

TTP2684 Network Rail Sole Response

1 DETAILS OF PARTIES

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

- (a) GB Railfreight Limited (“GBRf”) – Company Number 03707889 – whose Registered Office is at 62-64 Cornhill, London, EC3V 3NH (“the Claimant”); and
- (b) Network Rail Infrastructure Limited (“NR”) – Company Number 2904587 – whose Registered Office is at Waterloo General Offices, London, SE1 8SW (“the Defendant”).

1.2 Third parties to the dispute may include all Freight Operators, East Midlands Railway, Cross Country Trains, Northern Rail, Trans Pennine Express, London North Eastern Railway, Tyne & Wear Metro, Southeastern, Arriva Rail London, Govia Thameslink Railway, Grand Central, Lumo, Greater Anglia, Hull Trains, Crossrail, Great Western Railway and Heathrow Express.

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2.1 This Response to the Claimant’s Sole Reference includes:

- (a) Confirmation, or qualification, that the subject matter of the dispute is as set out by the Claimant in its Sole Reference, in the form of a summary schedule cross-referenced to the issues raised by the Claimant in the Sole Reference, identifying which the Defendant agrees with and which it disagrees with;
- (b) A detailed explanation of the Defendant’s arguments in support of its position on those issues where it disagrees with the Claimant’s Sole Reference, including references to documents or contractual provisions not dealt with in the Claimant’s Sole Reference;
- (c) Any further related issues not raised by the Claimant but which the Defendant considers fail to be determined as part of the dispute;
- (d) The decisions of principle sought from the Chair in respect of:
 - (i) legal entitlement and (ii) remedies;
- (e) Appendices and other supporting material.

3 SUBJECT MATTER OF DISPUTE

3.1 NR acknowledges that GBRf is in receipt of four December 2025 Working Timetable (WTT) Train Slots that do not meet with their expectations. The Train Slots in question were accurately described by GBRf and are:

6D67	(SX)	17:54	Hunslet Tilcon GBRf – Rylstone Tilcon (GBRf)	21:10
6H55	(SX)	16:22	Tyne Coal Terminal GBRf – Drax AES (GBRf)	20:19
6L34	(SX)	19:48	Hoo Junction Up Yard – Whitemoor Yard LDC GBRf	00:50
6V96	(FSX)	17:43	Dereham UKF – Didcot T.C.	00:36

- 3.2 NR agrees that the application of the Firm Rights of **6D67** and **6H55** is a matter of dispute. NR considers it appropriate to clarify the extent to which the Firm Rights for 6D67 and 6H55 *have* been applied in the December 2025 WTT and does so in Section 4 of this paper.
- 3.3 NR confirms it has allocated to GBRf a later-arriving Train Slot for **6L34** that is not compliant with the National Timetable Planning Rules, the relevant parts of which GBRf has provided in its Appendix B. NR confirms that 6L34 is a NR Network Services Train.
- 3.4 In answer to the Hearing Chair’s Second Directions, NR confirms that 6L34 is operated on behalf of NR under its Supply Chain Operations (SCO) infrastructure services contract with GBRf. At the time of writing, NR is not able to confirm any relevant provisions within this contract specific to 6L34 – this matter is being investigated but it is not believed any relevant provisions exist.
- 3.5 NR confirms that, different to many other SCO infrastructure services, the routing of 6L34 is not critical inasmuch as the service does not undertake location-specific maintenance, renewal or upgrade activities along its booked route – though 6L34 must reach Whitemoor Yard LDC by a route cleared for its varying vehicles. For clarity, the purpose of 6L34 is to transport wagons and equipment which do subsequently participate in infrastructure services activities after arrival at Whitemoor Yard LDC.
- 3.6 NR confirms it has offered to GBRf a Wednesday Only (WO) Train Slot for **6V96** when GBRf had bid to obtain a Train Slot for Monday-Thursday (FSX). NR confirms that GBRf holds Firm Rights to operate the 6V96 slot Monday-Friday (SX), within Departure and Arrival Windows that both span 24 hours (i.e. 00:00 – 24:00).
- 3.7 Schedule 5 of GBRf’s Track Access Agreement (i.e. the Rights Table) was last updated before the December 2025 timetable development period – on 12 February 2025. For 6D67, 6H55 and 6V96, the relevant version “56” of GBRf’s Schedule 5 Rights Table is consistent with the version of its Firm Rights provided by GBRf in its Appendix A. For clarity, 6L34 does not appear in GBRf’s Schedule 5 Rights Table.
- 3.8 NR considers that Network Code Part D4.2 and D4.6, and the National Timetable Planning Rules, are relevant in this dispute matter.

