

Supplement 3 to the Network Statement 2017

ProRail has adopted the following supplements and/or changes to the Network Statement 2017, in accordance with the provisions of Chapter 1.6 of this Network Statement.

1 Reuse of freight train paths

- I. The following text is added to the column 'Brief explanation' to the RMS Client system of the 'Allocation in ad hoc phase' in Table 4.2 of Chapter 4.4.5:

Application that provides real-time information on departure times, current passage times at the border and current timetables of freight trains. RMS Client also provides triggers to the railway undertaking at 90, 80, 70 and 60 minutes before departure, after which the railway undertaking

- can confirm use of the allocated train path or
- can return the train path for reuse
- can request a new train paths for a delayed freight train
- can cancel a freight train.

- II. The following text is added to the end of Section 2 in Chapter 4.8.2 'Intervention Measures':

Regulations to be agreed upon

- ▶ If foreseen that a freight train will not use its train path, the right to the allocated train path will lapse 60 minutes before the planned departure or border crossing (into the Netherlands). The rail freight operator monitors the departure process of freight trains departing from train-path points in the Netherlands and communicates the train status through RMS Client (tab GTI). ProRail monitors cross-border freight trains entering the Netherlands, the status of those trains is communicated via VOS and made available to the railway undertaking through RMS Client. ProRail has described the schemes for scheduled performance in Section 2.1.4 of Appendix 6 'Operational Conditions', and wishes to include these in the Access Agreement.) ◀

- III. Under 'Description' in the table at Section a in Chapter 5.2.1 'Train path', the text "The handling of requests for infrastructure capacity" is changed to "The handling of requests for and return of infrastructure capacity".
- IV. In Appendix 6 'Operational Conditions', the text "version 1 December 2015" is replaced with "version 1 July 2016".
- V. The text at the first point under the heading 'Cancelled trains' in Section 2.1.1 'Order handling' of Appendix 6 'Operational Conditions' is changed to:

The railway undertaking will give the network manager ample notice via ISVL (passenger transport operator) or RMS Client (rail freight operator) in case trains can be cancelled.
- VI. The following text is added after the first point in Section 2.1.4 'Scheduled performance' of Appendix 6 'Operational Conditions':
 - The rail freight operator will via RMS Client give ample notice of the non-use of earlier allocated infrastructure capacity.
 - The rail freight operator will, via a status change within RMS Client, give ample notice of its intention to use the allocated train path. This status change is made by the network manager for incoming cross-border traffic.
 - The network manager will always provide the railway undertaking with a current timetable no later than 5 minutes before the scheduled departure.
 - In case of a status change to reschedule, pending and cancel, the original train will become available for reallocation by the network manager.

- VII. The following text is added to the first table of the 'RMS Client' application in Appendix 23 'Applications, publications and reports':

Real-time information on the planning and intervention of scheduled train parts for freight traffic

- VIII. The following text is added to the 'Function' category of the 'Explanation' under Section 10 'Description of the RMS Client application' in Appendix 23 'Applications, publications and reports':

The railway undertaking will by means of the RMS-GTI function of RMS Client inform ProRail of the current status of the use of the allocated infrastructure paths.

The railway undertaking can choose from the statuses below.

Status	Meaning
INGECHECKT (<i>checked</i>)	Train is on time, the railway undertaking retains the right to the original train path.
VERLEGGEN (<i>reschedule</i>) plus entry of the exact delay or entry of the new desired departure time.	The train path is without submitting an order automatically released for reuse and the delayed train is rescheduled by the ProRail traffic control without an order being submitted.
WACHTKAMER (<i>pending</i>)	The exact delay is not yet known, the train path is automatically released for reuse without an order being submitted. As soon as the delay is known, the status can be changed to VERLEGGEN plus entry of the exact delay.
OPHEFFEN (<i>cancel</i>)	The train path is without submitting an order automatically released for reuse and the delayed train is cancelled by the ProRail traffic control without an order being submitted.
VERWERKT PR (<i>processed by PR</i>) (by ProRail)	The ProRail traffic control has rescheduled the train; the way undertaking can from that moment request the changed timetable in RMS Client and email this to the train driver.
AFGEHANDELD (<i>handled</i>)	The railway undertaking has declared its train 'handled'. The planning of the railway undertaking is again synchronised with that of ProRail.

- IX. In Table 4.2 of Chapter 4.4.5 and the part in Appendix 23 on the RMS Client application, the text "railway yards forming part of the Betuwe Line" is changed to "railway yards forming part of the Betuwe Line and Venlo" (seven times).

2 Local order request

- I. The text of Chapter 4.4.1.4 'Allocation in ad hoc phase by Traffic Control' is replaced with the following text:

Types of order requests

In the ad hoc phase of Traffic Control, titleholders submit requests for capacity in the form of train paths (network) and routes (railway yard). ProRail Traffic Control makes a distinction between supralocal and local orders:

- in a supralocal order, a request is made for the capacity required to run a train (including light locomotives and empty rolling stock) between at least two successive timetable points; the order specifies the desired route or the desired predefined path;
- In a local order, a request is made for the capacity needed to move rolling stock (shunting) on a railway yard; the desired route is specified in this request.

Supralocal orders

A supralocal order is submitted via ISVL to the Local Traffic Control. The request will include:

- applicant and date and time of request (automated)
- train number
- traction form in combination with type of rolling stock
- train length
- maximum speed
- weight
- railway undertaking running the train
- order type
- whether or not dangerous goods (RID)
- Standard Particulars, as described in the standard regulations for excessive loading gauge with codes BP1, BP2 and BP3 and the standard regulations for exceptional transport
- activities required by the railway undertaking, at least the date and time for handling at terminal or shipper and any additional stabling capacity
- departure station or (if cross-border from abroad) border station
- any transit handling station:
 - activities required by the railway undertaking
 - time required for the aforementioned activities
- arrival station or (if cross-border from the Netherlands) border station:
 - activities required by the railway undertaking
 - time required for the aforementioned activities
- destination station abroad
- date and time ready for departure with margin and requested track
- date and time of arrival with margin and requested track
- route section

In relation to the "activities required by the railway undertaking": in order to select the optimal arrival track for trains arriving at their destination station, it is essential that the traffic controller receives information concerning the subsequent handling of the train following arrival. Local orders that have a relationship with the supralocal order will be submitted as soon as possible by the titleholder to the appropriate traffic controller.

In case of an order request for the introduction/change of a train, the field "activities required by the railway undertaking" must be completed. Section 2.1.1 of Operational Conditions describes the duty of best endeavours of ProRail and provides examples of forms of subsequent handling.

ProRail tests the admissibility of all requests and changes to earlier allocated capacity against the characteristics that must be stated on the order. The window for submitted orders in the ISVL system daily comprises the period up to 12.00 hours on the following day. The handling of orders for capacity submitted after the delivery window is stayed until they fall into the next handling window. ProRail handles these orders in their order of receipt. Various handling times apply to orders falling within the delivery window. Orders for capacity on the Combined Network are handled as quickly as possible. Orders for capacity for timetabled trains on the Betuwe Line require a minimum handling time of 30 minutes. A minimum order handling time of 15 minutes applies to light locomotives on the Betuwe Line and local traffic paths on the Havenspoor Line.

Local orders

ProRail makes the LOA Online application available for local orders by railway undertakings in the passenger transport market segment. Other railway undertakings must submit their local order requests by telephone. The request will include:

- train/shunting number
- location
- introduction, change or cancellation of a movement
- plan/departure time

- 'from' track
- 'via' tracks
- 'to' track
- rolling stock relationship
- rolling stock or traction type
- environmental restrictions
- rolling stock deviations/restrictions related to infrastructure use

