

NATIONAL RAIL ENQUIRIES - REAL TIME SYSTEMS CODE OF PRACTICE

Introduction

Train Information Services Limited, which owns and operates National Rail Enquiries (NRE) services, has developed systems to provide real time information to rail customers travelling by rail in the UK.

NRE is keen to ensure that access to these systems is open to third parties who want to invest in the industry, inject new ideas and innovate with a view to expanding the range of applications available to rail customers. This voluntary Code of Practice, developed in conjunction with the ORR, sets out the process for accessing those systems and the criteria on which access is granted.

The systems NRE provide include live departure and arrival information.

Status of this Code

This Code has been written by NRE on a voluntary basis, but in conjunction with the ORR, to provide clarity to potential licensees of Darwin services. The Code develops and consolidates the existing processes that NRE has used for licensing. The Code has been amended on a voluntary basis by NRE to its current form to reflect the experience of applying the Code and from the results of surveys of licensees where they requested a more straightforward licensing process.

Purpose of this Code

Publication of this Code is designed to bring more transparency to the licensing process and help developers understand the application process and charging structure applicable to the grant of licences for real time services. NRE will consider applications from all parties for access to these systems, on a fair and non-discriminatory basis, and will provide access on reasonable terms with a view to enabling new products and services to enter the market. In order to achieve this, certain criteria need to be met to enable access to be granted. These criteria are:

- The application or proposed service does not risk a material adverse impact on TOCs, whether financially, strategically, operationally or in regards to their reputation or the reputation of the industry as a whole.
- The applicant is a reputable company or person. In practice the main measure of this is adherence to both NRE and 3rd party terms and conditions. If an applicant has previously breached NRE terms, or those of another service provider, they may not be considered for a licence or may have any existing licenses withdrawn.

NRE have so far issued over 140 licences to 3rd parties for use of real time services for various uses including websites, mobile apps and public display screens. We have only ever rejected three applications (two of which were due to the risk of fraud around the proposed usage). These criteria are broad but our approach to them is a pragmatic one and we would strongly suggest you contact us to discuss your proposed usage rather than assuming that it doesn't meet the criteria.

Process

The process of awarding a licence requires the applicant to be able to detail what services it requires and the intended use of the services. This process can be an iterative one to ensure the best service is offered. However for standard uses such as Live Departure Boards on websites and LDB in mobile apps the terms and service are standard and can quickly be detailed. The current legal terms are included with this code in the Appendix.

Also, by way of guidance, the services available are listed in the Appendix. NRE does not provide service levels in respect of its service provision, since much of the data that feeds into the service is obtained without warranty from sources external to NRE. However, NRE does commit to treating all 3rd party licensees without discrimination regarding service levels.

a) Process for applying for a licence for real time services.

Applications need to be made in writing either by E-Mail to NRELICENSING@ATOC.ORG or by letter to NRE Licensing National Rail Enquiries, 3rd Floor, 40 Bernard Street, London WC1N 1BY.

All applications need to include the following:

- Details of the proposed use. This would consist of the services that the applicant wishes to use (the available services are listed in the appendix), the platform on which the services will be offered and any other relevant details. NRE only require the information necessary to assess the request but it is important to note that the more detail supplied at this stage the quicker the application process will be.

This application will be reviewed and NRE will respond as soon as possible but at the latest within 21 working days. NRE have limited resources so we cannot commit to a shorter timescale although responses are usually much quicker than this.

In some circumstances this response may be a request for further information, so it is in the applicant's interests to ensure that as much information as possible is included in the original application. NRE anticipates that licence applications for the standard types of usage should be completed in four weeks from the date of receipt of all relevant information

If the application is approved then the applicant will need to sign a licence for the NRE services prior to receiving access to the service.

Applicants will need to submit a separate application for each permitted use which, if approved, will result in a new schedule to the licence but since the legal T&Cs will be the same this should be a quick process.

b) Charges

Darwin is an application that processes data mainly sourced from 3rd parties, for which we have to pay, and produces an information service based on the data and the heuristics built into Darwin. There is a considerable cost to developing, maintaining, running and hosting this application and NRE do not receive public funding so need to recover some of the costs of the service.

The grant and maintenance of a licence is subject to payment of NRE's licence fees.

Such fees will be agreed with the applicant during the course of the application but such charging arrangements must be within the constraints of equal treatment for licensees and taking into account the cost of providing the service.

