Track access agreement

General terms & conditions for the use of the Belgian railway infrastructure

INFRABEL

This agreement for the use of infrastructure shall be concluded between:

the infrastructure manager Infrabel, a limited company under public law, Marcel Broodthaersplein 2, B-1060 Brussels - RPR 0869.763.267, represented by **Ms Ann Billiau, Chief Client Officer of Customer & Business Excellence**

and

the railway undertaking [***NAME OF RU****, ADDRESS*]. - registered with the CBE under number [*XXXX.XXX.XXX*] - represented by [***NAME, FUNCTION***]

This agreement comprises two parts:

On the one hand, the first part, which sets out the general terms and conditions for the use of the Belgian railway infrastructure that are applicable to all railway undertakings

and

On the other hand, the second part, which sets out the special terms and conditions for the use of the railway infrastructure specific to the particular situation of each railway undertaking;

Both parts are inextricably linked and together form this agreement for the use of the Belgian railway infrastructure.

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PART ONE: GENERAL TERMS AND CONDITIONS

Chapter 1: General terms and conditions

Article 1.1 - Subject matter

In accordance with the terms and conditions laid down in the Network Statement (NS) (www.infrabel.be), these general terms and conditions lay down the general terms and conditions of an administrative, technical and financial nature for the use of the Belgian railway infrastructure by a railway undertaking, without prejudice to the special terms and conditions agreed with the railway undertaking concerned.

Article 1.2 - Scope

The general terms and conditions apply to journeys carried out by the railway undertaking on Belgian railway infrastructure, for which:

- a capacity request corresponding to the travel routes detailed in the railway undertaking's safety certificate was declared admissible
- a capacity was obtained.

Article 1.3 - Definitions

For the purposes of these general terms and conditions, the definition of the different terms used is contained in Article 3 of the Law of 30 August 2013 concerning the Rail Code (hereinafter referred to as "the Rail Code").

For the purposes of these general terms and conditions:

- the term "railway undertaking" shall also include that of the international grouping of railway undertakings. Consequently, and unless otherwise provided, the provisions applicable to railway undertakings also apply to the international groupings of railway undertakings.
- The term "staff of the railway undertaking" means all employees employed by it, its appointees, the staff of the undertakings acting at its request or on its behalf, the staff of its subcontractors.
- The term "railway undertaking's rolling stock" refers to all types of vehicles (locomotives, wagons and other vehicles) used by the railway undertaking, by undertakings acting on its behalf to carry out its rail transport services, by the subcontractors.

Article 1.4 - Services

- The infrastructure manager shall provide the railway undertaking with the minimum services and performance related to access to the network as defined in Article 9 § 2 of the Rail Code. The pricing and principles of charging for each service are those described in Chapter 6 of the Network Statement (NS).
- The additional services to be provided in accordance with Article 9 § 3 of the Rail Code are listed by name in the special terms and conditions. The pricing and principles of charging for each service are described in the Network Statement and detailed in the special terms and conditions.

- The ancillary services to be provided in accordance with Article 9 § 4 of the Rail Code are listed by name in the special terms and conditions. The pricing and principles of charging for each service are described in the Network Statement and detailed in the special terms and conditions.
- Services other than those mentioned above are described by name in the special terms and conditions. The rates to be applied and the principles of charging for these services are also laid down in the special terms and conditions.

Chapter 2: Rights and obligations of the railway undertaking and the infrastructure manager with regard to the terms and conditions for use of the Belgian railway infrastructure

Article 2.1 - Compliance with the rules on the operation of Belgian railway infrastructure and traffic management

The railway undertaking shall use the capacity allocated to it, taking into account:

- the technical and functional characteristics of the Belgian railway infrastructure;
- the body of technical standards and safety rules concerning the use of railway infrastructure, as referred to in Article 68 of the Rail Code;
- the body of legal and regulatory texts, the Network Statement, the technical documents, local protocols and operating instructions applicable to the operation of the infrastructure and traffic management.

The local protocols for the use of the infrastructure and operating instructions are set out in the specific terms and conditions of the agreement for the use of the infrastructure. They are annexed to this agreement for the use of the infrastructure, of which they form an integral part.