4 EXPLANATION FROM THE DEFENDANT’S PERSPECTIVE OF EACH ISSUE IN DISPUTE

Issues where the Defendant accepts the Claimant’s Case

6L34

- 4.1 NR accepts it has allocated to GBRf a later-arriving Train Slot for 6L34 that is not compliant with the National Timetable Planning Rules. The December 2025 WTT Train Slot arrives 33 minutes later at Destination than its May 25 WTT predecessor and, in arriving at 00:50, is 6 minutes outside the permitted “*Maximum Variation in departure time, arrival time or of any intermediate point required*” which only allows retiming of the service at Destination within 30 minutes of 00:14.
- 4.2 NR confirms that the next working of 6L34’s wagons and equipment is 6E04 (MX) 02:13 Whitemoor Yard LDC GBRf – Doncaster Up Decoy 05:25, as and when required. Also, 6L34’s locomotive returns with 6O35 (MSX) 01:37 Whitemoor Yard LDC – Hoo Junction Up Yard 07:30. These associations between services are not contractual.

4.3 NR confirms its SCO National Planning Team considers:

- the Turn Around Time of 83 minutes between 6L34 and 6E04 as viable but not desirable
- the Turn Around Time of 47 minutes between 6L34 and 6O35 as potentially viable but not desirable

4.4 NR's SCO National Planning Team will discuss this matter – and its financial implications – further with GBRf. An update will follow at this dispute's hearing on 9 October 2025.

6V96

4.5 NR accepts it has offered to GBRf a Wednesday Only (WO) Train Slot for 6V96 when GBRf had bid to obtain a Train Slot for Monday-Thursday (FSX). NR accepts that GBRf holds Firm Rights to operate the 6V96 slot Monday-Friday (SX), within Departure and Arrival Windows that both span 24 hours (i.e. 00:00 – 24:00). However, NR contends that these Firm Rights *were* considered in its decision not to accommodate 6V96 (FSX) on Mondays, Tuesdays and Thursdays in the December 2025 WTT. This matter is elaborated upon later in this paper, specifically paragraphs 4.11 to 4.18.

Issues where the Defendant qualifies or refutes the Claimant's Case.

6D67 and 6H55

4.6 NR considers it appropriate to clarify the extent to which the Firm Rights for 6D67 and 6H55 *have* been applied in the December 2025 WTT. NR considers it *has* observed the terms of its contract with GBRf in both the 6D67 and 6H55 matter, though notes a contradiction in the terms of that contract.

4.7 Regarding the factual specifics of the 6D67 case:

- GBRf did not state any next workings in its Priority Date Notification Statement (PDNS) submission for the December 2025 WTT, sent on 7 March 2025 (i.e. D-40 bid).
- 6D67's later arrival time of 21:10 in the December 2025 WTT is disputed by GBRf because not enough Turn Around Time exists between 6D67's arrival and the departure of its stated "*next working*" (6D35).
- 6D67's disputed arrival time of 21:10 into Rylstone Tilcon **abides** by the contract's Arrival Window of 20:15 – 21:15.
- 6D35's departure time of 23:44 from Rylstone Tilcon **abides** by the contract's Departure Window of 22:59 – 23:59.
- The time between 6D67's arrival and 6D35's departure is 154 minutes.
- The Minimum Turn Around Time at Destination for 6D67 is listed as "*180***" (minutes) – the 180 minutes **is** part of NR's contract to GBRf.
- The association between 6D67 and 6D35, to which the double asterisk above refers, is listed under the "*Non-contractual comments*" for 6D67 whereby it states: "****Before departure of 6D35*"
- The stated association between 6D67 and 6D35 is **not** part of NR's contract with GBRf.
- NR considers that its abidance to the contract's Arrival and Departure Windows in this case leads to a **contradiction in terms** with the contract's Minimum Turn Around Time at Destination.
- NR notes that the stated association between GBRf's two services is non-contractual information and something which, very purposely, is not guaranteed.

