

- Agreement** – shall mean the agreement incorporating these conditions and any other documents agreed by both parties
- Client** – shall mean the person, body or company who has agreed to accept the Services in accordance with the Agreement
- RAL** – shall mean Railway Approvals Ltd (Company Number 03038420) whose registered office is Lakeside Business Park, Carolina Way, Doncaster, DN4 5PN
- Services** – shall mean the Services to be performed by RAL
- Variation** – shall mean any variation to the Services or the Agreement
- Confidential Information** – means all information of a commercial proprietary or technical nature disclosed whether in writing verbally or by any other means and whether directly or indirectly by one party to the other whether before or after the date of this Agreement including in particular any information relating to either party's know-how trade secrets and business affairs;
- This Agreement will not come into force until acceptance by RAL of the Client's order for Services and the following conditions shall be deemed to be incorporated in the Agreement.
 - RAL warrants that it will use reasonable skill, care and diligence in the performance of the Services. RAL will nominate a suitable competent person(s) who will devote their skill and experience to the provision of the Services referred to in the Agreement. The Client shall also nominate one individual who will be responsible for the co-ordination and monitoring of the Services to be provided hereunder.
 - Prices quoted are based on the provision of Services during normal business hours. Work outside of normal business hours is subject to enhanced rates. Normal business hours means 0800 to 1730 Monday to Friday (excluding bank, public and RAL holidays) save where alternative arrangements have been expressly agreed between the parties.
 - If as a result of accident, illness, termination of employment or otherwise the nominated person(s) becomes unavailable, RAL undertake to provide a suitable replacement to reduce inconvenience to the Client and the duration of this Agreement will be extended by a reasonable period of time.
 - If assistance from the Client's staff is required in connection with the provision of the Services then the Client will arrange for such staff to be available to assist RAL and shall use reasonable endeavours to ensure that such staff will have the relevant skill, knowledge and experience.
 - The Client shall provide all necessary information and support as may be reasonably required by RAL to perform the Services, including where appropriate, access to suitably configured products. RAL shall be entitled to rely on the accuracy and completeness of all information provided. If the Client provides incomplete or inaccurate information, or delays unduly in the performance of any of its obligations RAL reserves the right to stop work and agree suitable changes to prices and delivery terms or terminate this Agreement and the Client shall indemnify RAL in respect of all liability arising therefrom.
 - Where any Services are to be carried out at the Client's premises then the Client shall allow RAL full and complete access to the area where the Services are to be performed without delay and will provide adequate accommodation and facilities.
 - Both parties shall take all reasonable precautions to ensure the health and safety of the other's personnel whilst on its premises and shall consult and liaise with a view to maintaining a safe system of work.
 - RAL shall endeavour to meet any timescales given but such timescales are not binding and are given for information purposes only, unless time of the essence is specifically agreed in writing.
 - Holidays may be taken by RAL staff without the Client's consent, but RAL will consult with the Client and will use all reasonable endeavours to reduce disruption to the Services.
 - All price quotations provided by RAL are valid for 28 days for acceptance by the Client.
 - Unless stated to the contrary the Contract Price is exclusive of all expenses and disbursements incurred by the Supplier in the execution of the Services which may be charged separately by the Supplier to the Customer at the Supplier's then prevailing policies & rates
 - The Client undertakes to allow call-off work to be undertaken without prior receipt of a signed call-off task agreement up to a maximum sum of £1,000, or such alternative figure agreed in writing when initiated by a representative of the Client.
 - RAL will use its reasonable endeavours to maintain sufficient resources available to meet any budgeted level of call-off work.
 - Where call off work is requested at less than 14 days' notice, RAL reserves the right to charge the Client all costs associated with re-scheduling of other work.
 - Where a retaining sum is agreed between the parties this shall be fixed and shall be payable at the commencement of this Agreement.
 - All charges are shown exclusive of value added tax, duties and levies which may be payable. Such amounts as are due shall be paid by the Client.
 - Except as otherwise agreed in writing by the parties, on 1 April each year RAL reserves the right to increase their rates and charges under the terms of this Agreement in accordance with the increase in the preceding year of the average earnings index as published by Office for National Statistics dataset EARN03, Transport and Storage Industry or any index which may replace the same from time to time.
