

# AGREEMENT

## for access and use of the railway infrastructure – public state property in the Republic of Bulgaria

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Today, ....., in the city of Sofia, between the parties:

**THE STATE ENTERPRISE NATIONAL RAILWAY INFRASTRUCTURE COMPANY**, with UIC 130823243, with business seat and headquarters address: Sofia, 110, Knyaginya Maria Louisa Blvd., represented by Dipl. Eng. Krasimir Hristov Papukchiyski – Director General, and by affixing a second signature of Lydia Davidova Davidova - Chief Accountant, holding Safety Authorisation with EU identification number BG 21 2018 0001, issued on 21.06.2018 by the Railway Administration Executive Agency of the Republic of Bulgaria, hereinafter referred to as (the) **RAILWAY INFRASTRUCTURE MANAGER** or (the) **IM**,

and

....., with business seat and headquarters address: ....., entered in the Commercial Register at the Registry Agency with UIC ....., represented by ..... - ....., a Railway Undertaking holding a passenger/freight railway transport license No....., valid from ....., as amended by ....., with EC notification number ....., issued by the Minister of Transport, Information Technology and Communications, Annex No 1 to license No....., valid from ..... to ....., issued to ..... by the Railway Administration Executive Agency and Single Safety Certificate with EU identification number....., valid from..... to ....., issued by ....., or Safety Certificate - Part A with EU identification number ....., issued to .....with a validity period from ..... to ..... and Safety Certificate - Part B with EU identification number ....., issued on ..... with a validity period from ..... to ....., issued by the Railway Administration Executive Agency, hereinafter referred to as **RAILWAY UNDERTAKING** or (the) **RU**, on the grounds of Article 33, paragraph 1 of the Railway Transport Act and Article 6 of Ordinance No 41 dated 27 June 2001 for access and use of the railway infrastructure, this Agreement was concluded regarding the following:

### Section I

#### I. SUBJECT OF THE AGREEMENT

**Article 1. (1)** this Agreement settles the relations between the IM and the RU with regard to the access and use of the railway infrastructure in the Republic of Bulgaria – public state property – and the access to service facilities in compliance with the Railway Transport Act (RTA), Ordinance No 41 dated 27 June 2001 for access and use of the railway infrastructure (Ordinance No 41) and the respective annual Network Statement (NS), elaborated by the IM.

**(2)** The access and use of the railway infrastructure and the access to service facilities, provided to the RU, include providing the services under item 1 and item 2 of Appendix No 1 of Ordinance No 41.

**(3)** The RU shall use the services for providing access and use of the railway infrastructure and access to the service facilities, represented by the IM against payment of an infrastructure charge, determined in the respective annual Network Statement, in accordance with the Methodology for calculating infrastructure charges collected by the railway infrastructure manager, adopted by Decree of the Council of Ministers No 92 dated 4 May 2012, amended and supplemented with Decree No 283 of 14 November 2019 (Methodology).

(4) The IM may provide to the RU use of the services under items 3 and 4 of Annex No 1, Ordinance No 41, upon submission of a request at prices determined according to the Methodology published in the Network Statement.

(5) Regarding the operation of the railway infrastructure, the annual Network Statement shall be applied between the parties, including all annexes and appendices, as announced by the IM on its website [www.rail-infra.bg](http://www.rail-infra.bg).

(6) The conditions for access to the border stations for provision of cross-border rail services when operating in neighboring countries will be determined by cross-border agreements, subject to the provisions of Ordinance No 41.

## **Section II PERIOD OF DURATION OF THE AGREEMENT**

**Article 2.** (1) this Agreement becomes effective at 00:00 o'clock on the date, following the date of its signing. The Agreement is concluded for an indefinite period upon the presentation of a valid license, including the annex thereto, regarding the financial coverage of the civil liability as per the Commission Implementing Regulation (EU) 2015/171 dated 4 February 2015 on certain aspects of the procedure of licensing railway undertakings (OB, L 29/3 dated 5 February 2015) and single safety certificate of the RU.

(2) The Agreement is updated annually automatically after its entry into force and in accordance with the approved Train Timetable (TT). For railway undertakings, to which capacity has been allocated in the annual TT, the Agreement shall be updated after the parties have signed the list of regular trains for the period of validity of the respective TT.

