

## Template Framework Agreement No. 60/012/.../00/...../....

concluded on ..... in Warsaw

by and between **PKP Polskie Linie Kolejowe Spółka Akcyjna**

address: 03-734 Warsaw, ul. Targowa 74,

NIP: 113-23-16-427,

Regon: 017319027,

entered into the register of entrepreneurs of the National Court Register kept by the District Court for the capital city of Warsaw in Warsaw, 13<sup>th</sup> Commercial Division of the National Court Register, under KRS number 0000037568. The amount of share capital fully paid up PLN 16,696,577,000.00,

hereinafter referred to as the **Manager**,

represented by:

1. ....
2. ....

and .....

address: .....,

NIP .....,

Regon .....,

entered into the register of entrepreneurs of the National Court Register kept by the District Court for the city of ..... in ....., ..... Commercial Division of Krajowy Rejestr Sądowy under KRS number ..... Share capital *fully paid-up* .....

hereinafter referred to as **Applicant**

represented by:

1. ....
2. ....

hereinafter jointly referred to as the "**Parties**", and each of them separately as the "**Party**".

### § 1. Definitions

The terms used herein shall have the following meaning:

- 1) Agreement - means this agreement;
- 2) annual train timetable - train timetable valid between two consecutive changes of train timetables, taking place at midnight on the second Saturday in December;

- 3) Regulations - Network Statement defining the rules for allocation of capacity and utilization of this capacity within the given annual train timetable, prepared by the Manager, available on the website [www.plk-sa.pl](http://www.plk-sa.pl);
- 4) capacity - the possibility of exploitation and movement of a railway to carry train passes at a given time;
- 5) framework capacity - capacity reserved under the Agreement;
- 6) time frames - two-hour period in which train paths are to be allocated as part of the annual train timetable.

## § 2. Subject matter of the Agreement

1. The subject hereof is the reservation of the framework capacity of the line / rail sections on the basis of which the Applicant shall submit applications for allocation of train paths in accordance with the rules applicable in the annual train timetable.
2. The framework capacity of the line / rail sections in subsequent annual train timetables is defined in **Annex No. 1**.
3. Destinations of planned train paths for which the framework capacity has been reserved are defined in **Annex No. 2**.

## § 3. Rights and obligations of the Parties to the Agreement

1. In the process of reserving framework capacity, the Parties undertake to respect the principles set forth in subsection 2.3.1 of the Regulations.
2. Within the deadline set out in the Regulations the Applicant, within the given annual train timetable, shall submit applications for allocation of train paths in the relations specified in **Annex No. 2** using the 100% reserved framework capacity.
3. The Manager has set a two-hour time frame for the framework capacity on a given line / railway section for reference to the same control period.
4. The Applicant shall inform the Manager promptly of any intention not to use the framework capacity and shall resign from it.

Resignation of the framework capacity is made in writing to: PKP Polskie Linie Kolejowe S.A. Sales Office, 03-734 Warsaw ul. Targowa 74, e-mail: [ius@plk-sa.pl](mailto:ius@plk-sa.pl).

5. Resignation from the framework capacity, submitted at least 3 months prior to the deadline for submitting applications for allocation of train paths in a given annual train timetable, results in reduced number of reserved routes and amendment hereof.
6. In the Applicant shall not submit the application for allocation of train paths within the annual train timetable, based on the framework capacity specified in **Annex No. 1**, the unused framework capacity shall be released in that annual train schedule and the Manager shall have the right to dispose of it.

Release of unused framework capacity shall take place at the expiry date specified in the Regulation, as the deadline for submitting applications for allocation of train paths within the given annual train timetable. This does not constitute an amendment hereto and does not require a written form.

