

APPENDIX 3.3

OUTLINE OF A FRAMEWORK AGREEMENT FOR INFRASTRUCTURE CAPACITY BETWEEN SNCF RESEAU AND THE COMPANY XXX

(Reference No. ...)

BETWEEN

SNCF RESEAU SA¹, entered on the Bobigny Trade and Companies Register under No. B 412 280 737, with registered headquarters at 15-17 rue Jean-Philippe Rameau, CS 80001, 93418 La Plaine Saint-Denis Cedex, represented by Arnaud Sohier, Sales Director,

on the one hand,

AND

The authorised candidate / railway undertaking XXX, hereafter called the "**Framework Agreement Customer**", (form of company) with a capital of euros, entered on the Trade and Companies Register of, under No., with registered headquarters at represented by.....(*surname, forename, job title*),

on the other hand,

hereinafter referred to collectively as the "Parties" or individually as a "Party",

¹ As of 1 January 2020, SNCF Réseau will become a public limited company with public capital. The Infrastructure Manager shall remain a public industrial and commercial undertaking during the 2020 timetable between 15 December 2019 (at 00:00) and 31 December 2019. This change of legal form does not affect in any way the provisions of this framework agreement.

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FOREWORD

1. A framework agreement is a mutual contractual commitment based on infrastructure capacity that a railway undertaking/authorised applicant, hereafter referred to as the "framework agreement customer", will undertake to order and that SNCF RÉSEAU will undertake to allocate over a period greater than that of a timetable.
2. The characteristics of the infrastructure capacity covered by framework agreement will be described in detail and will remain constant through the duration of the framework agreement.

However, the framework agreement does not define in detail the train paths which will be requested annually by the framework agreement customer for each timetable covered by the framework agreement.

3. The general procedures for ordering and allocating train paths are described in the Network Statement in force for each timetable period, and will apply to each annual timetable over the period covered by the framework agreement.
4. In compliance with the provisions of Article 42 of Directive No. 2012/34/EU of the European Parliament and the Council of 21 November 2012 establishing a single European railway area and Article 20 of Decree No. 2003-194 of 7 March 2003 on the use of the national rail network, this framework agreement will not preclude the use of the infrastructure concerned by other SNCF RÉSEAU customers.
5. In accordance with Article L.2133-3 of the Transport Code and at the request of the Parties, the draft framework agreement was submitted to the Transport Regulation Authority prior to signature by the two Parties in order to obtain a recommendation.
6. This framework agreement is entered into according to the conditions laid down by the Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity and in application of Article L.2122-6 of the Transport Code.

IT IS MUTUALLY AGREED AS FOLLOWS

DEFINITIONS

"Infrastructure capacity": "infrastructure capacity should be understood as being the possibility of scheduling the train paths requested for a segment of infrastructure during a given period" (Article L.2122-3 of the Transport Code).

"Framework capacity": capacity of the infrastructure allocated through the framework agreement.

"National Rail Network Statement": finalised document, published and updated by SNCF Réseau for each timetable and whose content is defined in Article L.2122-5 of the Transport Code and specified by Decree No. 2003-194 of 7 March 2003 on the use of the national rail network.

"Timetable": the timetable for year Y is drawn up from April (Y-1) to July (Y-1) based on the requests submitted before the deadlines by railway undertakings and authorised candidates:

- An initial draft timetable is sent to applicants in July (Y-1).
- The draft of the definitive service is sent to applicants in August (Y-1).
- The definitive timetable is finalised at the beginning of September (Y-1).

The timetable is then adapted continuously as necessary from September (Y-1) until D to take account of late and last minute train path requests, as well as interval requests.

