

APPENDIX 3.1

GENERAL CONDITIONS APPLICABLE TO THE CONTRACT FOR USE OF THE INFRASTRUCTURE OF THE NATIONAL RAIL NETWORK AND OF THE CONTRACT FOR ALLOCATION OF TRAIN PATHS ON THE NATIONAL RAIL NETWORK

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ARTICLE 1 – OBJECT

In the specific framework of the Network Statement and in conformity with the official European and national documents, these general conditions shall set out the general conditions of an administrative, technical and financial nature for use of the infrastructure of the national rail network and associated services by the railway undertaking and/or for allocation of train paths to the authorised candidate or to the railway undertaking, without prejudicing the special conditions to be agreed with the railway undertaking/authorised candidate concerned. The provisions below are deemed to be complementary to the stipulations in the Network Statement.

The provisions of these general conditions shall apply to all use of the infrastructure of the national rail network and associated services, as well as to all allocations of train path-days for the timetable period concerned, regardless of the date of allocation.

They shall also apply to all use of the infrastructure of the national rail network directly linked to the allocation of a freight corridor train path, in application of **Regulation (EU) No 913/2010 of 22 September 2010** concerning a European rail network for competitive freight.

"Infrastructure of the national rail network" is understood to mean all the main lines of the national rail network and all the service infrastructure managed by SNCF Réseau.

In such cases, the provisions set out in these general conditions shall apply:

- ◆ to the relations between SNCF Réseau and a railway undertaking or an international grouping of railway undertakings, with the exception of the provisions concerning the following:
 - the provision to a railway undertaking of the train paths allocated to the authorised candidate (Article 5.2.1),
 - the financial guarantee provided by the authorised candidate (Article 18b).

- ◆ to the relations between SNCF Réseau and an authorised candidate, with the exception of the provisions concerning the following:
 - services connected with train movements (Article 5.2.2),
 - the conditions for use of the infrastructure of the national rail network by the railway undertaking (Chapter II), except where provisions stipulate to the contrary,
 - the licence and safety certificate of the railway undertaking (Article 23.1), except where provisions stipulate to the contrary,
 - the conditions regarding responsibility in the event of accidents or material damage (Article 19.1, Article 19.2).

- ◆ They shall also apply to the use of the infrastructure of the national rail network and associated services by a railway undertaking to which train paths are made available by an authorised candidate and only for cases of train paths directly allocated to the said authorised candidate, with the exception of the provisions concerning the following:
 - processing capacity (Article 5.1),
 - cancellation of train paths by SNCF Réseau or by the railway undertaking (Article 14),
 - compensation in the event of cancellation of train paths by SNCF Réseau (Article 20).

These General conditions govern all the relations between the parties, except where provisions stipulate to the contrary in an ad hoc contract (such as in the contract for use of information systems provided by SNCF Réseau).

The signing of the contract for use of the infrastructure of the national rail network or of the contract of allocation of train paths on the national rail network is a prerequisite for the signing of any other contract between SNCF Réseau and the railway undertaking/authorised candidate concerning any services associated with the use of the infrastructure of the national rail network.

ARTICLE 2 – COMPONENTS OF THE CONTRACT

The contract for use of the infrastructure of the national rail network signed by SNCF Réseau and each railway undertaking or the contract for allocation of train paths on the national rail network signed by SNCF Réseau and each authorised candidate (hereinafter referred to as the "contract") consists of the following components:

- the present general conditions,
- the special conditions signed with each railway undertaking or authorised candidate,
- the special conditions for use of the CANIF badge and authorisation.

In the event of contradictions, the special conditions will have priority over the general conditions.

ARTICLE 3 – OPPOSABILITY

3.1 The general conditions govern the contractual relations between SNCF Réseau and the railway undertaking/authorised candidate.

The ordering and allocation of train paths and the use of the infrastructure of the national rail network by the railway undertaking/authorised candidate implies compliance with the general conditions.

The railway undertaking/authorised candidate hereby declares that it has read the general conditions and that it accepts the terms and conditions.

3.2 Ordering and use of the CANIF badges and authorisations by the railway undertaking/authorised candidate implies compliance with the special conditions for use of the CANIF badge and authorisation, appended to the Network Statement. The railway undertaking/authorised candidate declares that it is aware of the above-mentioned special conditions and undertakes to respect them and to ensure that they are respected by its staff and/or employees.

ARTICLE 4 – PARTIES TO THE CONTRACT

The parties to the contract for use of the infrastructure of the national rail network shall be SNCF Réseau and the railway undertaking.

The parties to the contract for allocation of train paths on the national rail network shall be SNCF Réseau and the authorised candidate.

They shall be described as follows:

- ◆ SNCF Réseau: in accordance with Article L.2111-9 of the Transport Code, this is the manager of the national rail network and, as such, responsible for the purposes of the contract for use of the infrastructure of the national rail network and of the contract for allocation of train paths on the infrastructure of the national rail network, for ensuring access to the railway infrastructure of this network (including the distribution of capacity and the charges for this infrastructure) and the associated services under its control.

It ensures operational traffic management on the national rail network and the maintenance, including upkeep and renewal, of the infrastructure of the national rail network.

On some of the lightly trafficked lines of the network and for service infrastructure, these functions may be performed (excluding the function of ensuring access to the railway infrastructure of the national rail network) by a person having signed an agreement with SNCF Réseau, according to the management targets and principles defined by SNCF Réseau in application of the last paragraph of Article L.2111-9 of the Transport Code.

- ◆ "Authorised candidate": shall describe any other person allowed to submit applications for the allocation of train paths with a view to placing them at the disposal of railway undertakings, in accordance with the provisions of Article L.2122-11 of the Transport Code.
- ◆ "Railway undertaking": shall describe all private or public sector undertakings holding a licence in compliance with the requirements of the community legislation in force and whose main activity is that of providing rail freight and/or passenger transport services, such undertakings also providing traction as a matter of obligation. This term shall also extend to those undertakings that only provide traction.

For the purposes of this contract, the notion of "railway undertaking" shall also include that of "international groupings of railway undertakings". Consequently and unless otherwise stated, the contractual provisions applicable to railway undertakings shall also apply to international groupings of railway undertakings.

The term "personnel of the railway undertaking" shall refer to all staff employed by the undertaking, its agents and the staff of companies acting at its behest or on its behalf, the tasks and functions of which are in some way connected with the provision of its rail transport services.

The phrase "rolling stock of the railway undertaking" shall describe all vehicle types (locomotives, wagons and other vehicles) used or hauled by the railway undertaking or undertakings acting on its behalf to perform rail transport services (including the corresponding shunting operations), irrespective of how they are owned or managed.

Unless otherwise stipulated, a railway undertaking at whose disposal train paths are placed by an authorised candidate shall not be considered, vis-à-vis SNCF Réseau, to be acting on behalf of the authorised candidate.

- ◆ It should be noted that the staff, agents, service providers or partners employed respectively by SNCF Réseau and the railway undertaking/authorised candidate in conducting their business shall not be considered to be third parties. SNCF Réseau and the railway undertaking/authorised candidate shall therefore be respectively responsible for such individuals, when they are acting in accordance with their functions or assignments.

In those sole cases where they are acting on behalf of SNCF Réseau or the railway undertaking/authorised candidate, they shall enjoy the same limitations as regards liabilities as those indicated for SNCF Réseau and the railway undertaking/authorised candidate in these general conditions. As a consequence, SNCF Réseau or the railway undertaking/authorised candidate will not be able to claim the liability of these two parties on bases other than those set out in these general conditions.

CHAPTER I: SERVICES PROVIDED BY SNCF RÉSEAU TO THE RAILWAY UNDERTAKING/AUTHORISED CANDIDATE

ARTICLE 5 – MINIMUM SERVICES PROVIDED ON MAIN LINES

5.1 General principle

In application of the regulations currently in force, the minimum services are due from SNCF Réseau to every holder of a right of access to the national rail network.

These services are described in Chapter 5 of the Network Statement.