 - RAL reserves the right to revise the prices in the event of (i) changes to the agreed specification (ii) delays due to the Client's failure to fulfil any of their obligations, or (iii) the Client requesting that RAL delay work for any reason (iv) circumstances beyond the control of RAL. Such changes shall be agreed in writing and constitute a Variation.
 - Payment is due 28 days from the date of invoice, failing which RAL shall be entitled to stop work or withhold the performance of Services or delivery of products without liability to the Client, if the Client fails to meet due payment dates and does not remedy such failure within 7 days of the date of written notice from RAL. RAL may levy a charge for resumption of Services. RAL shall be entitled to charge interest on all overdue amounts at the rate of 4% above the base lending rate in force from time to time of the Lloyds TSB bank from the due date until payment is made. Such interest shall be due for payment immediately on invoice by RAL.
 - If at any time any question dispute or difference shall arise between RAL and the Client relating to the Agreement or the construction thereof or as to any matter or thing of whatsoever nature arising thereunder or in connection therewith then either party may give to the other notice in writing of such question dispute or difference and shall be thereupon referred to an independent third party ("Neutral Advisor") to be agreed between the parties or failing agreement to be nominated by the President for the time being of the Institute of Mechanical Engineers and the Neutral Advisor shall act as an expert and not an arbitrator and shall be entitled to call for such evidence from the parties in support of their case as he deems necessary and within 28 days of his appointment the Neutral Advisor will produce a written opinion which in the absence of manifest error shall be binding upon the parties.
 - Each party shall have the right to terminate this Agreement if:
 - there is a transfer of a majority interest in the other
 - the other party makes an assignment for the benefit of creditors

- a Receiver, Liquidator, Administrator or similar officer is appointed for the other party or for a substantial part of the other party's property.
 - the other party is in breach of any of its obligations under this Agreement.
 - 28 days prior written notice is given to the other party after commencement of work.
- Upon termination, any outstanding invoices (or parts of invoices) for Services undertaken or expenditure previously committed shall become immediately due and payable and the parties reserve their rights and remedies in respect of any antecedent breach.
- Work may not be rescheduled by either party without the prior written consent of the other party.
 - RAL shall indemnify the Client from and against all liability for personal injury (whether fatal or otherwise) or loss of or damage to property arising out of negligence on the part of RAL or breach of the terms of the Agreement provided that (save in the case of liability for death or personal injury) RAL's liability under this indemnity shall be limited to the contract price or task price if the service forms part of a Call-Off Contract. The provisions of this clause set out the full extent of RAL's liability to the Client, including any liability arising out of this Agreement, whatever the nature and howsoever arising and RAL shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities, whether direct or consequential, and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by law.
 - Each party will maintain at its own cost all such insurance policies as will cover their responsibilities and liabilities under clause 24 hereof throughout the currency of the Agreement.
 - RAL shall ensure that its employees have been properly instructed, trained and proved to be competent and that arrangements have been made for them to be equipped and effectively supervised to undertake the Services.
 - The Client shall issue all rules and regulations to RAL prior to any work being undertaken that shall apply to any of the Client's premises where the work will be conducted. Any training required of RAL's staff shall be at the Client's expense.
 - If RAL is required to work on or about the running lines whether on the operational railway or on privately owned sidings, the Client will procure the provision of a suitably qualified person in charge and/or lookout person(s) and the Client shall ensure that no such work is carried out until RAL or its authorised representatives have been advised that the necessary safety arrangements are in place and briefed as appropriate.
 - RAL shall immediately report to the Client and to the Railway Inspectorate:
 - All injuries (other than of a trivial nature)
 - All accidents and dangerous occurrences (as defined in the Health and Safety – the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995).
 - All accidents causing damage to property or affecting or potentially affecting the safe working of the railway.
 - All statutory notices required to be served under the relevant statutory provisions or regulations of the Health and Safety at Work etc. Act 1974, in respect of Work on the operational railway shall be sent to the Office of Rail regulation as agent for the Department for Transport.