"Confidential information": designates the appendix to this agreement and all information in any form (particularly of a technical, commercial, financial, accounting, legal and administrative nature) provided, by whatever means, to either Party or its representatives or councils as part of this framework agreement or in connection with the negotiation of this framework agreement (including during informal discussions and negotiation discussions), which may not be made known, either directly or indirectly, in whatever medium, to third parties, its employees, representatives, bankers or advisers, excluding those who need to know this confidential information for the normal performance of the obligations subject to this framework agreement. Furthermore, the Parties undertake to ensure that before any information is divulged to third parties the latter must sign a statement of confidentiality.

"Train path": "the term "train path" should be understood as meaning the infrastructure capacity necessary to enable a given train to be worked from one point to another at a given time" (Article L.2122-3 of the Transport Code). More precisely a train path consists of a route marked out in relation to a sequence of landmarks on that part of the network covered with an indication of the time at which the train should pass each landmark.

"Train path-day": a train path for a given day.

ARTICLE 1 – OBJECT

This framework agreement defines the reciprocal rights and obligations of SNCF Réseau and the framework agreement customer with regard to Infrastructure capabilities that:

- the framework agreement customer agrees to order in April of the year A-1 (at the latest on the second Monday of the month of April preceding the date of application of the relevant timetable) and
- SNCF Réseau has allocated it at the publication of the timetable in September Y-1 and at the latest at the beginning of the Y timetable, for each year Y of the scope of this agreement.

The characteristics of the infrastructure capacities, subject of this agreement, are described in Appendix 1.

This agreement governs neither the conditions of operational use of the infrastructure of the national rail network nor the conditions of use of train paths once these have been allocated. These provisions are covered by the contract for use of the infrastructure or the contract for allocation of train paths.

FIRST SECTION: RIGHTS AND OBLIGATIONS OF SNCF RÉSEAU AND THE FRAMEWORK AGREEMENT CUSTOMER AS REGARDS THE INFRASTRUCTURE CAPACITY

ARTICLE 2 – OBLIGATIONS OF SNCF RÉSEAU

- 1) SNCF RÉSEAU undertakes, in its capacity as infrastructure manager of the national rail network, to allocate to the framework agreement customer, for each timetable covered by the duration of this agreement, the infrastructure capacity described in Appendix 1.

SNCF RÉSEAU's obligations concern, as regards infrastructure capacities, the following points:

- the number of train path-days to be given allocation, less the threshold, where applicable,
 - the origins/destinations of these train paths,
 - the timetable positioning of these train paths,
 - the trip times of these train paths.
- 2) SNCF RÉSEAU shall notify the framework agreement customer, for information purposes, in January of Y-1 (before each annual train path request) of the infrastructure capacity described in Appendix 1 for which it will not be able to give an allocation for the year Y in question, in view of the programme of work published by SNCF RÉSEAU in December Y-2, without pre-empting the capacity allocation process.
 - 3) When formulating its offer for each timetable covered by the duration of this agreement, SNCF RÉSEAU will consider the train path requests made by the framework agreement customer in accordance with the characteristics of the infrastructure capacity and sent to

SNCF RÉSEAU under the conditions and following the procedures set out in the Network Statement in force.

In compliance with the provisions of Directive No. 2012/34 mentioned above, the train paths allocated by SNCF RÉSEAU at the beginning of each timetable may differ from one timetable to another, provided they comply with the obligations set out in this article.

ARTICLE 3 – OBLIGATIONS OF THE FRAMEWORK AGREEMENT CUSTOMER

- 1) For each timetable covered by the duration of this agreement, the framework agreement customer undertakes to ask SNCF RÉSEAU to indicate the number of train path-days that correspond to the infrastructure capacity, less the threshold, where applicable, in accordance with the schedule defined in the National Rail Network Statement for the timetable in question, and using the reference located on page 1 of this agreement in the GESICO request tool.
- 2) For the duration of this agreement, the Framework Agreement Customer undertakes to use convoys that ensure the trip time indicated in Appendix 1 to this agreement are respected.

ARTICLE 4 – SCOPE OF THE OBLIGATIONS

SNCF RÉSEAU and the framework agreement customer recognise and mutually agree that the obligations undertaken in Articles 2 and 3 of this agreement constitute the essential conditions of this said agreement.

