

NETWORK STATEMENT 2021



ANNEX 2A

GENERAL BUSINESS/
COMMERCIAL CONDITIONS

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I. GENERAL PROVISIONS

Article 1

(Extent and Validity)

- (1) The General Business / Commercial Conditions to access to the Public Railway Infrastructure define the general rights and responsibilities of the Infrastructure Manager and the Railway Undertaking in regard to ensuring safety in the rail traffic. The relationships between the Infrastructure Manager and the Railway Undertaking are settled in an Access Contract that includes general and technical conditions (hereinafter called Access Contract).
- (2) The GBCC is an integral part of the Access Contract and is valid, unless otherwise specified in the Contract.
- (3) While providing rail transport services, a Railway Undertaking with an allocated train path shall comply with the safety regulations in the rail traffic.
- (4) The Railway Undertaking at own expense shall obtain from the Agency all valid regulations, necessary for providing undisturbed rail transport services.

Article 2

(Glossary of Terms)

- (5) The abbreviations, used in GBCC, have the following meaning:
 - GBCC – General Business/Commercial Conditions to access to the PRI
 - IM – Infrastructure Manager
 - PART – Public Agency for Railway Transport
 - PRI – Public Railway Infrastructure
 - RU – Railway Undertaking
- (6) The terms, used in GBCC are explained in detail in the Network Statement, including those, mentioned below:
 - disruption to services: when some disorder on the rail network leads to disruption of the regular traffic services;
 - material damage: diminishing of capital assets or preventing of their increase;
 - non - material damage: the damage to reputation of a legal entity or cause of bodily or psychological harm or intimidation to a person;
 - timetabled train path: allocated train path on the PRI, which is included in the valid network timetable.
 - validity of the network timetable: timeframe of the timetable period.

II. ELIGIBILITY FOR ACCESS

Article 3

(Safety Certificate)

- (1) The RU shall hold a valid licence and safety certificate for the entire period of the Access Contract validity.

Article 4

(Right to Control RU's Operation)

- (1) The IM has a right and obligation to control the RU's operations, as prescribed by the Railway Transport Act.

- (2) The IM has the obligation to inform the Safety Authority on suspected security violations, committed by the RU, contrary to its license, safety certificate or allocated train path, as well as to inform the Transport Inspectorate of the RS about the violations of the rail traffic safety regulations.

III. INFRASTRUCTURE

Article 5

(Infrastructure Quality)

- (1) The IM shall ensure the quality standards for the undisturbed traffic flow in normal conditions and enable the RU to provide transport services in a way and at a scale, defined by the path allocation decision.
- (2) Under exceptional circumstances the IM shall urgently take all necessary measures to establish normal operational conditions on the PRI and implement actions, defined in the National exceptional events regulations, in a sensible and proper for the situation manner.

Article 6

(Infrastructure Maintenance and Quality Enhancement)

- (1) The IM has the right to improve the infrastructure quality and temporarily change the technical conditions on the paths during the Access Contract validity period. At the same time the Manager shall consider the needs and wishes of the RUs as much as possible and promote the promptest implementation of the construction/maintenance works.
- (2) In case of closure or cancellation of a path because of maintenance/construction works, the IM shall inform the RU as soon as possible, so it can request another train path.
- (3) If the IM informs the RU on path closure at least two months prior, the RU shall cover the costs for alternative train path usage, up to the amount of usage charge for the timetabled train path, which has not been used. If the RU refuses the offered alternative path and the IM organises substantial services upon RU's request, the RU shall fully cover the costs of organised services and their usage. The RU shall fully cover the costs of provision and implementation of the services even in case, if it is not possible to offer an alternative train path.
- (4) If the IM does not inform the RU on path closure at least two months prior, the RU shall cover the costs of alternative path in amount, not exceeding the amount of usage charge for the timetabled train path, which has not been used. If the RU refuses the offered alternative path and the IM organises substantial services upon RU's request, the RU shall fully cover the costs of organised services and their usage. If it is not possible to offer an alternative path and the IM organises substantial services upon RU's request, the RU shall fully cover the costs of organised services and their usage, up to amount, not exceeding the amount of usage charge for the timetabled train path, which has not been used. The higher costs shall be covered by the IM. If the RU in case of the previous sentence refuses the offered alternative path for a valid reason, it can demand compensation from the IM.
- (5) In case of a path closure as a result of maintenance/construction works, urgently necessary for ensuring safety on the rail traffic or fixing the damage, caused by the exceptional circumstances, the RU covers the costs of alternative path usage or for the use of substantial services in the amount, equal to the timetabled train paths usage charge. The costs of the alternative path or substantial services, that exceed the amount payable for timetabled train path usage, shall be shared between the IM and the RU in equal shares, unless it is agreed otherwise.
- (6) The IM is not responsible for the damage caused to the RU and occurred in the case, described in the 3rd paragraph of this article, if the Manager informed the RU on the