(3) The list of regular trains is updated according to the deadlines and the methods specified in the Network Statement.

(4) In case of change of the current legislation, related to clauses of the Agreement, the same shall be updated by signing an additional agreement. Until the signing of the additional agreement between the parties, in case of conflict between clauses of the Agreement and the current legislation, the provisions of the laws and by-laws shall apply.

## **Section III CAPACITY REQUESTING AND ALLOCATION**

**Article 3.** The RU shall declares and the IM shall allocate capacity, in compliance with the provisions of the Railway Transport Act, Ordinance No 41 and in accordance with the conditions and terms set out in the Network Statement.

## **Section IV PAYMENTS AND DEADLINES**

**Article 4.** (1) For the access and use of the railway infrastructure and the access to the service facilities, the RU shall owe the IM the payment of infrastructure charges, determined in the respective annual Network Statement, in accordance with the Methodology for calculating of infrastructure charges collected by the Railway Infrastructure Manager, adopted by Decree of the Council of Ministers No 92 dated 4 May 2012, amended and supplemented with Decree No 283 of 14 November 2019.

(2) Until the seventh day of the month following the month, for which the infrastructure charges are due, the IM shall prepare and send to the official contact e-mail of the RU, as agreed by the Parties for official correspondence, a protocol for the train-kilometers produced, the gross-kilometer kilometers and the amounts required for the transit charge, the declared and unused capacity charge and the amounts deducted from the infrastructure charges.

(3) Within 3 (three) days from receipt of the Protocol under Para. 2, the RU shall send to the official e-mail of the IM, as agreed by the Parties for official correspondence, a confirmation

about the content of the latter and if there are some objections, it shall set them out together with the respective justification.

(4) Based on the confirmation pursuant to Art. 3, within 2 (two) days, the IM shall issue the RU an invoice for the infrastructure charges due.

(5) When the last day of the deadlines under Paragraphs 2, 3 and 4 is not a working day, it shall be considered that the latter shall expire on the first working day.

(6) If after issuance of the invoice the Parties find some errors or discrepancies regarding the due infrastructure charges stipulated in the signed protocol, a new protocol shall be prepared for the detected differences and on its grounds a debit/credit note shall be issued.

(7) The RU shall pay the infrastructure charges, collected by the IM until 15<sup>th</sup> day of the month, following the month, when they are due, to a specified bank account of the Headquarters of the IM.

## **Section V RIGHTS AND OBLIGATIONS OF THE IM**

**Article 5.** The IM shall have the right to:

1. receive the infrastructure charges determined in the respective annual Network Statement in the cases and under the conditions stipulated in this Agreement.

2. receive the price of the services, used according to items 2, 3 and 4 of Annex N 1 to Ordinance N 41.

3. specify temporary and constant speed reductions for the network traffic;

4. terminate the operation in the case of construction and repair works on the network, announced in the respective Network Statement.

5. terminate the operation in the case of restoration works on the network, as a result of circumstances representing a force majeure, including accidents and incidents.

**Article 6. (1)** The IM shall:

1. provide the RU with access and use of the railway infrastructure, as well as with access to the service facilities in accordance with Items 1 and 2 of Annex I of Ordinance No 41 and the Network Statement.

2. provide the RU annually with information about the condition of the railway infrastructure necessary for the preparation of an assignment for the Train Timetable (TT) through the published Network Statement, as well as timely information about the implemented temporary and constant reductions of the traffic speeds along the railway track and the facilities, including the cases of saturated infrastructure, through an official written correspondence.

3. notify immediately the RU in writing about the occurred accidents and incidents, which might have consequences regarding the train traffic safety, train timetable disruption and environmental damages, and to propose measures for restriction of the consequences.

4. if it is necessary to perform a train shunting for the removal of damaged or other safety-threatening wagons and the RU does not have the necessary staff, the IM shall perform this with its own staff (station master, traffic manager, post switchman);

5. provide the services in the service facilities, operated by it.

(2) From the moment of signing the breaking weight certificate by the traffic manager on duty, the train shall be considered ready for operation on a pre-requested path, as in the case of a violated schedule and presence of more than one train of one and the same RU, the departure order for a given direction shall be determined by the respective RU.

