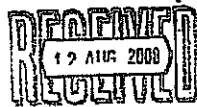
Date: 14<sup>th</sup> January 2009

Date: 14<sup>th</sup> January 2009

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## 10 APPENDICES AND ANNEXES

### APPENDIX A



Port of Felixstowe  
Terminal House, The Dock, Felixstowe  
Suffolk, IP11 3SY United Kingdom  
Tel: [REDACTED]  
Fax: [REDACTED]  
www.portoffelixstowe.co.uk

David Gledhill  
Chief Operating Officer  
Tel: [REDACTED]  
Fax: [REDACTED]

DG123/ZD

4 August 2008

Mr John Smith  
Managing Director  
GB Railfreight Ltd  
1st Floor  
15-25 Artillery Lane  
London  
E1 7HA

Dear John

#### Rail Terminal Capacity for a 27th Train at Felixstowe

I am writing to advise you that following work carried out by our operations team at the Port of Felixstowe we have identified rail terminal capacity on the North Rail Terminal for a train of up to 22 wagons to be serviced between 12:00 and 17:00 approximately. In line with the our Capacity Allocation Principles (see Schedule 3 of the attached document) I am writing to all interested parties to offer the opportunity to submit a business case in support of securing this capacity.

As you will be aware, the large growth in the use of the railway network over the past few years has meant there is increased demand for terminal capacity and with this in mind we are focussing our efforts on maximising the utilisation of our existing infrastructure and train services. In order to bring this into line with industry practices and to help maximise the utilisation of each train slot on our terminals, we are proposing to introduce a new contract for the 27th train. A draft copy of the contract is attached to this letter and it is expected you will submit your business case with the understanding you will operate under these terms and conditions.

Please note this contract will be used for the 27th train and therefore will be in addition to your existing terminal access agreement with the Port of Felixstowe and managed according to the terms within it.

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A Network Rail company

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**APPENDIX A**

( CONTINUED )

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Mr John Smith, GB Railfreight Ltd  
4 August 2008

As part of your business case, I would like to draw your attention to the following points:

- Please clearly state the length of term you require to support your business case.
- Please provide percentage figures for your proposed utilisation of the train path (as mentioned in 10.2 of the draft contract) including the build-up of the volume.
- Please note how utilisation will be measured in section 10.4.

Submitted business cases need to be with us by 10:00, Monday 1st September 2008. If you choose to submit a business case it would be our intention to meet to discuss the details with you shortly after receipt.

It is hoped a decision can be reached by the end of September 2008.

Please do not hesitate to get in touch if you have any questions or concerns.

Yours sincerely



DAVID GLEDHILL  
Chief Operating Officer

cc: Mr Andrew Harston  
Mr Stephen Brodie  
Mr Martin Woor  
Mr Paul Copsey

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### APPENDIX B

David Gledhill  
Chief Operating Officer  
Tel: [REDACTED]  
Fax: [REDACTED]

DG123/ ZD

31 October 2008

Mr Ralph Goldney  
Deputy Managing Director  
First GB Railfreight  
15-25 Artillery Lane  
London  
E1 7HA

Dear Ralph

#### Rail Terminal Capacity for a 27th Train at Felixstowe

Further to your business case submission for a new service between Felixstowe and Hams Hall I am pleased to confirm that having now carried out our evaluation, your application has been successful.

In reaching this decision, among other things, we have taken account of the following factors:-

1. Wagon utilisation as submitted in your business case of [REDACTED] %.
2. Running of the train [REDACTED] days per week.
3. Minimum revenue guarantee of £[REDACTED] per call.
4. Your commitment from [REDACTED]

In line with your commitment form [REDACTED] the slot on the North terminal is granted on for a 5 year term and is to be based on the draft contract circulated with my letter of the 4<sup>th</sup> August 2008, the final details of which now need to be concluded and signed-off with Martin Woor.

We trust you remain committed to introduction of this service and will work closely with Paul Copsy to ensure its smooth implementation.

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**APPENDIX B**

( CONTINUED )

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Mr R Goldney - First GB Railfreight  
31 October 2008

I hope you will find this acceptable but please do not hesitate to get in touch if you have any questions or concerns.

Yours sincerely

**DAVID GLEDHILL**  
Chief Operating Officer

cc: Mr John Smith  
Mr Martin Woor  
Mr Paul Copsey

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### APPENDIX C

Ralph  
Goldney/GBRailfreight/First  
Group  
18/12/2008 11:05

To [REDACTED]  
cc  
bcc  
Subject 4R60, 4R61

Peter,

Further to our conversation yesterday we have been able to do some further investigation, along with Network Rail. Our understanding of what is happening with these slots is as follows:

Your 4L89 Coatbridge - Felixstowe North service (due to arrive at 13.05) has been retimed to terminate at Ipswich and then take the 4R60 path down the branch, thereby arriving 16 minutes earlier (12.49).

A reciprocal thing is happening with the 4S88 service (Felixstowe North terminal to Coatbridge), with the train retimed to take the 4R61 slot departing at 16.43, rather than its existing departure time of 16.07, giving an additional dwell time at the terminal of 36 minutes.

This is occurring on a Friday only basis.

I would appreciate your comments on the above analysis and if it is correct could I please ask you to work these trains in their Monday to Thursday paths, thereby releasing the branch capacity. We would request that you voluntarily give up these paths (4R60 and 4R61) to enable us to run the additional train for the Port.

I will give you a call later to discuss.

Regards,

Ralph

Ralph Goldney

Deputy Managing Director,  
First GB Railfreight.

~~0207 000 0175~~

GB Railfreight Limited registered in England and Wales No 03707899, registered office:15-25 Artillery Lane London, E1 7HA

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## APPENDIX D



**Hutchison Ports (UK)**

Hutchison Ports (UK) Limited  
Registered in England No. 3484911  
Trading Hours: The Dock, Felixstowe  
Suffolk, IP11 3SY, United Kingdom  
Tel: [REDACTED]  
Fax: [REDACTED]  
www.hpl.co.uk

18 December 2008

Martin Hunt  
Customer Manager Freight  
Network Rail  
Ground Floor, Unit 3  
Carolina Court  
Lakeside  
Doncaster  
DN4 5RA

Dear Martin,

Proposed Freightliner 5th Supplemental Agreement to the Track Access Contract

Thank you for consulting with Hutchison Ports UK (HPUK) on the changes Freightliner are proposing to make to their Track Access Contract. We noted in the commentary and schedule 5 that Freightliner are seeking level 1 rights for the following paths which either start or end at our Rail Terminals in Felixstowe:-

4R60 SX 11:46 IPSWICH SS - 12:50 FELIXSTOWE NORTH FLT  
4R61 SX 16:43 FELIXSTOWE NORTH FLT - 17:17 IPSWICH SS  
4B60 MO (MSX) 06:02 (04:43) IPSWICH SS - 07:05 (05:46) FELIXSTOWE SOUTH FLT  
4R02 MO 12:31 IPSWICH SS - 13:05 FELIXSTOWE NORTH FLT

Please be advised that Freightliner do not have corresponding Terminal Access at our terminal in order to accommodate trains arriving on these paths. In the case of 4R60 and 4R61 the corresponding terminal access has been allocated to First GBRF (headcodes 4L02 and 4M02) following a competitive tender process carried out by the Port of Felixstowe.

In the case of 4B60 and 4R02 no available terminal access has been identified to accommodate trains arriving on these paths.

Please feel free to contact me if you need any further clarification on the above points.

Yours sincerely

STEPHEN BRODIE  
Project Manager - Port Development



A member of the HPH Group  
A Hutchison Wharfedale Company