SNCF Réseau shall therefore provide:

– to the railway undertaking:

- ◆ the processing of its applications for infrastructure capacity;
- ◆ the right to use the train paths allocated;
- ◆ the use of points and crossings and turnouts on the network, the signalling, traffic management and control and communications systems, the supply of information on train movements and the information required for the railway undertaking to deploy or operate its services.

– to the authorised candidate:

- ◆ the processing its applications for infrastructure capacity with the aim of making it available to railway undertakings in order to safeguard the transport services organised by such railway undertakings.

Access from the network to service infrastructure is included in the minimum services.

5.2 Specific measures for the authorised candidate

5.2.1 Train paths allocated to an authorised candidate placed at the disposal of a railway undertaking

It should be noted that the railway undertaking selected by the authorised candidate must be authorised to use the train paths concerned in accordance with the statutory or contractual provisions in force at the time of use. Should this not be the case, SNCF Réseau will not permit such use and the authorised candidate shall be unable to lodge any claim whatsoever against SNCF Réseau under such circumstances.

Similarly, the authorised candidate shall be solely responsible for the conditions in which it places the train paths at the disposal of the railway undertaking of its choice, SNCF Réseau being completely separate from the relations established between the authorised candidate and the railway undertaking in this regard.

Only one railway undertaking may be named by the authorised candidate for a specific train path and any change of railway undertaking should be reported to SNCF Réseau before the train path is actually used, under the conditions set out in Chapter 4 of the Network Statement.

In order to ensure that good use is made of the national rail network by all railway undertakings, the authorised candidate shall guarantee SNCF Réseau that the railway undertakings selected are capable of meeting the traffic timetable they have been sent by SNCF Réseau as regards capacity allocation, other than in exceptional cases for which provision is made in the regulations. To this end, the authorised candidate shall pass on the information he possesses to the designated railway undertaking enabling the latter to deploy trains compatible with the characteristics of the train path allotted and, in particular, to ensure that his train(s) pass the designated landmarks on this train path at the appointed time in each case.

5.2.2 Services connected with train movements

Where the actual movements of trains and other rolling stock are concerned, the authorised candidate shall have no involvement in the relations between SNCF Réseau and the railway undertaking in this regard.

Accordingly, neither SNCF Réseau nor the authorised candidate shall be able to claim more rights or more favourable conditions than those stipulated in these general conditions, in particular in Chapter II, on grounds relating to train movements.

In addition, when provision is made for payment by SNCF Réseau of compensation to the railway undertaking under the terms of Chapter II of these general conditions except for Article 14, such compensation shall be expected to cover any harm suffered by the authorised candidate on a once and final, all-inclusive basis, the latter then dealing with the railway undertaking as regards the eventuality of sharing this compensation and having no right to claim any further compensation from SNCF Réseau.

ARTICLE 6 – SERVICES RELATED TO THE USE OF THE INFRASTRUCTURE OF THE NATIONAL RAIL NETWORK

In accordance with the regulations in force, the services for the use of the infrastructure of the national rail network are described in Chapter 5 of the Network Statement.

With regard to the present clause, all of the services provided by SNCF Réseau may be designated without distinction with the generic term "services".

6.1 Principles

The railway undertaking/authorised candidate may benefit from these services, insofar as it possesses train paths that justify such a request for the services.

The railway undertaking/authorised candidate shall undertake to ensure in a general manner that the services made available to it shall be adapted to the needs of its particular activity.

6.2 Request for service

6.2.1 The services provided to the railway undertaking/authorised candidate are designated *ab initio* in the special conditions of the contract, unless the Network Statement lays down specific provisions.

6.2.2 During the contractual period, the railway undertaking/authorised candidate may request to benefit from other services for which no provision was made in the initial special conditions.

SNCF Réseau shall undertake to acknowledge receipt of such requests within eight days and to address them, in association with the railway undertaking, within a maximum of one month, making every attempt to respond positively, insofar as the resources available, the network operating conditions and the rights granted to third party users of the national rail network so allow.

Justification shall be provided in the event of a refusal.

In the event of new services being made available, an additional clause will have to be signed to the contract. This may take the form of an exchange of registered letters with acknowledgement of receipt in those cases where provision is made to this effect in the said special conditions.

6.2.3 During the implementation of the contract, the railway undertaking/authorised candidate shall be entitled to request the modification of the contents of a service from which it benefits or of the applicable invoicing methods in those cases where provision is made in the Network Statement.

In the event of any modification to the contents or the invoicing methods of a service, an additional clause will have to be signed to the contract. This may take the form of an exchange of registered letters with acknowledgement of receipt in those cases where provision is made to this effect in the said special conditions.

6.3 Termination of a service

The railway undertaking/authorised candidate may request the termination of a service at any time. Such a request must be addressed to the One Stop Shop of SNCF Réseau with a registered letter with acknowledgement of receipt.

The termination shall come into force at the beginning of the month following the date of receipt of the request by SNCF Réseau.

ARTICLE 6b: Use of CANIF badges and authorisations

The ordering methods for CANIF badges and authorisations and the associated charges are described in the Network Statement.

The special conditions for use of the CANIF badge and authorisation are described in the appendix to the Network Statement. The railway undertaking/authorised candidate using the CANIF badges and authorisations undertakes to respect the above-mentioned special conditions and to ensure that they are respected by its staff or employees.

CHAPTER II: RIGHTS AND OBLIGATIONS OF SNCF RÉSEAU AND THE RAILWAY UNDERTAKING CONCERNING THE USE OF THE INFRASTRUCTURE AND SERVICES

ARTICLE 7 – COMPLIANCE WITH THE RULES GOVERNING OPERATION OF THE NATIONAL RAIL NETWORK AND MANAGEMENT OF TRAIN MOVEMENTS

SNCF Réseau makes available to the railway undertaking the technical and operational documentation established and published by SNCF Réseau, especially the documentation based on the application of Article 10 of Decree No. 2006-1279 of 19 October 2006 on railway operating safety and the interoperability of the railway system and the "Provisions concerning traffic management on the national rail network" attached as an appendix to the Network Statement and relating to the use of the services provided in the framework of this contract. The conditions governing this provision are those stipulated in European legislation (such as the technical specifications regarding interoperability) or national legislation.

The railway undertaking hereby acknowledges awareness of this technical and operational documentation and shall comply with it both before and during its use of the infrastructure and the services.

ARTICLE 8 – RAILWAY INFRASTRUCTURE PERFORMANCE

8.1 SNCF Réseau shall make sure that the railway infrastructure and the services relating to train movements are such that the railway undertaking/authorised candidate will be able to provide its transport services in safety and in keeping with the characteristics of the capacity allocated.

SNCF Réseau shall be liable in relation to the railway undertaking/authorised candidate for the maintenance of the railway infrastructure and may intervene during operations to guarantee such maintenance.

SNCF Réseau will make allowance for the operating consequences for the railway undertaking of such intervention.

8.2 The principles and application conditions of the performance enhancement system are set out in § 6.4 of the Network Statement.

A performance improvement target is defined, for each railway undertaking, in Article 4 of the general conditions for the contract.

ARTICLE 9 – ROLLING STOCK EMPLOYED BY THE RAILWAY UNDERTAKING TO PROVIDE ITS TRANSPORT SERVICES

9.1 General information

The obligations and conditions set out in this article shall apply to all the rolling stock included in trains for which the railway undertaking provides traction, irrespective of the owner of the stock concerned and for all traction units placed under the responsibility of the railway undertaking. The railway shall be responsible for ensuring that third parties with which it has contracts in this connection are informed of the relevant provisions of these General conditions.

9.2 Requirements relating to the rolling stock of the railway undertaking

The railway undertaking may only use rolling stock authorised by the competent authorities.

If specifically requested by SNCF Réseau, the railway undertaking shall supply proof of this authorisation in the form of certificates provided by the competent authority or of other appropriate certificates, insofar as such proof is not already available in public registers.

The railway undertaking hereby guarantees that the safety regulations are respected with regard to the maintenance of the rolling stock. In the event of incomplete or incorrect inspections or poor implementation of the maintenance of rolling stock, the measures described below in relation to the withdrawal of the flawed stock shall apply.