## **Section VI RIGHTS AND OBLIGATIONS OF THE RU**

**Article 7.** The RU shall have the right to:

1. submit a request for allocation of capacity by the IM for the annual TT as per the requirements of the RTA, Ordinance No 41 and the Network Statement.

2. request in writing to the IM the necessity of changing the paths established in the TT according to the specified methods and deadlines, stipulated in the Network Statement
3. request additional and ad-hoc paths according to the rules specified in the Network Statement, if necessary.
4. receive in time information on the railway infrastructure, for which it has requested to use capacity.

**Article 8.** The RU shall:

1. not reassign to any other railway undertakings the paths allocated to it;
2. pay the IM the infrastructure charges determined in the respective annual Network Statement;
3. pay the services used under items 2, 3 and 4 of Annex No 1 to Ordinance No 41 at prices, calculated in compliance with the Methodology, published in the Network Statement;
4. upon arrival of a train at the terminal station according to the approved timetable or when some wagons (coaches) are left on tracks of the IM, the RU shall submit for signing a trilateral Takeover protocol to the respective station traffic manager on duty, confirming the handing over of the train composition to the next railway undertaking or recipient. The trilateral protocol shall contain the date and time of handing over, inventory of the handed-over wagons (coaches) and it shall be signed by the handing over person, the recipient and by the traffic manager on duty. When no such protocol is provided, all additional prices and charges, incurred due to the stay of the composition of the train after its arrival or for the wagons (coaches) after their leftover, shall be on the account of the railway undertaking, which has serviced the train to the station or which has made the shunting operation for their leaving.

## **Section VII ACTIONS FOR RESTORING THE TRAFFIC**

**Article 9. (1)** When restoring the traffic along the infrastructure, the IM shall perform the restoration works.

**(2)** The RU shall participate in the restoration of the traffic along the railway infrastructure by providing shunting staff, mobile rolling stock, mobile equipment and staff, and when it is possible, it shall eliminate the prerequisites for accidents by itself.

**(3)** The IM shall reimburse to the RU for all costs made under Para 2

## **Section VIII LIABILITY AND SANCTIONS**

**Article 10. (1)** The IM and the RU shall apply the respective regulations of the Network Statement regarding the allocation of capacity, the charging of infrastructure charges and prices for services and in the case of train delay.

**(2)** In the case of canceling a train due to the RU, the latter shall pay the IM the charge for requested and unused capacity in accordance with Section II “Compensations” of the Performance Scheme to the Network Statement.

**(3)** In case of canceling of a train due to the IM’s action, the latter shall pay to the RU compensation amounting to the charge for the requested and unused capacity according to Section II „Compensations” of the Performance Scheme to the Network Statement.

**(4)** In case of changing the train route due to the IM’s actions, the latter shall compensate the additional costs incurred to the RU in accordance with Section II “Compensations” of the Performance Scheme to the Network Statement.

**(5)** In case of train delays due to the RU’s actions, the latter shall owe the IM compensation amounting to BGN 1,40 per minute of delay of a freight train and BGN 2,50 per minute of delay of a passenger train pursuant to section I “Sanctions”, of the Performance Scheme to the Network Statement.

(6) In case of delay of trains due to IM's actions, the latter shall owe the RU compensation amounting to BGN 1,40 per minute of delay of a freight train and BGN 2,50 per minute of delay of passenger's train according to Section I "Sanctions" of the Performance Scheme to the Network Statement.

**Article 11.** (1) In case of canceling or delay of the use of a pre-arranged path or a part of a train path due to a force majeure, the IM shall not be liable for the non-performance, when it immediately notifies the RU in writing what constitutes the force majeure and about its possible impact on the execution of the agreement. In case of its failure to send notification, the IM shall owe compensation for the so caused consequential damages.

(2) Force majeure is an unforeseen or unpreventable event of extraordinary nature, occurred after the conclusion of this Agreement. The force majeure arises due to unforeseen circumstances, which have occurred after the conclusion of the agreement and it is not caused by an action or inaction of the parties and which could not have been foreseen when providing the due care and that make the execution according to the agreed deadlines impossible.

(3) During the force majeure, the performance of the obligations and the reciprocal obligations of the other party related thereto shall be suspended.