problem at least two months prior.

- (7) If the IM does not inform the RU on maintenance/construction works (described in the 5th paragraph of this article) at least two months prior, the Manager is responsible for the damage caused to the RU, in accordance with the provisions of 19th article of this document.

IV. TIMETABLE

Article 7

(Train Path Adjustment)

- (1) It is considered that with the path allocation the timetable for the allocated path is also agreed between the PART and the Applicant.
- (2) In case of exceptional circumstances, when deviations from the allocated paths occurred, the IM, after consulting the RUs, is entitled to adjust the paths in a way that ensures initially planned connections as much as possible (for example, after consulting the RUs increases or decreases the train speed, redirects or partially changes the planned train paths, etc.).
- (3) In case of deviations from the running timetable because of the exceptional circumstances, the IM is not responsible for the damage, caused to the RU.
- (4) In case the timetable deviations are caused by the RU, it covers liabilities for occurred damage, in accordance with the 18th article of this document.

Article 8

(Changes to the Timetable)

- (1) The IM can introduce changes to the running Network timetable only in cases and in a way, prescribed in the national regulations, defining the terms and method for elaborating the Network timetable.
- (2) The RU can acquire detailed information on the National regulations at the PART.

V. TRAFFIC OPERATION

Article 9

(Communication Language)

- (1) Slovenian is the formal working language, mandatory for all communications between the staff of the IM and the staff of the RU during traffic operations (for example, giving instructions, providing information, etc.).
- (2) The IM and the RU can agree to communicate in another language, defined by a special agreement (for example, an agreement on crossing the border, etc.).

Article 10

(Instructions)

- (1) At the time of transport operations the IM is entitled to give instructions to the RU and its staff or to provide necessary guidelines on traffic safety and occupational safety.

Article 11

(Ensuring Information and Documentation)

- (1) The IM is responsible to ensure to the RU all the relevant data and documents, prescribed in the national safety regulations.

Article 12

(Non-use of Allocated Train Path)

- (1) The RU shall immediately inform the IM if the use of the allocated train path is impossible for any reason.
- (2) For late path cancellation penalties are to be charged under the terms, defined in Section 6.4.1 of the Network Statement.

Article 13

(Delivery of Information)

- (1) Upon the RU's request the IM, in accordance with available sources, provides information on the location of RU's trains.
- (2) On each train the RU shall ensure the presence of qualified staff, able to understand and follow the information provided by the IM.
- (3) The RU and the IM shall immediately inform each other on all situations that influence or might influence on the implementation of the Access Contract, and especially on situations that influence or might influence the execution of the running working timetable.
- (4) The contact points of the RU and the IM, as well as detailed agreed procedures for information delivery are defined by the IM and the RU in the Access Contract.

Article 14

(Disruption to Traffic Services)

- (1) The IM and the RU shall immediately inform each other on each occurred disruption and irregularity that effects or might effect the traffic operation.
- (2) The IM and the RU shall take and implement adequate measures, to solve the problem as soon as possible and ensure undisturbed traffic flow.
- (3) While handling the problem The IM and the RU shall support each other both in terms of staff and technical resources, for addressing the disruption and ensuring normal traffic services.
- (4) In order to eliminate traffic disruptions in which the RU is not directly involved, the RU must, at the request of the IM, make available rolling stocks or other available technical resources and staff for the elimination of such disruptions. The costs incurred by the RU shall be charging to the one who caused the disruption.