ARTICLE 5 – THRESHOLD

An annual threshold for the fulfilment of the obligations regarding infrastructure capacities shall be set up. The level of this threshold as agreed by each Party in number of train path-days is specified in Appendix 1.

The principle of this threshold is as follows:

- compensation owed by the framework agreement customer to SNCF RÉSEAU is only to be paid if the number of train path-days requested by the framework agreement customer is less than the total number of train path-days corresponding to the infrastructure capacities less the threshold, with the understanding that the threshold for the framework agreement customer applies in April Y-1.
- compensation owed by SNCF RÉSEAU to the framework agreement customer is only to be paid if the number of train path-days allocated by SNCF RÉSEAU is less than the total number of train path-days corresponding to the infrastructure capacities less the threshold, with the understanding that the threshold for SNCF RÉSEAU applies in September Y-1 or in December Y-1 under the conditions set in the Appendix

ARTICLE 6 – EXCEPTIONS TO THE OBLIGATIONS

The obligations undertaken by SNCF RÉSEAU and the framework agreement customer shall not apply when the non-performance or partial performance of their obligations results from the occurrence of an event listed in the points below:

- 1) In the case of force majeure, which shall be any irresistible, unpredictable event outside the control of the Parties, making it impossible for one or the other of the Parties to this agreement to fulfil its obligations in full or in part.
- 2) natural disasters or weather-related phenomena (frost, snow, heat waves, floods, storms, etc.) of an intensity and/or on a scale deemed exceptional by comparison with normal conditions in metropolitan France.
- 3) adoption of a law, regulation or decision by the State, ARAFER or an institution of the European Union that significantly affects capacity allocation and the performance of transport services during the period of application of this framework agreement and prevents the Parties from fulfilling their obligations, in whole or in part, such as major decisions pertaining to a reinforcement plan set out in Article 26 of Decree No. 2003-194 or requests for defence or public safety purposes.
- 4) In the case of early termination by the customer of the framework agreement customer of the commercial contract for which the train paths are requested. The framework agreement customer immediately undertakes to inform SNCF RÉSEAU of this occurrence by a registered letter with acknowledgement of receipt (accompanied by the required supporting documents) and at the latest 10 calendar days after the framework agreement customer receives the written early termination.

In all instances where the contractual obligations cannot be performed due to the occurrence of one of the events mentioned above, these shall be suspended throughout the duration of the said event but only as concerns the obligations of the Parties regarding the capacity offered that is in fact affected by the event.

If an event set out in the sub-paragraphs above affects all or part of the performance of this framework agreement, the Parties shall come together to agree in good faith the arrangements that may be made in the interests of both Parties.

ARTICLE 7 – COMPENSATION AS A CONSEQUENCE OF A FAILURE TO MEET THE OBLIGATIONS REGARDING TRAIN PATH-DAYS

Failure on the part of one of the Parties to meet its obligations will entitle the other Party to compensation. This compensation is assessed when ordering each Y timetable (from December Y-2 to April Y-1) for the Framework Agreement Customer (7.1), on publication of the timetable and the beginning of the timetable for SNCF Réseau (7.2).

Requests for changes to the Infrastructure Capacities made by the Framework Agreement Customer after the closing of the service order (i.e. after the second Monday of the month of April preceding the date of application of the timetable concerned) are not taken into account for the implementation of this article and Article 5 (Franchise).

7.1 Compensation for train path-days not requested by the framework agreement customer

When constructing each timetable, the non-request at the end of the service requests period (the second Monday of April before the application date of the timetable concerned) by the framework agreement customer of train path-days corresponding to characteristics of the infrastructure capacities shall give rise to compensation to be paid to SNCF RÉSEAU.

However, compensation shall not be owed for the non-request of train path-days that:

- are part of the threshold, as defined in Article 5,
- are covered by an exceptional case, as defined in Article 6.