**Article 12.** (1) In case of a concluded final report on a railway accident or incident investigation pursuant to Ordinance No 59 on the safety management in the railway transport or in case of a serious railway accident pursuant to the Railway Transport Act, the established reasons for occurrence of the accidents or incident, causing damages to the railway track and facilities, catenary network, signaling and telecommunication, rolling stock, goods and freights /injured people/passengers and employees/, as well as the justified additional costs for change of the agreed path shall be on the account of the Party, responsible for these reasons and in case of joint infliction of damages both parties shall be responsible depending on the extent of such a joint infliction of damages.

(2) The amount of the damages and the extent of their joint infliction in case of accidents, incidents and near misses, shall be determined by a permanent commission, specially nominated by the Parties.

(3) The order and manner of interaction between the SE NRIC and the RU upon determination of the amount of the compensation and extent of their joint infliction is regulated by the Rules for interaction and coordination between SE NRIC and the RU upon determination of the amount of the damages and the extent of their joint infliction in case of accidents, incidents and near misses.

(4) The rules under Para. 3 shall be elaborated by the IM and agreed with the RU and shall be attached to the agreement hereby.

(5) The decisions of the Commission under Para. 2 regarding the amount of the damages and extent of joint infliction shall be mandatory for the Parties and if no agreement is reached, the disputes shall be settled by the respective competent court.

**Article 13.** (1) The RU shall owe the legal interest for delay in case of a delayed payment of cash debts for infrastructure charges.

(2) The manager shall owe legal interest for delay in case of late payment under Art. 10, para. 3.

(3) The parties shall agree on the following calculation method for the interest rate for delay of the payments on the charges, as follows:

1. the due date for a charge for requested and unused capacity is until the 15th day of the month following the month for which it is due. The interest shall be due from the 16th day of the month following the month for which it is payable until the date before the repayment date.

2. the due date for a charge for the use of the railway infrastructure is until the 15th day of the month following the month for which it is payable. The interest shall be due from the 16th day of the month following the month for which it is payable until the date before the repayment date.

## **Section IX TERMINATION AND CANCELLATION OF THE AGREEMENT**

**Article 14. (1)** The agreement shall be terminated in case of revocation of the license of the RU for execution of railway transportation of freights. The date of revocation of the license shall be considered the date of termination of this Access Agreement.

**(2)** In the cases of revocation of the license of the RU under Article 42, Para. 1, item 1 of the RTA the agreement shall be considered terminated due to its fault.

**(3)** The Agreement is terminated upon revocation of the Single Safety Certificate or upon expiration of its term or upon non-renewal of the same. The date of revocation of the Single Safety Certificate or the date of expiration of its term shall be considered as a date of termination of this Access Agreement.

**(4)** The IM shall terminate the agreement unilaterally without a notification in case the RU fails to start performance of the actions for transportation of passengers and/or freights within 3 (three) months after its conclusion.

**(5)** The agreement may be terminated upon mutual agreement of the parties, as well as when bankruptcy or insolvency of the RU is declared

**Article 15.** The agreement may be terminated unilaterally by the RU with a two-month written notification.

## **Section X CONFIDENTIALITY**

**Article 16. (1)** Each party to this Agreement is obliged not to disclose any confidential data, especially the economic information, research and decisions, related to the activity of the other party, which have been disclosed to the respective party during the preparation and the effective period of the agreement.

**(2)** The party, to which the other party has disclosed confidential information, during the negotiations or the enforcement of this Agreement, shall not use this information for any other purposes except for those, for which it has been provided. This obligation shall remain effective for a three-year period after termination of the Agreement.

**(3)** The parties may use this confidential information and documentation for operational and insurance purposes.

**(4)** Without violating the confidentiality obligation, each of the parties may reveal information without the approval of the other party, if this is necessary for the performance of legal obligations.

**(5)** If any of the parties to the agreement violates explicitly the confidentiality obligation, it shall be liable for any damages, caused to the other party, unless the first party could prove that it is not its fault.

## **Section XI DISPUTE SETTLEMENT**

**Article 17. (1)** All disputes, resulting from this Agreement or related thereto, shall be settled in good faith by negotiation, mutual consultations and exchange of opinions.

**(2)** In case the RU considers that it has been treated unfair, discriminated or has suffered damages in any way, it may file a complaint to the Railway Administration Executive Agency pursuant to Article 116, para. 5 of the Railway Transport Law.