The railway undertaking shall ensure that its rolling stock is appropriate for use on the infrastructure, that it complies with the authorisations for commercial use and that it is compatible with the characteristics of the rail infrastructure on which it is intended to be used (NB the railway undertaking shall not be responsible for the prior verification of compatibility for traction units when such verification of compatibility is guaranteed by SNCF Réseau in compliance with the provisions of the Network Statement).

Any rolling stock other than that deployed for normal use (for example, stock that is used in exceptional conditions, such as out-of-gauge vehicles) must also comply with the applicable regulations and may be used only by agreement with SNCF Réseau and after being updated to the applicable conditions of use.

9.3 Loading of rolling stock

The loading of merchandise or any other goods on freight trains must be carried out in compliance with the regulations in force and with general good practice with regard to the safety of staff, the goods and the environment.

The railway undertaking shall ensure in particular that its trains are loaded safely and securely throughout the entire journey, taking into account in particular the distribution of weight, the load on each axle, the securing of the load, the kinematic envelope and the protective cover for the load.

9.4 Removal of rolling stock that is unsuitable for running on the national rail network

The terms "rolling stock that is unsuitable for use on the national rail network" refer to unauthorised rolling stock or to stock which, even though it may have been authorised previously by the competent authorities, no longer complies for whatever reason arising since that authorisation with the requirements for its authorisation for commercial use, with the safety regulations or with the characteristics of the railway infrastructure which is intended specifically for use with the stock.

In the event of a serious or immediate threat to safety (for example, if the alarm detecting abnormal heating of the axle bearing is triggered or the load is lacking), SNCF Réseau may, as a precautionary measure and specifying the reasons for this decision, decide to halt a train including in its consist one or more vehicles that has/have not been authorised or is/are unsuitable for running on the national rail network. The train concerned will however be allowed to continue its journey on the national rail network once the offending equipment has been removed from its consist.

The railway undertaking will have to remove and evacuate without delay any vehicles not suitable to run on the national rail network. To this end, it may enlist the support of other railway undertakings or, in the event of evacuation other than by rail, undertakings recognised to be competent and acting under its entire responsibility.

The practical conditions for removing and evacuating vehicles not suitable to run on the national rail network shall be established between the railway undertaking and SNCF Réseau may participate as necessary in defining these conditions. Should the following prove necessary to ensure good use of the infrastructure of the national rail network and in justified emergencies, SNCF Réseau shall be entitled at its own instigation to remove and evacuate vehicles not suitable to run on the national rail network even without an agreement to this effect.

In the event of failure by the railway undertaking to remove or evacuate the vehicles, SNCF Réseau shall be entitled to take the necessary action itself or to call upon the assistance of another railway undertaking or another recognised competent undertaking.

9.5 Consequences of the removal of rolling stock unsuitable for running on the national rail network

In those cases for which provision is made in § 9.4 above, the railway undertaking shall bear the costs and risks that may arise from the decisions taken by SNCF Réseau to remove and/or evacuate vehicles not suitable to run on the national rail network; this clause shall not affect the application of the regulations regarding responsibility stipulated in the present general conditions. SNCF Réseau shall bear the costs and risks resulting from any action or omission committed by SNCF Réseau either intentionally or through particular negligence, knowing that damage or loss would probably result.

The railway undertaking shall not be entitled to assert any claim for damages or interference in its use of the rolling stock which may result from any decision by SNCF Réseau with regard to the use or the removal and/or evacuation of vehicles unsuitable for running on the national rail network.

Nor will the railway undertaking be able to ask for a refund of the charges paid or to refuse to pay the charge due for non-use of the infrastructure in such cases.

In the event of an unjustified assertion of the powers of SNCF Réseau specified in § 9.4 above, or if the rolling stock has become unsuitable for running on the national rail network due to the actions of SNCF Réseau, the expenses and risks mentioned above shall be borne by SNCF Réseau; this clause shall not affect the application of the regulations regarding responsibility stipulated in the present general conditions. The railway undertaking shall bear the costs and risks resulting from any action or omission committed by the railway undertaking either intentionally or through particular negligence, knowing that damage or loss would probably result.

ARTICLE 10 – STAFF PARTICIPATING IN THE RUNNING OF TRAINS, EMPLOYED BY THE RAILWAY UNDERTAKING

10.1 Requirements regarding the staff of the railway undertaking

The railway undertaking guarantees that its staff comply with the requirements of the regulations concerning safety and use.

The railway undertaking also guarantees that its staff possess the necessary knowledge of the national rail network lines and of the facilities that are the object of the services provided to the railway undertaking and that they possess the necessary knowledge of the language in common use, both in normal and exceptional conditions, on the lines that are the object of the provided services.

10.2 Withdrawal of unauthorised or inappropriate staff

In order to prevent any risk with regard to safety, health or the environment and on the basis of the principle of immediate precaution and while justifying the reasons for its decision, or given a lack of authorisation for the driver, SNCF Réseau may halt any train or vehicle in order to proceed with the withdrawal of one or several persons participating in the safety or running operations should it be determined that such persons are unauthorised or inappropriate. However, the train or the vehicle may be authorised to continue its journey after the railway undertaking has provided replacements for the staff involved.

In the event that staff cannot be replaced, the train or vehicle shall remain halted and may become the object of a removal in compliance with the provisions of Article 9.4 above.

10.3 Consequences of the withdrawal of unauthorised or inappropriate staff

In the cases described above, the railway undertaking shall bear all the expenses and risks that may arise from the measures implemented by SNCF Réseau; this clause shall not affect the application of the regulations regarding responsibility stipulated in the present general conditions. SNCF Réseau shall bear the expenses and risks resulting from any action or omission committed by SNCF Réseau either intentionally or through particular negligence, knowing that damage or loss would probably result.

The railway undertaking shall not be allowed to lodge any claims or demand any compensation for any disruption caused to its operations resulting from any decision by SNCF Réseau relating to the withdrawal of its unauthorised or inappropriate staff.

Nor will it be able to ask for a refund of the charges paid or refuse to pay the charge due for non-use of the infrastructure in such cases.

Should the railway undertaking demonstrate that its staff in fact did satisfy the conditions imposed by the safety regulations, the costs and risks relating to the withdrawal or evacuation procedures shall be borne by SNCF Réseau; this clause shall not affect the application of the regulations regarding responsibility stipulated in the present general conditions. The railway undertaking shall bear the costs and risks resulting from any action or omission committed by the railway undertaking either intentionally or through particular negligence, knowing that damage or loss would probably result.

ARTICLE 11 – STAFF EMPLOYED BY SNCF RÉSEAU

SNCF Réseau shall ensure that the staff employed for the implementation of the services provided by SNCF Réseau comply with the requirements of the regulations with regard to safety and use.

SNCF Réseau shall guarantee that its staff possess the necessary knowledge of the lines and of the facilities that are the object of the services provided to the railway undertaking and that they possess the necessary knowledge of the language in common use, both in normal and exceptional conditions, on the lines that are the object of the services provided to the railway undertaking.

In order to prevent any risk with regard to safety, health or the environment and on the basis of the principle of immediate precaution following a motivated alarm from the railway undertaking, SNCF Réseau shall proceed with the withdrawal of staff participating in the safety or running operations should it be determined that such staff are unauthorised or inappropriate.

ARTICLE 12 – CONDITIONS FOR USE OF THE INFRASTRUCTURE OF THE NATIONAL RAIL NETWORK

12.1 Information prior to the use of train paths and service infrastructure

In application of the regulations, the railway undertaking may only use the train paths allocated and the service infrastructure accessible under the express condition that it has provided SNCF Réseau with the information required by the technical safety regulations and the operating documents applicable to the consist of its trains, any special conditions affecting the train movement scheduled (deterioration of traction unit performance or unsuitability for the traction service to be performed, use of rolling stock other than that normally employed, etc.) and the conditions for the use of the service infrastructure for which it has been afforded access rights, in the form (deadlines, content, format) and under the conditions decreed by the Network Statement.