In the performance of this agreement, the railway undertaking may not rely on the fact that it was not aware of the texts in question.

The capacity shall be allocated to the railway undertaking on a strictly personal basis and for the transport service defined in the special terms and conditions. It may not transfer them to a third party or other service or allow advantage to be gained from them.

Article 2.2 - Rolling stock used by the railway undertaking to provide its transport services

2.2.1 Obligations relating to rolling stock

The railway undertaking may only deploy rolling stock on the Belgian railway infrastructure that is subject to approval by a competent authority within the framework of the safety certificate. The railway undertaking agrees not to use any rolling stock other than that for which it has obtained the approval referred to above.

The railway undertaking agrees to keep the rolling stock it uses in good condition. It shall provide all information upon simple request from the infrastructure manager.

The obligations and conditions set out in this Article shall apply to all rolling stock in a set for which the railway undertaking is responsible for traction, irrespective of the owner of the rolling stock, and to any traction vehicle placed under the responsibility of the railway undertaking.

In addition, even if it is approved but used in the context of an exceptional transport operation, the rolling stock may only be used by the railway undertaking after having obtained authorisation to use the infrastructure, which specifies the special terms and conditions for the use of the infrastructure.

2.2.2 Liability

The railway undertaking is fully liable for any damage that may result from the use of rolling stock that has not been approved or is unsuitable for operation on the Belgian railway infrastructure.

It shall not be entitled to claim any compensation for damage arising from a decision of the infrastructure manager and in respect of the use of rolling stock that has not been approved or is unsuitable for running on the Belgian railway infrastructure.

The railway undertaking shall not be entitled to a refund of receipted charges or to non-payment of the charges to be settled for the non-use of a train path as a result of the use of rolling stock that has not been approved or is unsuitable for use on the Belgian railway infrastructure.

The infrastructure manager shall not be liable to the railway undertaking in any way whatsoever for damages in the event of damage, total or partial destruction, for whatever reason, to any unauthorised rolling stock.

2.2.3 Removal of non-approved or unsuitable rolling stock

The infrastructure manager may stop the movement of a set of vehicles whose rolling stock or any of its components has not been approved or is unsuitable for operation on the Belgian railway infrastructure.

To allow the continued operation of the set on the infrastructure, the railway undertaking must first remove the non-approved or unsuitable rolling stock.

Where the railway undertaking does not remove the rolling stock concerned, the infrastructure manager may, in particular in an emergency, act on its own initiative or use the services of another railway undertaking.

The railway undertaking shall bear all costs relating to the removal of non-approved or unsuitable rolling stock.

It shall not be entitled to claim any repayment of the receipted charges or non-payment of the charges to be settled for non-use of a train path.

Article 2.3 - Staff of the railway undertaking or of the subcontractors employed to provide transport services

2.3.1 Principle

The railway undertaking shall ensure that its staff are kept informed of all technical standards and safety rules and apply them strictly.

The railway undertaking shall likewise ensure that its staff continuously fulfil all their obligations to the infrastructure manager.

2.3.2 Withdrawal

The infrastructure manager may stop any movement of a train set whose railway undertaking's staff responsible for the safety functions do not comply with the technical standards and safety rules applicable to the Belgian railway infrastructure.

To allow the continued operation of the set on the infrastructure, the railway undertaking must first remove the unsuitable staff and provide for their immediate replacement, and even remove the rolling stock whose operation has been interrupted by that fact. If the unsuitable staff are not replaced, the infrastructure manager may call on the staff of another railway undertaking to remove the set.

The railway undertaking concerned shall bear all costs, including infrastructure charges incurred for the use of the infrastructure, whether or not it was used.

Article 2.4 - Environmental protection

The railway undertaking must ensure that the loading of the rolling stock used for the carriage of goods, the supply of fuel for the traction equipment and the transport itself from the place of departure (including the depopulation point) to the place of destination are carried out in accordance with environmental standards and do not pose any risk to the environment or to the safety of persons.