**(3)** In case of failure to reach an agreement under Paragraph 1, all disputes resulting from this Agreement or related thereto may be settled via mediation, conducted by (a) mediator/s selected by the parties.

**(4)** In case of failure to reach an agreement under Paragraph 3, all disputes resulting from this Agreement or related thereto, including the disputes resulting from or related to its

interpretation, invalidity, execution or termination, as well as the disputes related to filling gaps in the Agreement or its adaptation to new circumstances, shall be settled by the competent court.

(5) Mediation shall not be mandatory before the referral of the dispute to the court for settlement.

## **Section XII JOINT PROVISION OF HEALTHY AND SAFE WORKING CONDITIONS**

**Article 18.** The parties under this Agreement shall provide jointly healthy and safe working conditions to their workers and employees in the performance of their official duties by:

1. following the rules for provision of healthy and safe working conditions, arising from the Health and Safety at Work Act and the by-laws;

2. mutually providing a list of the existing dangers and harms resulting from the performance of their duties, on the basis of which a risk assessment for the life and health of the workers is carried out;

3. informing themselves timely about the occurred changes related to dangers and harms in the working conditions of the workers and employees and coordinating their activities for the prevention of these risks by taking the necessary measures to protect the life and health of their workers and employees;

4. performing the registration and reporting of work accidents involving their workers and employees, and informing them immediately in the case of accidents on the territory of the railway infrastructure, as well as cooperating in the investigation by providing the necessary information;

5. on the territory and facilities of the railway infrastructure, the IM shall exercise control via its officials and shall notify the RU of the resolution of the established violations of the rules for healthy and safe working conditions.

## **Section XIII FINAL PROVISIONS**

**Article 19.** The agreement may be amended and/or supplemented only with the consent of both parties via written agreements.

**Article 20. (1)** Within one month as of renewal of the civil liability for each following period, the RU shall be obliged to provide to the IM Annex No 1 to the license regarding financial coverage of the civil liability according to Commission Implementing Regulation (EU) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings (a copy certified with the inscription “true to the original” and signed by the person representing the company).

**(2)** Within one week as of the changes in the license of the Railway Undertaking and the issued/updated/renewed Single Safety Certificate, or updated Safety Certificate - Part A and Safety Certificate - Part B, the RU undertakes to provide the IM with a copy certified with the inscription “true to the original” and signed by the person representing the company.

**Article 21.** For the issues not settled in the present agreement, the regulations, effective in the Republic of Bulgaria, as well as the applicable EU acts and agreements binding for the Parties, shall apply.

this Agreement is prepared in 8 (eight) pages and it is signed in 2 (two) uniform copies in Bulgarian – one for each of the parties.

**Annex:** Rules for interaction and coordination between the SE NRIC and the Railway Undertaking for determining the amount of damages, recovery costs and the degree of their

complicity in accidents, incidents and near misses, according to Article 12, paragraph 3 of the Agreement.

**THE SE NRIC:**

**THE RU:**

## **RULES**

### **for interaction and coordination between the SE NRIC and a Railway Undertaking/Non-RU Applicant for determining the amount of damages, recovery costs and the degree of their complicity in accidents, incidents and near misses**

#### **I. GENERAL**

**Чл. 1.** (1) The present rules are issued in connection with Article 12, para 3 of the Agreement for access and use of railway infrastructure – public state property in the Republic of Bulgaria (the Access Agreement) and represent an integral part of it.

(2) The rules regulate the order and the manner of interaction and coordination between the SE NRIC and a Railway Undertaking/Non-RU Applicant in determining the amount of damages and recovery costs incurred as a result of railway accidents, incidents and near misses (hereinafter referred to as “events”), the responsibility for them, including the degree of their complicity.

(3) The purpose of the rules is through coordination and interaction between the parties to the Access Agreement to achieve compensation for the damages caused as a result of events that have occurred.

(4) Costs for material damage to the rolling stock or infrastructure means the costs for providing other rolling stock or infrastructure, which has the same functional capabilities and technical parameters, as those defined as total damage, and the costs for the restoration of the repairable rolling stock or infrastructure in their condition as at the date of the accident. They shall be assessed by the railway undertakings and infrastructure managers on the basis of their experience, including all costs related to the hiring of rolling stock due to the shortage caused by the damaged vehicles.