The framework agreement customer shall inform SNCF RÉSEAU of its specific reasons for considering that the cases referred to above rule out any compensation to SNCF RÉSEAU.

For the Y timetable, for each single train path-day, the total amount of compensation to which SNCF Réseau is entitled is equal to the sum of **(to be completed)** updated using the change index set in the Network Statement for the Y timetable (depending on the case):

- for freight tolls,
- for contracted passenger tolls,
- for non-contracted passenger tolls,

For the Y+1 timetable, for each single train path-day, the total amount of compensation to which SNCF Réseau is entitled is equal to the sum of the Y timetable compensation, updated using the change index set in the Network Statement for the Y+1 timetable (depending on the case):

- for freight tolls,
- for contracted passenger tolls,
- for non-contracted passenger tolls,

For the Y+2 timetable, for each single train path-day, the total amount of compensation to which SNCF Réseau is entitled is equal to the sum of the Y+1 timetable compensation, updated using the change index set in the Network Statement for the Y+2 timetable (depending on the case):

- for freight tolls,
- for contracted passenger tolls,
- for non-contracted passenger tolls,

(to be completed depending on the duration of the contract)

7.2 Compensation for train path-days not allocated by SNCF RÉSEAU

The train path-days not allocated corresponding to the characteristics of the infrastructure capacities shall give rise to compensation to be paid to the framework agreement customer within the limits of and in accordance with the following conditions.

Compensation shall not be owed for the non-allocation of train path-days that:

- are part of the threshold, as defined in Article 5,
- are covered by an exceptional case, as defined in Article 6.

SNCF RÉSEAU shall inform the framework agreement customer of its specific reasons for considering that the cases referred to rule out any compensation to the framework agreement customer.

For the Y timetable, for each single train path-day, the total amount of compensation to which SNCF Réseau is entitled is equal to the sum of **(to be completed)** updated using the change index set in the Network Statement for the Y timetable (depending on the case):

- for freight tolls,
- for contracted passenger tolls,

- for non-contracted passenger tolls,

For the Y+1 timetable, for each single train path-day, the total amount of compensation to which SNCF Réseau is entitled is equal to the sum of the Y timetable compensation, updated using the change index set in the Network Statement for the Y+1 timetable (depending on the case):

- for freight tolls,
- for contracted passenger tolls,
- for non-contracted passenger tolls,

For the Y+2 timetable, for each single train path-day, the total amount of compensation to which SNCF Réseau is entitled is equal to the sum of the Y+1 timetable compensation, updated using the change index set in the Network Statement for the Y+2 timetable (depending on the case):

- for freight tolls,
- for contracted passenger tolls,
- for non-contracted passenger tolls,

(to be completed depending on the duration of the contract)

7.3 Renunciation

The Parties expressly agree that the payment of compensation agreed under the conditions set out in Articles 7.1 and 7.2 shall cover any harm suffered by one of the Parties. This compensation is deemed to cover all failures to meet the obligations stipulated in this framework agreement, except in the case of compensation likely to be paid in application of Articles 11 and 12 of this agreement.

In return for the payment of such compensation, the Parties shall renounce all other claims or amicable or legal action which would be based on the failure to meet the obligations regarding train path-days corresponding to the characteristics of the infrastructure capacity.

ARTICLE 8 – PRINCIPLES GOVERNING THE USE OF INFRASTRUCTURE CAPACITY

- 1) It should be noted that the framework agreement customer may not transfer the infrastructure capacity or the related train paths to a third party. Any contract, agreement or other modality on this subject or with this end, that has been settled or agreed between the framework agreement customer and third party and that contravenes this prohibition shall be null and void with regard to SNCF RÉSEAU.
- 2) The framework agreement customer shall remain completely free to select the consists of the trains it operates, provided that this rolling stock is permitted to run on the lines concerned and in accordance with Article 3.2 of this agreement.
- 3) According to the terms and conditions set out in Article 11 Adjusting the framework capacity in the framework agreement of the aforementioned implementing regulation (EU) No. 2016/545, the framework agreement customer immediately informs SNCF Réseau of its long-term intention not to use all or part of the framework capacity.