The railway undertaking shall immediately inform the infrastructure manager of any threat or occurrence of environmental pollution that it identifies in relation to traffic on the infrastructure.

The infrastructure manager may take any initiative and issue any order it deems necessary to prevent or reduce an imminent threat to the environment.

The railway undertaking shall immediately comply with all instructions given to it by the infrastructure manager and shall refrain from any action intended to counteract the effect of the actions and the above-mentioned orders of the infrastructure manager.

The railway undertaking shall impose this obligation on all its staff.

Article 2.5 - Modalities of use of the railway infrastructure

2.5.1 The infrastructure manager shall provide the railway undertaking with the following information in good time:

- The capacity allocated to it, as well as the constraints and rules applicable to infrastructure, safety, performance of the service and the environment.
- Major changes in the quality or capacity of the infrastructure used by the railway undertaking.

The railway undertaking shall use the capacity allocated to it, taking into account:

- the technical and functional characteristics of the railway infrastructure;
- the conditions relating to safety, performance of the service and the environment as laid down by the infrastructure manager.

The railway undertaking shall provide the infrastructure manager with all the information required by the train composition regulations, the specific conditions of the planned transport, and shall comply with any request for information from the infrastructure manager regarding the knowledge of the railway undertaking's staff of the technical standards and safety rules applicable to the Belgian railway infrastructure.

The railway undertaking shall specify in the special terms and conditions the list of its subcontractors and shall provide a certificate of conformity with regard to the technical standards and safety rules for each of them. The railway undertaking undertakes to update the above list. This list annexed to this agreement for the use of the infrastructure, of which it forms an integral part.

The railway undertaking is not authorised unilaterally to modify, damage, pollute or use the infrastructure for purposes other than those for which it was designed or equipped or made available.

2.5.2 The infrastructure manager and the railway undertaking concerned shall inform each other of the actual traffic situation on the infrastructure.

The railway undertaking shall immediately inform the infrastructure manager of any accident hazard of which it has knowledge.

2.5.3 Compliance with the timetable

a) Principle

In order to ensure the proper use of the infrastructure, the railway undertaking must comply with the traffic timetables notified to it by the infrastructure manager.

For this purpose, the railway undertaking may only use rolling stock that is compatible with the characteristics of the allocated train path.

In the event of a disruption, the infrastructure manager may adjust the precise timetables or take measures that may have an impact on these timetables.

b) Delays

Save as otherwise provided in the special terms and conditions, the infrastructure manager and the railway undertaking shall not be entitled, in relation to each other and mutually, to claim any compensation for damage they would suffer as a result of delays in train movements, whatever the cause (including accidents and/or incidents and/or damage to third parties).

Consequently, the infrastructure manager and the railway undertaking shall bear their own costs and losses incurred as a result of such delay and shall refrain from any legal action against each other in that regard.

Article 2.6 - Disruptive incident

- ~~The definition of a disruptive incident is laid down in Volume 352 of the RDEI, which deals with "accidents, incidents and distress".~~
- In the event of a disruptive incident, the railway undertaking shall comply strictly with the instructions of the infrastructure manager.
- The infrastructure manager may, if necessary, for the performance of its task, use the operating resources of the railway undertaking. Such use shall be remunerated fairly, except where the funds are used in favour of the railway undertaking. Where such use occurs systematically, the infrastructure manager shall first enter into an agreement with the railway undertaking on the use of such means and the corresponding fee.
- Where the needs of the railway undertaking require the use of a third party by the infrastructure manager, the costs shall be borne in full by the railway undertaking.

- The infrastructure manager may not oblige the railway undertaking to take charge of the transport performance of another railway undertaking, except:
  - for taking passengers on board from a train in distress and/or for their transport to the next railway station from where they can continue their journey;
  - for the clearance of tracks occupied by a train in distress and for the performance of travel operations resulting therefrom.
- In the event of a disruptive incident, the infrastructure manager shall take into account the interests of the parties and third parties.

Article 2.7 - Abolition of train paths

The infrastructure manager may suspend or withdraw the right to use the allocated capacity in accordance with the provisions of the Network Statement.