There are a number of established usages of the services that have typical charging arrangements. Certain uses, such as display of Live Departure/Arrivals on websites, may not incur a licence fee although the site page containing the licensed information does need to be free to access, should not carry advertising and will be required to link to the NRE site. The use of real time services in mobile apps ranges from £1.00 to £1.50 per app downloaded. The charges for mobile apps start to accrue once the first app is distributed so there are no charges during development.

NRE is willing to adopt a flexible approach to charging for innovative types of use of the services. However this flexibility is limited by our objective to be fair and non-discriminatory in our charges.

In order to be fair and non-discriminatory the legal terms, the current version included as an appendix, are the same for all applicants.

c) Technical assistance

Although applicants do not usually require it, NRE may be able to assist applicants with their application, subject to NRE's entitlement to charge for such assistance at an agreed daily rate and subject to availability.

NRE are under no obligation to supply this assistance but will use its reasonable endeavours to provide what it can.

d) Form of service

NRE will generally supply "pull" services, i.e. where queries are made to the NRE systems and the response is sent back for the developer to present to customers. This allows for consistent calculation of results and maintains the security of the service.

The provision of "push" services can be granted to applicants, i.e. where the service sends processed information to a developer for them to interpret and present to the customer. This type of service will be

available if, in NRE's reasonable opinion, there are sufficient safeguards in place, first, to ensure security of the service, in particular that it does not become available to unlicensed third parties, secondly, to ensure the service is not subject to corruption or amendment and, finally, that output of the application is consistent with the information provided by NRE.

Push services create greater risk of error by the licensee which could impact on TOC revenues and reputation. Licensees should be aware that they may be required to give indemnities and security for damages that any errors they make may cause. Because of this licensees applying for push services should ensure they have the financial capacity to give these indemnities and to put up the security.

Appeals Process

In the event that an application is refused, NRE will provide the applicant with a written explanation including full details of the reasons for the refusal.

If you feel a licence decision has been unfair or has not been handled in accordance with this Code, in the first instance you should contact Mr. Chris Scoggins, Chief Executive, Train Information Services Limited, 3rd Floor, 40 Bernard Street, London WC1N 1BY. All concerns will be dealt with by the Chief Executive in a fair and impartial way and within reasonable timescales. His decision with full reasons will be provided to you in writing.

If, following receipt of this decision, you still feel that your application has been treated unfairly or has not been handled within this Code; you can apply, setting out why you believe your application was not handled in line with this code, for your complaint to be escalated to the Board of Train Information Services Limited for review.

In the event that, following receipt of a decision on appeal from the NRE Board, an applicant still considers that his application has been treated unfairly or not handled in accordance with the Code, he may request a further, final review of the evidence placed before the Board by an independent arbitrator selected from a panel of arbitrators maintained to adjudicate disputes in or about the rail industry.

The applicant must complete, sign and submit such a request to the Chief Executive of NRE within twenty working days following receipt of the Board`s decision. The submission must include full details of the grounds of the appeal and can only relate to unfair treatment or failure to handle the application in accordance with the Code, as above.

The applicant shall bear his own costs of the review including those of the arbitrator (which the arbitrator may require to be paid in advance) unless the arbitrator, following his review, makes an order that, in the circumstances of the case, his costs or any part thereof should be paid by NRE.

Summary

NRE wish to see their services used elsewhere to ensure the information is spread to a wider audience and to help develop innovative services for rail customers. However, unlike Transport for London and Network Rail, NRE is a private company that receives no public funds and as such needs to ensure some contribution to its costs from 3rd parties using the services.

It also has a responsibility to ensure that the information from the Darwin application is presented accurately and consistently to maintain passenger confidence and to ensure that the revenues and reputation of the rail industry are protected from negative impact caused by errors.

We are committed to helping developers innovate and if there are services that are not available (either in their entirety or as part of an existing service) then we would ask developers to help us put together a business case to justify the system changes. We are happy to do this on the understanding of a mutually beneficial relationship.

APPENDIX

AVAILABLE SERVICES

- Live Departure/Arrival Board Webservice.
- Darwin Push Port.

Other services are available from NRE that are not covered by this Code including:

- Journey planning (although this application is not owned by TISL so there are restrictions in our ability to sub-licence.)
- Stations information XML
- Train Company information XML.
- Disruption and engineering work XML
- Promotions XML
- Ticket XML

Please contact NRE Licensing for further information.