Consequently, SNCF Réseau shall reserve the right to cancel train paths placed at the disposal of the railway undertaking, if it can be demonstrated that the undertaking has not fulfilled this requirement. To this end, SNCF Réseau shall inform the railway undertaking of its intention to cancel the train path(s) concerned and summon it to produce its comments within a sufficient amount of time suitably adapted to the particular circumstances. In the absence of a satisfactory response, SNCF Réseau may stage a meeting with the railway undertaking, at the end of which it shall announce its decision to cancel the train path under the conditions set out in Article 14.1.5 or shall authorise the railway undertaking to use the corresponding infrastructure.

12.2 Exchange of information

SNCF Réseau and the railway undertaking guarantee that their staff are actually available to receive the information communicated by the other party and authorised to take operational decisions on behalf of the establishment or the undertaking that they represent.

12.3 Mutual guarantees relating to the characteristics of the allocated train path in normal situations

SNCF Réseau shall ensure that the infrastructure of the national rail network and the conditions governing its operation in normal situations shall enable the railway undertaking to use the train paths it has been allocated in accordance with their characteristics.

In order to ensure that good use is made of the national rail network by all railway undertakings, the railway undertaking shall be obliged to comply, in normal situations, with the characteristics of the train paths which have been allocated to it without any effect on the possibilities of adjusting the schedules provided by the technical safety regulations and operating documents concerning the timetable (for example, the procedures authorising the train to depart in advance of the scheduled timetable by agreement with SNCF Réseau).

To this end, and other than in exceptional cases for which provision is made in the regulations, the railway undertaking shall only use trains or vehicles that are compatible with the characteristics of the train path allocated (in particular, complying with the passing of the designated landmarks on this train path at the appointed time in each case), unless agreed otherwise by SNCF Réseau, following prior notification by the railway undertaking in accordance with Article 12.1.

12.4 Train departure conditions

Before trains may be sent out on their journey over the lines of the national rail network by the railway undertaking, it must have obtained the assurance that the conditions for access to infrastructure have been properly fulfilled. Such assurance shall be obtained:

- by the presence of signals authorising the train to start moving, by the display of a "line clear" signal;
- in the absence of such signals, by an authorisation given by SNCF Réseau under the conditions set out in the technical safety regulations or local operating instructions provided to the railway undertaking.

12.5 Recourse by the railway undertaking to the use of partners and service providers

The railway undertaking may call on the services of a partner undertaking or service provider, in which case it shall be its responsibility to ensure compliance with the conditions stated in the document(s) submitted to obtain its safety certificate.

In this connection, the railway undertaking will not be allowed to use a failure on the part of a partner or service provider to justify a transport service not performed in accordance with the conditions stated in the document(s) submitted to obtain its safety certificate.

When the railway undertaking calls on the services of service providers or partners on the precincts of the national rail network placed at its disposal by SNCF Réseau, it shall be solely responsible for the user enterprise in the sense indicated in the provisions of the Labour Code, in particular its Articles R.4511-1 and following, and shall take the corresponding measures. It shall, in particular, ensure that the staff involved make due allowance for the risks inherent in train movements or in electric traction facilities.

ARTICLE 13 – DOWNGRADED SITUATIONS AND CORRECTIVE MEASURES

13.1 Notification of downgraded situations by the SGTC and the railway undertaking

In accordance with the technical safety regulations and the operating documents in force, SNCF Réseau shall inform the railway undertaking of the state of the infrastructure and actual running conditions under the conditions set out in these texts and in the "Provisions relative to traffic management on the national rail network", featured as an appendix to the Network Statement.

In principle and under the same conditions, SNCF Réseau must inform the railway undertaking immediately about any downgraded situation occurring on the national rail network (or in particular those ensuing from the traffic of other railway undertakings) which may affect the characteristics of the allocated train path, regardless of the cause (taking into account the consequences for the traffic of the railway undertaking).

The railway undertaking must immediately report any incidents detected during its train movements under the conditions set out in the above-mentioned texts, even if no direct consequence for the safety and the performance of other train movements is anticipated.

13.2 Principles

In the event of disruptions to operation, accidents, environmental factors, bad weather, unscheduled maintenance required for safety reasons or other such events, in the context of the applicable regulations and the "Provisions relative to traffic management on the national rail network" featured as an appendix to the Network Statement and in light of general interest and public service imperatives, SNCF Réseau may decide to adapt the schedules planned or take measures that could alter these schedules. The railway undertaking shall conform to the measures taken by SNCF Réseau.

13.3 Measures taken to ensure the restoration of normal operation

SNCF Réseau shall make the necessary arrangements to restore normal operating conditions as soon as possible in the event of disruptions to traffic, in the context of the regulations applicable and the "Provisions relative to traffic management on the national rail network", featured as an appendix to the Network Statement.

In the event of an incident affecting one of its train movements, the railway undertaking must always act in such a way as to minimise the consequences of the incident for itself, the other railway undertakings, SNCF Réseau and third parties, while at all times complying with the safety regulations.

The railway undertaking shall, in particular, be obliged to comply with the arrangements made by SNCF Réseau to manage such situations.

Without prejudice to the provisions of Article 20.1, when the measures adopted by SNCF Réseau consist of cancelling train movements without any possibility of using alternative railway routes, replacement transport services, other than those using the infrastructure of the national rail network, shall, where relevant, be organised at the expense and risks of the railway undertaking.

13.4 Obligation to provide assistance in the event of a broken-down train

In its own interest and in that of SNCF Réseau and other railway undertakings, the railway undertaking shall, insofar as its resources so allow and within reasonable limits, provide assistance to SNCF Réseau in carrying through such measures.

It may, where required, be called upon to provide such assistance, in particular by placing its rolling stock and/or driving personnel at the disposal of SNCF Réseau.

This requirement shall be limited to cases where it is strictly necessary to assist a train that has broken down on the main lines of the national rail network to take it to the nearest facility able to receive it. It may also be extended to other tracks where evacuation is necessary to avoid seriously jeopardising network operation.

If the train assisted is that of another railway undertaking, SNCF Réseau shall be liable, on presentation of supporting documents, for:

- the costs incurred by the undertaking supplying rescue services (extra driving hours, provision of traction units, power consumption, etc.), and
- the operating inconveniences suffered.

The railway undertaking which has provided the rescue may thus seek reimbursement of these sums from SNCF Réseau, in accordance with the procedure described in Appendix 13 of the Network Statement. SNCF Réseau shall then seek payment of these costs from the railway undertaking for which the rescue operation was performed.

13.5 Consequences with regard to the punctuality of the timetable

SNCF Réseau and the railway undertaking will not be entitled to claim from each other any compensation for the prejudice they may suffer in the event of delays in train movements, whatever the cause (including accidents and/or damage to third parties), and/or the perpetrator, including third parties.

Consequently, SNCF Réseau and the railway undertaking shall each bear their own costs and the prejudice suffered as a result of such delays and shall each undertake not to take legal proceedings against the other or bring the other before the courts.

13.6 Feedback

The conditions for organising feedback as regards downgraded situations shall be those set out in the "Provisions relative to traffic management on the national rail network", given in appendix to the Network Statement, without prejudice to any discussions specially organised between SNCF Réseau and the railway undertaking at the instigation of whichever of the two parties that is the first to act.

13.7 Obligation to contribute to rescue exercises

SNCF Réseau is entitled to ask the railway undertakings and the station manager for a contribution, in terms of making material, technical or staff means available, to exercises to validate the procedures of the Safety and Intervention Plan (PIS) as well as exercises required by the State services. This contribution ranges from the preparation to the feedback phase, and includes the implementation of the exercise.

SNCF Réseau is responsible for the allocation of the capacity (train paths and works possession periods) required by the exercises. This capacity is exempt from the payment of the corresponding charges.

As these exercises take priority, they may result in the modification of the train diagram after it has been established.

The costs associated with these rescue exercises (provision of material and staff, etc. with the exception of capacity reservation) are borne by the contributing railway undertakings.