Planning criteria

- If two or more submitted requests compete for the same capacity, the traffic controller will study the alternatives for optimal use of the capacity, with the objective of realising both requests within margins that are acceptable to the transport operators. If that is not possible, the capacity will be allocated to the earliest request.
 - Routes forming part of an allocated freight train paths are in the handling of local orders reserved as much as possible for freight transport.
- II. The following text is added after 'ISVL' in Chapter 4.4.5 'Support systems':
LOA Online, see Section 10 of Appendix 23.
- III. The text in 'Brief explanation' of the ISVL system in Table 4.2 of Chapter 4.4.5 is replaced with:
Application for submitting supralocal requests in the traffic control phase.
- IV. A line with the following text is added after 'ISVL' in Table 4.2 of Chapter 4.4.5:
LOA Online Application to support the submitting, handling and recording of local orders for shunting routes at all locations (railway yards).
- V. The text "LOA Online" is added after 'ISVL' in the 'Description' category in the table at Section a in Chapter 5.2.1 'Train path'.
- VI. The third paragraph in Section 1.1 'Route scheduling responsibilities' of Appendix 6 'Operational Conditions' is replaced with:
The railway undertaking planning or requesting the planning of a train path for a train with specific characteristics (such as length, gauge, axle load, traction form) will test whether the offered train path is subject to specific user restrictions (such as maximum train length, gauge, the presence or absence of overhead contact lines) and will ensure (including through instructions to operational personnel) that the train making use of the path is in accordance with the stated limitations. If it produces the draft planning, the railway undertaking will also test against the applicable planning standards, see Appendix 22 to the Network Statement.
- VII. The text in Section 2.1.1 'Order handling'¹ of Appendix 6 'Operational Conditions' is replaced with:
This concerns the allocation of (extra) capacity as well as other plan changes during the period between the transition from the day plan to the traffic/process control plan and the moment of departure.
Order requests can consist of either supralocal or local orders. Supralocal orders are requested from the Local Traffic Control by means of ISVL. Railway undertakings in the public passenger transport market will request local orders using the LOA Online application.
Supralocal order process - arrival track information
In order to select the most convenient arrival track for trains arriving at their destination station, it is essential that the signalman receives information concerning the subsequent handling of the train following arrival. In case of an order request for the

¹ See Network Statement Chapter 4.4.1.4.

introduction/change of a train, this should be entered in the field “activities required by the railway undertaking”. The network manager will strive to comply with the requested specifications. Examples of activities required by railway undertaking during or after the train run:

- driver exchange, duration x minutes at Y
- locomotive exchange, duration x minutes at Y
- shunting, duration x minutes at Y
- stabling, at Y for the duration of x minutes after arrival
- rolling stock destined for train nnnnn dated dd-mm-yyyy
- train destined for loading on rail connection xxx
- rolling stock for stabling on track set yy

Cancelled trains

The following procedure applies to the cancellation of capacity requests:

- The railway undertaking will give the network manager ample notice via ISVL or RMS-Client of its intention not to use the allocated capacity.
- A cancellation report by railway undertakings shortly before departure is only permitted in case of disasters. This report will also state what the railway undertaking wishes to do with the rolling stock that was designated for the cancelled train.
- The traffic controller will cancel the train as soon as possible, then consult with the signalman on what to do with the rolling stock. The network manager will strive to comply with the wishes of the railway undertaking.
- The submitting of telephone orders must be limited to a minimum. The railway undertaking may submit telephone orders only in exceptional cases, such as the handling of train traffic following sudden disruptions. Passenger transport operators will confirm the telephone order by submitting an order in arrears in ISVL and/or LOA Online.

- VIII. A line with the following text is added in the first table after ‘ISVL’ in Appendix 23 ‘Applications, publications and reports’:

LOA Online	submitting, handling and recording of local orders for shunting routes	Appendix 23 - 10	5.2.1
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- IX. A new section is added after Section 9 in Appendix 23 ‘Applications, publications and reports’:
10 Description of the LOA Online application

Category	Notes
Application	Local Order Request (LOA) Online
Function	Digital order system that supports the submitting, handling and recording of local orders (for shunting routes) at all locations (railway yards).
Facility	Access by means of an Internet browser to LOA Online, a web-based application.
Request	Via the Transporters Portal of ProRail
Delivery time	On request
Terms of delivery	An SLA forms part of the Access Agreement; a draft version will be provided on request via Product Management Information & ICT Services (informatiediensten@prorail.nl).

3 PION

- I. A point is added to the end of the summary in Chapter 5.5.2 ‘Provision of supplementary information’:

15. PION

- II. A new paragraph with the following text is added after Chapter 5.5.2.14:

5.5.2.15 PION

Service	PION
Description	The PION gives users both planning and operational information on the capacity for work, incidental and volume possessions (maintenance rosters). The results can be shown in regional overviews.
Facility	Access to the PION application, through a Citrix environment with grid token.
Service provider	ProRail –application via Product Management Information & ICT Services (informatiediensten@prorail.nl).
Delivery time	On request
Terms of delivery	An SLA forms part of the Access Agreement; a draft version will be provided on request by Product Management Information & ICT Services (informatiediensten@prorail.nl).

- III. A line with the following text is added in the first table after 'RADAR/Btd-planner' in Appendix 23 'Applications, publications and reports':

PION	Insight into possessions for work on or near the main railway network	Chapter 5.5.2.15	5.5.2.15
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4 Model Access Agreement and model Capacity Agreement

The text in the paragraph under the heading 'Model Access Agreement 2017' in Appendix 5 'Model Access Agreement and General Conditions' is replaced in full with:

The Model Access Agreement 2017 reflects the services stated in the Network Statement that are provided by ProRail. The Model Access Agreement 2017 is available in two versions on the [website of ProRail](#):

- A model Access Agreement 2017 to be concluded between ProRail and titleholders that qualify as railway undertakings.
- A model Access Agreement 2017 (further called 'model Capacity Agreement 2017') to be concluded between ProRail and titleholders that do not qualify as railway undertakings.

5 General Terms & Conditions

The General Terms & Conditions Access Agreement ProRail 2017 included in Appendix 5 'Model Access Agreement and General Terms & Conditions Access Agreement ProRail 2017 (version 1 September 2015)' are replaced entirely with the General Terms & Conditions Access Agreement ProRail 2017 (version 1 July 2016) included in the annex to this supplement.

6 Information on developments

The following text is added after the box in Chapter 1.8 'Contacts':

ProRail will by means of thematic consultation tables or otherwise inform railway undertakings about relevant developments initiated by ProRail regarding the access to and use of the railway infrastructure and/or the related services offered by ProRail. Information is provided in accordance with the statutory rules and the provisions of the Access Agreement.

In case of relevant developments regarding access to and use of the railway infrastructure initiated by third parties, ProRail will, so far as familiar with those developments, urge those third parties to share such information with the railway undertakings. ProRail will, with the consent of the third party, share (process) information on those developments with the railway undertakings.

7 Transparency of the Access Agreement

The following text is added below the paragraph above the subletting 'General Terms and Conditions' in Chapter 2.3.2 'Access agreements with railway undertakings':

With a view to the legally prescribed transparency of the Access Agreement, the Access Agreement must be worded in a manner that is understandable to both parties and all documents stated in the Access agreement must be accessible to both parties to the Access Agreement.

8 Operational Conditions

The second and third paragraphs of Chapter 2.1.5 'Use of tracks on Betuwe Line railway sidings and shunting yards' in Appendix 6 'Operational Conditions' are replaced in full with:

A railway undertaking using a track without holding the capacity to that track will make sure that such use will cause no nuisance to the capacity holder. Route controls and permissions by the network manager for the performance of shunting movements do not constitute any change to the agreed allocation of stabling capacity on the relevant tracks.

9 Corrections

- I. The fourth paragraph in Chapter 4.4.1.2.2 'Scheduling and coordination' is replaced with:
The process rules applicable to the allocation of predetermined catalogue paths on international freight corridors are described in Book 4 of the Corridor Information Document (see Chapter 1.9) of these freight corridors and are based on the document "Decision of the Executive Board of the Rail Freight Corridor", available for consultation on the [website of the Dutch Central Government](#).
- II. The last words "(Betuwe Line)" in the line with number 2 in Section 3 'Schemes for the freight transport market segment' in Appendix 26 'Performance schemes' are changed to "(Combined Network)".
- III. The words "Betuwe Line" in the second line of Section 3.2 Use of stabling capacity outside the agreed capacity (Combined Network) in Appendix 26 'Performance schemes' are changed to "Combined Network".

ProRail B.V.
Utrecht, 14 July 2016

General Terms & Conditions Access Agreement ProRail 2017 (version 1 July 2016)

Title I. General Terms & Conditions

Article 1. Definitions

The definitions below are used in these General Terms & Conditions.