ARTICLE 9 – REQUESTING TRAIN PATHS AND THE APPLICABLE CHARGES

- 1) When publishing a timetable, SNCF RÉSEAU has allocated the framework agreement customer train paths consistent with the characteristics of the infrastructure capacity; the framework agreement customer undertakes to pay SNCF RÉSEAU the charges for the use of the national rail network relevant to these train paths according to the scale of charges and the conditions in force for the timetable in question.
- 2) As the obligations undertaken by the framework agreement customer under the terms of Article 3.1 of this framework agreement constitute an essential condition, the charges connected to the train paths covered by the infrastructure capacity requested by the latter for each timetable shall remain in any event due to SNCF RÉSEAU (excluding the part of the charge relating to the running of trains).

The framework agreement customer may therefore not claim that any possible regulatory or contractual provision relating to the non-invoicing or the reimbursement, in whole or in part, of the charges for the cancellation of these train paths (including all requests for amendments submitted by the framework agreement customer, on the basis of characteristics that are not compliant with Appendix 1, and accepted by SNCF RÉSEAU) during the timetable period is applicable.

SECOND SECTION: ENTRY INTO FORCE, DURATION, MODIFICATION AND TERMINATION OF THE AGREEMENT

ARTICLE 10 – ENTRY INTO FORCE AND DURATION OF THE AGREEMENT

This framework agreement enters into force for the XXX timetable and will continue until the end of the XXX timetable.

ARTICLE 11 – MODIFICATION OF THE AGREEMENT

- 1) Modification of the terms of this agreement may be possible in the following cases:
 - if an addendum is signed by the Parties,
 - if a change in the normative or economic context results in the necessary upheaval of the general economic conditions of this agreement.

These modifications shall take the form of a written addendum to this agreement.

- 2) In accordance with Article 42.3 of Directive 2012/34, SNCF RÉSEAU is authorised to modify or limit this framework agreement in order to ensure better use of railway infrastructure, when no other solution to achieve this objective can reasonably be implemented. For the application of this article, "better use of infrastructure" is defined as maximising the economic and social utility of the railway mode, and is measured according to the methods most commonly accepted and implemented by public authorities and economic players, particularly those undertaken in application of Articles L.1511-1 and L.1511-2 of the Transport Code.

The modifications or limitations above may concern the infrastructure capacity described in Appendix 1, insofar as SNCF RÉSEAU shall first adapt the characteristic of the capacity (such as the trip time or the timetabled departure of trains) then, if necessary, shall suggest capacity on alternative routes.

SNCF RÉSEAU undertakes to take account of the legitimate commercial interests of the framework agreement customer when defining modifications to or limitations of the terms of this framework agreement. SNCF RÉSEAU also undertakes to present the framework agreement customer with an assessment of the economic and social utility of different possible scenarios so as to demonstrate that the scenario selected actually does equate to the maximising of this utility.

In any case, SNCF RÉSEAU shall notify the framework agreement customer in advance with written notice 15 months before the entry into force of the timetable concerned of its intention to modify or limit this framework agreement.

The framework agreement customer may make any comments and suggestions regarding the intended modifications or limitations. The Parties shall seek in good faith arrangements that best correspond to the commercial interests of the framework agreement customer and to the need for better use of the infrastructure, without any prejudice of the right of SNCF RÉSEAU to implement modifications to or limitations of the terms of this framework agreement.

