

## Template of the Framework Agreement

No. 60/012/...../....

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, 14<sup>th</sup> Commercial Division of the National Court Register, under KRS number 0000037568. The amount of share capital fully paid up PLN .....,

hereinafter referred to as the **Infrastructure 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 Infrastructure 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 Applicant shall inform the Infrastructure 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. Centrala  
Biuro Sprzedaży  
03-734 Warszawa, ul. Targowa 74  
e-mail: [ius@plk-sa.pl](mailto:ius@plk-sa.pl)
4. 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.
5. 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 Infrastructure 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.
6. If the Applicant fails to give the reasons referred to in point 5 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 Infrastructure Manager shall modify the Agreement for subsequent annual train timetables for the number of unused routes.
7. The Infrastructure 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.
8. The Infrastructure Manager, in the cases referred to in points 4, 5 and 6 reserves the right to amend the Agreement in order to allow achieving a better use of the framework railway lines capacity.
9. In the event of a collision of an application for a framework capacity between a framework agreement and/or other framework capacity applications, the Infrastructure Manager, after conducting the coordination process in accordance with the principles defined in subsection 4.4.2, reserves the right to modify the Agreement.
10. Twice a year, i.e. in April and October, the Infrastructure Manager performs periodic consultations with the Applicant to review the Agreement and justify its continuation.  
The Infrastructure 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 Infrastructure Manager:  
PKP Polskie Linie Kolejowe S.A. Centrala  
Biuro Sprzedaży  
03-734 Warszawa, ul. Targowa 74  
e-mail: [ius@plk-sa.pl](mailto:ius@plk-sa.pl)

2) on the part of the Applicant:  
.....  
address: .....,  
e-mail: .....

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 Infrastructure 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. 6, will charge 100% of the basic fee for this train journey, however, not less than PLN 1000.00.  
The Infrastructure 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 Infrastructure Manager shall charge a fee of PLN 100 for each train the reserved framework capacity concerned, separately for each train timetable.  
The Infrastructure 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 Infrastructure 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 Infrastructure Manager, the Applicant is required to provide financial guarantees.

### **§ 7. Confidential Information**

#### **OPTION 1 – BILATERAL TRANSPARENCY OF THE AGREEMENT**

1. The Parties declare that the provisions of the Agreement are of a non-confidential character and do not constitute information being a trade secret within the meaning of the Unfair Competition Act of 16 April 1993 and a business secret within the meaning of the Act on Access to Public Information of 6 September 2001 of either Party.
2. The Parties undertake to maintain secrecy and not to disclose information, obtained in connection with the implementation of the Agreement to third parties, the disclosure of which could expose the other Party to material or non-material damage, in particular information constituting a trade secret and a business secret within the meaning of the Acts referred to in paragraph 1.

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

3. Parties undertake to comply, when implementing the Agreement, with all the provisions contained in applicable legal regulations concerning protection of information.
4. Use of information specified in paragraph 2 for other purposes than those specified in the Agreement, as well as its publication shall not be allowed without prior written consent of the other Party.
5. The obligation referred to in paragraph 2 shall not apply to commonly known information or making information available under absolutely mandatory provisions of law, in particular upon request of a court, public prosecutor's office, tax and control authorities or the EU institutions.
6. Information shall not be considered as protected when:
  - 1) it has become public information in circumstances which are not the result of an unlawful act or violation of the obligations of the Parties to the Agreement, or
  - 2) it is approved to be disseminated based on prior written consent of the disclosing Party,
  - 3) is necessary to be disclosed in connection with preparation of financial statements and disclosure obligations related to public trading in securities.
7. Each Party shall exercise due diligence to prevent disclosure or use of confidential information of the other Party by third parties. Each Party undertakes to limit access to confidential information referred to in paragraph 2 only to those employees or the Party's associates for whom this information is necessary for the performance of their tasks for the other Party and who accepted the obligations under the Agreement.
8. The Parties undertake to apply technical and organisational safeguards to protect the information referred to in paragraph 2 at a level adequate to the risks involved and to inform each other of incidents relating to breaches of the rules on information protection referred to in paragraph 2 and of the measures taken to prevent adverse effects of loss of confidentiality, availability or integrity of the information to be protected under the provisions of this Agreement and the measures taken to prevent similar incidents occurring in the future.
9. The applicant shall be obliged to become familiar with the updated "Information Security Policy at PKP Polskie Linie Kolejowe S.A. for Business Partners of the Company SZBI-lbi-1a", hereinafter referred to as "SZBI-lbi-1a", the content of which is available on the website of the Infrastructure Manager [www.plk-sa.pl](http://www.plk-sa.pl), and to apply its provisions.
10. The Applicant shall bear liability for persons, who on its behalf, perform the entrusted tasks, in particular for damage caused by their actions or omissions and for maintaining confidentiality of information referred to in paragraph 2, taken in connection with performance of this Agreement as well as complying with the provisions of "Information Safety Policy at PKP Polskie Linie Kolejowe S.A. for Business Partners of Company SZBI-lbi-1a", available on the Infrastructure Manager's website: [www.plk-sa.pl](http://www.plk-sa.pl).
11. If protected information is to be sent by electronic means of communication, it is necessary to secure the information against unauthorized access in the manner agreed between the Parties to the Agreement.
12. Obligation specified in sec. 2 also applies to the Parties after the expiry or termination of the Agreement for a period of 3 years.

