

DATA SHARING AGREEMENT

By clicking 'accept' the Data Consumer agrees that the Data Consumer's access and use of the Licensed Data will be subject to the terms and conditions of this Agreement

This licence is entered into between the Data Publisher and the Data Consumer. Whilst the Rail Delivery Group operates the Rail Data Marketplace it is neither buyer nor seller of the Licensed Data. The Rail Delivery Group is not a party to this licence and makes no warranty in connection with the Licensed Data.

1. DEFINITIONS

In these terms and conditions, the following meanings shall apply:

'Account'	the facility provided by Rail Delivery Group allowing the Data Consumer to access the Rail Data Marketplace;
'Agreement'	the entire contract between the Data Publisher and the Data Consumer for the provision of the Licensed Data incorporating these terms and conditions and Schedule 1 to the exclusion of all other terms;
'Data'	the information and other materials (including any Open Access Content) in whatever form from time to time made available to the Data Consumer pursuant to this Agreement;
'Data Consumer'	as defined in Schedule 1 of this contract;;
'Data Publisher'	as defined in Schedule 1 of this contract; ;
Intellectual Property	copyright, database and other intellectual property and related rights of Publisher and its licensors, including the right to control the use and disclosure of confidential information;
'Licensed Data'	the Data identified in Schedule 1
'Licence Fees'	the charges, if any, for use of the Licensed Data more particularly described in Schedule 2;
'Licensed Rights'	has the meaning set out in Clause 2.2;
'Open Access Content'	means Data made available by a way of a licence from the rights holder that is Creative Commons, Open Government 3.0 or similar and any such content remains subject to its own licensing terms notwithstanding its inclusion with the Licensed Data;

‘Personal Data’	means any information which is related to an identified or identifiable natural person;
‘Rail Data Marketplace’	the services and information available from www.raildata.org.uk ;
‘Rail Delivery Group’	Rail Settlement Plan Limited, 2 nd Floor, 200 Aldersgate Street, London, EC1A 4HD, UK;
‘Rights’	copyright, database and other intellectual property and related rights of Publisher and its licensors, including the right to control the use and disclosure of confidential information;
‘Special Condition’	means any additional commercial terms as may be agreed between the parties and set out in Schedule 1; and
‘Term’	the duration of the Agreement, as set out in Schedule 1, including where applicable, any autorenewal of the Agreement.

2. PROVISION OF LICENSED DATA

- 2.1 All Intellectual Property in the Licensed Data are and shall remain the property of the Data Publisher and its licensors.
- 2.2 The Data Publisher will provide the Licensed Data in accordance with the terms and conditions of the Agreement and grants the Data Consumer a non-exclusive, non-transferable, licence to use the Licensed Data subject to:
- 2.2.1 payment of the appropriate Licence Fees (if any); and
- 2.2.2 the permissions, and limitations if any, set out in Schedule 1 (the ‘**Licensed Rights**’).
- 2.3 Save as provided in this Agreement, all other Rights are reserved by the Publisher and its licensors. Any copying, storage, transmission, publication, or use, other than as set out in this Agreement is not permitted.
- 2.4 In order for the Data Publisher to provide the Licensed Data, the Data Consumer must continue to abide by the terms of accordance with the terms and conditions of the Rail Data Marketplace including without limitation the RDM Platform Agreement – Data Consumer.

3. CUSTOMER OBLIGATIONS

- 3.1 The Data Consumer agrees to maintain at all times the integrity of the Licensed Data and will implement reasonable technical and organisational measures to protect the Licensed Data against accidental or unlawful loss, alteration, disclosure or access.
- 3.2 The Data Consumer agrees to comply with the terms and conditions of this Agreement and any reasonable instructions which the Data Publisher may from time to time notify to it in writing in connection with the Data Consumer’s use of the Licensed Data.
- 3.3 As a condition of the Data Consumer’s exercise of the Licensed Rights, the Data Consumer must:

- 3.3.1 give an appropriate credit to the Data Publisher by identifying the Data Publisher (and any other third party licensors designated to receive attribution in Schedule 1) as the source of the Licensed Data. The Data Consumer may do so in any reasonable manner, but not in a way that suggests the Data Publisher or its licensors endorse the Data Consumer or the Data Consumer's use of the Licensed Data;
 - 3.3.2 where the Licensed Rights so permit, ensure that any onward distribution of the Licensed Data is accompanied by appropriate notices relating to accuracy of the Data together with any relevant limitation or exclusion of liability provisions that the Data Publisher requires as a condition of such onward distribution; and
 - 3.3.3 promptly notify the Data Publisher in writing of any defects, inaccuracies or other deficiencies in the Licensed Data upon becoming aware of same.
- 3.4 The Data Consumer is responsible for the provision of the telecommunications services and equipment to enable the Data Consumer to access and receive the Data. Neither Rail Delivery Group nor the Data Publisher will be able to issue refunds or accept responsibility for delay for the Data Consumer's inability to access the Data due to any faults with the Data Consumer's telecommunications service or equipment.
- 3.5 Where the Licensed Rights permit the Data Consumer to distribute or otherwise make the output available to third parties, the Data Consumer shall use reasonable efforts not to do so in a manner that would or is likely to cause the output to be inaccurate, incomplete or otherwise fails to comply with the terms of this Agreement.