The railway undertaking to which the infrastructure capacity has been allocated may refrain from using all or part of the allocated infrastructure, in accordance with the provisions of the Network Statement.

The infrastructure manager may modify the allocated capacities in case of disruption, in accordance with the provisions of the Network Statement.

Article 2.8 - Right of control

The railway undertaking shall cooperate in safety investigations, audits and inspections carried out by the infrastructure manager or at the request of the infrastructure manager or any competent authority, and shall impose this obligation on the members of its staff, its appointees and co-contractors. The infrastructure manager shall decide autonomously whether it is appropriate or necessary to carry out such investigations, audits or inspections, within the limits of the powers expressly conferred upon it by law or decision. The railway undertaking may refuse to undergo such audits, investigations or inspections only if this competence is exceeded to an excessive extent.

The cooperation of the railway undertaking, its staff, appointees and co-contractors shall consist of:

- complying with the instructions given by the competent staff of the infrastructure manager;
- supplying the authorised staff of the infrastructure manager, at their request, with all information, data and documents and, where appropriate, retaining or copying such information, data and documents;
- delivering, on request, all useful items to the competent staff of the infrastructure manager;
- providing, on request, access to all vehicles and installations to the competent staff of the infrastructure manager;
- permitting, on request, the competent staff of the infrastructure manager to use the trains of the railway undertaking where this is necessary in the context of cooperation;
- decommissioning all vehicles and installations for as long as necessary or, where appropriate, until such vehicles or installations are once again considered suitable for the performance of the service, in accordance with environmental regulations and all technical and safety standards and rules;
- allowing the infrastructure manager’s staff to be accompanied by other persons and ensuring that they can use the same facilities as the infrastructure manager’s own staff.

In the course of the investigations, audits and inspections referred to in point (a), the infrastructure manager shall endeavour to minimise the impact on the performance of the railway undertaking's activities.

Chapter 3: Charging for the use of the Belgian railway infrastructure

Article 3.1 - General rules for charging

a) The railway undertaking shall pay the infrastructure manager the charges payable under Chapter 5 of Title 3 of the Rail Code in accordance with the terms and conditions laid down in the NS. The methods of payment shall be laid down in the special terms and conditions.

The railway undertaking must pay a monthly advance payment in respect of the user charge. The way this advance is calculated is laid down in the special terms and conditions.

The advance must be paid by the 20th of the month preceding the month of use.

At the end of each month, the infrastructure manager shall calculate the total charge for the use of the infrastructure on the basis of the advance payments already collected.

- If the infrastructure manager suspends or withdraws capacity, the railway undertaking must pay the amount of the charge due for that capacity until the date of the withdrawal or suspension (under the terms and conditions set out in the NS).
- If the railway undertaking renounces the capacity, payment of the charge is subject to the terms and conditions set out in the NS.
- In the event of a restriction or disruption to traffic caused by works, the charge is payable, except if traffic is suspended (under the terms and conditions set out in the NS).

b) The railway undertaking shall pay the infrastructure manager the charges for the services provided pursuant to article 1.4 of these general terms and conditions. The methods of payment shall be laid down in the special terms and conditions.

c) The railway undertaking shall pay the charges for the other services to the infrastructure manager in accordance with the procedures laid down in the special terms and conditions.

Article 3.2 - Contesting the invoice

The notification of contestation of an invoice (or of several billing elements) does not remove the obligation to settle all invoiced amounts within the time limits set.

Article 3.3 - Conditions of invoicing

The railway undertaking shall indicate a billing address and the chosen method of payment in the special terms and conditions.

The railway undertaking shall inform the infrastructure manager of any change in the billing address or payment method. The change shall take effect on the first day of the second month following notification to the infrastructure manager.

Article 3.4 - Non-payment

In the absence of full payment within 30 days of receipt of the invoice, the amounts due will automatically be increased by statutory interest in accordance with the terms and conditions as set out in the NS.

In addition to the amount of interest, a lump sum of 100 euros without fees is added for handling charges.

In the event of late payment for two consecutive instalments, the infrastructure manager may inter alia decide to suspend the benefit of infrastructure use for the railway undertaking in question.