Darwin Licence Legal Terms

1. Definitions

1.1. In this Agreement the following expressions have the following meanings:

"Agreement" means this agreement and its Clauses and the Schedule as may be amended from time to time by agreement of the parties;

"TISL" means Train Information Services Limited (registered no. 07258491) whose registered office is at 40 Bernard Street, London WC1N 1BY;

"Confidential Information" means, in respect of each party, any and all information obtained during the Term or prior to the commencement of this Agreement from the other party which by its nature should be treated as confidential or which is marked as such and which has come into that party's possession or into the possession of any of its employees, agents or sub-contractors as a result of or in connection with this Agreement and includes all information which has been or may be derived or obtained from any such information. This description also includes the contents of this Agreement;

"Dispute" means any dispute between the parties arising out of or in connection with this Agreement;

"Expert" means a person expert in the area of the Dispute to be resolved appointed by agreement between the Parties or, if the Parties fail to agree within 14 days of the Dispute having arisen if a technical Dispute by the President of the British Computer Society (or his appointee); or if other than a technical Dispute, by the President of the Law Society (or his appointee);

"Force Majeure Event" means any event beyond the reasonable control of a party including, without limitation, 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, breakdown of plant or machinery, fire, flood and storm;

"Instructions" means such reasonable instructions or procedures and standards which TISL may from time to time notify in writing to the Customer in connection with this Agreement;

"Customer" means the person set out in the Schedule;

"Service" means the service to be provided by TISL the Customer as set out in the Schedule;

"Specific Conditions" means the additional conditions specified in the Schedule;

"Term" means the term of this Agreement as set out in Clause 15; and

"TOCs" means those passenger train operating companies which are signatories to the National Rail Enquiries Scheme

1.2. In this Agreement a reference to:

1.2.1. "persons" includes a reference to any body corporate, unincorporated association or partnership;

1.2.2. a "person" includes a reference to that person's legal personal representatives, successors and permitted assigns; and

1.2.3. a Clause or Schedule is a reference to a clause or schedule to this Agreement.

2. **Provision and Standard of Service**

2.1. TISL shall provide the Service to the Customer in accordance with and subject to the provisions of this Agreement.

2.2. Unless otherwise stated in the Schedule the Customer shall be responsible for providing all equipment and facilities necessary to receive and use the Services and the Service and the data held therein under this Agreement and TISL shall have no other responsibility in respect thereof.

3. **The Customer's obligations**

3.1. The Customer shall provide TISL in a timely manner with all data and other supporting information so requested by TISL to provide the Service to the Customer.

3.2. The Customer shall not:

3.2.1. charge or otherwise encumber the Service or the data held therein;

3.2.2. use the Service and the data held therein in any way except in accordance with the provisions of the Schedule and the terms of this Agreement; or

3.2.3. save as provided in the Schedule make any additions, alterations or deletions to the Service and the data held therein without the written authority of TISL.

3.3. The Customer shall comply with the terms and conditions of this Agreement and any Instructions.

3.4. The Customer shall ensure that:

3.4.1. the Service and the data held therein is not altered in any way which would cause it to be inaccurate;

3.4.2. where any output services derived from the Service or the data held therein is placed into the public domain such output is accompanied where requested by TISL with a visible notice as agreed with TISL to the effect that such services are derived and are made available under the terms of this Agreement;

3.4.3. any user of the Service or the data held therein is made aware of any notices or disclaimers relating to the accuracy or the completeness of the Service and the data held therein together with any relevant limitation or exclusion of liability provisions that TISL in its sole discretion requires to be made available to any such third party user and/or recipient; and

3.4.4. it notifies TISL in writing of any defects, inaccuracies or other deficiencies in the Service and the data held therein within 48 hours after it becomes aware of such defects, inaccuracies or deficiencies.

4. **Liability**

4.1. This Clause 4 sets out each party's entire liability to the other under the whole or any part of this Agreement, whether in contract, tort (including, but not limited to, negligence), statute, common law or otherwise. Unless as otherwise agreed between the parties, neither party shall be liable to the other in respect of this Agreement except as expressly provided for herein.