1. (Supplementary) service licence: the licence as referred to in Section 36 Paragraph 3 or 5 Railways Act.
2. General Terms & Conditions: these general terms and conditions.
3. Company performance data: the values acquired by a party within the performance of the Access Agreement with regard to reliability, availability, operational quality, safety, health and the environmental impact of processes and systems of the other party.
4. Operating Licence: the licence as referred to in Section 28 Railways Act.
5. Handling costs: extra office and communication costs, administrative costs involved in handling the loss event, costs of replanning the operational activities and the costs of additional personnel required during the period that the loss event hampers normal operational activities.
6. Network manager: the holder of a concession as referred to in Section 16 Paragraph 1 Railways Act.
7. Concession: the concession as referred to in Section 16 Paragraph 1 Railways Act.
8. CUI: Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI – Appendix E to the Convention concerning International Carriage by Rail (COTIF), Treaty Series 277 2011 dated 28 December 2011).
9. Third party: any natural person and/or legal entity other than the network manager, the titleholder or their auxiliary staff.
10. User charge: the charge as referred to in the Railways Act, Section 62, Paragraph 1.
11. Titleholder: a titleholder as referred to in Section 57 Railways Act, being the contracting party of the network manager to the Access Agreement.
12. Auxiliary staff: the subordinate or other natural person and/or legal entity, whose services are engaged by the titleholder or the network manager in the sense of Book 6 Dutch Civil Code.
13. Admission Certificate: the certificate as referred to in Section 36 Paragraph 4 Railways Act, as applicable on 19 July 2008.
14. Network Statement: the applicable network statement as referred to in Section 58 Railways Act, including the Supplements to the Network Statement that have been announced up to and including the day before the signing of the Access Agreement.
15. Information services: information services forming part of the basic access package as well as information services as referred to in Chapter 5.5.2 of the Network Statement.
16. Operational Conditions: the operational conditions as included in Appendix B of the Access Agreement.
17. Party: the network manager or the titleholder.
18. Parties: the network manager and the titleholder.
19. Test Certificate: the certificate as referred to in Section 34 Railways Act.
20. Loss event: an event or series of events, resulting in loss, following on from one and the same cause.
21. Railway vehicle: a vehicle intended for traffic on the railways.
22. Railways: the railways and accompanying railway infrastructure as referred to in Section 1c Railways Act, the management of which has been assigned to the network manager, as well as other infrastructural facilities managed by the network manager, as described in Chapter 3.2.1. of the Network Statement.
23. Railway undertaking: the titleholder insofar as acting as a railway undertaking as referred to in Section 1 Railways Act.
24. Railways Act: Act of 23 April 2003, containing new general rules regarding the construction, management, accessibility and use of railways, as well as traffic on the railways (Bulletin of Acts and Decrees 2003, 264) as amended since that date.
25. Access Agreement: the agreement, including the appendices thereto, as referred to in Section 59 Railways Act.
26. Attributable: loss due to fault or a cause that under law, regulations or custom is for the risk and account of the party causing the loss.
27. Safety Certificate: the certificate as referred to in Section 32 Railways Act.
28. Passenger Transport Act 2000: Act of 6 July 2000, laying down new rules for public transport, private bus transport and taxi transport (Bulletin of Acts and Decrees 2000, 314) as amended since that date.

Article 2. Access Agreement, General Terms & Conditions and Operational Conditions

1. The contractual legal relationship between the parties concerning the access to and use of the railways is laid down in writing in the Access Agreement, the General Terms & Conditions and the Operational Conditions.
2. Supplements and/or changes to the General Terms & Conditions and/or the Operational Conditions agreed by the parties are binding only if determined in writing in the Access Agreement.

3. The persons appointed as contract manager on behalf of the titleholder and the network manager will be specified in the Access Agreement. The parties may in the Access Agreement also appoint categories of officials who are authorised to implement the Access Agreement on their behalf.
4. The Access Agreement may also include further regulations on the handling of complaints about operational matters.
5. If and insofar as a titleholder, under the terms of a contract concluded with the network manager, acts as auxiliary staff of the network manager in performance of the Concession granted to the network manager, and damage is caused to a decommissioned section of the railways and/or the decommissioned section of the railways is not available to the titleholder and/or damage is caused to the titleholder by making use of the decommissioned section of the railways, the liability provisions of the aforementioned agreement applies to said damage and/or unavailability, with exclusion of the liability provisions of the Access Agreement, the General Terms & Conditions and the Operational Conditions.

Article 3. Change procedure Access Agreement, Operational Conditions and/or General Terms & Conditions

1. A request to change the Access Agreement, Operational Conditions and/or General Terms & Conditions, which request for change does not ensue from statutory measures or a ruling by a court of law or arbitration board, shall be submitted in writing and will in any event include a description of the proposed change(s) and the resulting consequence(s) in terms of the rights and obligations of the parties. The network manager will in every case evaluate whether the changes proposed by the titleholder are non-discriminatory towards other titleholders.
2. The parties will do their utmost to reach agreement on a proposed change within thirty calendar days of receipt of a change proposal.
3. Changes to the Access Agreement, Operational Conditions and/or General Terms & Conditions can only be made in the form of a written supplement to the Access Agreement signed by the parties.
4. If changes are to be made to the General Terms & Conditions, Operational Conditions and/or the Access Agreement by force of statutory measures, the Concession or a ruling by a court of law or arbitration board, the network manager, if given the opportunity to do so, will consult with the relevant authority, put up a defence in the court or arbitral procedure, and make every effort to prevent or limit any negative consequences for the parties. In such a case, the network manager will inform the titleholder in writing with inclusion of a proposal for change. The network manager will make this proposal with due consideration for the reasonable interests of the titleholder and make every effort to prevent or limit any negative consequences for the titleholder. If the titleholder does not agree to the proposed change, the network manager will nevertheless be entitled to adopt the proposed change unilaterally.
5. In urgent cases, whereby the provisions of the previous paragraph are applicable, the change proposal and consultation as set out in this paragraph may be omitted.

Article 4. Nullification of provisions

In case of a legally irreversible nullification by the competent authority of one or more provisions of the Access Agreement, the General Terms & Conditions or the Operational Conditions, these provisions will be replaced by provisions that reflect as much as possible the original intention of the parties. Nullification of one or more provisions will not affect the validity of the other provisions.

Title II. Information and confidentiality

Article 5. Provision of information

1. The parties will notify one another of every incident that could hinder fulfilment of the essential obligations of the Access Agreement, which will in any event include every relevant change, suspension and withdrawal of the Concession of the network manager, or of the Safety Certificate and/or Operating Licence of the railway undertaking.
2. The parties will in the Access Agreement agree on the manner (including the time and frequency) in which the railway undertaking will provide the information as referred to in Chapter 2.9 of the Network Statement, and specify all other information that they will exchange with one another within the performance of their relationship.
3. The parties will inform one another promptly if they have any information other than referred to in the previous paragraph, of which they know or should in all reasonableness realise that the titleholder or the network manager requires this information for the proper performance of the Access Agreement. This obligation in any case pertains to all relevant safety information as referred to in Article 4 of Regulation (EU) No. 1078/2012.
4. If one of the parties incurs a loss as a result of the actions of a third party or auxiliary staff, the parties will, if such is possible and can reasonably be expected, assist one another in determining the identity of the third party or auxiliary staff in question.
5. The titleholder will, at no expense, provide the network manager with information required by the network manager for the purposes below.

- a. To draw up a draft noise map as referred to in Article 7 of Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (*OJ 189*) with regard to the noise load caused by the main railway network.
- b. To comply with the obligations resting on the Netherlands pursuant to Regulation (EC) no. 91/2003 of the European Parliament and of the Council of 16 December 2002 with regard to rail transport statistics (*OJ 14*).
- c. To draw up the compliance report on noise production limits as referred to in Section 11.22 Environmental Management Act.

Article 6. Confidentiality

1. Conditions of confidentiality
 - a. The parties will observe confidentiality regarding all data that according to the provisions of this article are classified as confidential.
 - b. Classified as confidential are the Access Agreement, information that the parties provide one another within the performance of the Access Agreement, as well as information that is classified as confidential pursuant to the provisions of this article or at the explicit instruction of the provider.
 - c. The parties will take appropriate measures to protect confidential information contained in their information systems.
 - d. Information that falls under the confidentiality provisions of this article can without the permission of the other party or a titleholder be released to and used by a third party if so prescribed by law or a court order.
 - e. The parties will impose on their auxiliary staff an obligation to comply with the duty of confidentiality applicable between the parties.
 - f. The obligations under this article remain in force on termination of the Access Agreement.
2. Provisions regarding the confidentiality of information exchanged between the parties
 - a. The parties will exclusively use the information exchanged between them within the context of the performance of the Access Agreement for the purposes for which it is provided and will not release said information to third parties without the permission of the other party, except in the cases provided for by this article.
3. Provisions regarding the confidentiality of information concerning the other party that is available to the parties
 - a. The parties will treat company performance data as confidential information and not release such to third parties without the permission of the other party, except in the cases provided for by this article.
 - b. The network manager is authorised to grant other titleholders who have accepted these General Terms & Conditions, as well as network managers of connected railway networks access to information about the capacity requested by the titleholder, on condition that they handle such information as confidential.
 - c. The network manager is authorised to release information about the capacity allocated to a titleholder and about the current train service of the railway undertaking as confidential information to the other railway undertakings who have accepted these General Terms & Conditions, as well as to network managers of connected railway networks.
 - d. The network manager is entitled to release the timetable data, train run data and the passenger train forecast in TSI TAP¹ of the railway undertaking to railway undertakings, station managers² and network managers of connected railway networks for the purpose of travel information services.
 - e. The network manager is authorised to release data and values regarding the performance and information indicators referred to in Article 7 of the Concession to the concession authorities, unless stipulated otherwise in the Access Agreement.
 - f. The network manager is authorised to provide train flow information to its auxiliary staff, exclusively for use within the framework of the agreement concluded between the network manager and that auxiliary staff regarding the performance of work on the management of the railways, insofar as that auxiliary staff requires that information within the context of the work on the management of the railways as assigned by the network manager. Infraspied Maintenance B.V. is for the application of this article regarded as the auxiliary staff of the network manager.
4. Provisions regarding information about other titleholders (third-party interest)
 - a. Titleholders will observe the confidentiality of any information acquired via the information systems of the network manager or consultations organised by the network manager about capacity allocation, train service handling and/or the company performance data of other titleholders. This information may not be used as evidence in legal procedures between the titleholder and other titleholders.
 - b. Titleholders accept that information about their capacity requests, capacity allocation, the train service handling and/or company performance data will via the information systems of the network manager become available to network managers of connected railway networks and other titleholders who have accepted these General Terms & Conditions.