#### **OPTION 2 – UNILATERAL TRANSPARENCY OF THE AGREEMENT**

1. The Infrastructure Manager declares that the provisions of the Agreement shall not constitute a trade secret of the Infrastructure Manager's enterprise within the meaning of the Unfair Competition Act of 16 April 1993 and a business secret of the Infrastructure Manager within the meaning of the Act on Access to Public Information of 6 September 2001.
2. The Applicant declares that the provisions of the Agreement relating to:
  - 1) .....
  - 2) .....constitute information being a trade secret and the Applicant's business secret within the meaning of the Acts referred to in paragraph 1.
3. The Parties undertake to maintain secrecy and not to disclose information referred to in paragraph 2 and information obtained in connection with the performance of the Agreement to third parties, the disclosure of which could expose the other Party to material or non-material damage, in particular information constituting a trade secret and a business secret within the meaning of the Acts referred to in paragraph 1.
4. Parties undertake to comply, when implementing the Agreement, with all the provisions contained in applicable legal regulations concerning protection of information.

5. Use information specified in paragraph 2 and paragraph 3 for other purposes than those specified in the Agreement, as well as their publication shall not be allowed without prior written consent of the other Party.
6. The obligation referred to in paragraph 2 and paragraph 3 shall not apply to commonly known information or making information available under absolutely mandatory provisions of law, in particular upon request of a court, public prosecutor's office, tax and control authorities, or the EU institutions.
7. Information shall not be considered as protected when:
  - 1) it has become public information in circumstances which are not the result of an unlawful act or violation of the obligations of the Parties to the Agreement, or
  - 2) it is approved for distribution based on prior written consent of the disclosing Party;
  - 3) is necessary to be disclosed in connection with preparation of financial statements and disclosure obligations related to public trading in securities.
8. Each Party shall exercise due diligence to prevent disclosure or use of confidential information of the other Party by third parties. Each Party undertakes to limit access to information referred to in paragraph 2 and paragraph 3 only to those employees or the Party's associates for whom this information is necessary for the performance of their tasks for the other Party and who accepted the obligations under the Agreement.
9. The Parties undertake to apply technical and organisational safeguards to protect the information referred to in paragraph 2 and paragraph 3 at a level adequate to the risks involved and to inform each other of incidents relating to breaches of the rules on information protection referred to in paragraph 2 and paragraph 3, and of the measures taken to prevent adverse effects of loss of confidentiality, availability or integrity of the information to be protected under the provisions of this Agreement and the measures taken to prevent similar incidents occurring in the future.
10. The Applicant shall be obliged to become familiar with the current "Information Security Policy at PKP Polskie Linie Kolejowe S.A. for Business Partners of the Company SZBI-lbi-1a", hereinafter referred to as "SZBI-lbi-1a", the content of which is available on the website of the Infrastructure Manager [www.plk-sa.pl](http://www.plk-sa.pl), and to apply its provisions.
11. The Applicant shall bear liability for persons who, on its behalf, perform the entrusted tasks, in particular for damage caused by their actions or omissions and for maintaining confidentiality of information referred to in paragraph 3, taken in connection with performance of this Agreement as well as complying with the provisions of "Information Safety Policy at PKP Polskie Linie Kolejowe S.A. for Business Partners of Company SZBI-lbi-1a", available on the Infrastructure Manager's website: [www.plk-sa.pl](http://www.plk-sa.pl).
12. If protected information is to be sent by electronic means of communication, it is necessary to secure the information against unauthorized access in the manner agreed between the Parties to the Agreement.
13. Obligation specified in sec. 3 also applies to the Parties after the expiry or termination of the Agreement for a period of 3 years.