4.2. Nothing in this Agreement will exclude or restrict either party's liability for fraudulent misrepresentation or death or personal injury resulting from its negligence or that of its employees while acting in the course of their employment.

4.3. Except as expressly provided in Clause 4.2 the total liability of the Customer and TISL to each other under this Agreement shall not exceed the sum of the Contract Charges payable by the Customer in the 12 month period prior to any claim. In respect of any claim made in the first 12 month period the total liability shall be limited to £50,000.

4.4. Neither party shall be liable to the other party for any indirect, special or consequential loss or damages of whatsoever kind that may be suffered by that other party.

5. **Warranty**

5.1. TISL makes no representations or warranties in relation to the Service, including but not limited to:

5.1.1. the accuracy of the Service or the data held therein;

5.1.2. the satisfactory quality for purpose, merchantability or otherwise of the Service or the data held therein;

5.1.3. the suitability of the Service or the data held therein for the Service or any other use by the Customer; and

5.1.4. for the avoidance of doubt, any other matter associated with the Service and the data held therein.

5.2. To the extent permitted by law, TISL expressly excludes any statutory term, which might, save for the operation of this Clause 5, otherwise have been implied into this Agreement. For the avoidance of doubt this Clause 5 applies to, including but not limited, to the Sale of Goods Act 1979 (as amended by the Sale of Goods Act 1994) and The Supply of Goods and Services Act 1982.

5.3. The Customer warrants that it will implement reasonable technical and organisational measures to protect the Service and the data held therein received under this Agreement against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access.

5.4. The Customer warrants that it will not make any alterations or otherwise process the Service or the data held therein in a manner that would or is likely to cause it to be inaccurate, incomplete or otherwise fails to comply with the terms of this Agreement.

6. Intellectual Property Rights

6.1. TISL hereby grants to the Customer a non-exclusive, non-transferable licence to make available the Service and the data held therein for the purposes of this Agreement and the use of the Service.

6.2. The copyright and all other intellectual property rights of whatever nature in the Service are and shall remain the exclusive property of TISL.

6.3. The copyright and all other intellectual property rights of whatever nature in the data held in the Service are and shall remain the exclusive property of the owners.

6.4. This Agreement shall not be construed as transferring or attempting to transfer the copyright, or other intellectual property rights or any other rights in the Service or the data held therein to the Customer.

6.5. The Customer shall promptly give notice in writing to TISL in the event that any claims are made or threatened against the Customer that the use of the Service or the data held therein infringes the rights of a third party.

6.6. In the case of any matter falling within Clause 6.5 where the claim made or threatened arises where neither TISL nor the Customer could reasonably foresee there being such a claim TISL and the Customer shall as soon as possible after notice is given under Clause 6.5 agree what steps, if any, shall be taken to defend such claims and the proportions in which they shall share the cost of such steps and any damages and other sums which may be awarded in their favour or against them and in the event that the parties cannot agree on such a contribution then the costs damages and other sums shall be met or received equally.

6.7. The Customer shall at the request and expense of TISL, provide all reasonable assistance to TISL (including but not limited to the use of its name in or being joined as a party to proceedings) in connection with any action to be taken by TISL pursuant to this Clause 6.

7. Contract Charges

7.1. TISL shall charge the Customer and the Customer shall pay to TISL the Contract Charges.

7.2. TISL will invoice the Customer for the Contract Charges in accordance with the procedures specified in the Schedule. All invoices will be payable by the Customer within 30 days of receipt of such an invoice. Where an invoice remains outstanding for more than ten business days after its due date, TISL shall be entitled to terminate this Agreement with immediate effect except where such invoice is the subject of a valid dispute.

8. VAT

8.1. 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.

8.2. 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.

9. Force Majeure

9.1. If either party is prevented from performing any of its obligations under this Agreement by a Force Majeure Event then:

9.1.1. 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;

9.1.2. 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;

9.1.3. 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; and

9.1.4. 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.

9.2. 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.

10. Access and Audit Rights

10.1. TISL may audit the performance of the Customer in respect of the Customer's use of the Service and the data held therein and any of the Customer's obligations under this Agreement.

10.2. TISL may conduct such audits as are referred to in Clause 10.1 either itself or through a third party auditor who may exercise TISL's rights under this Agreement.