¹ Regulation (EU) No. 454/2011, *OJ* 2011, L 123.

² As defined in Regulation (EG) No. 1371/2007, *OJ* 2007, L 315.

Title III. Rights and obligations of the network manager and titleholders

Article 7. Access to and use of the railways by the railway undertaking

1. The titleholder, exclusively if and insofar as authorised to act as railway undertaking, has access to the railways and the right to make use thereof subject to the conditions and in the manner as determined in:
 - a. The applicable national and international regulations and the ensuing regulations and rulings by a court of law and/or arbitration board imposed on the network manager.
 - b. The Access Agreement.
2. Prior to the signing of the Access Agreement, the railway undertaking will provide the network manager with the documents listed below.
 - a. A valid operating licence or comparable document as referred to in Section 30 Paragraph 1 Railways Act.
 - b. A valid Safety Certificate or Test Certificate.
 - c. Proof of compliance with the provisions of Section 55 Railways Act.

The railway undertaking will immediately, in any event within 14 days, notify the network manager in writing of any event that restricts or ends the validity of the aforementioned documents. The railway undertaking will provide the network manager with written notification of any change to its liability insurance before such comes into effect, insofar as it can reasonably be assumed that such will or could have consequences for the Operating Licence.
3. The railway undertaking is not permitted to alter, damage or contaminate the railways or to use it in any manner other than that for which it is intended, has been equipped or has been made available. Contamination as referred to in this paragraph does not include the disposal, either directly or indirectly, of solids or fluids that are released during the normal operation of railway vehicles as referred to in Section 19 Paragraph 1b Railways Act.
4. The parties will ensure that any auxiliary staff engaged in the performance of the Access Agreement will receive adequate instruction in this respect and have the necessary knowledge and skills. Auxiliary staff that appear not to have the necessary knowledge and skills will – whether or not at the request of any of the parties - be immediately discharged from performance of the engaged work.
5. The railway undertaking is liable towards the network manager for actions of consignors and consignees, as defined under transport law, who perform or instruct work at public freight terminals and/or railway yards, in as far as the railway undertaking has any physical or legal influence on such actions.
6. If loss ensues as a result of the actions as referred to in the previous paragraph, the railway undertaking is only liable if the loss event is attributable to the action of a third party and the railway undertaking had the physical and/or legal ability to prevent the loss event and the consequences thereof. This provision is without prejudice to the liability of consignors and consignees for their actions at these public freight terminals and/or railway yards.

Article 8. Access to and use of information services

1. The network manager will perform its work regarding the access to and use of information services, or have this performed by auxiliary staff, in accordance with the service levels stated in the Service Level Agreement(s) attached to the Access Agreement.
2. If the obligations pursuant to Paragraph 1 cannot be fulfilled in accordance with the agreed service levels, the network manager will immediately inform the titleholder thereof and take all reasonable actions to achieve compliance with the agreed service levels.
3. The titleholder will handle the software and hardware made available by the network manager within the context of Paragraph 1 with due care and you such exclusively for the purpose for which they were made available by the network manager, without making any changes to the content thereof. The titleholder and/or its auxiliary staff must comply in full with any accompanying manuals or instructions provided by the network manager.
4. Any work to be carried out by the network manager as a result of defects in software and/or hardware caused by injudicious use, use contrary to the instructions given by the network manager, or use contrary to that agreed by the parties does not form part of this Access Agreement.
5. The network manager retains the intellectual property rights to all software provided by the network manager to the titleholder within the context of the granting of access to and use of the information services. The network manager retains the intellectual property rights to information provided by the network manager to the titleholder within the context of the granting of access to and use of the information services. The network manager will by means of the Access Agreement grant the titleholder a licence to use the aforementioned software and data for the agreed information services in the manner prescribed by the network manager.
6. The reproduction and/or publication and/or the commercial exploitation of any software and hardware made available by the network manager within the context of the granting of access to and use of information services, or use by or on behalf of third parties or other services and systems of the titleholder and/or its auxiliary staff is prohibited, except with the prior written permission of the network manager.

Article 9. Allocation of capacity

1. The network manager is responsible for the allocation of capacity in accordance with the procedure set out in Chapter 4.4. of the Network Statement as well as the provisions of the decision referred to in Section 61 Paragraph 1 Railways Act.
2. Capacity allocated in the form of train paths is allocated for the maximum duration of one timetable period.
3. If the capacity allocated to a titleholder pursuant to Article 38(1), last paragraph of 2012/34/EU is transferred by the titleholder to a railway undertaking with notification given to the network manager, all rights and obligations agreed between the titleholder and the network manager with regard to the transferred capacity will be terminated, with the exception of the payment obligation for the transferred capacity as applicable at the time of transfer. The network manager and the railway undertaking to whom the capacity is transferred will accept the transferred capacity subject to the Access Agreement concluded between the railway undertaking and the network manager unless the railway undertaking informs the network manager within five working days and in writing that it does not accept the transferred capacity.
4. The railway undertaking is not permitted to transfer the allocated capacity to a third party.
5. The allocated capacity lapses in case of an emergency and if absolutely necessary as result of a disruption that temporarily makes the railways unusable. Threats of disruption in the short term are treated equally to actual disruptions. In case of a threat of disruption in the short term, the network manager will provide specifics and motives why restoration measures are required in the short term in order to prevent the occurrence of an actual disruption that could impact negatively on the safe runnability of the railways and/or uninterrupted train traffic.
6. If the railway undertaking during a period of at least four successive weeks within one timetable year uses a train path below the threshold value stated in Chapter 4.6 of this Network Statement, the railway undertaking will surrender this train path during the remaining term of that timetable year unless this underutilisation is due to non-economic reasons beyond the control of the railway undertaking. The network manager will hereby observe a notice period of two weeks.
7. The network manager reserves the right to withdraw or change allocated capacity in the cases below.
 - a. When instructed to do so by the competent authorities or in order to prevent such an instruction, on condition that the instruction relates to a situation defined in adequate concrete terms.
 - b. In the interests of public order.
 - c. Following a report as referred to in Article 7 Paragraph 2 of these General Terms & Conditions.
 - d. When it concerns capacity required for passenger transport services by train, and the titleholder is no longer entitled to perform such services under the terms of the Passenger Transport Act 2000.
8. When using the authority referred to in the previous paragraph, the network manager will make every effort to limit the negative consequences thereof for the titleholder in terms of duration and scale. The network manager will consult in advance with the titleholder if it wishes to exercise the authority referred to in the previous paragraph in order to prevent an instruction by the competent authority.

Article 10. Use of railway vehicles by railway undertaking

1. The network manager is entitled by virtue of the relevant national and international regulations, the Concession and/or a ruling by a court of law or arbitration board, to carry out a supplementary inspection of (repaired) rail vehicles with regard to those aspects that were not included in the inspection performed under the terms of the Admission Certificate or the (supplementary) service licence.
2. Following the results of the supplementary assessment referred in the first paragraph, the network manager can give instructions to and/or impose conditions and/or restrictions on the use of the railways or exclude the railway vehicles in question from use of the railways. The results of the assessment are reported to the railway undertaking in writing.
3. The conditions and restrictions referred to in the second paragraph can include:
 - a. The setting of a re-assessment term.
 - b. A re-assessment following changes made to the railway vehicle.
 - c. The (temporary) application of a classification.
 - d. The (temporary) application of reasonably necessary measures to the infrastructure at the expense of the railway undertaking.
4. The railway undertaking will provide the network manager with information on the identification and the deployment possibilities and limitations of the railway vehicles used by the railway undertaking.
5. At the network manager's first request, the railway undertaking will, with regard to the relevant railway vehicle, submit a valid EC inspection statement and/or, for rail vehicles as referred to in Section 39a, item b, Rail Traffic Decree, a valid Admission Certificate and/or exemption as referred to in Section 46 Railways Act as applicable on 1 April 2012 or a (supplementary) service licence.
6. The responsibility of the railway undertaking for a deployed railway vehicle ends as soon as another railway undertaking has transported or moved that vehicle, or has notified the network manager that it assumes responsibility for the vehicle.
7. If a railway undertaking, barring an exemption as referred to in Section 36 Paragraphs 9 and 10 Railways Act, acts in contravention of the prohibition referred to in Section 36 Paragraph 1 Railways Act or is not in possession of a valid Admission Certificate or a (supplementary) service licence and/or the railway undertaking does not use the railways in accordance with the assessment as referred to in this article, the network manager is entitled to immediately refuse the railway undertaking use of the rail vehicle in question

on the railways and to instruct that such use be terminated at once. The ensuing costs are for the account of the railway undertaking. The network manager is also entitled to refuse the use of railway vehicles if they no longer meet the technical specifications on which they were assessed during the admission process. Such railway vehicles may, if deployed on the railways, only be moved by the railway undertaking under its own risk, with the permission of the network manager and subject to certain conditions.