- NR contends it an unintended outcome that Arrival and Departure Windows and Minimum Turn Around Time at Destination combine to create more prescriptive and less flexible access rights, which have the overall effect of (i) diluting the utility of the contract's Arrival and Departure Windows and (ii) limiting NR's overall ability to apply its Flexing Right.
- NR considers it has observed the terms of its contract and notes the contradiction in terms.

4.8 Regarding the factual specifics of the 6H55 case:

- GBRf did not state any next workings in its Priority Date Notification Statement (PDNS) submission for the December 2025 WTT, sent on 7 March 2025 (i.e. D-40 bid).
- 6H55's earlier departure time of 16:22 in the December 2025 WTT is disputed by GBRf because not enough Turn Around Time exists between 6H55's departure and the arrival of its stated "previous working" (6N61).
- 6H55's disputed departure time of 16:22 from Tyne Coal Terminal **abides** by the contract's Departure Window of 16:07 – 17:07.
- 6N61's arrival time of 15:08 into Tyne Coal Terminal **abides** by the contract's Arrival Window of 14:35 – 15:35.
- The time between 6N61's arrival and 6H55's departure is 74 minutes.
- The Minimum Turn Around Time at Origin for 6H55 is listed as "90*" (minutes) – the 90 minutes **is** part of NR's contract to GBRf.
- The association between 6N61 and 6H55, to which the single asterisk above refers, is listed under the "Non-contractual comments" for 6H55 whereby it states: "*After arrival of 6N61*"
- The stated association between 6N61 and 6H55 is **not** part of NR's contract with GBRf.
- NR considers that its abidance to the contract's Departure and Arrival Windows in this case leads to a **contradiction in terms** with the contract's Minimum Turn Around Time at Origin.
- NR notes that the stated association between GBRf's two services is non-contractual information and something which, very purposely, is not guaranteed.
- NR contends it an unintended outcome that Departure and Arrival Windows and Minimum Turn Around Time at Origin combine to create more prescriptive and less flexible access rights, which have the overall effect of (i) diluting the utility of the contract's Departure and Arrival Windows and (ii) limiting NR's overall ability to apply its Flexing Right.
- NR considers it has observed the terms of its contract and notes the contradiction in terms.

4.9 For the record, 6D67 and 6H55 were both flexed during the December 2025 timetable development period to overcome timetable conflicts with other services whilst endeavouring, under Condition D4.2.2, to comply with all Access Proposals submitted to it in accordance with Conditions D2.4 and D2.5. NR considers that it was successful in arriving at a New Working Timetable in alignment with Condition D4.2.2 (a), (b) and (c).

4.10 Noting the aforementioned contradiction in terms, the New Working Timetable offered was consistent with the Firm Rights of GBRf and others, and there was not a contractual requirement to prioritise competing aspirations for inclusion under D4.2.2 (d) or employ the Decision Criteria under Condition D4.6.2.

6V96

4.11 NR is satisfied that it has considered the inclusion of 6V96 into the December 2025 WTT in accordance with the Network Code. From the very outset of the "Stitch" project (see paragraphs 4.21 to 4.24 for details) and through the December 2025 timetable development period, 6V96 faced various timetable conflicts versus other services – our records show 6V96's issues have been reported upon since 8 January 2025 when it was first cited to

GBRf that 6V96 could be one of a number of “GBRf potential non-accommodations”. Subsequent weekly RailTrail reports and Operator Liaison Calls continued to report openly NR’s progress against certain items.