Article 15

(Exceptional Transport and Dangerous Goods)

- (1) The RU shall ensure the transport of exceptional consignments and dangerous goods in accordance and under terms, prescribed in the National regulations on exceptional transport and dangerous goods.
- (2) For acquiring the detailed information on national regulations the RUs can refer to the Agency.
- (3) The RU shall provide necessary information to the IM on dispatch goods, which, because

of their nature or quantity, might cause environmental damage as a result of leakage, evaporation or other reasons.

- (4) The RU shall immediately inform the IM on any situation, causing an environmental damage, as well as on possible consequences of that damage.

VI. TRANSFER OF RIGHTS

Article 16

(Transfer of the Allocated Train Path)

- (1) The RU with signed Access Contract cannot transfer its rights to the allocated train path to another party.

VII. COVER OF LIABILITIES

Article 17

(Cover of Damage to the Passengers, Shippers and the Third Parties)

- (1) The RU shall cover all damage, caused to the passengers, shippers and the third parties, in accordance with the legislation.

Article 18

(Cover of Damage to the IM)

- (1) While using the PRI the RU shall cover the damage:
- caused because of violation of the Access Contract;
 - caused to the PRI and to the Manager's staff by the new rolling stock of the RU;
 - caused to the PRI and to the Manager's staff because of negligence of the RU's or service provider's staff;
 - caused to the PRI and to the Manager's staff by the passengers or loaded goods during their transportation.
- (2) The RU is relieved from the responsibilities, mentioned in the first sentence of this article, in case of non-material damage, if:
- the damage occurred because of situations, not connected to the train movement, which the RU, in spite of careful handling, could not predict, escape or prevent;
 - the damage caused exclusively by the IM or its staff;
 - the damage caused by the third parties, and in spite of careful handling, the RU could not predict, escape or prevent.
- (3) The RU is relieved from the responsibilities, mentioned in the first sentence of this article in case of material damage if:
- the damage occurred because of the Manager's mistake without any reason or RU's mistake;
 - the damage occurred because of situations, when the RU, in spite of careful handling the problem, could not predict, escape or prevent.

Article 19

(Responsibilities of the IM)

- (1) The IM is responsible for the damage, caused to the RU or its staff during the PRI usage,

as a result of violation of the Access Contract. Similarly, the IM is responsible for the damage, if its or its staff's actions prevent the normal usage of the PRI by the RU.

- (2) The IM is relieved from the responsibilities, mentioned in the first sentence of this article in case of material and non-material damage, if:
 - the damage is caused because of situations that are not connected to the traffic operation, which the IM, in spite of careful handling, could not predict, escape or prevent;
 - the damage is caused exclusively by the RU or its staff;
 - the damage is caused by the third parties, and in spite of careful handling, the IM could not predict, escape or prevent.
- (3) If the IM covers the damage, caused to the other users in accordance with the previous sentence of this article, it has a right to require from the responsible RU compensation of the amount, paid for the damage that has been caused by the RU.

Article 20

(Responsibilities in Case of Joint Activities)

- (1) If the damage is caused as a result of joint activities of the IM and the RU, each contracting party is responsible only for the portion of damages that occurred due to circumstances for which, in accordance with the provisions of GBCC, is responsible. If the rate of contribution of each cause of the damage can not be established, each contracting party shall cover the losses it borne.
- (2) Provisions of the first paragraph of this Article shall also apply, if the damage resulted from the joint activities of the IM and several different RUs that used the same part of the PRI.
- (3) Provisions of the first paragraph of this Article shall apply also, if the damage resulted from the influence of the joint activities of several RUs that used the same part of the PRI. If the rate of contribution of each cause of the damage can not be established, the RUs cover the damage, caused to the IM in equal shares.

Article 21

(Impossibility to Establish Liability)

- (1) If it is not possible to establish liability in terms of GBCC, whether the damage is caused by the IM or the RU, both contractual parties are responsible in equal shares.
- (2) If more RUs use the same train path, the damage apportioned among them in equal shares, unless the individual RU proves that it did not cause damage.

Article 22

(Responsibilities of the Staff)

- (1) Under the terms of this document, damage at workplace caused by an employee of the IM or RU, burdens the contracting party that employed the person, responsible for the damage.
- (2) The affected party may demand recovery of damages directly from the employee if the latter caused the damage deliberately.