- 3) In accordance with § 4 of Article 9 "Coordination in case of conflicting requests for framework agreements for any time after the end of the next timetable period" of the aforementioned regulation No. 2016/545, and subject to application of § 2 of Article 8 of said regulation, if the coordination procedure should fail and the framework agreement requested by another candidate allows for better use of the infrastructure, SNCF Réseau shall request the modification of the capacity allocated under this agreement.
- 4) According to the terms and conditions set out in Article 11 "Adjusting the framework capacity in the framework agreement" of the regulation No. 2016/545, the capacity allocated under this framework agreement is reduced by SNCF Réseau, in the event that the framework agreement customer does not use all or part of the framework capacity during a period exceeding one month, without having informed SNCF Réseau thereof at least one month in advance and with the exception of grounds outside of its control, in order to propose the freed up capacity to other candidates.

The decisions made by SNCF RESEAU may give rise to compensation to the framework agreement customer as long as the framework agreement customer proves, based on documentary evidence, that these decisions have resulted in a direct, real and certain loss.

ARTICLE 12 – SUSPENSION AND TERMINATION OF THE AGREEMENT

With the exception of the obligation to confidentiality set out in Article 17 of this framework agreement, this framework agreement shall be suspended, with immediate effect by one Party, without prejudice to the compensation it is owed and without owing compensation to the other Party, if the other Party is not capable of meeting its obligations due to:

- the loss of its right to perform the activities relating to the subject of the agreement (such as the suspension or loss of the railway operator's licence of the framework agreement customer, or the suspension or loss, in whole or in part, of the safety authority with regard to SNCF RÉSEAU).
- insolvency proceedings of the framework agreement customer;
- loss (for whatever reason) of the right of the framework agreement customer to benefit from railway infrastructure capacity.

The decision to suspend the agreement must be communicated to the other Party in the format and with the notice period set out by this agreement, in accordance with the terms of Article 17 of this framework agreement.

Once the conditions that justified the suspension of the agreement have ended, all the terms of this agreement shall again be applicable.

If at the end of a three-month period, the defaulting Party has not remedied the conditions that justified the suspension of the agreement, the other Party, having made the suspension decision, may inform the defaulting Party that it is terminating the agreement, without prejudice to the compensation due once the existence of direct, genuine and certain injury has been proven.

Furthermore, this agreement may be rightfully terminated by the framework agreement customer for the train paths concerned if its customer terminates the commercial contract for which the train paths are requested early.

THIRD SECTION: MISCELLANEOUS PROVISIONS

ARTICLE 13 – DUTY OF INFORMATION AND CONDITIONS FOR MONITORING THIS AGREEMENT

13.1 Duty of information

The Parties hereby agree to keep each other informed, at all times and at the earliest opportunity, of any event or circumstance or information of any kind that is likely to have a significant impact on the performance of this agreement. However, any failure, omission or delay in performing the duty of information shall not jeopardise the provisions of this agreement and its application.

13.2 Conditions for monitoring the performance of this agreement

An annual dashboard shall be drawn up with the aim of monitoring the fulfilment of these reciprocal obligations for each train path of the framework agreement. It shall be drafted by the Commercial Division of SNCF Réseau.

This dashboard shall make clear, for each day of each timetable, any discrepancies between the actual situation and the obligations undertaken.

Discrepancies recorded and shared between the Parties during an annual meeting to be agreed shall serve as a basis for the evaluation of any compensation owed by each Party to the other.

The representatives of each party for the management of this agreement are XXX, as Sales Director of SNCF RÉSEAU and (*surname, name, job title*) for the framework agreement customer.

ARTICLE 14 – PAYMENT OF THE SUMS DUE AS PART OF THIS AGREEMENT

- 1) The amounts of the charges for using the infrastructure corresponding to the train paths allocated at the beginning of each timetable will be invoiced by SNCF RÉSEAU and paid

by the framework agreement customer under the same conditions as the other train paths. They will be set by the Network Statement and the contract for use of the infrastructure of the national rail network.

Any challenges will be handled in accordance with the procedures and conditions set out in the same documents.

- 2) Any compensation due in application of Article 7 of this framework agreement will be invoiced annually by each Party to the other Party on the basis of failure to meet obligations validated by the representatives of the Parties indicated in Article 13.2 of this framework agreement.