The infrastructure manager shall recover the sums due from the railway undertaking by all means of redress.

Chapter 4: Administrative terms and conditions

Article 4.1 - Licence and safety certificate

Access to the Belgian railway infrastructure and its use presuppose that the user railway undertaking holds a licence and a safety certificate issued in accordance with European Union and national rules.

The railway undertaking shall provide the infrastructure manager with a copy confirming the conformity of the original licence and safety certificate documents.

The railway undertaking shall provide the infrastructure manager as soon as possible with all information that may affect the validity of its licence or safety certificate.

If the licence or safety certificate is renewed, the railway undertaking shall inform the infrastructure manager as soon as possible and at the latest within 15 days of their issue, by sending it a copy confirming the conformity of the original documents.

Article 4.2 - Insurance

The railway undertaking undertakes and confirms that it has taken out and shall maintain an insurance policy for the entire duration of the agreement for the use of the Belgian railway infrastructure, or has taken an equivalent measure in accordance with Belgian law, in particular with Article 13§4 of the Rail Code and the implementing decrees of the Rail Code.

Chapter 5: Liability and compensation

Article 5.1 - Liability of the infrastructure manager

I. The infrastructure manager is liable for:
   a. physical damage (death, injury or any other damage to physical or psychological integrity);
   b. material damage (destruction of or damage to movable and immovable property),
   c. pecuniary loss or damage resulting from compensation payable by the carrier under the CIV Uniform Rules and the CIM Uniform Rules, which it inflicts on the railway undertaking or its subcontractors during the use of the infrastructure and the cause of which lies with the infrastructure.

II. The infrastructure manager is exempt from such liability:
   a. in the case of personal injury and pecuniary loss or damage resulting from compensation payable by the carrier under the CIV Uniform Rules:

i. if the adverse event has been caused by circumstances outside business operations that the infrastructure manager could not avoid, despite the rapid response required by the circumstances, and the consequences of which it was unable to prevent;
ii. insofar as the adverse event is due to a fault of the person who suffered the damage;
iii. if the adverse event has been caused by the conduct of a third party that the infrastructure manager could not avoid, despite the rapid response required by the circumstances, and the consequences of which it was unable to prevent;

b. in the case of material damage and pecuniary loss arising from compensation payable by the carrier under the CIM Uniform Rules, where the loss or damage was caused by the fault of the railway undertaking or by an order issued by the railway undertaking not attributable to the infrastructure manager or by circumstances that the infrastructure manager could not avoid and the consequences of which it was unable to prevent.

III. If the adverse event is due to the conduct of a third party and, in spite of that, the infrastructure manager is not entirely exonerated in accordance with point II a), it shall be liable in full within the limits of these Uniform Rules and without prejudice to its possible recourse against the third party.

IV. The parties may agree, within the limits of the special terms and conditions, whether and to what extent the infrastructure manager is liable for the damage caused to the railway undertaking as a result of a disruption of operation.

Article 5.2 - Liability of the railway undertaking

a) The railway undertaking is liable for:

a. physical damage (death, injury or any other damage to physical or psychological integrity);
b. material damage (destruction or damage to movable and immovable property) that it causes to the infrastructure manager or its subcontractorsduring the use of the infrastructure, by the means of transport used or by the persons or goods carried.

b) The railway undertaking is exempt from such liability

c. in the case of personal injury,

i. if the adverse event has been caused by circumstances outside business operations that the carrier could not avoid, despite the rapid response required by the circumstances, and the consequences of which it was unable to prevent;

ii. insofar as the adverse event is due to a fault of the person who suffered the damage;

iii. if the adverse event has been caused by the conduct of a third party that the railway undertaking could not avoid, despite the rapid response required by the circumstances, and the consequences of which it was unable to prevent;

d. in the case of material damage, where the damage is caused by the fault of the infrastructure manager or by an order given by the infrastructure manager that is not

attributable to the railway undertaking or by circumstances that the railway undertaking could not avoid and the consequences of which it was unable to prevent.

c) If the adverse event is due to the conduct of a third party and, in spite of that, the railway undertaking is not entirely exonerated in accordance with point II a), it shall be liable in full within the limits of these Uniform Rules for the use of the railway infrastructure (COTIF-CUI).

d) The parties may agree, within the limits of the special terms and conditions, whether and to what extent the railway undertaking is liable for the damage caused to the infrastructure manager as a result of a delay or a disruption of operation.