- 4.12 In reaching its final decision to accept the 6V96 schedule into the WTT on Wednesdays but reject it on Mondays, Tuesdays and Thursdays, NR utilised the Decision Criteria under Condition D4.6.2 to ultimately determine that a competing Arriva Rail London (ARL) maintenance service should be included in the WTT ahead of 6V96. The ARL service in question was 5M29 (WSX) 21:46 Ilford E.M.U.D – Willesden T.M.D 22:33 – and in paragraph 5.9 of its SRD, GBRf acknowledge the validation issues between 5M29 and 6V96 at Forest Gate Jn and Stratford. Both trains have Firm Rights for inclusion in the timetable between 00:00 and 24:00 (i.e. 24-hour rights) and had equal priority for inclusion under Condition D4.2.2. Appendix 1 contains confirmation of the ARL Firm Rights for 5M29.
- 4.13 Appendix 1 also contains the Firm Rights status of ARL 2Y28 (SX) 22:06 Stratford – Clapham Junction 23:08. NR mentions this second ARL passenger service as subsequent validation work which has overcome the 5M29 vs 6V96 conflict at Forest Gate Jn, then demonstrated that 6V96 ran into headway issues with 2Y28 at Camden Road East Jn, which also has equal priority for inclusion under Condition D4.2.2. Neither the 5M29 or 2Y28 validation issues can be remedied without significant and unreasonable ripple effects to the rest of the timetable. NR notes that the successful offer of 6V96 on the Wednesday required circa 40 flexes to other services.
- 4.14 Regarding the validation issues facing 6V96, cited at Forest Gate Jn vs 5M29, and then subsequently with 2Y28:

The headway conflict at Forest Gate Jn can be resolved by moving (0’30) from Stratford to Forest Gate Jn. This flex will not affect the Op / Crew stop at Stratford. However, 6V96 then has a further conflict with 2Y28 (SX) 22:06 Stratford – Clapham Junction 23:08. 6V96 is headway deficient with 2Y28 at Camden Road East Jn. It requires 4’ mins as per TPRs and has only 3’ minutes available. Flexing 2Y28 to run early is not possible as it would not have compliant headway margins with 5M29 and there is no scope to move 5M29.

Moving 6V96 by 1’ min at Camden Road East Jn will also not work as following Class 2s and a Class 4 are running on the minimum headway. 6V96 is followed by 2N28, which is followed by 4S60, which again is followed by 2Y29. Flexing all the schedules is not possible as they contain minimum dwell times, or no time to remove, meaning a requirement to retime the whole area in order to establish a solution.

As 6V96 has a 24-hour flexing window, various retiming options have been attempted during the December 2025 timetable development period but unfortunately a compliant path cannot be found throughout. Typically, if 6V96 works in the Anglia region then it does not work in the Western region. Making 6V96 work in the Western region does not give it a compliant path in the Anglia region. Various options of flexing passenger and freight services have been explored but a compliant path still cannot be achieved.

- 4.15 Different validation issues faced 6V96 at other times in the December 2025 preparation and timetable development stages and this is documented by GBRf in paragraph 5.8 of its SRD.
- 4.16 In its treatment of the 6V96 issues, and given the equal priority for inclusion that 5M29 and 6V96 had, NR was required to undertake a Decision Criteria analysis of the merits of 6V96 vs 5M29, which it did so in the December 2025 timetable development period and which it subsequently shared with GBRf on 3 July 2025. Appendix 3 provides evidence of the Decision Criteria analysis and its sharing with GBRf. NR concedes that this Decision Criteria analysis was brief and incomplete, insomuch as the Decision Criteria analysis did not weight any of the relevant Decision Criteria on paper.

- 4.17 For clarity, NR wishes to confirm that its decision gave greatest weight to Decision Criteria limb (b) that the spread of services reflects demand. It is upon this factor that NR made its decision. It was NR's view that 6V96 had no obvious evidence of a demand and had not been operating and that that situation did not necessarily owe to the condition of the off-network Crownthorpe Bridge. Paragraphs 4.19 and 4.20 below elaborate on what NR understood about the utilisation of the 6V96 path by GBRf. Meanwhile 5M29 had evidence of running 1 to 3 times a week, typically Mondays and Thursdays, and understood the service to be critical to the maintenance of ARL's whole fleet. NR has subsequently come to understand that ARL's use of the 5M29 Train Slot will shortly increase in alignment with ARL's wider fleet maintenance plans.
- 4.18 Overall, it was NR's view that a demand existed for 5M29 but not 6V96, for which there was only an insistence by GBRf that its Firm Right be honoured. NR allocated capacity in 5M29's favour.