4. LICENCE FEES

- 4.1 The Data Publisher shall charge the Data Consumer the Licence Fee for the access and use of the Licensed Data using the charging basis set out in Schedule 1.
- 4.2 The Data Consumer must pay the Licence Fees due and the Rail Delivery Group will invoice and collect the agreed Licence Fees in the manner set out in the Rail Data Marketplace Platform Agreement – Data Consumer. If the Data Consumer does not pay the agreed Licence Fees, the Rail Delivery Group may suspend the Data Consumer's Account until payment in full is made.
- 4.3 All Licence Fees are quoted exclusive of any applicable value added tax which shall be payable by the Data Consumer in addition.

5. TERM, SUSPENSION AND TERMINATION

- 5.1 Once accepted by the Data Consumer, the Agreement shall commence and continue for the Term unless terminated earlier in accordance with the following provisions.
- 5.2 The Data Publisher can terminate the Agreement:
 - 5.2.1 immediately upon notice if:
 - (a) the Data Consumer breaches any provision of this Agreement (including without limitation the obligation to pay the Licence Fees) and fails to remedy that breach within seven days upon notice from the Data Publisher;

- (b) the Data Consumer enters into liquidation or any arrangement or composition with the Data Consumer's creditors or if a receiver or administrator or administrative receiver is appointed against any of the Data Consumer's assets or business;
- (c) the Data Publisher loses any rights to sub-licence any aspect of the Licensed Data or loses its rights to publish through the Rail Data Marketplace;
- (d) the Data Publisher suffers a force majeure event as set out in Clause 8.3.

5.2.2 on at least three months' notice where the Data Publisher has taken the decision that it will no longer distribute or make the Licensed Data available under licence.

5.3 Without prejudice to its rights under Clause 5.2, in consultation with Rail Delivery Group, the Data Publisher may limit or suspend access to the Licensed Data where the Licensed Data contains Data pertaining to the UK's critical national infrastructure. Where applicable, the Data Publisher will issue the Data Consumer with a refund in accordance with Rail Delivery Group's refund policy.

5.4 The Data Consumer can terminate the Agreement:

5.4.1 immediately upon notice if:

- (a) the Data Publisher breaches any provision of this Agreement and fails to remedy that breach within seven days upon notice from the Data Consumer;
- (b) the Data Publisher enters into liquidation or any arrangement or composition with the Data Publisher's creditors or if a receiver or administrator or administrative receiver is appointed against any of the Data Publisher's assets or business;
- (c) the Licensed Data is materially amended or replaced by the Data Publisher;

5.4.2 for convenience, where applicable, upon giving the Data Publisher notice, where such notice is set out in Schedule 1.

5.5 On expiry or termination of this Agreement for any reason:

5.5.1 the Data Consumer shall immediately settle any outstanding invoices for use of the Licensed Data incurred prior to the date of expiry or termination; and

5.5.2 if required under Schedule 1, the Data Consumer shall procure the destruction of any copies of the Licensed Data and promptly confirm such destruction to the Data Publisher.

5.6 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties have accrued up to the date of termination or expiry.

6. LIABILITY

6.1 Schedule 1 sets out the Data Publisher's liability to the Data Consumer in respect of the Licensed Data, subject to the provisions of this Clause 6.

- 6.2 The Data Publisher excludes all liability for loss of business revenue or profits, anticipated savings or wasted expenditure, corruption or destruction of data and for any consequential loss whatever arising out of or in connection with this Agreement.
- 6.3 Notwithstanding the provisions of this Clause 6, the Data Publisher does not limit or exclude its liability for death or personal injury caused by its negligence or any other liability the limitation or exclusion of which is prohibited by law.
- 6.4 In the event of any matter falling with this Clause 6 where a third party claim is made or threatened against the Data Consumer's or the Data Publisher, the parties shall provide all reasonable assistance to each other in connection with any such action.
- 6.5 The Data Publishers liability to the Data Consumer in respect of the Licensed Data shall be limited to 100% of the Licence Fees paid [and payable] during the Term

7. WARRANTIES

- 7.1 The Data Publisher warrants and undertakes to the Data Consumer:
 - 7.1.1 it has the right to grant the Licensed Rights;
 - 7.1.2 it has used reasonable skill and care in the creation and supply of the Licensed Data;
 - 7.1.3 will use reasonable endeavours to describe its data quality fairly; and
 - 7.1.4 as far as it is aware, the Data does not contain Personal Data.
- 7.2 Save as provided in clause 7.1, the Licensed Data is provided on an 'as is' basis. The Data Publisher makes no representations as to the accuracy or fitness for purpose of the Licensed Data and all warranties, conditions, or other terms implied by statute, common law or otherwise are excluded to the fullest extent permitted by law. Be that as it may and without any liability to the Data Consumer, the Data Publisher may indicate in good faith what it believes to be the level of accuracy of the Licensed Data in Schedule 1.
- 7.3 The Data Consumer must contact the Publisher immediately if anyone makes or threatens to make a claim against the Data Consumer relating to the Data Consumer's use of the Licensed Data and the Data Consumer will comply with any reasonable request from the Publisher in relation to such claim.