Article 5.3 - Concomitant causes

a) Where causes attributable to the infrastructure manager and causes attributable to the railway undertaking have contributed to the damage, each party to the agreement shall bear that damage to the extent that the causes attributable to it in accordance with points 5.1 and 5.2 have contributed to the damage. If it is not possible to determine to what extent the various causes have contributed to the damage, each party shall bear the damage it has suffered.

b) Point 5.3 a) shall apply mutatis mutandis where causes attributable to the infrastructure manager and causes attributable to different railway undertakings using the same railway infrastructure have contributed to the damage.

c) In the case of damage referred to in point 5.2, the first sentence of point 5.3 a) shall apply by analogy where causes attributable to several railway undertakings that have used the same infrastructure have contributed to the damage. If it is not possible to determine to what extent the various causes have contributed to the damage, the railway undertakings shall be equally liable vis-à-vis the infrastructure manager.

Article 5.4 - Compensation in the event of death

I. In the event of death, compensation shall include:

   a. the unavoidable costs resulting from death, in particular those relating to the transport of the mortal remains and their return;

   b. if death does not occur immediately, the compensation referred to in point 5.5.

II. Where persons to whom the deceased person had, or would have had, a maintenance obligation and they are deprived of that assistance by the death of the deceased person, they should also be compensated for that loss. The claim for compensation of persons who had been retained by the deceased person without being legally obliged to do so remains subject to Belgian law.

Article 5.5 - Compensation in the event of injury

In the event of injury or any other damage to physical or psychological integrity, compensation shall include:

a) the necessary costs, in particular those of treatment and transport,

b) compensation for the damage caused either by total or partial incapacity for work or by an increase in needs.

Article 5.6 - Compensation for other personal injury

Belgian law determines whether, and to what extent, the infrastructure manager or the railway undertaking must pay compensation for personal injuries not covered by points 5.4 and 5.5.

Article 5.7 - Arrangements and amount of compensation in the event of death or injury

a) The compensation referred to in points 5.4 b) and 5.5 b) must be awarded in the form of capital. However, if Belgian law permits the granting of a periodic payment, the compensation will be paid in this way, if the injured person or the beneficiaries referred to in Article 5.4 b) so require.

b) The amount of compensation to be awarded in accordance with point 5.7 a) shall be determined in accordance with Belgian law.

Article 5.8 - Loss of the right to invoke limitations of liability

The limitations of liability provided for by the parties in this agreement and the provisions of Belgian law that limit the compensation to a certain amount shall not apply if it is proved that the damage has arisen from an act or omission by the party causing the damage, either with the intent to cause such damage or through reckless conduct and knowing that such damage is likely to result from it.

Article 5.9 - Conversion and interest

a) Where the calculation of compensation in foreign currency requires the conversion of amounts expressed in terms of foreign currency, the conversion shall be made at the exchange rate of the day and at the place where the compensation is paid.

b) The entitled party may claim interest on the compensation, calculated as a pro rata of 5 per cent per annum from the day on which conciliation proceedings commence or the appeal before the arbitration tribunal, provided for in Title V of the Convention on International Carriage by Rail of 9 May 1980 (within the context of the Protocol of Amendment of 3 June 1999) or in the course of legal proceedings.

Article 5.10 - Liability in the event of a nuclear accident

The infrastructure manager and the railway undertaking shall be exonerated from any liability under this agreement where the damage has been caused by a nuclear accident and where, pursuant to the laws and regulations of a state concerning liability in the field of nuclear energy, the operator of a nuclear installation or a person appointed in its place is liable for such damage.

Article 5.11 - Liability for subcontractors

The infrastructure manager and the railway undertaking are each liable for their subcontractors~~auxiliary undertakings~~.