ARTICLE 14 – MODIFICATION AND CANCELLATION OF CONFIRMED TRAIN PATH-DAYS

14.1 Modification and cancellation of train path-days by SNCF Réseau

14.1.1 SNCF Réseau may modify or cancel allocated train path-days:

- to permit the execution of works on the infrastructure, other than those scheduled during the definition of the service timetable,
- to re-establish use of the infrastructure in normal safety conditions given the occurrence of an event defined in Article 13 or in any other situation preventing the use of the infrastructure in normal safety conditions.

In the event that train path-days are cancelled, SNCF Réseau shall offer the railway undertaking/authorised candidate an alternative slot, which shall be in line with the provisions of the safety certificate, be compatible with the characteristics of the transport service provided by the railway undertaking and make allowance for the resources of the railway undertaking/authorised candidate.

14.1.2 SNCF Réseau may also modify or cancel allocated path-days in order to place all or part of its facilities at the disposal of the State or to execute the State's decisions as regards transport priorities as part of measures that may be taken in application of:

- the provisions of the Defence Code,
- Act No. 87-565 of 22 July 1987 on the organisation of public safety,
- Article L 2215-1 4° of the General Code of the Local and Regional Communities,
- Article 9 of Decree No. 97-444 of 5 May 1997, amended by Decree No. 2015-140 of 10 February 2015, on the role and statutes of SNCF Réseau,
- Article 25 b) of Decree No. 2003-194 of 7 March 2003 (amended) on the use of the national rail network.

In this connection and in application of decisions made by the State, SNCF Réseau may, in particular, have to modify or cancel train path-days allocated to the railway undertaking/authorised candidate, with or without advance notice.

The stipulations of Article 14.1.1 of these general conditions shall however apply to the management of such situations.

14.1.3 In those cases set out in Article 23 of this contract where activities are partially or temporarily impossible, SNCF Réseau shall be able to dispose freely of the train path-days allocated for the timetable period in force.

In the event of partial withdrawal of the safety certificate, SNCF Réseau shall be able to dispose freely of only those train path-days that cannot be used by the railway undertaking because of a decision on the part of the competent authorities.

In the event of the ban imposed being lifted or following rectification of the situation, the railway undertaking/authorised candidate shall be obliged to submit a new train path application for the timetable period in force, in line with the provisions of Article 23 of Decree No. 2003-194 of 7 March 2003 (amended) on the use of the national rail network.

14.1.4 In the event of under-use by the railway undertaking of the train paths as described in point c) of Article 25 of Decree No. 2003-194 of 7 March 2003 (amended) on the use of the national rail network, SNCF Réseau may decide to cancel the train path-days, in line with the procedure indicated in the Network Statement.

In such cases, SNCF Réseau shall be able to dispose freely of the cancelled train path-days.

14.1.5 SNCF Réseau may decide to cancel train path-days in the event of failure to produce the necessary prior information as described in Article 12.1 and in the conditions of this article. In such cases, SNCF Réseau shall be able to dispose freely of the cancelled train path-days.

14.2 Modification and cancellation of train path-days by the railway undertaking/authorised candidate

During the period covered by the contract, the railway undertaking/authorised candidate may ask SNCF Réseau to modify or cancel some or all of the train path-days allocated.

SNCF Réseau shall act upon such requests in accordance with the procedures and conditions set out in Chapter 4 of the Network Statement applicable to the timetable period concerned.

ARTICLE 15 – SUPERVISORY AND VISITING RIGHTS

15.1 At all times and in all places, without necessarily giving advance notice and as part of the tasks conferred on SNCF Réseau by the laws and regulations, duly qualified members of the SNCF Réseau workforce may intervene on the national rail network to ensure that the railway undertaking is indeed respecting its contractual obligations as to the use of the train paths allocated and the equipment accessible and is not exceeding the user rights that it has been granted.

The comments recorded during such inspections shall be sent as rapidly as possible in writing by SNCF Réseau to the railway undertaking. The latter will have the right to respond in kind.

The railway undertaking may report to SNCF Réseau any difficulties encountered during inspections or other operations conducted by SNCF Réseau.

If in the course of inspections conducted by duly qualified members of the SNCF Réseau workforce, safety-related issues are noted, SNCF Réseau shall inform the Minister in charge of transport or the Railway Safety Authority (EPSF), if these issues are likely to have consequences as regards the validity of the licence or safety certificate of the railway undertaking.

The railway undertaking shall be kept informed in writing without delay of such procedures.

15.2 The railway undertaking is obliged to grant access, at no charge, to any authorised agent of SNCF Réseau on board its traction units with the aim of carrying out visits to line facilities or of transporting agents for service needs. SNCF Réseau hereby waives any potential claims against the railway undertaking in the event of physical injury suffered by its agents on such an occasion.

CHAPTER III: CHARGING FOR THE USE OF THE INFRASTRUCTURE OF THE NATIONAL RAIL NETWORK AND THE ALLOCATION OF TRAIN PATHS, AND PAYMENT CONDITIONS

ARTICLE 16 – GENERAL CHARGING RULES

Use of the infrastructure of the national rail network shall result in payment to SNCF Réseau by the railway undertaking of charges in accordance with the regulations in force and the Network Statement.

These rules are repeated and explained in the Network Statement produced by SNCF Réseau.

Railway undertakings shall be obliged to settle these charges in line with the said rules, while authorised candidates will have to provide SNCF Réseau with financial securities (of an amount equal to the reservation charge) in line with the statutory requirements.

ARTICLE 17 – INVOICING AND PAYMENT CONDITIONS

17.1 In addition to the legal or regulatory provisions in force and in the network statement, the sums owed by the railway undertaking/authorised candidate shall be invoiced and paid in accordance with the supplementary stipulations below.

It should be noted that, in the event of error, SNCF Réseau will have one year counting from the date on which the service is provided in which to request additional payment upon presentation of corresponding corroborative documents specifying the amount of the additional payment.

17.2 Requests for payment issued by SNCF Réseau may be challenged within a period of one year from the last date for their payment by sending a registered letter with acknowledgement of receipt to the SNCF Réseau, in accordance with the procedure described in Article 13 of the Network Statement.

Notification that an invoice is being challenged shall in no way suspend the obligation to pay the sums invoiced within the deadlines stipulated.

17.3 The railway undertaking/authorised candidate shall indicate the address to which invoices should be sent in the special conditions.

The stated party will pay the sums due by bank transfer.

The railway undertaking/authorised candidate shall notify SNCF Réseau of any change in the billing address. Such changes will be taken into account from the first day of the second month following such notification to SNCF Réseau.

17.4 The railway undertaking may request that invoices should be sent to a third party for settlement. If SNCF Réseau accedes to such a request, the special conditions shall set out the legal framework in which the said third party shall be involved and the corresponding billing arrangements.

At all events, the railway undertaking shall be the sole party liable for payment of the sums due to SNCF Réseau.

17.5 For train paths allocated to an authorised candidate, invoices for charges related to traffic movements are sent to the railway undertaking declared by the authorised candidate in the SNCF Réseau applications.

If the authorised candidate has not declared a railway undertaking that is using the network, invoices for charges related to traffic movements are sent by SNCF Réseau to the authorised candidate for payment. The authorised candidate may still challenge the invoice, in accordance with the procedure described in Appendix 13 of the Network Statement.

ARTICLE 18 – PROVISIONS APPLICABLE IN THE EVENT OF LATE OR NON-PAYMENT

18.1 Late payment

In the event of failure to make payment within 40 days of the date of issue of the invoice:

-interest for late payment shall be automatically applied to the amounts outstanding without having to serve formal notice to this effect, the rate of such interest being equal to the main refinancing facility applied by the Central European Bank in force on the date of issue of the invoice, plus ten percentage points, this sum not being less than three times the legal rate of interest. This penalty will be calculated for each excess day from the last date when payment should have been made to the date when the sums are in fact settled.

-the railway undertaking/authorised candidate will additionally pay SNCF Réseau a fixed compensation for recovery costs of 40 (forty) euros, in accordance with the provisions of Article D.441-5 of the French Commercial Code introduced by Decree No. 2012-1115 of 2 October 2012 determining the amount of the fixed compensation for recovery costs in the commercial transactions set out in Article L.441-6 of the Transport Code.

