



ASSOCIATION of TRAIN OPERATING COMPANIES

RAIL SETTLEMENT PLAN LIMITED

AND

[Name]

ACCREDITATION CONTRACT

v02-00

Date of Agreement: [Date]

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This agreement ('Agreement') is entered in to on 22 August 2011.

Between:

RAIL SETTLEMENT PLAN LIMITED ('RSP') (Registered No: 3069042) whose registered address is at 40 Bernard Street, London WC1N 1BY; and

Name LIMITED ('CUSTOMER') (Registered No: 01245534) whose registered address is [address], trading as [if applicable]

together referred to as the 'Parties'.

WHEREAS:

RSP has agreed to deliver 'Accreditation Services' to the Customer and this Agreement shall cover the terms and conditions associated with that agreement.

The Parties agree as follows:

1 Definitions

1.1 In this Agreement (including the Recitals) the following expressions shall (except where the context otherwise requires) have the following meanings:

'Accreditation Charge' means the charge which shall be payable by the Customer to RSP each Period for the provision of Accreditation Services on Contract Days within a given Period.

'Accreditation Services' means the activities defined in Schedule 1.

'Additional Day' means a weekday on which the Customer can request RSP to provide Accreditation Services over and above the number of Contract Days and this will be charged to the Customer in addition to the Accreditation Charge.

'Additional Day Rate' means the rate at which RSP will charge the Customer per Additional Day.

'Conditions of Approval Certificate' means the certificate which confirms that a TIS has passed accreditation against the required RSP Standards and is now authorised to retail rail industry transactions, subject to the conditions contained within said certificate.

'Authorised Representative' means the person identified by each party in Clause 2.1 of this Agreement and who shall have the responsibilities set out therein.

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'Bank Holidays' means any of several weekdays during the year on which banks are closed by law and which are observed as national holidays in England.

'Charge' means the aggregate of the Accreditation Charge plus any Additional Day charges and any Pilot Monitoring charges.

'Commencement Date' shall be [date].

'Confidential Information' means all information of a commercial or proprietary nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by the Disclosing Party to the Receiving Party whether before or after that date of this Agreement including in particular any information relating to the Disclosing Party's know-how, trade secrets and business affairs.

'Contract Day' means any day excluding Saturdays, Sundays or Bank Holidays on which RSP is contracted to provide Accreditation Services to the Customer under the terms of this Agreement.

'Contract Day Rate' means the rate at which RSP will charge the Customer per Contract Day.

'Contract Officer' means the person identified by each party in Clause 2.3 of this Agreement and who shall have the responsibilities set out therein.

'Customer Site' means any Name site in mainland UK.

'Data Protection Directives' means the European Union Directive entitled 'Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data'.

'Data Protection Legislation' means any legislation in force from time to time in the United Kingdom which implements the Data Protection Directives and is applicable to the provision of the services pursuant to this Agreement.

'Disclosing Party' means the party disclosing Confidential Information.

'Effective Date' means the date of this Agreement, that being [date on front page].

'Force Majeure Event' means any event beyond the reasonable control of a party including, without limitation and to the extent beyond the reasonable control of a party, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction or any overriding emergency procedures, accident, fire, flood, storm and strikes or any industrial action by employees of any party other than the party relying on the Force Majeure Event or their customers.

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'Period' means one of the 13 periods of time which the RSP Financial Year is divided into, each Period having a duration of 28 calendar days, except for Periods 1 and 13 which can be variable in duration.

'Pilot Monitoring' means the activities defined in Schedule 2.

'Planning Meeting' means the meeting which shall be held between RSP and the Customer in each Period, to discuss the accreditation plans for the following Period.

'Receiving Party' means the party to whom Confidential Information is disclosed.

'RSP Financial Year' means a year commencing on 01 April each year.

'RSP Standards' means the RSP Standards, in respect of TIS, which must be met by any TIS in order to obtain a Conditions of Approval Certificate from RSP. The RSP Standards are made available on the TIS Accreditation website and any amendments or updates shall be notified to the Customer in writing by RSP from time to time and provide reasonable notice of such changes.

'TIS' means rail industry ticket issuing system.

1.2 In this Agreement, a reference to:

- (a) a person includes a reference to a body corporate, association or partnership;
- (b) a person includes a reference to that person's legal personal representatives, successors and permitted assigns; and
- (c) a Clause or Schedule, unless the context otherwise requires, is a reference to a Clause of or Schedule to this Agreement.