Article 11. Safety and the environment

1. Railway undertakings that make use of a railway yard managed by the network manager and perform permit-linked activities thereon may only do so within the framework of the environmental permit issued for said activities. Railway undertakings must give the network manager the opportunity to assess in advance whether the proposed operations at railway yards are pursuant to the conditions of the Environmental Management Act and the applicable environmental permit. Railway undertakings that (plan to) carry out operations at railway yards that require an environmental permit, are obliged to consult and comply with the provisions of the environmental permit in question. The network manager is responsible for enabling adequate performance under the terms of the issued permits.
2. The railway undertaking will use the railway infrastructure in accordance with the restrictions to use and user regulations stated in Chapter 3.4.1 and Appendix 9 of the Network Statement.
3. The railway undertaking will apply an environmental care system that supports compliance with the restrictions to use and user regulations as prescribed by the environmental and occupancy permits granted to the network manager. The railway undertaking will make the particulars entered into the environmental care system available to the network manager. The railway undertaking accepts that the network manager can, to verify compliance, also use other non-discriminatory measures that provide a fair view of the situation.
4. The railway undertaking will notify the network manager as soon as possible of any risk or occurrence of damage by the railway undertaking to the railways and/or the environment and/or the safety of third parties. This notification is without prejudice to the legal and contractual obligations of the railway undertaking.
5. The network manager is entitled by virtue of relevant national and international regulations and/or a ruling by a court of law or arbitration board to determine that certain rail-based operating processes of the railway undertaking specified by the network manager may not be carried out on the railways, or may only be carried out at the locations designated by the network manager and/or subject to conditions imposed by it and/or using the facilities located at the site.
Included under operating processes are:
 - a. Internal and external cleaning of railway vehicles.
 - b. Testing of railway vehicles.
 - c. Refuelling.
 - d. Stabling of railway vehicles.
 - e. Removal of waste resulting from operating processes and from railway vehicles.
 - f. Inspection and maintenance of and/or repairs to railway vehicles.
6. The railway undertaking will refrain from actions that exceed the noise limit values set by virtue of the Noise Pollution Act or that infringe upon the relevant conditions of the licences prescribed pursuant to the Environmental Protection Act.
7. The network manager can give instructions to the railway undertaking in case of a potential infringement of the noise limit values or conditions referred to in the previous paragraph.
8. If the competent authority charged with monitoring compliance of a permit granted by law to the network manager or statutory regulations regarding the use of the railways ascertains an infringement of the applicable provisions and notifies the network manager thereof in writing, the network manager will in case of a suspicion that said breach has effectively been committed by the railway undertaking notify the railway undertaking thereof in writing as soon as possible, in any event within three working days of itself having received notification.
9. The railway undertaking and the network manager will enter into consultation on the infringement described in the notification as referred to in the eight paragraph, including the presentation of a defence.
10. If the railway undertaking is of the opinion that a party other than the railway undertaking has committed the infringement referred to in the eight paragraph or that the infringement was in fact not committed, it will inform the network manager thereof within ten working days of receipt of the notification. Findings of the competent authority endorsed by the network manager will serve as proof of non-compliance of the regulations as referred to in this article, unless the railway undertaking in its written reaction to the network manager provides explicit and motivated arguments that can be used by the network manager in its defence against the findings.
11. The railway undertaking will reimburse the penalty imposed on, or deposit forfeited by, the network manager with regard to an infringement as referred to in the eight paragraph, unless the network manager, contrary to the request of the railway undertaking, has failed to present a defence against the penalty or forfeited deposit and/or has not given the railway undertaking an opportunity to present a defence against the penalty or forfeited deposit.
12. The railway undertaking will promptly provide the network manager with the necessary information to present a defence against the infringement described in the notification as referred to in the eight paragraph. The network manager reserves the right to abstain from presenting a defence if such is evidently pointless or the railway undertaking fails to provide the network manager with the necessary information, in which case the

railway undertaking will compensate the penalty or forfeited deposit to the network manager. The network manager will inform the railway undertaking on the course of the defence proceedings.

13. The costs of the defence with regard to infringements as referred to in the eighth paragraph are at the expense of the railway undertaking, with the exception of those cases in which the network manager has a joint interest in the defence owing to the possible consequences for the usability of the railways or in those cases that the parties have agreed in consultation to oppose the qualification of the ascertained facts as an infringement, whereby a different allocation of costs was agreed upon.

Article 12. Storage of liquids for the running of railway vehicles

The railway undertaking is exclusively permitted - outside the situations described in the Operational Conditions - to tranship environmentally dangerous liquids required for the traction of railway vehicles and the operation of equipment at appropriate sites designated by the network manager, as referred to in Appendix 21 of the Network Statement (refuelling facilities).

Article 13. Train traffic restoration measures

1. The parties will in case of a disruption of train traffic do all that may reasonably be expected of them to resolve the disruption and limit the negative consequences thereof.
2. In this context, the network manager can take various measures, including the detention, diversion, insertion, slowing down or speeding up of trains, or the cancellation of train paths. The network manager will thereby apply the relevant regulations of the Network Statement as stated in Section 2.1 of the Operational Conditions.
3. If the network manager offers a replacement train path in the cases as referred to in Paragraph 2 and Article 9 Paragraph 6, the user charge for the replacement path will not be higher than for the original train path.

Article 14. Cooperation by railway undertaking

1. The railway undertaking will at the instruction of the network manager cooperate in measures aimed at resolving a disruption, regardless of the cause thereof. If the network manager deems such necessary, the railway undertaking will make its equipment and auxiliary staff available in as far as such equipment and staff are suitable for the intended purpose.
2. The costs of the assistance referred to in Paragraph 1 incurred by the railway undertaking, which has not caused the disruption, will be at the expense of the network manager.
3. If the disruption is for the risk and account of the railway undertaking, it will, at the network manager's first request, compensate the network manager for the costs referred to in Paragraph 2 as well as all other costs incurred by the network manager in resolving the disruption.
4. If the railway undertaking providing assistance, despite exercising the necessary care, causes damage to the railway undertaking receiving assistance and/or the network manager or itself suffers damage, the resulting loss is for the risk and account of the party to which the disruption can be attributed.
5. If the railway undertaking providing assistance, despite exercising the necessary care, causes damage to a third party not being a party involved in the disruption, the resulting loss is for the risk and account of the party causing the disruption. The party causing the disruption will, if necessary, indemnify the other stakeholders in the disruption against any claims for compensation by such third parties.
6. The railway undertaking will participate in the response organisation subject to regulations of the Access Agreement as stated in Section 4.1 of the Operational Conditions.

Article 15. Presence on railways

1. If the railway undertaking allows (auxiliary) staff to be present on or along the railways, such takes place at the risk and account of the railway undertaking.
2. The railway undertaking will ensure that the (auxiliary) staff referred to in the first paragraph has received adequate instructions concerning the safe and properly organised presence on the railways.
3. Auxiliary staff of the railway undertaking working on the railways must be able to provide proper identification, in the form of a service pass or written instruction as auxiliary staff of the railway undertaking.

Article 16. Inspections and instructions

1. The network manager is authorised, with a view to performing the tasks and responsibilities assigned by virtue of the relevant national and international regulations and/or a ruling by a court of law or arbitration board, to carry out inspections and/or give necessary instructions to (the auxiliary staff of) the railway undertaking who will comply with such without delay. The categories of officials of the network manager who are entitled to exercise the above authority are defined in the Access Agreement.
2. The authority of the network manager as referred to in the first paragraph can exclusively be exercised for the purpose of protecting the railways, preventing or controlling nuisance experienced by the environment and other users of the railways, and the safe and effective use of the railways.
3. The inspections and instructions will cause as little hindrance as possible to the normal operating activities of the railway undertaking and will be carried out or issued, respectively, in a manner that causes minimal burden. The network manager exclusively has access to those railway vehicles, systems and equipment of the railway undertaking that are relevant to the inspection.