Article 5.12 - Other actions

a) In all cases where this agreement is applicable, any claim for liability, on any grounds whatsoever, but against the infrastructure manager or the railway undertaking, may be brought within the terms and conditions and limitations of this agreement.

b) The same shall apply to any action brought against the subcontractors for which the infrastructure manager or railway undertaking is responsible pursuant to point 5.11.

Article 5.13 - Dispute settlement

Except as otherwise stated in the special terms and conditions, each party shall refrain from asserting claims against the other party for damage arising from the same event that is less than EUR 2,500.

Chapter 6: Duration of the contract

- This agreement shall be concluded for a timetable period and shall be tacitly renewed.

  Either party may terminate this agreement by registered letter to the infrastructure manager at least three months before the expiry of the current timetable period.

  The tacit renewal of the agreement does not release the railway undertaking from the obligation to submit a new request for train paths for each timetable period.

  This agreement shall terminate automatically after the end of the timetable period if the railway undertaking has not submitted a new request for train paths for the next timetable period.

- However, this agreement may be terminated by operation of law in the following cases:
  - Bankruptcy of the railway undertaking or judicial reorganisation of the latter pursuant to the Law of 31 January 2009 on the continuity of enterprises;
  - Withdrawal of the railway licence or the safety certificate of the railway undertaking. Termination shall take effect from the date of revocation of the licence or safety certificate.
  - Withdrawal of the right to use capacity
    - due to a serious or repeated failure to fulfil one of the obligations of the agreement;
    - as a consequence of the railway undertaking's failure to comply with Belgian technical standards and safety rules, thereby compromising the optimal use of railway infrastructure;
    - if, during the previous timetable period, less than 80% of the planned weekly journeys were used on average for the capacities allocated to the railway undertaking;
    - as a result of the non-payment of charges for the use of the Belgian railway infrastructure over two consecutive deadlines.

During the period of suspension of the licence, the safety certificate or the right to use capacity, all obligations of the infrastructure manager towards the railway undertaking shall be suspended.

Chapter 7: Confidentiality

Each party undertakes, without the other party's prior consent, not to disclose the special terms and conditions of this agreement or any confidential information of a commercial nature of this agreement to any third party, except as expressly provided for in Belgian law or regulations.

Chapter 8: Applicable law and competent court

Article 8.1 - Applicable legislation

The track access agreement is subject to the provisions of Belgian law.

Article 8.2 - Competent courts

Without prejudice to the powers conferred by the law on other bodies, disputes relating to this usage agreement shall fall within the exclusive jurisdiction of the Commercial Court of Brussels.

Article 8.3 - Limitation period

Unless otherwise provided in international law, claims based on this agreement shall be time-barred within three years. That limitation period shall begin on the day on which the damage occurred.

Chapter 9: Miscellaneous provisions

Article 9.1 - Entry into force of new provisions

All legal and regulatory provisions or those specified in the Network Statement relating to this agreement for the use of the railway infrastructure, the application date of which falls after the signature of this track access agreement, shall automatically apply to this agreement for the use of the railway infrastructure.

Article 9.2 - Incompatibility

In the event of incompatibility between a provision of the general terms and conditions and a provision of the special terms and conditions, the latter shall prevail.

Article 9.3 - Addenda

The addenda to the track access agreement are mandatory only if they have been agreed in writing and annexed to the track access agreement.

Article 9.4 - Nullity

The nullity of one or more clauses in the agreement for the use of the railway infrastructure shall not result in the nullity of the aforementioned usage agreement.

Article 9.5 - Appointed persons

The parties to the agreement shall, within the special terms and conditions, appoint one or more persons competent to take operational decisions within a very short period of time, in particular as regards the operation and management of traffic disruptions.

PART TWO: SPECIAL TERMS AND CONDITIONS

1. Principle

These special terms and conditions, together with the general terms and conditions, constitute the agreement for the use of the railway infrastructure applicable between INFRABEL and [*NAME OF RU*].

2. Rail transport service

The rail transport operation in question concerns:

- [*to be completed: passenger transport/freight transport/...*]

3. Use of the infrastructure

3.1 Local protocols

The following local protocols shall apply:

- [*to be completed*
- ...]