7. If the Applicant fails to give the reasons referred to in point 6 within 14 days after the deadline for submission of applications for allocation of train paths in the annual train timetable, or cause will be on the part of the Applicant, the Manager shall modify the Agreement for subsequent annual train timetables for the number of unused routes.
8. The Manager assigns the applicant the train paths within the annual train timetable specified in **Annex No. 2**, for which the railway line framework capacity has been reserved, on the basis of regulations valid in the annual timetable for trains.
9. The Manager, in the cases referred to in points 5, 6 and 7 reserves the right to amend the Agreement in order to allow achieving a better use of the framework railway lines capacity.
10. In the event of a collision of an application for a framework capacity between a framework agreement and/or other framework capacity applications, the Manager, after conducting the coordination process in accordance with the principles defined in subsection 4.4.2, reserves the right to modify the Agreement.
11. Twice a year, i.e. in April and October, the Manager performs periodic consultations with the Applicant to review the Agreement and justify its continuation.

The Manager in the event of stating that the use on the given railway lines is less than 70% of the number of trains for a period of three consecutive calendar months: January to March, July to September for which the annual train timetable were allocated according to the allocated framework capacity, reduces the railway capacity for these rail lines/sections as defined in **Annex No. 1**, the framework capacity for subsequent annual train schedules accordingly to % of its non-use.

If the Applicant presents reasons for lower use of the number of train paths, PLK with the Applicant shall determine the amount of reduction of the framework capacity for those lines/sections.

#### **§ 4. Posts designated for cooperation**

1. The Parties agree that for transmission of information related to the performance hereof, the following shall be notified accordingly:
  - 1) on the part of the Manager:

PKP Polskie Linie Kolejowe S.A. Head Office Sales Office, address: 03-734 Warsaw, ul. Targowa 74, e-mail: [ius@plk-sa.pl](mailto:ius@plk-sa.pl), fax. 22 47 328 04,
  - 2) on the part of the Applicant – ....., address: ....., e-mail: ....., fax. ....
2. The Parties undertake to inform each other immediately of any change in the contact details necessary for the proper performance hereof.

Changed of the above-mentioned data does not constitute an amendment hereto and is binding upon the date on which the Party has served a written notice to the other Party.

### **§ 5. Penalties for not using framework capacity and deadlines and manner of paying them\***

1. The Manager, for each train for which a framework capacity has been reserved for which application to allocate train path has been submitted, within the time limit set for drawing up the annual train timetable, in the case referred to in § 3 sec. 7, will charge 100% of the basic fee for this train journey, however, not less than PLN 1000.00.

The Manager shall issue an invoice within one month after the end of the period for submitting applications for allocation of the train path in the annual train timetable as specified in the Regulations for the train timetable.

2. In the event that the applicant submits a resignation of a given capacity within less than 3 months prior to the deadline for submission of applications for allocation of routes in the annual train timetable, the Manager shall charge a fee of PLN 100 for each train the reserved framework capacity concerned, separately for each train timetable.

The Manager shall issue an invoice within 7 days after resignation from the framework capacity.

3. Receivables resulting from invoices are paid within 21 days from the date of issue of the invoice - to the account indicated in the invoice.
4. When invoicing the fee is augmented by the due VAT, in accordance with applicable law.
5. The invoice is deemed to be settled on the date on which the bank account of the Manager is credited with an amount equal to the value of the invoice issued.
6. Statutory interest shall be accrued for a delay in payment of the due amount.

### **§ 6. Special obligations of the Parties**

1. The Parties undertake to exercise their obligations hereunder with due diligence.
2. The Parties undertake to inform each other immediately of any circumstances and events that affect the performance of their obligations hereunder, including in particular those which may have adverse effects on one or both Parties.
3. As a security of claims of the Manager, the Applicant is required to provide financial guarantees.

### **§ 7. Confidentiality of information**

1. The Parties undertake to keep the confidentiality and not to disclose to third parties information obtained in connection with the implementation hereof, the disclosure of which could expose the other Party to material or non-pecuniary damage, in particular information constituting business secrets within the meaning of the Act of 16<sup>th</sup> April 1993 on Combating Unfair Competition (Dz.U. [*Journal of Laws*] of 2003, No. 153, item 1503, as amended) and business secrets within the meaning of the Act of 6<sup>th</sup> September 2001 on Access to Public Information (Dz. U. [*Journal of Laws*] of 2016 , item 1764).