Issues not addressed by the Claimant that the Defendant considers should be taken into account as material to the determination

6V96

- 4.19 Notably, 6V96 has been non-accommodated (i.e. rejected) in the last seven timetables since, and including, the December 2022 WTT and no significant concerns have been raised by GBRf in that time. Appendix 2 confirms these PDNS non-accommodations of 6V96 dating back to the December 2022 WTT. Furthermore, our investigations have shown us that NR's STP A4C team has no record of handling any bid from GBRf into or out of Dereham in the period from 1 December 2022 to 20 September 2025.
- 4.20 NR believes 6V96 (or similar Ministry of Defence (MoD) services into/out of Dereham) have not operated into/out of Dereham since circa 4 March 2020, when GBRf operated a 6Z80 Ludgershall M.O.D. to Dereham service. NR billing records since May 2022 show no running of the 6V96 service in this time. Furthermore, this September's edition of *Rail Express* magazine reports that the MoD has decided to scrap its 'Warflat' and 'Warwell' life-expired wagon fleet and has no plans to replace them – it is these vehicles which typically operated to/from Dereham (see Appendix 4). GBRf has been asked on multiple occasions when/if the 6V96 service is likely to operate, how often, and for what reason – in reply, NR has only been met with the response "it has Firm Rights".

General

- 4.21 For the avoidance of any doubt, NR would like to put on record the huge undertaking it performed in incorporating the East Coast Main Line and West Anglia Main Line recast timetables in the December 2025 WTT. All four items in dispute link, in one shape or another, to this undertaking. There is a faint suggestion within GBRf's SRD (at paragraph 5.4) that NR did not care to act in response to some of GBRf's challenges, but the general truth of the matter is very different. NR has been communicating and acting regularly with GBRf on its specific December 2025 WTT issues since late 2024 and the onset of a pre-D45 validation exercise called the "Stitch".
- 4.22 As part of the "Stitch" exercise, the production of the December 2025 Prior Working Timetable (PWT) saw a mammoth 2,131 freight schedules pre-validated by NR, which was then distributed to Operators at D-45. This pre-work sought to avoid what many Freight Operators termed a "disaster ahead", with it being some people's overriding view that the East Coast Main Line recast presented an existential threat to their businesses. Notably, 821 of the 2,131 schedules belonged to GBRf.

- 4.23 A total of 55 items underpinned GBRf's Notice of Dispute following the offer of the December 2025 WTT – 39 of which were resolved by 4 August 2025 when NR wrote to GBRf to express its position on 15 outstanding items and to seek further information and assistance on these items. NR notes these are the actions of a proactive timetable planning team, intent on overcoming problems and averting so-called disasters.
- 4.24 Compared to its competitors, GBRf's engagement in the pre-D45 "Stitch" and the December 2025 timetable development period has been low despite NR's efforts to share relevant information and engage. Notably, GBRf has been a consistent critic and objector of the East Coast Main Line recast. It is noteworthy that other large Freight Operators (namely, DB Cargo and Freightliner) engaged far more significantly with NR on December 2025 timetable activities, have been very complimentary about NR's efforts, and have not escalated a dispute relating to the December 2025 timetable production period.

Why the arguments raised in 4.1 to 4.3 taken together favour the position of the Defendant

6L34

- 4.25 In this dispute matter, NR has conceded its shortcomings in respect of 6L34 and its breach of the National Timetable Planning Rules. Notwithstanding this fact, NR considers the matter's remedy should be directed to both NR and GBRf to agree, noting their respective roles as customer and supplier of 6L34. Paragraph 5.1 of this paper suggests a practical way forward in this matter.