1.3 The headings in this Agreement do not affect its interpretation.

2 Representatives

2.1 The Authorised Representatives shall have sole authority to agree additions or variations to, and to receive notices issued pursuant to, this Agreement on behalf of the parties to this Agreement. Schedule 5 of this Agreement contains their contact details.

2.2 The Authorised Representatives shall appoint deputies to act in the place of the Authorised Representatives in their absence and shall notify the other party's Authorised Representative of such appointment. Schedule 5 of this Agreement contains their contact details.

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2.3 Each party shall appoint a Contract Officer and notify the other party of the Contract Officer's name, address and telephone number. The Contracts Officer shall be responsible for the day to day operation of the Agreement. Schedule 5 of this Agreement contains their contact details.

3 Accreditation Services

3.1 RSP shall perform the Accreditation Services detailed in Schedule 1 of this Agreement. For the avoidance of doubt, Bank Holidays are not included within the scope of this Agreement.

3.2 The Customer shall submit work plans and documents in line with RSP Standards for each accreditation.

3.3 A Planning Meeting shall take place between RSP and the Customer each Period, in order to discuss the work plan for the next Period, and for the Customer to nominate their chosen Contract Days for that following Period. Any Contract Days not nominated in a Period by the Customer shall be allocated by RSP and advised to the Customer accordingly.

3.4 This Agreement also allows the Customer to request Additional Days of Accreditation Services, and RSP will use all reasonable endeavours to resource such additional requests and confirm this as part of the Planning Meeting.

3.5 The Customer's TIS covered by this Agreement are [named TIS] and any other TIS that the Customer may propose for accreditation.

3.6 All RSP accreditation personnel associated with the delivery of this Agreement shall have the appropriate experience and shall be trained to perform the tasks assigned to them by RSP.

3.7 RSP shall provide management information to the Customer as specified in Schedule 3 of this Agreement.

3.8 Either party shall immediately inform the other of any changes in its organisation or method of doing business which might affect the performance of its duties associated with this Agreement.

3.9 Whilst this Agreement is designed to cater for the provision by RSP of Accreditation Services to the Customer for one TIS at a time, where RSP are able to provide Accreditation Services to the Customer for more than one TIS at the same time, RSP will use all reasonable endeavours to resource this requirement and confirm this as part of the Planning Meeting.

4 Accreditation Charge

- 4.1 The Customer shall pay the Accreditation Charge, as described in Schedule 4 of this Agreement within 30 days of the date of the invoice and shall pay Additional Day charges and Pilot Monitoring charges one Period in arrears within 30 days of the date of the invoice.
- 4.2 If the Customer disputes the Charge, it shall provide RSP with reasons for non-payment in writing and include supporting evidence. In such event, the Customer shall be entitled to suspend payment of the disputed element of the Charge. The parties shall discuss the disputed element of the Charge as soon as possible. If it is established that the reasons are justified, RSP shall not seek payment for the disputed element of the Charge. If it is established that the reasons are unjustified, the Customer shall pay the disputed element of the Charge immediately. For the avoidance of doubt, any part of the Charge properly disputed by Customer shall not affect payment of the undisputed element of the Charge.
- 4.3 The charge for an Additional Day or Days is not included within the Accreditation Charge and shall be charged to the Customer in addition to the Accreditation Charge.
- 4.4 Reasonable RSP staff expenses (travel, accommodation and subsistence) are not included within the Accreditation Charge and shall be charged to the Customer separately.
- 4.5 Pilot Monitoring charges are not included within the Accreditation Charge and shall be charged to the Customer separately.
- 4.6 If RSP is unable to provide Accreditation Services on a day or days which the Customer has nominated as a Contract Day or Additional Day, then RSP shall not levy the appropriate Contract Day Rate or Additional Day Rate charge for that day or days, and the Charge for the relevant Period shall be reduced accordingly.
- 4.7 No refunds shall be payable by RSP if the Customer does not utilise all of the agreed Contract Days within a given Period, and for the avoidance of doubt, Contract Days cannot be carried over from one Period to the next. However where both parties agree that the resource assigned to provide the Accreditation Services can be used to provide other chargeable services to other RSP customers then an appropriate proportion of the Charge will be reduced accordingly.
- 4.8 The Contract Day Rate and Additional Day Rate will only increase in line with the rail industry TIS accreditation day rate and RSP shall provide at least three (3) months written notice to the Customer of any change in these rates.