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\* Art. 13 sec. 1 of the Regulation EU 2016/545

2. Parties undertake to comply, when implementing the Agreement, with all the provisions contained in applicable legal regulations associated with information protection.
3. Use of information specified in point 1 for other purposes than those specified herein, as well as their publication is not allowed without prior written consent of the other Party.
4. The obligation referred to in point 1 shall not apply to commonly known information or making available of information based on absolutely mandatory provisions of the law, in particular upon request of a court, public prosecutor's office, tax authorities, control authorities or European Union institutions.
5. The following are not considered to be protected information:
  - 1) have become public information in circumstances which are not the result of an unlawful act or one violating the obligations of the Parties hereto;
  - 2) are approved for distribution based on prior written consent of the Party, which the information concern;
  - 3) are required to be disclosed in connection with preparation of financial statements and information obligations relating to the public trading of securities.
6. Each Party shall exercise due diligence to prevent disclosure or use by third parties of the other Party protected information. Each Party undertakes to limit access to information referred to in sec. 1, only to those employees or associates for whom this information is necessary for the performance of their tasks for the other Party and who accepted the obligations hereunder.
7. The Parties undertake to apply technical and organizational safeguards to protect the information referred to in point 1, at the level appropriate to the threats present and to inform each other about incidents of breaches of the information protection rules referred to in point 1, and the measures taken to prevent the negative consequences of the loss of confidentiality, availability or integrity of the information subject to protection hereunder and the measures taken to prevent such incidents occurring in the future.
8. The applicant is obliged to familiarize with the current "Information Safety Policy at PKP Polskie Linie Kolejowe S.A. for Business Partners of Company SZBI-lbi-1a", hereinafter referred to as SZBI-lbi-1a, content of which is published on the website of the Manager [www.plk-sa.pl](http://www.plk-sa.pl) and application of its provisions.
9. The Applicant shall bear liability for persons, who on its behalf perform the entrusted tasks, in particular for damage caused by actions or failure to act of those persons, as well as to maintain the confidentiality of the information referred to in point 1, obtained in connection with performance hereof as well as abiding by the provisions of the document of the "Information Safety Policy at PKP Polskie Linie Kolejowe S.A. for Business Partners of Company SZBI-lbi-1a", available on the Manager's website: [www.plk-sa.pl](http://www.plk-sa.pl).
10. In the case of electronic transmission of protected information, it should be agreed between the Parties hereto to protect information from unauthorized access.
11. The information provided to the Manager by the Applicant during the capacity allocation process covered by the protection referred to in pint 1, are:
  - 1) .....
  - 2) .....
  - 3) .....

## § 8. Final provisions

1. The Agreement is valid from ..... until ..... *(for a period of up to 5 years)* binding the Parties for the period of ..... consecutive annual train timetables for which the Manager will reserve the capacity of railway lines, starting with train timetable ... / ....

The Agreement may be extended for subsequent periods of 5 years.

2. Any amendment hereto, except § 3 point 6, require the written form, under pain of nullity, in the form of an annex, constituting an integral part hereof, whereas the parties to their introduction are always Parties hereto.
5. The Manager may terminate the Agreement without notice in the event of emergency situations relating to the security and defence of the State.
6. In the event of an amendment to the generally applicable law, the Parties shall adapt the provisions hereof to the amended provisions.
7. The Parties undertake to settle disputes concerning the Agreement by negotiation.
8. In case of failure to reach an agreement, the dispute will be resolved by the court competent for the registered office of the Manager.
9. In matters not covered hereby relevant provisions of the Polish Civil Code and other mandatory provisions of law shall apply.
10. The Agreement, initialled by the parties, shall be submitted by the Manager to the President of the Office of Rail Transport for approval.
11. The Agreement has been executed in two counterparts, one for each Party, signed by the Parties, and initialled on each page.

A copy of the Agreement not bearing the characteristics referred to in the preceding sentence may not constitute an evidence of the findings contained herein.

12. Annexes hereto form an integral part hereof:

- 1) **Annex No. 1** Framework capacity of railway lines / sections managed by PKP Polskie Linie Kolejowe S.A.;
- 2) **Annex No. 2** Destinations of planned train paths for which the framework capacity has been reserved.

**for the Manager**

**for the Applicant**

.....  
(seal and signature)

.....  
(seal and signature)

.....  
(seal and signature)

.....  
(seal and signature)