Given the hypothetical case that there should exist an interval of more than two working days between the date of issue and the date of dispatch of the invoice and, in the event of payment by the railway undertaking/authorised candidate after the date when payment should have been made, no penalties shall be applied to the days in arrears relating to the interval between the aforementioned dates.

Moreover, after formal notice has been served, without the requisite settlement having been made within 30 calendar days of receipt of such notice, SNCF Réseau may suspend the right of the railway undertaking to the train paths/use of the infrastructure of the national rail network, the equipment and services concerned, the interest due for its part continuing to accrue.

The charges owed by the railway undertaking for services or equipment suspended shall remain payable in full by the railway undertaking.

SNCF Réseau shall restore the right to the train paths/use of the infrastructure of the national rail network, the equipment and services concerned as soon as possible following payment by the railway undertaking/authorised candidate of all sums due and the corresponding late payment interest.

18.2 Non-payment

If the railway undertaking/authorised candidate is late with its payment in relation to two successive payment deadlines and for a sum in excess of the amount of the charges payable in relation to one month, the contract shall be rightfully terminated by SNCF Réseau 15 calendar days after the receipt by the railway undertaking/authorised candidate of a recommended letter with acknowledgement of receipt.

Notwithstanding such termination, SNCF Réseau shall be entitled to employ all legal avenues and means vis-à-vis the railway undertaking/authorised candidate to recover the sums due under the contract.

18.3 Operational consequences

In those cases for which provision is made under § 18.1 and § 18.2 above, SNCF Réseau may take all operational measures enabling the right to use the infrastructure of the national rail network, the equipment and services concerned to be suspended or terminated. All costs and any damages resulting from application of the measures referred to in this article shall, in addition, be incumbent on the railway undertaking, which shall be specifically billed to this effect.

ARTICLE 18b – FINANCIAL GUARANTEES PROVIDED BY THE AUTHORISED CANDIDATE

The special conditions may require the authorised candidate to provide a financial guarantee.

In such cases, the authorised candidate shall undertake to take all necessary steps to maintain such guarantees throughout the duration of the contract.

At the latest at the time of signature of the contract and before the start of each timetable period for which it has obtained train paths, it will have to submit a document to SNCF Réseau demonstrating the existence of the requisite financial guarantees.

This document shall state the amount and extent of the financial coverage provided, including any restrictions on such coverage, and the validity period of such guarantees.

The authorised candidate shall notify SNCF Réseau of any significant changes in the conditions pertaining to its financial guarantees.

ARTICLE 18c – PROVISIONS GOVERNING CASES WHERE UNDUE SUMS ARE PAID BY THE RAILWAY UNDERTAKING/AUTHORISED CANDIDATE

Any charges for the use of the national rail network wrongly invoiced by SNCF Réseau and paid by the railway undertaking/authorised candidate to SNCF Réseau shall earn interest at the interest rate of the main financing facility applied by the Central European Bank in force on the date on which the payment of the SNCF Réseau invoice(s) concerned fell due, plus ten percentage points, interest accruing from the settlement of the invoice (this date not being earlier than the payment deadline) to the actual date on which the corresponding credit note is issued.

No interest shall be payable by SNCF Réseau on a credit note or refund resulting from an invoice issued for a deposit for reservation charges in excess of the final invoice.

If the refunds are the result of a claim made by the railway undertaking/authorised candidate, interest shall only be payable if the claim is made at the latest during the month following the date on which the invoice falls due and in accordance with the procedure described in Appendix 13 of the Network Statement.

CHAPTER IV: LIABILITY OF THE PARTIES

ARTICLE 19 – LIABILITIES IN THE EVENT OF ACCIDENTS OR MATERIAL DAMAGE

19.1 Liability of the railway undertaking vis-à-vis SNCF Réseau in the event of accidents or material deterioration

a) Conditions in which liability shall be incurred

The railway undertaking shall be held liable for corporal, material and immaterial damage caused to SNCF Réseau, its property, agents or service providers or to third parties, during the use of the infrastructure of the national rail network, and ascribable to the people or goods carried, a defect in the rolling stock or an error in the use of the infrastructure.

The railway undertaking is hereby discharged, in full or in part, of its liability in cases where the event causing the damage is a direct consequence of:

- a fortuitous event, a force majeure or a similar event;
- a fault or an order by SNCF Réseau.

b) Scope of liability

The railway undertaking shall bear the full cost of restoring to proper order or, depending on the case, reconstructing the damaged property, including in particular all the costs of undertaking and directing works, engineering, security and protection measures on the sites or premises or on the rolling stock of SNCF Réseau or its service providers on the territory of the national rail network, plus the cost of technical and administrative inspections, taxes included. It should be noted that restoring to proper order shall also include the costs of lifting and removing rolling stock, ensuring the safety of property assets, as of the moment when such costs are incumbent on SNCF Réseau.

The railway undertaking shall also refund SNCF Réseau, per event, the amount of the charges not collected by the latter (or reimbursed to the other railway undertakings/authorised candidates) as a result of cancellations or modifications to the train paths imposed upon SNCF Réseau as a result of an accident or damage caused to the infrastructure for which the railway undertaking is liable. It shall also refund SNCF Réseau the sums paid by the latter to other railway undertakings/authorised candidates in application of Article 20 of these general conditions.

Under these circumstances, it shall be up to SNCF Réseau to handle relations with the other railway undertakings using the national rail network.

Moreover, the railway undertaking shall bear all the costs and compensatory payments directly resulting from the measures taken by SNCF Réseau in the wake of an accident or an environmental hazard for which the railway undertaking bears sole responsibility and shall hold SNCF Réseau harmless, unless it can prove that such measures are totally disproportionate or unjustified. This shall apply, in particular, to the evacuation of the public areas concerned neighbouring buildings belonging to third parties, or the non-availability of these places or buildings. The same shall apply to requirements as regards depolluting the sites concerned.

Subject to the sub-paragraphs above, the railway undertaking shall under no circumstances be held liable for immaterial damage such as financial or commercial prejudice, loss of customers, commercial inconvenience, increases in costs and overheads, loss of profit, damage to brand image and operating losses that could result from accidents or damage suffered by SNCF Réseau.

Compensation owed by the railway undertaking to SNCF Réseau shall be paid on presentation of the corresponding supporting documents.

c) Limits of liability

The liability of the railway undertaking is limited to a total of 50 (fifty) million euros (excluding VAT) per event.

SNCF Réseau shall renounce its right to ask the railway undertaking for payment of all sums other than those corresponding to the total of the compensation for which provision is made under b) in this article.

19.2 SNCF Réseau's liabilities vis-à-vis the railway undertaking in the event of accidents or material deterioration

a) Conditions in which liability shall be incurred

SNCF Réseau shall be held liable for corporal, material and immaterial damage caused to the railway undertaking, its property, agents or service providers during the use of the infrastructure of the national rail network, ascribable to defects in the infrastructure or its management.

SNCF Réseau is hereby discharged, in full or in part, of its liability in cases where the event causing the damage is a direct consequence of:

- a fortuitous event, a force majeure or a similar event;
- a fault or an order by the railway undertaking.

b) Scope of liability

SNCF Réseau shall bear the full cost of restoring to proper order or, depending on the case, replacing the damaged property, including in particular all the costs of undertaking and directing works, engineering, security and protection measures on the sites or premises or on the rolling stock of the railway undertaking on the territory of the national rail network, plus the cost of technical and administrative inspections, taxes included. It should be noted that restoring to proper order shall also include the costs of lifting and removing rolling stock, ensuring the safety of property assets, as of the moment when such costs are incumbent on the railway undertaking.

Moreover, the liability of SNCF Réseau shall cover the losses relating to the fact that the rolling stock of the railway undertaking has been halted. "Halted" shall be taken to mean the following three periods: forwarding of the damaged stock from the site of the accident to a nearby and available qualified repair centre, time spent in the workshop, including that required for expert assessment of the damage, time required to slot the vehicle into the schedule and effect repairs, and the time taken to return it following repairs to the operating site.