The sums due as compensation fall outside the scope of application of VAT and are therefore invoiced excluding tax; the payment and invoice dispute conditions are exactly the same as for the charges for using the infrastructure.

ARTICLE 15 – TRANSFER OF THE RIGHTS AND OBLIGATIONS OF THE PARTIES

Neither Party may transfer any of its rights or obligations under the scope of this agreement without the prior written consent of the other Party.

ARTICLE 16 – NOTIFICATIONS

Any notification, report, invoice or other communication between the Parties required for the performance of this agreement must be made in French and addressed to the correspondents mentioned in this article, with the understanding that one or other of the Parties may change its address or the name of the correspondent by giving the other Party a minimum of five days' written notice in accordance with the provisions of this article.

SNCF RÉSEAU	FRAMEWORK AGREEMENT CUSTOMER
Arnaud SOHIER Group Business Development Director 174 avenue de France 75013 PARIS	<i>To be completed.</i>

Except where provisions contradict this agreement, all notifications between the Parties must be made in writing and sent to the correspondents mentioned in this article. The notification shall be considered validly carried out if it is sent by normal post or as a registered letter with acknowledgement of receipt, by fax where the sender receives confirmation that the entire document has been transmitted to the recipient or by electronic means offering a sufficient degree of reliability.

Notifications shall take effect on the first working day after they have been received.

For the implementation of this article, the date on which notifications shall be considered received are as follows:

- notifications sent by normal post shall be considered received two (2) days after they have been sent,
- notifications sent by registered letter shall be considered received on the date of receipt as given on the acknowledgement of receipt,
- notifications sent by the other methods referred to above shall be considered received on the date they are sent.

The Parties expressly agree that this article purports exclusively to govern and determine the conditions for notifications applicable to the specific elements connected with this agreement (works possession periods, invoices, compensation and thresholds, disputes regarding compensation and thresholds, etc.) and that notifications and exchanges between the Parties relating to the train paths (train path requests, allocation and cancellation) shall be governed by the relevant applicable rules, procedures and tools.

ARTICLE 17 – CONFIDENTIALITY

- 1) The two Parties shall undertake not to disclose confidential information of a commercial nature in this agreement, including its appendices, to third parties, without the prior formal agreement of the other party, unless:
 - forced to do so by the laws and regulations in force or by a public administration or any other authority or jurisdiction;
 - the contents of this information forms part of the public domain or if the Party providing the confidential information has given its written permission for it to be divulged.
- 2) In the case where one Party is obliged to divulge confidential information, this Party undertakes to limit the communication to the confidential information strictly required to satisfy the communication request and a list of the information concerned shall be sent to the other Party beforehand, where permitted by law.
- 3) More particularly, SNCF Réseau shall respect the confidentiality of the information of a commercial nature transmitted to it by the framework agreement customer in connection with the management of the infrastructure capacity offered to it under the terms of this agreement. However, in application of Article 19 of Decree No. 2003-194 of 7 March 2003, this does not concern information that SNCF Réseau may be obliged to issue with reference to the train paths allocated after the timetable construction process and corresponding to the infrastructure capacity.

ARTICLE 18 – INVALIDITY OF CERTAIN CLAUSES

- 1) Should one of the terms, conditions or stipulations of this agreement be considered null or illegal for the duration of this agreement, by a court, an arbitration tribunal, a governmental or regulatory authority or any other French administration, or national or European body, this term, condition or stipulation shall be considered as null and void and shall not affect the validity, legality or implementation of the other provisions of this agreement, except where this term, condition or stipulation is essential for the application of this agreement.
- 2) If one of the terms, conditions or stipulations of this agreement has been considered null or illegal in accordance with the provisions of 1) above, the Parties shall do their utmost to agree on the amendments to be made to this agreement to replace the term, condition or stipulation in question, so that this agreement is fully effective between the Parties, both

financially and practically.