10.3. TISL may carry out the audits referred to in Clause 10.1 by way of either spot checks or appointment to access of any of the Customer's sites where the Service is used. Where access to the Customer's sites is required to carry out an audit the Customer will grant reasonable access to the Customer's sites. For this purpose, the Customer grants to TISL a licence to enter onto any of the Customer's sites to the extent necessary in order for TISL to exercise this right. The audits referred to in this Clause 10.3 may be carried out at any time during normal business hours.

10.4. The Customer will, as soon as reasonably practicable, provide TISL and its staff, contractors, agents, auditors and advisers with such information, assistance, whether by access to the Customer's systems, books and records documentation etc which in the reasonable opinion of TISL, is required to carry out each audit.

10.5. The Customer acknowledges that certain regulatory bodies may lawfully investigate TISL's affairs. Where a regulatory body exercises such a right the Customer will assist TISL, to the extent that it is both lawful and reasonably practicable, to supply any information that the regulatory body may lawfully request.

10.6. The Customer shall from time to time provide on request to TISL copies of any information, advertising, marketing or promotional literature or any other literature or documents kept or produced in any form in which the Customer has incorporated or made reference to the Service or the data held therein either wholly or in part in its use of the Service under this Agreement.

11. Assignment and Subcontracting

This Agreement and the licence granted to the Customer to use the Service and the data held therein hereunder is personal to the Customer and may not be assigned, sub-licensed or otherwise dealt with without the prior written consent of TISL.

12. Confidentiality

12.1. Each party undertakes to, and to procure that its employees, agents and contractors, treat the Confidential Information as confidential including:

12.1.1. not disclosing the Confidential Information to or in the presence of any person other than its employees, agents or sub-contractors having a need to know in connection with this Agreement;

12.1.2. advising any employee, agent or sub-contractor to whom the Confidential Information is to be disclosed of their obligations with respect to the Confidential Information prior to such disclosure and use its reasonable endeavours to ensure their compliance with such obligations;

12.1.3. only using the Confidential Information for the specific purpose or purposes for which it was disclosed; and

12.1.4. taking all action reasonably necessary to secure the Confidential Information against theft, loss or unauthorised disclosure.

12.2. This Clause 12 does not prohibit the disclosure of Confidential Information for the purpose and to the extent the Confidential Information:

12.2.1. is required to be disclosed by law or by order of a court of competent jurisdiction or pursuant to a formal or informal request of a tax authority;

12.2.2. at the time of disclosure being made, is in the public domain other than through a breach of this Agreement;

12.2.3. is disclosed to professional advisers of that party for the purpose of receiving advice from such advisers in their professional capacity and the disclosing party should take reasonable steps to bring to the attention of such professional advisers that the information is the subject of a confidentiality undertaking;

12.2.4. is disclosed by TISL, to the Office of Rail Regulation or the Department for Transport or any successor body of such organisations; or

12.2.5. is disclosed in accordance with the terms and conditions of this Agreement.

13. **Data Protection and Privacy**

13.1. The Customer shall comply with its respective obligations under all relevant privacy and services protection legislation including, without limitation the Data Protection Act 1998.

13.2. The Customer represents and warrants to TISL that it is, to the extent necessary to provide services using the Service and the data held therein, registered as required by and that they will comply with their appropriate obligations under the Data Protection Act 1998.

13.3. The Customer warrants to TISL that it has all necessary permission from all data subjects in respect of all and any data supplied by them for use by TISL in the provision of the Service.

14. **Variations and amendments**

14.1. TISL may make and the Customer shall accept any variation to this Agreement required due to:

14.1.1. Any regulatory changes;

14.1.2. Any review undertaken by TISL in accordance with Clause 10 and the Schedule;

14.1.3. A change in the Service or the data held therein;

14.1.4. Changing circumstances in which train services information is provided and rail products are sold in the rail industry; or

PROVIDED THAT TISL, wherever possible, provides not less than two weeks notice to the Customer.

15. **Term and Termination**

15.1. This Agreement shall commence on the date of issue set out in the Schedule and continue in force until and unless terminated under the provisions of this Clause 15.

15.2. Either party shall be entitled to terminate the Agreement on notice without liability at any time if:

15.2.1. The other party commits a material breach of any of its obligations under this Agreement and, if the breach is capable of remedy, fails to remedy it within 14 days of receipt of written notice specifying the breach and requiring it to be remedied; or

15.2.2. the other party makes any voluntary arrangement with its creditors within the meaning of the Insolvency Act 1986 or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

15.2.3. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other party; or

15.2.4. the other party ceases, or threatens to cease, to carry on its business.