Such liability shall also include any compensation that the railway undertaking may have to pay to third parties to the contract, in other words the customers or users of the transport services provided by the railway undertaking (for example, passengers or shippers):

- in application and within the limits of the mandatory provisions of national law or international rail transport law;
- in application of rulings made by the courts or arbitration bodies according to the terms of which the railway undertaking would have to pay compensation to third parties on bases other than the mandatory provisions mentioned above, if and only if SNCF Réseau was given the opportunity to intervene in the said procedures. In addition, SNCF Réseau shall have no obligation to accept liability for compensation of whatever kind paid by the railway undertaking to third parties as a commercial gesture, or as part of an out-of-court settlement for which it was not first afforded the opportunity to give its express agreement in writing.

Under these circumstances, it shall be up to the railway undertaking to handle relations with the customers or users of its transport services.

Moreover, SNCF Réseau shall bear all the costs directly resulting from the measures taken by the railway undertaking in the wake of an accident or an environmental hazard for which SNCF Réseau bears sole responsibility and shall hold the railway undertaking harmless, unless it can prove that such measures are totally disproportionate or unjustified. This shall apply, in particular, to the evacuation of the public areas concerned (stations, for example) neighbouring buildings belonging to third parties, or the non-availability of these places or buildings. The same shall apply to requirements as regards depolluting the sites concerned.

Subject to the sub-paragraphs above, SNCF Réseau shall under no circumstances be held liable for immaterial damage such as financial or commercial prejudice, loss of customers, commercial inconvenience, increases in costs and overheads, loss of profit, damage to brand image, operating losses that could result from accidents or damage suffered by the railway undertaking.

Compensation owed by SNCF Réseau to the railway undertaking shall be paid on presentation of the corresponding supporting documents.

c) Liability limitations

The liability of SNCF Réseau is limited to a total of 50 (fifty) million euros (excluding VAT) per event.

The railway undertaking shall renounce its right to ask SNCF Réseau for payment of all sums other than those corresponding to the total of the compensation for which provision is made in this article.

19.3 Accidents or deterioration ascribable to SNCF Réseau or the authorised candidate

If the authorised candidate and SNCF Réseau were to cause accidents or damage because of their respective activities in requesting or allocating train paths (to the exclusion of all other activities, even those of a railway nature, such as loading wagons or track maintenance), in particular in respect to the completeness or accuracy of the information exchanged, they shall be liable under ordinary law vis-à-vis third parties other than railway undertakings.

Where damage of all kinds caused to each other is concerned, they shall be liable under the same conditions and within the same limits as those between SNCF Réseau and the railway undertakings as set out in §§ 19.1 and 19.2 of this article.

It should be noted that the relations between the railway undertaking and the authorised candidate shall remain governed by the contracts signed separately between them.

19.4 Statute of limitations

Except in cases where the provisions of international law or in the national laws and regulations stipulate to the contrary, cases may only be brought on the basis of this article within five years counting from the date on which the event occurred.

Such action shall be suspended when SNCF Réseau and the railway undertaking/authorised candidate adopt the conciliation procedure for which provision is made in Article 31.1 of these General conditions and all other attempts to find an amicable settlement in relation to this event or when the case is before the courts.

ARTICLE 20 – COMPENSATION IN THE EVENT OF CANCELLATION OF CONFIRMED TRAIN PATH-DAYS

20.1 Principles

Only the damaging consequences of the cancellation of a confirmed train path-day according to the conditions specified in Article 14.1.1 may give rise to any compensation on the part of SNCF Réseau. The damaging consequences of the cancellation of a confirmed train path-day for which provision is made in Articles 14.1.2, 14.1.3, 14.1.4 and 14.1.5 shall not give rise to any compensation on the part of SNCF Réseau.

The period during which the cancellation of confirmed train path-days ascribable to SNCF Réseau could give rise to entitlement to compensation is between the cut-off date for the timetable and D, with D being the day of operation.

With regard to the present clause, the concept of cancellation that gives rise to compensation is defined as cancellation of a confirmed train path-day that excludes train movement on day D.

The prejudice suffered by the railway undertaking/authorised candidate must be direct, exist in reality and be certain in its nature. It shall be up to the railway undertaking/authorised candidate to supply proof to this effect and justify the amount concerned.

20.2. Exceptions

No compensation shall be payable in the following cases:

- ◆ train paths made available or the possibility of running a train offered under the conditions set out in Article 14.1.1;
- ◆ facts ascribable to the railway undertaking/authorised candidate itself or its service providers and partners or the fact that, to SNCF Réseau's knowledge, the railway undertaking for reasons of its own, or the authorised candidate for reasons specific to the railway undertaking operating trains on its behalf, clearly did not have the possibility of using the train path(s) concerned;
- ◆ the occurrence of a case of force majeure or a similar event, as defined in Article 21 of these general conditions;
- ◆ facts ascribable to a third party, with the exception of those ascribable to another railway undertaking or another authorised candidate under the terms of Article 19 above;
- ◆ operations on the infrastructure or operating systems required to restore normal running conditions following a random failure on the infrastructure or an operating incident, provided that such operations are not the result of negligence or failure to comply with the normal maintenance and operating rules applicable to the infrastructure of the national rail network. In such cases, SNCF Réseau shall take the necessary steps to minimise the duration of such operations and their impact on the train paths allocated.

20.3 Limits of liability

For each train path-day taken in isolation, the total amount of compensation that the railway undertaking/authorised candidate may claim with regard to damaging consequences of a cancellation is limited to € 50 k (excluding VAT).

Any compensation that may be paid by SNCF Réseau for a particular train path-day shall be payable solely to the party allocated the train path (railway undertaking or authorised candidate) and, in the case of train paths placed at the disposal of a railway undertaking by an authorised candidate, it shall cover the prejudice suffered by both, separate claims not being receivable.

20.4 Complaints procedure for complaints from the railway undertaking/authorised candidate

To be receivable, any complaint made on the basis of Article 20 should be submitted to SNCF Réseau, in accordance with the procedure described in Appendix 13 of the Network Statement, within one year of the end of the month for which the train path-day(s) concerned should have been used.

Once this deadline has passed, the claim shall no longer be receivable and any related action is prohibited. As a result, the railway undertaking/authorised candidate shall be considered to have renounced all rights to compensation from SNCF Réseau.

In the event of a dispute regarding the statement of SNCF Réseau, the railway undertaking/authorised candidate shall be given a period of six months starting from the date of receipt of this statement to initiate the procedure for the settlement of disputes defined in Article 31 below. If no procedure is initiated, any action based on the present article is prohibited.

In the event of compensation being due from SNCF Réseau, it shall be paid following the signature of a compensation agreement between SNCF Réseau and the railway undertaking/authorised candidate.

Payment of compensation shall represent the single and final settlement for all the prejudice suffered by the railway undertaking/authorised candidate. In return for the payment of such compensation, the railway undertaking/authorised candidate shall renounce all another claims or legal action in connection with the particular occurrence.

ARTICLE 20B – SYSTEM OF RECIPROCAL INCENTIVES

The parties are bound by the system of reciprocal incentives described in § 6.3 of the Network Statement. This system shall not replace the compensation system described in Article 20 above.

ARTICLE 21 – FORCE MAJEURE AND SIMILAR EVENTS

A case of force majeure shall be any irresistible, unpredictable event outside the control of the parties to the contract, making it impossible for one or the other of them to fulfil its obligations in full or in part.

Moreover, within the meaning of the present general conditions, the following events shall be deemed to explicitly constitute events that are similar to cases of force majeure:

- ◆ accidental occurrences (such as fire, explosion, collision with road vehicles, suicides and attempted suicides, collisions with people or animals on railway property, etc.) or acts of wilful or criminal damage (sabotage, vandalism, etc.) ascribable to third parties;
- ◆ 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;
- ◆ any strikes among the personnel of the railway and action taken on such occasions. "Other than in cases falling into the context of force majeure as recognised by the Cour de cassation (Court of Justice) in its judgement dated 11 January 2000 (appeal no. 97-18215), the railway undertaking and SNCF network will not be allowed to use strikes among the members of their own workforce as an argument to escape from their obligations under this contract";
- ◆ measures taken or demanded by the public authorities for reasons linked with national defence, public or civil safety or by the judicial authorities or the fire and emergency services, and the inconvenience caused by their operations.