5 VAT

- 5.1 All sums due to either party under this Agreement are exclusive of VAT thereon, if any, which shall be charged in addition thereto in accordance with the relevant regulations in force at the time of making the relevant taxable supply and shall be payable by the paying party only against receipt from the other of a valid VAT invoice in respect thereof.
- 5.2 Where under this Agreement one party has agreed to reimburse or indemnify the other in respect of any payment made or cost incurred by the other then the first party shall also reimburse any VAT paid by the other which forms part of its payment or costs incurred to the extent that such VAT is not available for credit for the other under Sections 25 and 26 of the Value Added Tax Act 1994.

6 Joint Obligations

- 6.1 During the Planning Meetings, both RSP and the Customer will document and agree any external dependencies where specific milestones, delivery dates or deliverable specification need to be agreed with third parties. Where there are no such third party dependencies and there are no specific milestones or dependencies which need to be met in the provision of the Accreditation Services, this will be agreed by both parties and recorded in writing.

7 Liability

- 7.1 The total liability of either party to the other in respect of any liability, loss or claim whatsoever which may arise as a result of that party's performance of its obligations under this Agreement shall, save for death and injury of any person resulting from the negligence of that party or its employees while acting in the course of their employment (for which no limit applies), shall in no event exceed the total value of Accreditation Services payable under this Agreement in an RSP Financial Year.
- 7.2 Neither party shall in any circumstances be liable to the other for any indirect or consequential loss howsoever caused, including in particular, loss of anticipated profits, goodwill or reputation.

8 Specifications

- 8.1 RSP shall not be responsible for any errors, omissions or other defects in any drawings, designs or specifications provided by the Customer.

9 Rights in Completed Works

- 9.1 Subject as otherwise agreed in writing between the parties all copyright, design rights and other intellectual property rights in any work which is owned by RSP or in its possession prior to or outside the scope of this Agreement shall remain vested in RSP.
- 9.2 Subject as otherwise agreed in writing between the parties all copyright, design rights and other intellectual property rights in any work which is owned by the Customer, including any of its TIS, or in its possession prior to or outside the scope of this Agreement shall remain vested in the Customer.
- 9.3 The methods used and expertise developed in producing any work developed in the course of the provision of the Accreditation Services (but not including any copyright, design rights or other intellectual property rights of the Customer) shall to the extent derived from RSP's own expertise vest in RSP.
- 9.4 The methods used and expertise developed in producing any work developed in the course of the provision of the Accreditation Services (including but not limited to any elements specific to or distinctive of the Customer's business) shall to the extent derived from the Customer's own expertise vest in the Customer.

10 Term & Termination

- 10.1 This Agreement shall commence on the Effective Date and shall continue until terminated in accordance with its terms. The Agreement shall also apply in respect of any Accreditation Services performed by RSP in the period from the Commencement Date until the Effective Date.
- 10.2 RSP may terminate this Agreement with immediate effect by notice in writing to the Customer on or at any time after the occurrence of any of the following events:
- (a) a breach by the Customer of any of its obligations under this Agreement which (if the breach is capable of remedy) the Customer has failed to remedy within 30 days after receipt of notice in writing from RSP giving particulars of the breach and the action required of the Customer to remedy such breach;
 - (b) the passing by the Customer of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Customer or the dissolution of the Customer;

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- (c) the making of an administration order, other than pursuant to a reorganisation of either party, in relation to the Customer or the appointment of a receiver over, or the taking possession or sale by an encumbrancer of, any of the Customer's assets; or
 - (d) the Customer making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally.
- 10.3 The Customer may terminate this Agreement with immediate effect by notice in writing to RSP, if RSP commits a breach of its obligations under this Agreement which (if the breach is capable of remedy) RSP has failed to remedy within 30 days of receipt of notice in writing from the Customer giving particulars of the breach and the action required of RSP to remedy such breach.
- 10.4 Either RSP or the Customer may terminate this Agreement at any time by providing the other Party with 6 months notice in writing.
- 10.5 All rights and obligations of the parties shall cease to have effect immediately upon termination of this Agreement, except that the parties' obligations pursuant to clauses which are expressed to survive termination and clauses necessary for the interpretation or enforcement of the Agreement shall survive termination.