 - Neither party shall be liable for any failure or delay in meeting any of its obligations under this Agreement which were due to causes beyond its reasonable control, including but not limited to acts of God, war, labour dispute, insolvency of suppliers or sub-contractors, non-availability of parts or materials or accident.
 - RAL shall warrant the Services to a maximum of 12 months from date of provision of the Services, or any part of the Services. For the avoidance of doubt this warranty is at all times limited to the Services, excludes wear and tear or any defect caused by any act or omission of the Client or any third party, including any event outside the control or responsibility of RAL.
 - All RAL provided or developed material, such as, design studies, reports, drawings, specifications, documentation, schematics, test equipment, diagnostic software and associated media shall (together with all intellectual property rights therein) remain the exclusive property of RAL unless otherwise agreed in writing. Upon payment in full by the Client for the Services RAL grants to the Client to the extent permitted by the law or by contract a non-exclusive licence to use in perpetuity the work delivered to the Client under the provisions of the Services. In this clause "work" shall be taken to exclude (i) any intellectual property owned by a third party, and (ii) any intellectual property originated during RAL's performance of the Agreement and which is not specifically commissioned thereunder. Furthermore, RAL shall not accept any liability for any plans, documents, codes of practice, drawings, designs, specifications or other information which have not been created, produced or developed by it and on which RAL will rely for the purposes of undertaking the services other than where the specification requires RAL to validate or amend the same and such liability shall be limited accordingly.
 - Both parties agree not to provide or otherwise make available to any third party any of the documentation provided to execute this Agreement in any form without the prior written approval of the other party other than where this is expressly required to execute the Agreement or use its deliverables for their intended purpose. Such approval shall not be unreasonably withheld.
 - The Client shall pay all royalties and fees on patented materials and processes and registered designs supplied to RAL under this Agreement and shall be responsible for any infringement or alleged infringement of any patent registered design or otherwise protected right and the consequences thereof and indemnify RAL against all actions claims costs damages and expenses brought against or suffered by RAL in regard to any of the aforesaid matters. In the event of any claim being made or action brought against RAL in respect of infringement or alleged infringement of patent registered design or otherwise protected right RAL shall notify the Client immediately and the Client will at its own expense conduct all negotiations for settlement of the same and any litigation that may arise therefrom.
 - RAL reserves the right to use suitably qualified sub-contractors to assist in the delivery of this Agreement. Neither party may assign or transfer in whole or in part, this Agreement, any schedule nor any of its rights or obligations herein without the prior written consent of the other. Such consent shall not be unreasonably withheld.
 - Where services performed by RAL lead to the issuing of certification, attestation statements or reports the client shall not make incorrect or misleading references regarding the scope of such certification/reports in such a way as would compromise the integrity of the certification system used.
 - This Agreement represents the entire agreement between the parties in relation to its subject matter and supersedes all terms and conditions on the Client's order and all prior agreements and understandings whether oral or written, with respect to such subject matter. No variation of this Agreement shall be effective unless in writing and signed by a duly authorised representative of each of the parties.
 - No person who is not a party to the Agreement may in their own right enforce any term of this Agreement provided that this clause should not affect any right or action of any person to whom this Agreement is lawfully assigned or in whom this Agreement becomes vested in law.
 - If any provision or term of the Contract or any part thereof shall become or be declared illegal, invalid or unenforceable for any

- reason such terms or provisions shall be divisible from the Contract and shall be deemed to be deleted from the Contract.
- No failure to exercise or delay in exercising any right, power or remedy under or in connection with this Contract shall be construed or operate as a waiver thereof and no single or partial exercise of any right, power or remedy shall preclude any further or other exercise thereof or the exercise of any right or remedy.
 - No publicity shall be given to any matters relating to the Agreement either by text or illustration without prior approval being given in writing by both parties.
 - This Agreement shall be governed in accordance with English law.
 - The Agreement shall come into force upon provision of an issued project proposal from RAL and supply of an authorised purchase order from the client quoting the specific RAL project/contract number. The client's representative shall be duly authorised to accept the terms of the specific RAL proposal.