#### **II. OBLIGATIONS OF THE PARTIES TO THE ACCESS AGREEMENT BEFORE CONVENING THE STANDING JOINT COMMISSION**

**Чл. 2.** (1) The parties to the Access Agreement, in case of occurrence of an event, from which material damages have occurred for any of them, shall immediately create the necessary internal organization, through the heads of their respective structural units for:

1. Receiving timely information about the event occurred and the damage caused;
2. Agreement (coordination) of the inspections of the damaged sites, the complete and accurate description of the inflicted damages, when compiling the document from the inspection, including with representatives of the insurers, if any.
3. Collection of all documents necessary for proving the material damages inflicted and their causal connection with the factual situation, in which they have occurred.
4. Timely transmission of the information collected in accordance with these Rules.

(2) In case of occurrence of events, from which damages have occurred, the parties to the Access Agreement shall take all necessary measures for rescue, prevention, limitation and reduction of the damages and prevention of other accidents and incidents.

**Чл. 3.** (1) Before consideration of each event occurred by the permanent Joint Commission, the parties to the Access Agreement shall complete the file with the following documents:

1. Final report from an investigation commission.
2. Report from an operational group, in accordance with Annex 7 of Ordinance 59 and the relevant finding protocols:
  - 2.1. Statement of findings for the condition of the safety equipment and devices;
  - 2.2. Statement of findings for the condition of an automatic level-crossing device;
  - 2.3. Statement of findings for the condition of the permanent way;
  - 2.4. Statement of findings for the condition of the catenary;
  - 2.5. Statement of findings for the technical condition of a wagon/coach;
  - 2.6. Statement of findings for the technical condition of traction rolling stock;
  - 2.7. Statements of findings, provided for in the investigation procedure of the railway undertaking concerned (RU, infrastructure);
  - 2.8. Findings from additional inspections performed.

3. Documents proving the actually incurred expenses for elimination of the damages caused under the conditions of Article 9, para. 1 of these Rules. The amount of the actual costs incurred includes material damages and recovery costs. Each of the parties has the right to raise claims to the other party for costs incurred on the basis of primary documents, according to the national legislation.

4. If possible, a document certifying that the reason for the occurrence of the event is force majeure.

(2) In order to prove the caused damages and protection of the claim, the officials on behalf of the SE NRIC and the Railway Undertaking/Non-RU Applicant, present at the place of the event, if possible, shall take photographic material before the beginning of the emergency-recovery works and the removal of the damaged facilities.

(3) For the results of the performed inspection the representatives of the two parties, present on site, shall sign a bilateral statement of findings, in which:

1. a complete and accurate description of the established additional damages shall be made;
2. findings for the existence of suspicions for hidden damages and defects, which can be established only at the beginning of the repair, shall be entered;
3. at discretion, the necessity of subsequent inspection shall be entered.

(4) In case of necessity of carrying out a new inspection at the place of the event or of the rolling stock, in order to establish additional circumstances or damages, the party, initiating this inspection, shall be obliged to promptly inform the other interested party under the Access Agreement, which shall authorize its representative for participation.

(5) Upon establishment of additional damages during the additional inspection, an additional Bill of Quantities shall be added to the documents, audited by the Standing Joint Commission under Article 4 of these Rules;

(6) All prepared Bills of Quantities (initial and additional) for damages and expenses incurred shall be submitted for consideration by the Standing Commission under Article 4, justified by cost elements.

### **III. STANDING COMMISSION**

**Чл. 4.** (1) In order to determine the amount of damages, caused as a result of the events that have occurred, the responsibility for them, including the degree of their complicity, a

Standing Commission shall be established, in which representatives of the parties to the Access Agreement shall participate.

(2) Each of the parties to the Commission shall have one vote, regardless of the number of its representatives participating in the meetings;

(3) The Commission cannot take decisions, if there are no representatives of the parties, participating in the event that has occurred.

**Чл. 5.** Each of the parties with an explicit order shall appoint its representatives to participate in the meetings of the Standing Commission under Article 4 of these Rules.

**Чл. 6.** (1) Every quarter, the Standing Commission under Article 4 of these Rules shall hold a meeting, attended by the designated representatives of the parties to the Access Agreement, as they review the cases of the documented events for the past period.