8. GENERAL

- 8.1 It is the Rail Data Marketplace that enables the Data Consumer to access the Licensed Data. The Data Publisher cannot guarantee that the Rail Data Marketplace will never be faulty or that it will be available at all times as the Rail Delivery Group may, for example, need to temporarily suspend the whole or any part, of the platform. Please see the Rail Data Marketplace Platform Agreement for more information on platform performance and availability.
- 8.2 The Data Consumer is not allowed to transfer or attempt to transfer this Agreement in whole or in part.

- 8.3 The Data Publisher will not be liable if the Data Publisher cannot perform its obligations under this Agreement because of circumstances beyond its reasonable control such as technical failure, severe weather, fire or explosion, civil disorder, war, or military operations, natural or local emergency, anything done by government or other competent authority or industrial disputes of any kind.
- 8.4 Notices given under the Agreement may be given by the Data Publisher to the Data Consumer online through the Rail Data Marketplace in writing to the address as currently stated in the Data Consumer's account details and by the Data Consumer to the Data Publisher through the Rail Data Marketplace to the address Rail Settlement Plan Limited, 2nd Floor, 200 Aldersgate Street, London, EC1A 4HD, UK.
- 8.5 The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is a party to this Agreement.
- 8.6 This Agreement is the entire and only agreement between the parties concerning its subject matter and supersedes any and all prior agreements, arrangements and understandings (whether written or oral) relating thereto. Neither party has relied upon any statement, representation or warranty of any person other than as expressly set out in this Agreement.
- 8.7 If either party delays in acting upon a breach of this Agreement by the other party, that delay will not be regarded as a waiver of the breach. If a party does expressly waive a breach of this Agreement by the other party, that waiver is limited to that particular breach.
- 8.8 In the event of conflict between these terms and conditions and any Special Conditions, the order of precedence is as follows:
- 8.8.1 these terms and conditions;
 - 8.8.2 Schedule 1 (excluding any Special Conditions); and
 - 8.8.3 any Special Conditions.
- 8.9 This Agreement is governed by, and construed in accordance with, English law and the Data Consumer and the Data Publisher submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising in relation to this Agreement, save in the case of injunctive relief where a claim may be brought in any court of competent jurisdiction.

SCHEDULE 1
LICENSED RIGHTS

1. DATA PUBLISHER

[Auto insert from system generated data]

2. DATA CONSUMER

[Auto insert from system generated data]

3. LICENSED DATA

[Auto identified via the Data Catalogue]

4. PERMITTED RECIPIENTS

[Anyone]

[Insert selected group]

[Only as explicitly approved by the Data Publisher]

5. PERMITTED PURPOSES

The permitted purposes are:

[From drop down in system]

[the raw data may be copied and used for Data Consumer's internal business purposes only]

[the raw data may be made freely available to third parties for validation and research purposes]

[the raw data may be made freely available or otherwise distributed to third parties]

[the raw data may be sold or otherwise distributed to third parties for commercial gain]

[the raw data may be copied, cleansed, adapted and / or aggregated with data from other sources and the new dataset may then be sold, made available or otherwise distributed to third parties]

6. TERM AND TERMINATION

The start date of this agreement shall be [system to autocomplete date on which agreement is accepted]

The Term shall be:

[One-time use only]

[One Month]

[One Year]

[One Year and the Term shall renew automatically on the anniversary of the Term on the same terms and conditions]

The notice period for Data Consumer termination for convenience shall be:

[One week]

[One Month]

7. TERRITORIAL USE RESTRICTIONS

Exercise of these Licensed Rights is permitted within the territories selected below and / or, if applicable, prohibited in the prohibited territories selected below:

[UK]

[UK and Europe]

[UK and US]

[UK, Europe and US]

[Global]

[Prohibited countries by exception]

8. ATTRIBUTION

The following organisations must be attributed if the data is subsequently published.

[Text box to capture data as part of the licence wizard flow]

9. RETENTION

At the end of the term, the Data Consumer;

[Create dropdown options in the Licence Wizard

[May retain any data which has been received.]

[Must delete all data received within 1 Year.]

[Must delete all data received within 1 Month.]

[Must delete all data received immediately at the end.]

The Data Consumer must make a statement to the effect that they have deleted all data at the appropriate point.

10. SPECIAL CONDITIONS

The following special conditions apply:

[Create text box in Licence Wizard to capture any special conditions]

SCHEDULE 2
LICENCE FEES

1. LICENCE FEE TYPE

[from charging wizard diagram]

2. NON-CHARGEABLE LIMIT

Time Limit or Nil

Volume limit or Nil

3. CHARGES APPLICABLE FOLLOWING NON-CHARGEABLE LIMIT

Time - £ / month or Zero

Volume - £ / volume unit or Zero

Calls - £ / 1000 API calls or Zero

4. ONE-OFF CHARGES

5. Single access charge - £ or Zero