11 Force Majeure

- 11.1 If either party is prevented from performing any of its obligations under this Agreement by a Force Majeure Event then:
- (a) that party's obligations under this Agreement shall be suspended for so long as the Force Majeure Event continues and to the extent that party is so prevented;
 - (b) as soon as reasonably possible after commencement of the Force Majeure Event that party shall notify the other party in writing of the occurrence of the Force Majeure Event, the date of commencement and an estimated duration of the Force Majeure Event and the effects of the Force Majeure Event on its ability to perform its obligations under this Agreement;
 - (c) that party shall use all reasonable efforts to mitigate the effects of the Force Majeure Event upon the performance of its obligations under this Agreement; and
 - (d) as soon as reasonably possible after the cessation of the Force Majeure Event that party shall notify the other party in writing of the cessation of the Force Majeure Event and shall resume performance of its obligations under this Agreement.

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11.2 If the Force Majeure Event continues for more than 14 days after the commencement of the Force Majeure Event the party not relying on the suspension of its obligations as a result of the Force Majeure Event may terminate this Agreement by giving not less than 14 days' notice in writing to the other party.

12 Confidentiality

12.1 During the Term and after termination or expiration of this Agreement for any reason whatsoever the Receiving Party shall;

- (a) keep the Confidential Information confidential;
- (b) not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with Clauses 12.2 and 12.3; and
- (c) not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.

12.2 During the term of this Agreement the Receiving Party may disclose the Confidential Information to its employees and sub-contractors (the "Recipient") to the extent that it is necessary for the purposes of this Agreement.

12.3 The Receiving Party shall procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.

12.4 The obligations contained in Clauses 12.1 to 12.3 shall not apply to any Confidential Information which:

- (a) is at the date of this Agreement or at any time after the date of this Agreement comes into the public domain other than through breach of this Agreement by the Receiving Party or any Recipient;
- (b) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party;
- (c) subsequently comes lawfully into the possession of the Receiving Party from a third party; or
- (d) is required by law or binding regulation to be disclosed.

13 Announcements

- 13.1 No public announcement, communication or circular (other than to the extent required by law or binding regulation) concerning the transactions referred to in this Agreement shall be made or despatched by either party without the prior written consent of the other party.

14 General

- 14.1 This Agreement together with any documents referred to in this Agreement constitute the entire agreement between the parties relating to the subject matter of this Agreement and supersedes all previous such agreements.
- 14.2 In case of conflict or inconsistency between any of the provisions of the Schedules and the Clauses in this Agreement, the Clauses shall prevail.
- 14.3 No variation of this Agreement shall be valid unless it is in writing and signed by the Authorised Representatives.
- 14.4 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 14.5 Except as expressly provided in this Agreement both parties rights and remedies contained in this Agreement are exhaustive and to the extent permitted by law exclude any rights or remedies provided by law.
- 14.6 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no rights or benefits expressly or impliedly conferred by it shall be enforceable under that Act against the parties to it by any other person.
- 14.7 The provision of Accreditation Services by RSP to the Customer:
- (a) shall be subject to and conditional upon the Customer complying at all times with the RSP Standards and the provision of any activity or information thereunder;
 - (b) RSP gives no warranty that the provision of the Accreditation Services shall lead to or enable the Customer to gain a Conditions of Approval Certificate in respect of the TIS which it has brought forward for accreditation by RSP; and

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- (c) the terms and conditions contained in this Agreement are separate from and additional to any of the terms and conditions associated with the RSP Standards and the Conditions of Approval Certificate.

15 Assignment

- 15.1 The Customer may not assign or transfer or purport to assign or transfer any of its rights or obligations under this Agreement without the prior written consent of RSP, except that the Customer shall be entitled to assign this Agreement without consent within the Name group of companies.

16 Notices

- 16.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by first class post pre-paid recorded delivery to the Authorised Representatives of the relevant party at the address for correspondence set out in Schedule 5 of this Agreement or to such other address either party may specify by notice in writing to the other.

17 Data Protection 1998

- 17.1 During the term of this Agreement the Parties shall:
- (a) comply with all Data Protection Legislation; and
 - (b) only disclose personal data in accordance with the Data Protection Legislation in relation to the Accreditation Services to the other parties and such other persons as the parties may expressly agree in writing.

18 Governing Law & Jurisdiction

- 18.1 This Agreement is governed by, and shall be construed in accordance with, English law.
- 18.2 The courts of England have exclusive jurisdiction to hear and decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement (respectively "Proceedings" and "Disputes") and, for these purposes, each party irrevocably submits to the jurisdiction of the courts of England.