(2) After reviewing the collected documentation for each specific event, the commission shall issue a general opinion on the amount of damages caused as a result of the occurred events, their distribution, liability, including the degree of their complicity, for which a protocol shall be prepared, signed by the representatives of the parties participating in the event, to whom one original document shall be handed out.

(3) The commission shall consider all documents received after the final establishment of the damages from the accident.

(4) When reviewing the documents collected for each event and taking an opinion on the amount of damages, their distribution, responsibility and the degree of their complicity, the Standing Commission under Article 4 shall take into account the description of the event, the conclusion of the initial inspections, inventories and protocols prepared in the regional structures and the regional investigating commissions, as well as the reports of the Air, Maritime and Railway Accidents Investigation National Board (in case they are investigated by it).

(5) The Commission shall take its decisions unanimously.

(6) In case of disagreement on all issues under consideration - amount of damages, their distribution, liability and extent of their complicity, the Joint Commission shall prepare a general report to the Director General of the SE NRIC and the respective legal representative of the Railway Undertaking/Non-RU Applicant - party to the Access Agreement, to reflect the work of the commission. In these cases, the parties may hold meetings at the management level to settle the relationships, for which a bilateral protocol shall be prepared in duplicate. In case of non-reaching an agreement at the managerial level – the governing bodies of both parties, the dispute shall be settled in court.

#### **IV. FORCE MAJOR CIRCUMSTANCES AND DEFAULT OF THIRD PARTIES**

**Чл. 7.** (1) In the presence of documents proving that the reason for the occurrence of the event is force majeure, such as fire caused by third parties, flood, natural disaster and other objective factors outside the activity of each of the parties to the Access Agreement, the Joint Commission shall give an opinion to each of the parties to bear the damages, caused to it as a result of the event, at its own expense.

(2) In the presence of force majeure circumstances, which are recognized by both parties under the Access Agreement, it is not necessary to provide a certifying document. The same circumstances should be reflected in the Report of the Task Force, according to Annex 7 of Ordinance 59.

**Чл. 8.** After examining the collected documents and finding that the responsibility for the event occurred that resulted in damage to any of the parties to the Access Agreement lies with a third party other than the parties to the Agreement, the Joint Commission shall issue an opinion to each of them to bear the damages, which have been inflicted to it, at its own expense,

reserving the right of recourse against the responsible person, according to the current legislation.

## V. DETERMINATION OF THE AMOUNT OF DAMAGES

**Чл. 9.** (1) In determining the amount of damages, the actual cost of the parties shall be considered, which may not be greater than the market value to restore the damaged property to the condition before the event.

(2) In determining the amount of the damages the performed urgent actions for limitation of the damages, precautionary measures, emergency-repair activities for transportation of the damaged rolling stock and restoration of the traffic and other inherently necessary actions shall also be described.

**Чл. 10.** (1) After joint consideration and discussion of the submitted documents, concerning the amount of the inflicted damages, the commission shall accept or reject the respective documents with unanimity, after which on the basis of the accepted documents shall take unanimously a decision on the formed amount of damages.

(2) Upon reaching an agreement, a bilateral protocol shall be prepared and signed, by which the parties shall settle their relations regarding the amount of the damages, their distribution, the responsibility and the degree of their complicity, as a result of events that have occurred. The same protocol shall be submitted for approval by the parties to the Agreement.

## VIII. FINAL PROVISIONS

§ 1 Related regulations and internal procedures:

1. Railway Transport Act
2. Ordinance No 59 dated 5 December 2006 on safety management in railway transport;
3. Agreement for access to the railway infrastructure between the SE NRIC and a Railway Undertaking/ a Non-RU Applicant.
4. PB 2.03 Rules for notification and procedure for appointment of an operational group for preservation, registration and storage of material evidence in case of railway accidents and incidents;
5. PB 2.04 Rules for investigation at the SE NRIC of near misses;
6. PB 2.06 Rules of the regional investigation commissions for investigation of accidents and incidents in railway transport.
7. Rules and procedures for investigation according to the Safety Management System of the RU.
8. Agreement for access and use of the railway infrastructure

§ 2 **These Rules shall enter into force as of ..... 2020**

**DIRECTOR GENERAL  
THE SE NRIC**

**THE RAILWAY UNDERTAKING**