[*NAME OF RU*] undertakes to sign all local protocols no later than six months after the signature of this agreement.

3.2 Subcontractors

[*NAME OF RU*] recognises the following undertakings as subcontractors:

- [*to be completed*
- ...]

The list below is not definitive. The list may still be amended.

[*NAME OF RU*] confirms that the above-mentioned subcontractorscomply with all technical standards and safety rules and attaches an attestation of conformity relating to technical standards and safety rules.

3.3 Incidents, malfunctions, defects

The persons listed below must be notified in the event of incidents, malfunctions and/or defects.

For INFRABEL: ~~Traffic Control~~Central Dispatch, tel.: +32 2 525 93 77

For [*NAME OF RU*]*:* [*NAME OF SERVICE CONCERNED*], tel.: [*to be completed*]

4. Services

4.1 Additional services

[*NAME OF RU*] wishes to purchase traction energy from Infrabel.

Studies for exceptional transport can be requested from [*XXX*] of Infrabel.

4.2 Ancillary services

4.2.1 Provision of additional information (outside minimum performance)

Access to the applications of the *Business Corner*, on the website partners.infrabel.be, via a filter that allows [*NAME OF RU*] access only to its own data.

5. Financial terms and conditions

5.1 Charge for using the allocated capacities

The formulae used for calculating the capacity utilisation charge are described in the NS.

5.1.1 [*NAME OF RU*] shall owe a monthly advance payment on account in respect of the user charge. This advance payment shall be calculated on the basis of traffic forecasts for the timetable period concerned ~~[*20XX-20XX*]~~.

The amounts of the advance payments (excluding VAT) and the date of invoicing and payment shall be shown in a table. This table may be revised ~~at~~ by INFRABEL~~'s~~, possibly at the request of [*NAME OF RU*] ~~(excluding VAT)~~ if it appears that the number of train paths used *by* [*NAME OF RU*] increases or decreases during the term of the agreement. The table of advance payments shall be attached to the usage agreement.

5.1.2 INFRABEL shall draw up monthly regularisation invoices relating to the charge for use of the infrastructure. To this end, it shall base itself on actual use and take account of the advance payments already made.

INFRABEL shall also send a detailed invoice 5 days before the date of dispatch of the official invoice. [*NAME OF RU*] has 5 days to send its comments to Infrabel. If Infrabel has not received any comments within 5 days, it shall charge the total amount of the pro forma invoice to [*NAME OF RU*]. If [*NAME OF RU*] has submitted its comments, INFRABEL will charge only the part that has not been disputed. After receipt of the invoice, [*NAME OF RU*] has 30 days to pay the invoice.

5.2. Charge for additional services

The costs of the studies for exceptional transport are described in Appendix F.3 to the NS.

5.3. Charge for ancillary services

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6. Billing terms and conditions

6.1 Billing address

Invoices from INFRABEL shall be sent to the following address:

[*NAME OF RU*]

[*Service concerned*]

[*Street*]

[*Postcode - City*]

And by e-mail via the following addresses: [*e-mail address*]

IBAN: [*BEXX XXXX XXXX XXXX*]

BIC: [*XXXXXXX*]

6.2 Payment method

Payments shall be made by bank transfer.

6.3 Payment term

Each invoice issued by INFRABEL is payable within 30 calendar days to the following account number:

Bpost bank: 679-0023037-48

IBAN: BE11 6790 0230 3748

BIC: PCHQBEBB

Appendices

1. Subcontractorsand certificates of conformity relating to technical standards and safety rules
2. Certificates of insurance or equivalent measures
3. Well-being at work
4. Prepayments for the user charge
5. Advance payments for traction energy
6. Local protocols
7. Performance Scheme – Bilateral model (only available in Dutch and French)

Drawn up in two copies in Brussels on [*XX XXXX 20XX*]

Ann BILLIAU	[*NAME OF CEO*]
Chief Client Officer Infrabel Customer & Business Excellence	CEO [*NAME OF RU*]