The parties to the contract shall incur no liability and shall have no obligation to repair the damage suffered by one or the other because of failure to perform or deficient performance of all or part of their obligations, if such failure to perform or deficient performance is due to the occurrence of an event falling into the category of force majeure or a similar event.

The contractual obligations that cannot be performed because of a case of force majeure or a similar event shall therefore be suspended throughout the duration of the said event but only as concerns the individual train paths that are affected by the event.

The party reporting a case of force majeure or a similar event shall be obliged to deploy all the resources at its disposal to limit the scale of the event and its duration. Any party which, by action or omission, has aggravated the consequences of the event shall only be entitled to invoke the event with respect to those effects that would have occurred, if such action or omission had not taken place.

If an event exonerating a party from its obligations lasts for more than one month and if it affects the performance of the contract in its entirety, either party may terminate the contract, without the other party being entitled to compensation of any sort, by sending the other a registered letter with acknowledgement of receipt. Termination shall come into effect on expiry of a period of 15 calendar days from the date on which the said letter was despatched. In cases where the contract as a whole is not affected by the event, the parties shall come together to agree in good faith on those obligations that may be considered to be terminated and the practical terms and conditions for such termination.

ARTICLE 22 – TERMINATION OF THE CONTRACT

22.1 In the event of serious or repeated failure on the part of one of the parties to the contract to meet any one of its essential obligations under the laws and regulations in force or under the terms of the contract, the other party may serve notice by means of a registered letter with acknowledgement of receipt demanding that an end be put to such failure within a maximum of 15 days and that all measures be deployed to ensure that such behaviour not recur.

If at the end of this period the situation has not been put to rights or if suitable arrangements have not been adopted to this end, the other party may rightfully terminate the contract, without prejudice to all the damages and interest it may be entitled to claim.

22.2 The contract shall be rightfully terminated by SNCF Réseau, in full or in part, by means of a registered letter with acknowledgement of receipt, without prejudice to all the damages and interest or the complete settlement of the sums due it may be entitled to claim and without the railway undertaking/authorised candidate being entitled to compensation, in the following cases:

- ◆ for the railway undertaking, loss of its railway operator's licence or safety certificate;
- ◆ if the authorised candidate/railway undertaking can no longer meet its payments or is placed in the hands of a receiver;
- ◆ in application of Article 18 of these General conditions, if the charges due for use of the national rail network remain unpaid.

The contract may be immediately terminated by SNCF Réseau, by means of a registered letter with acknowledgement of receipt, without prejudice to all the damages and interest it may be entitled to claim and without the railway undertaking/authorised candidate being entitled to compensation, in the event of a clear breach of the obligations stipulated in Article 23.2 of this document.

22.3 The railway undertaking/authorised candidate may also terminate the contract, by means of a registered letter with acknowledgement of receipt, if it no longer wishes to use the network, subject to a prior request for cancellation of the train paths allocated by SNCF Réseau, the provision of one month's notice and the complete settlement within this period of all sums due to SNCF Réseau on the date on which such termination shall take effect.

CHAPTER V: MISCELLANEOUS PROVISIONS

ARTICLE 23 – LEGAL CONDITIONS GOVERNING THE ACTIVITIES OF THE RAILWAY UNDERTAKING/AUTHORISED CANDIDATE

23.1 Operator's licence and safety certificate

For the railway undertaking to be able to make use of the infrastructure of the national rail network for which it has been allocated train paths (or for which an authorised candidate has made train paths available), it shall be necessary for it to be in possession of a duly valid operator's licence and safety certificate issued in accordance with the statutory provisions applicable.

In the event of renewal, suspension or withdrawal, in full or in part, of the safety certificate or licence, the railway undertaking shall inform SNCF Réseau accordingly without delay by producing the corresponding documents.

The railway undertaking/authorised candidate should also waste no time in informing SNCF Réseau of any other decisions that may prevent it from continuing, in full or in part, to conduct its business (in particular any bans on such activity arising from the ruling of a criminal or commercial court).

23.2 Insurance or equivalent measures

The railway undertaking/authorised candidate shall undertake to take out and maintain insurance cover or an equivalent measure throughout the duration of the contract, in order to cover it against all the financial consequences of its liabilities in relation to SNCF Réseau or third parties in the execution of this contract.

At the latest at the time of signing the contract for allocation of train paths on the infrastructure of the national rail network and before the start of each new timetable period for which it has gained train paths, the authorised candidate must present a certificate to SNCF Réseau showing the existence of the requisite insurance policy.

This certificate shall indicate the amount and extent of the coverage provided, including any limitations on such coverage, and the period over which the policy will be valid.

The authorised candidate shall notify SNCF Réseau of any substantial changes in its insurance cover in relation to the contract.

ARTICLE 24 – GENERAL COOPERATION BETWEEN THE PARTIES

The parties shall undertake to fulfil their contractual obligations in good faith and in the most constructive and efficient manner possible, in order to best serve their respective interests.

The parties shall, in particular, undertake to maintain active and regular cooperation at all times by wasting no time in exchanging all the information in their possession and items necessary to the enforcement of the stipulations of the contract.

In the special conditions, the parties shall each name a high-level representative, authorised by the company to make the appropriate decisions at all times, in particular in the event of momentary difficulties.

ARTICLE 25 – ENTRY INTO FORCE OF NEW LEGAL OR REGULATORY PROVISIONS

Any legal or regulatory texts associated with the object of the contract or its conditions of execution that come into force after the date of signature of the contract, shall automatically apply to the contract (unless otherwise temporarily provided for in the text concerned), under the conditions stipulated in such texts.

Where necessary, the parties shall amend the contract by means of additional clauses in order to bring it into line with the new provisions in force.

ARTICLE 26 – CONFIDENTIALITY

The two parties shall undertake not to disclose the special conditions of the contract or any of the confidential information of a commercial nature in the contract to third parties, without the prior agreement of the other party, unless forced to do so by the laws and regulations in force or by a public administration, in particular the Railway Safety Authority (EPSF), or any other authority or jurisdiction entitled to force disclosure, or in conjunction with a conciliation or arbitration procedure.

More particularly, SNCF Réseau shall respect the confidentiality of the information of a commercial nature transmitted to it by the railway undertaking/authorised candidate in connection with the management of the train paths allocated to it.

ARTICLE 27 – REFERENCES

SNCF Réseau shall be entitled to quote the name of the railway undertaking/authorised candidate as a reference.

The railway undertaking/authorised candidate may refer to its use of the SNCF Réseau network in its marketing literature.

ARTICLE 28 – INVALIDITY

If one or several of the stipulations in the contract are deemed invalid or declared as such in application of a law, regulation or following a judgement by a competent court that has entered force (*res judicata*), the other stipulations shall retain their full force and scope, unless inseparable from the invalidated stipulation(s).

ARTICLE 29 – NON TOLERANCE

The fact of one of the parties tolerating a situation in which the stipulations of the contract for use of the infrastructure of the national rail network are not fully and entirely met may, in no circumstances, be treated by the other party as an acquired right.

Moreover, such tolerance cannot be interpreted as a decision by the injured party to forfeit the enforcement of its rights.

ARTICLE 30 – APPLICABLE LAW

The contract shall be governed by French law.
This principle shall apply to both de facto and de jure rules.

ARTICLE 31 – DISPUTES BETWEEN THE PARTIES

31.1 Settlement of disputes via conciliation or court procedures

Any disputes arising between the parties in the course of the execution of the contract of use of the infrastructure of the national rail network may be resolved through a conciliation process provided that the dispute does not concern the level of the charges for using the infrastructure and 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 or not be implemented, the matter shall be referred 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.

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

The appeal procedures mentioned above shall not prevent one or other of the parties from lodging an appeal with the relevant railway regulation authority.