Article 23

(Amount of Compensation)

- (1) The amount of compensation is determined in accordance with the applicable national legislation, regulating the fundamental principles and general rules of obligations.

VIII. ELIMINATION OF CONSEQUENCES OF EMERGENCIES ON THE PRI AND IN THE ENVIRONMENT

Article 24

(Elimination of the Consequences of Emergencies)

- (1) The IM is obliged to eliminate the consequences of emergencies on the PRI and in the environment, caused by the RU and its staff.
- (2) If the costs of implemented works for eliminating the consequences of emergencies on the PRI are not included in the caused damage, shall be paid by the party that caused the damage.
- (3) The RU shall bear the costs of implemented works and activities that the IM has to carry out, to eliminate the consequences of environmental damage in accordance with applicable national regulations. The RU covers the costs even in cases, when the damage is not caused due to its or its staff's fault, but because of transported cargo or passengers.

IX. CONFIDENTIALITY OF DATA, INFORMATION AND DOCUMENTS

Article 25

(Confidentiality of Data, Information and Documents)

- (1) The IM and the RU shall protect confidential information, data and documents acquired together and shall use them exclusively for the purposes of implementing the traffic operations.
- (2) The IM and the RU shall protect confidential information, data and documents even after termination of the Contract.
- (3) If any of the contracting parties violates the confidentiality of data, documents and information, it shall fully compensate the caused damage to the other contracting party.
- (4) The IM and the RU are required to provide each other with any information, data and documents needed for the traffic operation in regular or emergency situations.

XVIII. DISPOSE OF CLAIMS

Article 26

(Dispose of Claims)

- (1) Claims arising on the basis of the Access Contract can be assigned to a third party only with the written consent of the contractual partner.

XIX. CHANGES TO THE ACCESS CONTRACT AND GBCC

Article 27

(Changes to the Access Contract and GBCC)

- (1) Changes and amendments to an Access Contract bound the contract parties only if made in written form.
- (2) If the IM at the time of the Access Contract validity changes the content of GBCC and publishes it in a usual way, the change or amendment is obligatory for the RU, if within one week of receiving notification of the amendment it does not provide written comments.

Until the expiry of that period the revisions are not binding.

- (3) If the RU does not agree with changes and amendments to the GBCC, it can withdraw from the contract and require from the IM compensation for the suffered losses.
- (4) The RU is not entitled to compensation for damage, if the changes to GBCC are made due to changes in national legislation and are obligatory for the IM.

XX. PARTIAL INVALIDITY

Article 28

(Partial Invalidity)

- (1) If the provisions of an Access Contract or its components become void or invalid during the Contract validity period, this shall not affect the validity of the rest of the Contract and its components.
- (2) If an individual clause becomes void or ineffective, it is replaced by more effective clause that is closest to the commercial objectives of the replaced clause, primarily negotiated between the contracting parties.

XXI. VALIDITY OF ACCESS CONTRACT

Article 29

(Validity of Access Contract)

- (1) The Access Contract is concluded for the validity period of the Network timetable, on the basis of which a train path has been allocated.
- (2) The IM may at any time withdraw from the Access Contract:
 - if the RU no longer holds the required licenses and safety certificate;
 - if the RU is in bankruptcy or compulsory settlement and the cover of any liability (costs) is compromised.
- (3) The IM may at any time withdraw from the Access Contract, if the RU, despite a written reminder:
 - seriously violates the terms and conditions for the use of PRI;
 - in case of any other serious violation of its legal and contractual obligations.
- (4) The Undertaking may at any time withdraw from the Access Contract, if the IM, despite a written notice, seriously violates its legal or contractual obligations.
- (5) The contracting party, responsible for the cause of dismissal, shall cover all the damage to the other party for its losses due to cancellation of the Contract, unless it proves that the damage has not been caused by its fault.

XXII. DISPUTE RESOLUTION

Article 30

(Dispute Resolution)

- (1) All disputes, disagreements or claims arising out of or in connection with this Contract or its interpretation, breach, termination or invalidity, are resolved in accordance with the Slovenian substantive law.
- (2) All disputes arising out of or in connection with this contract shall be submitted to the competent court in Ljubljana.