15.3. TISL shall be entitled to terminate the Agreement on notice without liability at any time if:

15.3.1. the Customer brings TISL, the TOCs or the passenger rail industry into disrepute; or

15.3.2. any invoices or other sums payable under this Agreement remain unpaid for more than 10 days after its due date except where such invoice or sum is the subject of a valid dispute.

15.4. This Agreement will terminate in relation to any services covered under this Agreement in respect of which TISL obtains rights from any third party upon the termination or expiry of the right for TISL to receive and sub-licence such services.

15.5. Either party shall be entitled to terminate this Agreement at any time on no less than 3 months written notice to the other.

15.6. TISL reserve the right to suspend the Service should the Customers use be suspected of causing problems with the TISL systems.

15.7. The provisions of Clauses 3, 4, 5, 6, 12, 16, 19, 20 and 21 shall survive the termination of this Agreement.

16. **Effects of Termination**

16.1. All rights and obligations of the parties shall cease to have effect immediately upon termination of this Agreement except that any accrued obligations of the parties up to and after the effective date of termination will continue to exist.

16.2. Upon the expiry or termination of this Agreement, the Customer shall deliver up to TISL or destroy, at TISL's option, any copies of the Service or the data held therein then in the possession or control of the Customer and in the case of destruction shall certify in writing that it has taken place.

16.3. Upon termination of this Agreement any literature or publicity material in which reference to the Service or the data held therein is made or any system or media in which the Service or the data held therein is used by the Customer, either wholly or in part, must in the case of literature or publicity material be withdrawn from use and in the case of any system or media, deleted.

17. **Entire Agreement**

17.1. Save as otherwise set out herein, this Agreement represents the entire understanding between the parties in relation to the subject matter hereof and supersedes all agreements made by either party, whether oral or written. The parties agree that, save as expressly set out herein, neither party will have any liability for any untrue statement or representation made by it (whether innocently or negligently) upon which the other party relied in entering into this Agreement, unless such untrue statement or representation was made fraudulently.

17.2. The Customer confirms that it has not relied upon any representation or warranty as to the accuracy of the Service or the data contained therein or any other matter as inducing it to enter into this Agreement except insofar as such representation or warranty is expressly set out in this Agreement.

18. **Announcements**

No public announcement, communication or circular (other than to the extent required by law) concerning the subject matter of this Agreement shall be made or dispatched by the Customer without the prior written consent of TISL.

19. **General**

19.1. 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.

19.2. To the extent of any conflict or any inconsistency between the Clauses of this Agreement and any of the provisions of the Schedule the Clauses of this Agreement shall prevail.

19.3. Except as expressly provided in this Agreement the rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

19.4. Any notice or other communication under or in connection with this Agreement shall be:

19.4.1. in writing and shall be delivered personally; or

19.4.2. sent by first class post to the relevant party at the address for correspondence set out below; or

19.4.3. to the E-mail address set out in the Schedule; or

19.4.4. to such other address as either party may specify by notice in writing to the other.

19.5. 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.

20. **Dispute Resolution**

20.1. If a Dispute arises then both parties shall attempt in good faith to resolve such Dispute and shall, without limiting the generality of the foregoing:

20.1.1. attempt to resolve the Dispute between Chief Executive National Rail Enquiries and the Customer; and

20.1.2. failing agreement between Chief Executive National Rail Enquiries and the Customer within 14 days, refer the dispute for Expert determination.

20.2. The parties shall supply the Expert with such assistance, documents and information as the Expert reasonably requires for the purpose of the determination and require the Expert to hold professional indemnity insurance both then and for three years following the date of the determination and to give the decision within 30 days of the Expert's appointment.

20.3. The decision of the Expert shall be final and binding on the parties in the absence of manifest error. The Expert shall act as an expert and not as an arbitrator. The Expert's determination is not a quasi-judicial procedure.

20.4. Nothing in this Clause 20 prevents either party from taking action which is necessary or desirable to preserve its rights under this Agreement, including applying for interlocutory injunctions and give the Expert power to award costs but otherwise each party pay its own costs.

21. **Governing Law and Jurisdiction**

21.1. This Agreement shall be governed and construed in accordance with the laws of England.