4. The railway undertaking will comply with instructions given by the network manager as referred to in these General Terms & Conditions. In case of failure to comply immediately with a lawful instruction as referred to in these General Terms & Conditions, the railway undertaking will forfeit an immediately payable fine of € 1,000 for the first infringement, € 2,500 for the second infringement and € 5,000 for every subsequent infringement per contract year, without prejudice to the right of the network manager to demand compensation. In case a series of infringements consists of the failure to comply with one and the same instruction, the right of the network manager to demand an immediately payable fine per infringement is maximised at € 25,000 for the series of infringements.
5. If the railway undertaking fails to comply with an instruction given by the network manager, compliance with which is deemed necessary in order to prevent damage, potential damage, terminate a wrongful situation, nuisance and/or to effect speedy restoration of the train traffic as referred to in Article 13 Paragraph 1 of these General Terms & Conditions, the network manager is entitled to have the actions and/or work ensuing from the instruction carried out at the risk and expense of the railway undertaking.

Title IV. Liability

Article 17. Conditions of confidentiality

1. The provisions of CUI, Title III, apply mutatis mutandis to the Access Agreement concluded between the railway undertaking and the network manager, insofar as not deviated therefrom in Title IV of these General Terms & Conditions.
2. The limitation of liability of a party as described here in Title IV does not apply if the loss is the result of any action or negligence by that party acting either with the intent to cause said loss, or with recklessness and the knowledge that such loss could probably result therefrom.
3. The network manager and the railway undertaking accept liability for their auxiliary staff.
4. Any claim by auxiliary staff of the railway undertaking against the network manager in respect of liability for loss caused by the network manager, as well as any claim by auxiliary staff of the network manager against the railway undertaking in respect of liability for loss caused by the railway undertaking can, irrespective of the legal ground, only be filed subject to the conditions and limitations of the General Terms & Conditions.
5. The handling costs are related to the loss amount, comprising the loss items referred to in Article 18, Paragraph 1, sub a, b and c and Article 19, Paragraph 1, sub a, b and c, which are determined according to the table below:

Loss amount	Handling costs
from € 0 to € 100,000	2.5% of the loss amount
from € 100,000 to € 250,000	2.0% of the loss amount
from € 250,000 to € 1,000,000	1.5% of the loss amount
from € 1,000,000 to € 5,000,000	1.0% of the loss amount
from € 5,000,000	actual costs

If the loss consists exclusively of financial loss, the handling costs can be determined on the basis of the actual costs incurred. The administration costs for handling of the loss event are thereby determined according to the table below, whereby the reference loss consists of additional office and communication costs, costs of replanning the operational activities and the costs of additional personnel required during the period that the loss event as referred to in this paragraph hampers normal operational activities.

Reference loss		administration costs	
€ 5,000	to	€ 10,000	€ 350
€ 10,000	to	€ 30,000	€ 375
€ 30,000	to	€ 50,000	€ 475
€ 50,000	to	-----	1% of the reference loss

6. If liability for the loss event is recognised promptly by the network manager without objection and compensation is paid promptly, the administration costs are limited to 50% of the amounts stated in the table above.

Article 18. Liability of the network manager towards the railway undertaking

1. The network manager accepts liability to the railway undertaking:
 - a. for personal injury, namely death, or any other form of bodily or emotional harm,
 - b. for property damage, namely the destruction of or damage to movable and immovable property,
 - c. for financial loss,
 the cause of which lies in the railways and has been inflicted upon the railway undertaking or its auxiliary staff during the use of the railways.
 Unless agreed otherwise in the Access Agreement, the same liability applies to the use of service facilities managed by the network manager and services provided by the network manager, subject to the provisions of Paragraph 6 regarding the services and/or software stated therein.

2. The liability for financial loss referred to in the first paragraph is limited exclusively to the loss components stated below, subject to the conditions accompanying each component and with explicit exclusion of the loss of turnover and profit.
 - a. For the financial loss consisting of compensation owed by the railway undertaking to parties with which it has concluded transport agreements or other third parties:
 - exclusively the compensation that the railway undertaking is obliged under the terms of national, European or treaty law to pay to parties with which it has concluded transport agreements or to other third parties.
 - b. For the financial loss consisting of the reasonable costs of salvage and evacuation, including the costs of temporary facilities for the personnel involved, the costs of experts, handling costs and reasonable costs for determining the liability and extent of the loss:
 - all costs incurred.
 - c. For the financial loss consisting of the costs of replacement transport and handling costs, subject to the explicit condition that the railway undertaking is unable during a period of at least 8 (eight) consecutive hours, calculated from the start of the cause attributable to the network manager, to make full use of its allocated capacity:
 - the costs of replacement transport, as well as handling costs.
 - d. For the financial loss consisting of the costs of replacement transport in the Netherlands for passengers and freight shipments involved directly in the loss event:
 - the costs of replacement transport for those passengers and freight shipments, whereby 'passengers and freight shipments involved directly in the loss event' is understood to mean those passengers and freight shipments that make use of a railway vehicle involved in the loss event as well as those passengers and freight shipments that make use of a railway vehicle that experience a comparable degree of hinder from the loss event in the sense that the consequences of the loss event for the passengers and/or freight shipments involved are the same and have been solved in the same manner.
 - e. For the financial loss consisting of the costs of temporary replacement of a railway vehicle that is not available for use, either temporarily or permanently, as a result of the loss event:
 - exclusively the reasonable costs of renting a railway vehicle during the period in which the railway undertaking does not, in all reasonableness, have another railway vehicle at its disposal for the scheduled transport.
3. The network manager is discharged from the liability referred to in the first paragraph:
 - a. In case of personal injury and financial loss ensuing from the compensation owed by the railway undertaking under the terms of the CUI Uniform Rules:
 1. if the loss event was caused by circumstances outside the operations of the network manager, which the network manager, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof,
 2. insofar as the loss event can be attributed to the person who has suffered the loss,
 3. if the loss event can be attributed to the behaviour of a third party, which the network manager, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof.
 - b. In case of personal injury and financial loss ensuing from the compensation owed by the railway undertaking under the terms of the CUI Uniform Rules, whereby the loss is caused by a railway undertaking or an instruction by the railway undertaking that cannot be attributed to the network manager or by circumstances that, and the consequences of which, the network manager could not avoid.
 - c. In case of financial loss other than referred to under a and b above:
 1. if the loss event can be attributed to the railway undertaking or to an instruction given by the railway undertaking that is not attributable to the network manager,
 2. if the loss event was caused by circumstances, such as force majeure or behaviour by a third party, which the network manager, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof.
4. The network manager accepts no liability for loss incurred by the railway undertaking as a result of an instruction by the network manager, which on grounds of the Access Agreement is lawful and given in accordance with the provisions of Article 15 of the General Terms & Conditions, as well as for the consequences of the application of Article 8 Paragraph 5 of the General Terms & Conditions.
5. The railway undertaking will not submit any claims to the network manager for compensation less than € 5,000 per loss event, with the exception of those cases:
 - a. in which the network manager is liable pursuant to Section 6:175 Dutch Civil Code,
 - b. in which the loss results from any attributable infringement by the network manager of any statutory regulation regarding the use of the railways.

The above is on the understanding that the compensation of financial loss as referred to in Paragraph 2a is only requested insofar as the financial loss exceeds € 5,000 per loss event.
6. The network manager is liable for or loss resulting from late, incorrect and/or incomplete information provided by the network manager in the context of an information service and/or software, insofar as the loss results from an attributable failure on the part of the network manager to fulfil the agreed service levels of the relevant information service, as referred to in Article 8 Paragraph 1 of these General Terms & Conditions. The network manager does not accept any liability:

- a. for indirect loss, including consequential damage, loss of profit, missed savings and loss due to stagnation in operations,
- b. for any loss exceeding the amount agreed by the parties under the relevant Service Level Agreement as consideration for the information services.