 - Unless otherwise agreed in writing formal documentation shall be used at the following stages for the administration of this Agreement:
 - Project Contract
 - Call-off Contract
 - Call-off Task Specification
 - Contract Variation Order
 - The Client shall not, during the term of this Agreement or for a period of 12 months after termination however caused, directly or indirectly solicit or entice away or endeavour to solicit or entice away from RAL or employ or offer to employ any employee of RAL who has been engaged in the provision of the Services. In the event that the Client is found to be in breach of this clause then the Client shall pay RAL by way of liquidated damages an amount equal to the gross annual salary of the relevant employee, as at the time of the breach by the Client.
 - Title in the Services shall pass to the Client upon payment. The Client shall be responsible for any Services delivered from the date of receipt of the Services to when title passes.
 - The Client shall always fulfil the certification requirements, including implementing appropriate changes when they are communicated by RAL.
 - If the certification applies to ongoing production, the client shall ensure that the certified product continues to fulfil the product requirements.
 - The client shall make all necessary arrangements for the participation of observers, if requested by RAL.
 - The client may only make claims regarding certification consistent with the scope of certification.
 - The client shall not use its product or quality system certification in such a manner as to bring the reputation of RAL into disrepute and shall not make any statement regarding its certification that RAL may consider misleading or unauthorized.
 - In making reference to its product certification in communication media such as documents, brochures or advertising, the client complies with the requirements of RAL or as specified by the certification scheme.
 - Upon suspension, withdrawal, or termination of certification, the client shall discontinue its use of all advertising matter that contains any reference thereto and take action as required by the certification scheme (e.g. the return of certification documents) and take any other required measures.
 - If the client provides copies of the certification documents to others, the documents shall be reproduced in their entirety or as specified in the certification scheme.
 - The client shall comply with any requirements that may be prescribed in the certification scheme relating to the use of marks of conformity, and on information related to the product.
 - The client shall keep a record of all complaints made known to it relating to compliance with certification requirements and makes these records available to RAL when requested, and
 - investigate complaints
 - take appropriate action with respect to such complaints and any deficiencies found in products that affect compliance with the requirements for certification;
 - document the actions taken.
 - The client shall inform RAL, without delay, of changes that may affect its ability to conform to the certification requirements.
 - During the term of this Agreement and after termination or expiration of this Agreement for any reason whatsoever the party to whom the Confidential Information is disclosed shall;
 - keep the Confidential Information confidential;
 - not disclose the Confidential Information to any other person other than with the prior written consent of the other party or in accordance with the provisions of this Clause;
 - not use the Confidential Information for any purpose other than in the performance of its obligations under this Agreement
 - During the term of this Agreement the party receiving the Confidential Information may disclose the same to its employees agents or subcontractors to the extent that it is necessary for the purposes of this Agreement. In complying with this clause the party receiving the Confidential Information shall procure that each of its employees agents or sub-contractors who receives the Confidential Information conforms with the obligations of confidentiality under this Agreement.
 - The obligations contained in Clauses 59 and 60 shall not apply to any Confidential Information referred to therein;
 - to any financier lawyer or accountant or other professional advisor to a party provided that (save with respect to lawyers) the party disclosing such information has obtained an undertaking of confidentiality from such advisors;
 - in connection with obtaining any insurance;
 - which is in the public domain other than as a result of the breach of any obligations of confidentiality;
 - which was made available by the disclosing party on a non-confidential basis;
 - which is required in connection with an assignment transfer or other disposition of rights permitted hereunder where the proposed assignee or transferee has agreed in writing to be bound by the provisions of this Clause;
 - which is required in connection with a sale or other disposition of shares in the Customer or the Supplier provided that any recipient of such information has provided an undertaking of confidentiality substantially in the same form as set out in this Clause;
 - to the extent required by applicable law the rules of any recognised stock exchange or regulatory body or other competent authority (including certification scheme manager or accreditation agency); and
 - In the case where either party is permitted to communicate Confidential Information to a third party such communication shall be on terms imposing restrictions on that third party's use of the Confidential Information similar to those set out in this Clause.
 - If either party wishes to protect its Intellectual Property Rights by patenting or sending a technical disclosure bulletin to the Science Reference Library or registering a design or trade mark or obtaining other similar protection of confidentiality this clause shall not prevent either party disclosing the information necessary to obtain such protection or registration.