6D67 and 6H55

- 4.26 NR is steadfast in its view that in its handling of 6D67 and 6H55 it has observed the terms of its contract with GBRf but notes that that contract contains a contradiction in terms. NR has documented in detail its reasons for this view.
- 4.27 These particular dispute items highlight the serious point that there is a contradiction in terms between different parts of GBRf's Schedule 5 Rights Table – namely, the contract's Departure and Arrival Windows and its Minimum Turn Around Times. The contradiction unintentionally, from NR's perspective, creates more prescriptive and less flexible Firm Rights, which have the overall effect of (i) diluting the utility of the contract's Departure and Arrival Windows and (ii) limiting NR's overall ability to apply its Flexing Right. NR observes that Minimum Turn Around Times at Origin and Destination are given significance in this case by GBRf only when activated by information which is clearly, and purposefully, marked "*non-contractual*".
- 4.28 It is NR's view that it has offered both 6D67 and 6H55 Train Slots in accordance with Condition D4.2.2 of the Network Code and consistent with the Firm Rights of GBRf and others, and that there was not a contractual requirement to prioritise competing aspirations for inclusion under D4.2.2 (d) or employ the Decision Criteria under Condition D4.6.2.
- 4.29 In respect of these two services, NR considers it has exercised correctly its contractual Flexing Right and has arrived at contractually compliant Train Slots for 6D67 and 6H55.

6V96

- 4.30 NR has demonstrated that faced with two Train Slots holding equal rights for inclusion in the timetable (6V96 and 5M29), it has acted in accordance with Network Code Condition D.4.6.2 and determined the allocation of capacity (to 5M29) using the Decision Criteria, placing weight on the lack of obvious demand for the operation

of 6V96 versus a clear demand for 5M29. The evidence strongly suggests that GBRf have historically not required the 6V96 Train Slot in the timetable nor operated a similar service to 6V96 in recent years.

5 DECISION SOUGHT FROM THE CHAIR

- 5.1 Regarding 6L34, NR concedes it is in breach of the National Timetable Planning Rules but it is also the customer and rights holder for the service (as acknowledged by GBRf's response to the First Directions). As such, NR requests of the Panel a timeframe – to be agreed between NR and GBRf, but not stretching beyond the start of the December 2025 WTT – for both parties to discuss the implications of 6L34's retiming and to agree on any appropriate timetabling and/or commercial remedies. A failure of both parties to agree on any necessary remedies in the timeframe will return the matter back to timetable dispute. This determination would be welcomed given that "GBRf can accept a later arrival" on a conditional basis (GBRf SRD paragraph 5.7) and NR's SCO National Planning Team consider 6L34's retiming as potentially viable. The matter is worthy of further discussion.
- 5.2 Regarding 6D67 and 6H55, and as previously elaborated, this dispute matter highlights the serious point that there is a contradiction in terms between different parts of GBRf's Schedule 5 Rights Table – namely, the contract's Departure and Arrival Windows and its Minimum Turn Around Times. The contradiction unintentionally, from NR's perspective, creates more prescriptive and less flexible Firm Rights, which have the overall effect of (i) diluting the utility of the contract's Departure and Arrival Windows and (ii) limiting NR's overall ability to apply its Flexing Right. NR observes that Minimum Turn Around Times at Origin and Destination are given significance in this case by GBRf only when activated by information which is clearly, and purposefully, marked "non-contractual". The Panel is asked to reach a determination on this point for the benefit of all Timetable Participants.
- 5.3 Regarding 6D67, 6H55 and 6V96, NR seeks from the Panel the determination that its three respective timetable decisions should be upheld. NR has demonstrated its thought processes on each item and does not believe any exceptional circumstances exist which would necessitate the Panel to substitute an alternative decision in place of the decision already made.
- 5.4 Regarding 6D67, 6H55 and 6V96, NR seeks from the Panel the determination that it has acted in accordance with the Network Code and has not breached its Track Access Agreement with GBRf.

6 APPENDICES

- 6.1 NR confirms that it has complied with Access Dispute Resolution Rule H21.

Appendix 1	Confirmation of ARL Firm Rights for 5M29 and 2Y28
Appendix 2	PDNS non-accommodations of 6V96 dating back to the December 2022 WTT
Appendix 3	6V96 vs 5M29 Decision Criteria table and relevant email to GBRf
Appendix 4	<i>Rail Express</i> magazine article on MoD decision to scrap 'Warflat' and 'Warwell' wagon fleet

7 SIGNATURE

For and on behalf of Network Rail Infrastructure Limited

A handwritten signature in black ink, appearing to read 'N. Coles', is positioned in the upper left quadrant of the page.

Nick Coles

Timetable Production Manager – Freight

2nd October 2025