**§ 8. Obligation to provide information performed by the Infrastructure Manager towards persons signing the Agreement on behalf of the Applicant and third parties**

1. Infrastructure Manager, acting under Article 13 of Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, Official Journal of the European Union L 119 of 2016, pp. 1-88), hereinafter referred to as "the GDPR", informs you that:
  - 1) The Infrastructure Manager of Data is PKP Polskie Linie Kolejowe Spółka Akcyjna, with its registered office at the address: 03-734 Warszawa, Targowa 74;
  - 2) The Infrastructure Manager handles the following e-mail address: [iod.plk@plk-sa.pl](mailto:iod.plk@plk-sa.pl) of Data Protection Inspector at PKP Polskie Linie Kolejowe S.A., which has been made available to persons whose personal data shall be processed by the Infrastructure Manager;
  - 3) personal data will be processed for the purpose of:
    - a) ensuring efficient and correct implementation of the Agreement;
    - b) keeping records in case of control by authorised bodies and entities;
    - c) transferring the documentation to the archives, and then its permanent removal and destruction;



within the scope of: ordinary data - name, surname, occupied position, place of work, contact details indicated in § 4 sec. 1 point 2, as well as in the case of submitting a power of attorney, statements and other documents - personal data contained therein;

- 4) the legal basis for the processing of personal data by the Infrastructure Manager constitutes Article 6(1)(c) and (f) of the GDPR, whereas the legitimate interest of the Infrastructure Manager is indicated by the necessity to conclude the Agreement and its proper realization, in accordance with the binding and applicable provisions of law;
  - 5) personal data may be disclosed to other recipients on the basis of legal provisions, in particular to entities processing based on concluded contracts;
  - 6) personal data shall not be transferred to a country outside the European Economic Area (third country) as well as to an international organisation within the meaning of the GDPR;
  - 7) personal data shall be stored in accordance with the provisions of law during the term of the Agreement and for the period in which the Infrastructure Manager will achieve goals resulting from the legitimate interests of the data controller which are substantially related to the Agreement or obligations resulting from the provisions of generally applicable law;
  - 8) you have the right to request access to your personal data, its rectification, deletion or restriction of processing as well as the right to object to its processing and to transfer the data;
  - 9) you have the right to file a complaint to the supervisory body, i.e. the President of the Office for Personal Data Protection;
  - 10) The Infrastructure Manager will not carry out automated decision making, including profiling on the basis of personal data provided.
2. The Applicant undertakes to inform on behalf of the Infrastructure Manager all natural persons aiming from the Applicant's side to perform the Agreement and natural persons conducting business activity, indicated by the Applicant as a subcontractor, and whose personal data will be transferred during the conclusion of the Agreement and during the performance hereof, about:
- 1) the fact of providing personal data to the Infrastructure Manager;
  - 2) processing of personal data by the Infrastructure Manager.
3. The Applicant, citing Article 14 of the GDPR, undertakes to perform, on behalf of the Infrastructure Manager, the duty to inform the persons referred to in paragraph 2, providing them with the content of the information clause referred to in paragraph 1, and at the same time indicating the Applicant as the source of the personal data which shall be at the Infrastructure Manager's disposal.
4. Any change in terms of natural persons whose personal data will be transferred during the conclusion of the Agreement and during the implementation of hereof shall also require the fulfilment of the obligations referred to in paragraphs 2 and 3.

## **§ 9. 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 Infrastructure 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 5, 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.
3. The Infrastructure Manager may terminate the Agreement without notice in the event of emergency situations relating to the security and defence of the State.
4. In the event of an amendment to the generally applicable law, the Parties shall adapt the provisions hereof to the amended provisions.
5. The Parties undertake to settle disputes concerning the Agreement by negotiation.
6. In case of failure to reach an agreement, the dispute will be resolved by the court competent for the registered office of the Infrastructure Manager.
7. In matters not covered hereby relevant provisions of the Polish Civil Code and other mandatory provisions of law shall apply.

8. The Agreement, initialled by the parties, shall be submitted by the Infrastructure Manager to the President of the Office of Rail Transport for approval.
9. 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.
10. 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 Infrastructure Manager**

**for the Applicant**

.....  
(seal and signature)

.....  
(seal and signature)

.....  
(seal and signature)

.....  
(seal and signature)