Article 19. Liability of railway undertaking towards the network manager

1. The railway undertaking is liable to the network manager:
 - a. for personal injury, namely death, or any other form of bodily or emotional harm,
 - b. for property damage, namely the destruction of or damage to movable and immovable property,
 - c. for financial loss,
 incurred by the network manager or its auxiliary staff during the use of the railways by the operated railway vehicles or by the transported persons or freight.
 Unless agreed otherwise in the Access Agreement, the same liability applies to the use of service facilities managed by the network manager and services provided by the network manager.
2. The liability for financial loss referred to in the first paragraph is limited exclusively to the loss components stated below, subject to the conditions accompanying each component and with explicit exclusion of the loss of turnover and profit.
 - a. For the financial loss consisting of compensation that the network manager owes to third parties:
 - exclusively the compensation that the railway undertaking is obliged under the terms of national, European or treaty law to pay to third parties.
 - b. For the financial loss consisting of the reasonable costs of salvage and evacuation, including the costs of temporary facilities for the personnel involved, the costs of experts, handling costs and reasonable costs for determining the liability and extent of the loss:
 - all costs incurred.
 - c. For the financial loss, subject to the explicit condition that, if due to a cause attributable to the railway undertaking, traffic on the railways or a part thereof could not take place in part or full during a period of at least 8 consecutive hours, calculated from the start of the event:
 - the reasonable costs of cancellation and rescheduling of work that was planned to be carried out in the period during which the loss event hindered normal operations and which work could attributable not be carried out due to that loss event, as well as the handling costs.
3. The railway undertaking is discharged from the liability referred to in the first paragraph:
 - a. In case of personal injury:
 1. if the loss event was caused by circumstances outside the operations of the railway undertaking, which the railway undertaking, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof.
 2. insofar as the loss event can be attributed to the person who has suffered the loss,
 3. if the loss event can be attributed to the acts of a third party, which the railway undertaking, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof.
 - b. In case of property damage, when the damage is attributable to the network manager or to an instruction by the network manager which cannot be attributed to the railway undertaking or through circumstances that the railway undertaking could not avoid and could not prevent the consequences thereof.
 - c. In case of financial loss:
 1. if the loss event can be attributed to the network manager or to an instruction given by the network manager that is not attributable to the railway undertaking,
 2. if the loss event was caused by circumstances, such as force majeure or acts by a third party, which the network manager, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof.
4. The network manager will not submit any claims to the railway undertaking for compensation less than € 5,000 per loss event, with the exception of those cases:
 - a. in which the network manager is liable pursuant to Section 6:175 in conjunction with 8:1670 et seq Dutch Civil Code,
 - b. in which the loss results from any attributable infringement by the railway undertaking of any statutory regulation regarding the use of the railways.
 The above is on the understanding that the compensation of financial loss as referred to in Paragraph 2a is only requested insofar as the financial loss exceeds € 5,000 per loss event.
5. The railway undertaking indemnifies the network manager against all claims relating to any attributable infringement by the railway undertaking of any statutory regulation.
6. In case of property damage to the railways, the settlement of benefit is only applied if the network manager actually benefits from the repair of the property damage. This is only assumed if the repair of the property damage results in the postponement, in relation to the network manager's planning, by more than five years of the first following complete renewal of the element (not being a single component) of the railways of which the repaired property is part. The network manager will, on request, provide the railway undertaking with the relevant planning. The network manager will, in case of an appeal to settlement of benefit, provide evidence of the planning.

Article 20. Liability amongst railway undertakings

1. The railway undertaking is liable towards another railway undertaking:
 - a. for personal injury,
 - b. for loss of and damage to property, irrespective of the ownership position,
 - c. for financial loss,incurred by the railway undertaking or its auxiliary staff during the use of the railways by the operated rail vehicles or by the transported persons or freight.

Unless agreed otherwise in the Access Agreement, the same liability applies to the use of service facilities managed by the network manager and the services provided by the network manager.
2. The liability for financial loss referred to in the first paragraph is limited exclusively to the loss components stated below, subject to the conditions accompanying each component and with explicit exclusion of the loss of turnover and profit.
 - a. For the financial loss consisting of compensation owed by the other railway undertaking to parties with which it has concluded transport agreements or other third parties:
 - exclusively the compensation that the railway undertaking is obliged under the terms of national, European or international law to pay to parties with which it has concluded transport agreements or other third parties.
 - b. For the financial loss consisting of the reasonable costs of salvage and evacuation, including the costs of temporary facilities for the personnel involved, the costs of experts, handling costs and reasonable costs for determining the liability and extent of the loss:
 - all costs incurred.
 - c. For the financial loss consisting of the costs of replacement transport in the Netherlands as well as the handling costs, subject to the explicit condition that, if due to a cause attributable to a railway undertaking, traffic on the railways or a part thereof could not take place in part or full during a period of at least eight consecutive hours, calculated from the start of the event: the charged cost of replacement transport (by third parties):
 - the costs of replacement transport, as well as handling costs.
 - d. For the financial loss consisting of the costs of replacement transport in the Netherlands for passengers and freight shipments involved directly in the loss event:
 - the costs of replacement transport for those passengers and freight shipments, whereby 'passengers and freight shipments involved directly in the loss event' is understood to mean those passengers and freight shipments that make use of a railway vehicle involved in the loss event as well as those passengers and freight shipments that make use of a railway vehicle that experience a comparable degree of hinder from the loss event in the sense that the consequences of the loss event for the passengers and/or freight shipments involved are the same and have been solved in the same manner.
 - e. For the financial loss consisting of the costs of temporary replacement of a railway vehicle that is not available for use, either temporarily or permanently, as a result of the loss event:
 - exclusively the reasonable costs of renting a railway vehicle during the period in which the railway undertaking does not, in all reasonableness, have another railway vehicle at its disposal for the scheduled transport.
3. The railway undertaking is discharged from the liability referred to in the first paragraph if the loss event:
 - a. is attributable to the other railway undertaking or to an instructions given by the other railway undertaking which is not attributable to the railway undertaking,
 - b. was caused by circumstances, such as force majeure or behaviour by a third party, which the railway undertaking, despite exercising the necessary care required under the circumstances, could not avoid and could not prevent the consequences thereof.
4. The railway undertaking will not submit any claims to another railway undertaking for compensation less than € 5,000 per loss event, with the exception of those cases:
 - a. in which liability is based on Section 6:175 Dutch Civil Code in conjunction with Section 8:1670 et seq Dutch Civil Code,
 - b. in which the loss results from any attributable infringement by the other railway undertaking of any statutory regulation regarding the use of the railways.
5. This article is a third-party clause as referred to in Section 6:253 Dutch Civil Code. The railway undertaking accepts that another railway undertaking that has also accepted these General Terms & Conditions also has the right to directly invoke the conditions in these General Terms & Conditions that are relevant to the relationship between the railway undertakings.

Article 21. Attributable failure

Without prejudice to the provisions of Title IV above, a party who attributably fails to fulfil its obligations, after having been notified of this failure and given a reasonable period to rectify the situation, but has nevertheless failed to do so, is liable for the loss incurred by the other party, on the understanding that, except in the case of intent and/or deliberate recklessness, loss of turnover or profit by the other party is not eligible for compensation. Article 18 Paragraph 5, and Article 19 Paragraph 4 of these General Terms & Conditions apply mutatis mutandis.

Article 22. Limitation of liability, prescription and force majeure

1. The liability of the parties in any form whatsoever is limited to that provided under Title IV, without prejudice to the right of the parties to demand fulfilment of the provisions of the Access Agreement and/or these General Terms & Conditions.
2. A claim by the titleholder or the network manager based on the Access Agreement and/or these General Terms & Conditions lapses three years from the date of the event that gave rise to the claim.
3. In case of the death of persons, a time limit applies of three years starting from the day after decease, but no more than five years starting from the day after the accident.
4. If the claim by the network manager is based on an event with regard to which the titleholder has recourse against the other party of a transport agreement concluded by the titleholder, the claim by the network manager on the titleholder will lapse one month before the expiry of the time limit that applies by law or treaty to the claim by the titleholder on the other party of a transport contract concluded by the titleholder.
5. If the claim by the titleholder is based on an event governed by a transport agreement concluded by the titleholder whereby the titleholder takes recourse against the network manager, the claim by the titleholder on the network manager will lapse one month after expiry of the time limit that applies by law or treaty to the claim governed by the transport agreement.
6. Prescription is suspended if one of the parties submits the dispute to a body in the sense of Article 29 or if the matter is submitted to an arbitration board.
7. The network manager and/or the titleholder are in case of force majeure not liable for any loss whatsoever. Force majeure in the sense of these General Terms & Conditions also includes the meaning given thereto by law and legal precedents. Also regarded as force majeure are power failures not caused by the network manager, suicides or attempts thereto, behaviour by animals, national or local strikes or work stoppages, whether or not organised, at the company of the network manager and/or of the titleholder.
8. The provisions of Paragraph 7 are without prejudice to the obligations of the network manager under Section 7 Paragraph 2 Railways Act.
9. In case auxiliary staff incur losses that can be attributed to both the network manager and the titleholder, the network manager and the titleholder now for then indemnify one another against any claims by auxiliary staff for compensation insofar as such is attributable to the network manager and the titleholder, respectively. This indemnification also applies to claims for compensation that is attributable entirely to the network manager and for which the auxiliary staff brings a claim against the titleholder, and vice versa.
10. In case a scheme applies between the network manager and the titleholder for the compensation of a specific loss event, the network manager and the titleholder now for then indemnify one another against any claims by auxiliary staff engaged by the network manager and the titleholder, respectively, relating to the loss event in question.