ARTICLE 19 – NON-RENUNCIATION

It is explicitly agreed by the Parties that if one Party does not ensure the strict application of the conditions of this agreement, this shall never constitute renunciation of any of the rights contained therein.

ARTICLE 20 – INDEPENDENCE OF THE PARTIES

This agreement is not intended and should not be interpreted as giving rise to the signing of a mandate or the creation of a de facto partnership between the Parties. Neither Party shall be authorised to commit the other Party contractually or to make statements in their name.

ARTICLE 21 – FEES

Each Party shall bear all costs incurred by them for the preparation, negotiation, performance and implementation of this agreement.

ARTICLE 22 – INTERPRETATION

The appendices form an integral part of this agreement. The terms and expressions used in the appendices are defined as in the agreement.

ARTICLE 23 – LAW GOVERNING THIS FRAMEWORK AGREEMENT

This agreement is governed by and interpreted according to French law. This principle shall apply to both substantive and formal rules.

ARTICLE 24 – DISPUTES BETWEEN THE PARTIES

24.1 Settlement of disputes via conciliation or court procedures

Any disputes arising between the Parties in the course of the execution of this agreement may be resolved through a conciliation process without any prejudice for one or the other Party having recourse to emergency procedures in order to protect its rights or to take primary control of the regulation of the railway operations.

A conciliation process is initiated with a registered letter with acknowledgement of receipt addressed to the other party.

The chosen conciliators must be natural persons who are impartial to both parties and who present guarantees of their independence and professionalism, with each party then appointing one such person, unless they agree on a single conciliator, in which case such a conciliator shall act with the costs shared.

In the event that the conciliation process should fail, the matter may be initiated, when appropriate, to the Paris courts to examine the disputes, irrespective of the number of defendants or introduction of third parties, even in the event of urgent referrals or emergency injunctions.

24.2 Appeals to the Railway and Road Regulation Authority (ARAFER)

The appeal procedures mentioned above shall not prevent one or the other Parties from lodging an appeal with the Railway and Railroad Regulation Authority.

ARTICLE 25 – LIST OF APPENDICES

The appendices to this agreement are:

- Appendix 1: Infrastructure capacity covered by the framework agreement.

Done in two original copies, one for each Party, in Paris,

Date

For SNCF Réseau

Arnaud SOHIER

Group Business Development Director

On

For the framework agreement customer

APPENDIX 1: INFRASTRUCTURE CAPACITY COVERED BY THE FRAMEWORK AGREEMENT

This appendix shall be considered confidential information.

1. Characteristics of the infrastructure capacity

For each timetable and per time period within a timetable:

- **connections (origins-destinations)**
- **volumes**
- **trip time for the train path**
- **timetable positioning**
- **schedule**
- **seasonal adjustments (weekly, monthly)**

2. Deductible Level

2.1 For each timetable, pursuant to Article 5 of this document:

2.1.1 The deductible level granted to the framework agreement customer is % of the total infrastructure capacity that the framework agreement customer has committed to ordering.

2.1.2 For each timetable, the deductible level (1) granted to SNCF Réseau on the publication of the timetable is% of the total infrastructure capacity that SNCF Réseau has committed to allocate to the framework agreement customer.

The deductible level (2) granted to SNCF Réseau at the beginning of the timetable is% of the total infrastructure capacity that SNCF Réseau has committed to awarding to the framework agreement customer.

2.1.3 The compensation owed by SNCF Réseau to the framework agreement customer is the average of the amounts of compensation calculated at the publication and beginning of the timetable, taking the envisaged deductibles into account:

$$I = \frac{\text{(Photo compensation for the timetable publication + photo compensation at the beginning of the timetable)}}{2}$$

2.1.4 In the hypothesis of a deterioration of the photo at the start of the timetable, the compensation owed by SNCF Réseau will be calculated solely on the basis of the results of the photo at the start of the timetable.