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- 18.3 Each party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and decide any Proceedings and to settle any Disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

SCHEDULE 1 Accreditation Services

1 Scope of Services

For the purposes of this Agreement, Accreditation Services shall be defined as:

- the review of compliance by the TIS with RSP Standards and assessment of impact of that TIS on RSP services and systems;
- the checking of test evidence supplied by the Customer;
- RSP witness testing;
- the review of the use of the TIS in the live environment for a given TIS release;
- the provision of a Conditions of Approval Certificate for the TIS release, detailing the conditions under which approval is granted and the conditions under which use of that TIS is permitted; and
- the review of lessons learnt from any given accreditation, where applicable.

SCHEDULE 2 Pilot Monitoring

Pilot Monitoring is the implementation of an agreed number of instances of a TIS operating in the live environment for a defined period of time, such period to be agreed in writing on a case by case basis.

The purpose of Pilot Monitoring is to observe the performance of all aspects of the TIS under controlled, small scale, live operating conditions to demonstrate a clean install, upgrade and use process with no adverse impact on RSP services.

Pilot monitoring on the specified TIS is carried out daily with any errors reported to the Customer daily by email. In cases of a serious incident, Pilot Monitoring must cease immediately on the request of RSP and/or the TOC taking part in the pilot. Monitoring can continue for an extended period of time, as agreed between the parties, if there are issues requiring resolution.

For the avoidance of doubt, Pilot Monitoring charges are not included within the Accreditation Charge and shall be charged to the Customer separately.

SCHEDULE 3 Management Information

RSP shall provide the Customer with management information to be jointly agreed between the parties. Provision of agreed management information is included in the Charge.

SCHEDULE 4 Day Rates & Accreditation Charge

1 Day Rates - RSP Financial Year 2012/13

Contract Day Rate £ TBA per day
Additional Day Rate £1000 per day

2 Day Rates - RSP Financial Year 2013/14

Contract Day Rate £TBA per day
Additional Day Rate £TBA per day

3 Day Rates - Future Years

RSP will advise the Customer of the Contract Day Rate and Additional Day Rate for RSP Financial Year 2013/14 and subsequent years in line with Clause 4.8 of this Agreement.

4 Accreditation Charge Calculation

The Accreditation Charge per Period is calculated as:

(Contract Days per Period x Contract Day Rate)

For the avoidance of doubt, and as detailed in Clause 4.3, Clause 4.4 and Clause 4.5 of this Agreement, Additional Day(s), reasonable RSP staff expenses and Pilot Monitoring charges are not included within the Accreditation Charge and shall be charged to the Customer separately or in addition to the Accreditation Charge.

5 Accreditation Charge per Period

The Accreditation Charge per Period in RSP Financial Year 2012/13 is:
[Nos of days] Contract Days x £ TBA Contract Day Rate = £x per Period

The Accreditation Charge per Period in RSP Financial Year 2013/14 is:
[Nos of days] Contract Days x £ TBA Contract Day Rate = £x per Period

SCHEDULE 5 Representatives

1 Authorised Representatives

As at the date of this Agreement the Authorised Representatives shall be:

(a) **RSP:** Steve Howes, Managing Director, Rail Settlement Plan Limited, 40 Bernard Street, London WC1N 1BY. Tel: 0207 8418100 Email: Steve.Howes@atoc.org

(b) **Customer:**

2 Authorised Representatives' deputies

As at the date of this Agreement the Authorised Representatives' deputies shall be:

(a) **RSP:** Simon Wright, Head of Third Parties & Accreditation, Rail Settlement Plan Limited, 40 Bernard Street, London WC1N 1BY. Tel: 0207 8418124
Email: Simon.Wright@atoc.org

(b) **Customer:**

3 Contract Officers

As at the date of this Agreement the Contract Officers shall be:

(a) **RSP:** Tracey Dagley, Accreditation Business Manager, Rail Settlement Plan Limited, 40 Bernard Street, London WC1N 1BY. Tel: 0207 8418194 Email: Tracey.Dagley@atoc.org

(b) **Customer:**

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IN WITNESS whereof this Agreement has been entered into on the date stated at the beginning.

By Steve Howes, Managing Director, RSP for and on behalf of
RAIL SETTLEMENT PLAN LIMITED

By [Name & Title], for and on behalf of
[NAME] LIMITED