Title V. Financial stipulations

Article 23. Charges

1. The user charges and other charges for access to and use of the railways, the related service facilities and services offered by the network manager are calculated subject to the relevant provisions of the Network Statement.
2. A user charge of nil applies for the use of the railways for the performance of instructions by the network manager with regard to the management of the railways. Trains for which no user charge is due under the terms of this provision will receive no timetable drafting support by the One-Stop-Shop of the network manager.
3. In order to determine the user charge for the service as referred to in Article 1e and Article 3a of Annex II of Directive 2012/34/EU, the titleholder will provide the network manager with invoices, including the accompanying proof of payment, for the tractive power purchased by the titleholder, unless the quantity is adequately reflected by information made available by the network manager by the energy purchasing organisation, authorised thereto by the titleholder. The titleholder authorises the network manager to verify with the tractive power supplier whether the submitted invoices cover the total tractive power supplied.
4. The network manager will invoice the user charge and, other charges as referred to in paragraph 1, per calendar month. The final settlement of amounts due under a performance scheme will be invoiced within six months of expiry of the period to which the performance scheme relates.
5. The final settlement of amounts due under a performance scheme will be invoiced within two months of sending of the invoice for the last term of the period to which the performance scheme relates.
6. The invoiced user charge is not eligible for set-off in the sense of Section 6:127 Paragraph 2 Dutch Civil Code, with the exception of the set-off of undisputed claims and claims based on a decision by a court of law or arbitration board.
7. The network manager may in case of reasonable doubt about the creditworthiness of the titleholder at all times demand that the titleholder issue a financial guarantee in the sense of the Implementing Regulation (EU) 2015/10 as security for fulfilment of its financial obligations under the Access Agreement and the General Terms & Conditions, as referred to in Article 23 of these General Terms & Conditions.
8. The costs of the security referred to in the previous paragraph are borne by the titleholder.

Article 24. Payment conditions

1. The titleholder and the network manager will pay the amounts owed by virtue of the Access Agreement and these General Terms & Conditions no later than 30 days after receipt of the invoice. In case of non-cash transfers, the date of receipt by the recipient's bank is regarded as the date of payment.
2. If the network manager or the titleholder fail to pay the amounts due under the Access Agreement and these General Terms & Conditions in the manner set out above, and the failure is due to a cause attributable to the network manager or the titleholder, the amount due is increased by statutory interest in accordance with Section 6:119a Dutch Civil Code, calculated from the final day on which payment should have been made.
3. All amounts due under the Access Agreement and/or these General Terms & Conditions are stated in euro and exclusive of VAT.
4. Objections against the amount of the final invoice will be submitted in writing within two months of receipt of the invoice. On expiry of the aforementioned term, the parties lose their right to appeal against the amount of the invoice. Systematic defects that come to light during the handling of a timely submitted objection against an invoice will, however, also lead to the recalculation of earlier invoices for which the term of objection has already expired. This paragraph does not apply to invoices submitted with a view to acquiring compensation.
5. In deviation of the provisions of the first paragraph, invoices for compensation will be paid within 30 days of the amount of the compensation having been established and communicated to the party obliged to pay such. In deviation of the second paragraph, amounts due in compensation are subject to the statutory interest in accordance with Section 6:119 Dutch Civil Code.

Title VI. Suspension and termination of Access Agreement

Article 25. Suspension of Access Agreement

1. The network manager and/or the titleholder can suspend performance of the Access Agreement in full or in part on grounds of Section 6:52 Dutch Civil Code.
2. The network manager can suspend performance of the Access Agreement in full or in part following receipt of a notification as referred to in Article 7, Paragraph 2.
3. In case of payment by the titleholder after the term referred to in Article 23 Paragraph 1 of these General Terms & Conditions, the network manager may only suspend performance of the Access Agreement if the titleholder has exceeded the payment term for two successive periodic payments or for two payments within twelve months.
4. During the suspension, the titleholder and the network manager are obliged to take appropriate measures to prevent and limit the occurrence of loss.
5. The suspension ends on the lapse of the reason for suspension and the suspending party has received notification thereof from the other party. The titleholder can again exercise its full claim to the agreed capacity from no later than the fourth day after ending of the suspension.

Article 26. Termination by the network manager

1. The network manager can, without prior notice of default or judicial intervention, effect immediate termination of the Access Agreement by registered letter if:
 - a. The network manager loses the Concession, either in full or in part, in as far as relevant to the provision of service by the network manager to the titleholder.
 - b. The network manager is declared bankrupt or insolvent.
 - c. The network manager is granted a moratorium.
 - d. The titleholder has during a period of at least one year not used the allocated capacity.
 - e. The titleholder is no longer authorised to participate in rail traffic.
 - f. The titleholder has payment arrears:
 - i. during two successive instalments and for an amount larger than referred to in Article 23 charges for one month,
 - ii. during more than two instalments and for an amount equal to the referred to in Article 23 charges for two months.
 - g. The titleholder defaults on a significant contractual obligation, which concerns the safety of persons or goods, including freight loads.
 - h. The auxiliary staff or the railway vehicles to be used no longer meet the applicable safety requirements.
2. The network manager can terminate the Access Agreement by registered letter subject to a notice period of two months, in case of:
 - a. A mandatory change in the relevant regulations, the consequences of which could not be foreseen, which prejudice the obligations of the network manager and hinder the network manager in the fulfilment of its obligations.
 - b. The titleholder deliberately defaults or acts in gross negligence with regard to essential contractual obligations other than those referred to in the Paragraph 1g.
3. If performance of the Access Agreement is suspended on grounds of Article 25 Paragraph 1 of these General Terms & Conditions, the network manager can, after granting the titleholder a reasonable period to rectify the situation, terminate the Access Agreement if the titleholder remains in default.

Article 27. Termination by the titleholder

1. The titleholder can, without prior notice of default or judicial intervention, effect immediate termination of the Access Agreement by registered letter if:
 - a. The network manager loses the Concession, either in full or in part, in as far as relevant to the provision of service by the network manager to the railway undertaking.
 - b. The network manager is declared bankrupt or insolvent.
 - c. The network manager is granted a moratorium.
 - d. The network manager defaults on a significant contractual obligation, which concerns the safety of persons or goods, including freight loads.
2. The titleholder is entitled to terminate the Access Agreement, subject to a notice period of two months, in case of:
 - a. A mandatory change in the relevant regulations, the consequences of which could not be foreseen, which prejudice the obligations of the titleholder and hinder the titleholder in the fulfilment of its obligations.
 - b. The network manager deliberately defaults or acts in gross negligence with regard to other essential contractual obligations.
3. In cases other than those referred to in the first two paragraphs, the titleholder can terminate the Access Agreements by registered letter, subject to the notice period stated in the Access Agreement.
4. If performance of the Access Agreement is suspended on grounds of Article 25 Paragraph 1 of these General Terms & Conditions, the network manager can, after granting the titleholder a reasonable period to rectify the situation, terminate the Access Agreement if the titleholder remains in default.
5. If the network manager changes the Access Agreement and/or General Terms & Conditions, the titleholder can, if it objects to the change, terminate the Access Agreement, subject to a notice period of three months from the moment the change comes into effect.

Article 28. Compensation on termination of the Access Agreement

No compensation whatsoever is payable in case of termination of the Access Agreement under Title VI, except in the case of termination on grounds of a moratorium, bankruptcy or attributable failure.

Article 29. Scope, applicable law and resolution of disputes

1. These General Terms & Conditions are applicable to Access Agreements.
2. The Access Agreement and the General Terms & Conditions are governed by Dutch law, including international treaties applicable in the Netherlands, in particular the COTIF 1999 with Annexes.
3. All disputes, with the exception of those ensuing from Section 61 Railways Act and the Order in Council based thereon, ensuing from the Access Agreement and/or these General Terms & Conditions, which the parties cannot settle amicably will be submitted to the competent civil court in Rotterdam or to a committee appointed by the parties in which the parties appoint an equal number of members, which committee is charged with assessing whether an amicable settlement can be reached between the parties.
4. In deviation of Paragraph 3, the parties can agree that the disputes as referred to same paragraph will be solved in accordance with the applicable regulations of the Netherlands Arbitration Institute. The arbitration board, which will decide in accordance with the law, can consist of one or three arbitrators. The arbitration will be held in Utrecht.
5. Paragraphs 1 to 4 of this article are without prejudice to Section 71 Railways Act.