



Department
for Transport

SE Trains Limited
94-98 Petty France,
London
SW1H 9EA
Attention: Company Secretary

CC: Steve White

Tim Rees
Market Lead
Market Team: TSGN & South Eastern
Market

Passenger Services
Rail Group
2nd Floor
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: [REDACTED]
E-Mail: [REDACTED]
Website: www.gov.uk/dft
Date: [REDACTED]

Dear Steve,

IN RESPECT OF THE SERVICE CONTRACT DATED 16 OCTOBER 2021 (THE "SERVICE CONTRACT") ENTERED INTO BETWEEN THE SECRETARY OF STATE FOR TRANSPORT (THE "SECRETARY OF STATE"), DFT OLR HOLDINGS LIMITED ("DOHL") AND SE TRAINS LIMITED (THE "OPERATOR")

**WRITTEN NOTICE PURSUANT TO CHAPTER 9.4.3 OF THE SERVICE CONTRACT-
'BREACH NOTICE'**

1. Words and expressions defined in the Service Contract have the same meaning when used herein unless the context otherwise implies.
2. By letter dated [REDACTED], the Secretary of State notified the Operator that it had contravened the requirements set out in "*Business Plan Commitment 37 'Automatic Vehicle Inspection'*" of the Annual Business Plan FY22/23 by failing to complete this obligation by the due date of [REDACTED] and to the specification required/ within the scope and budget contracted, in the Annual Business Plan.
3. Pursuant to paragraph 4.8 of Chapter 7.7 of the Service Contract, this failure constitutes a contravention of the Service Contract.
4. The Secretary of State is satisfied that the Service Provider is contravening or is likely to contravene the above provisions of the Annual Business Plan FY22/23, and in accordance with paragraph 2 of Chapter 9.4.3 of the Service, does hereby serve written notice ("**Breach Notice**") to the Operator setting out:

(a) the provision of this Agreement which the Secretary of State is satisfied that the Service Provider is contravening or is likely to contravene;

Paragraph 4.1 of Chapter 7.7 of the Service Contract:

In each Business Plan Year, the Operator shall deliver the Business Plan Commitments in accordance with the Business Plan with respect to such Business Plan Year.

BPC 37. Automatic Vehicle Inspection:

37.1. *In this Business Plan Commitment: "Automatic Vehicle Inspection System" means a system which facilitates the automated measurement and inspection of rolling stock vehicles.*

37.2. *The Operator shall, by no later than [REDACTED], complete a procurement exercise for the Automatic Vehicle Inspection System in order to improve maintenance efficiency, support cost reductions and the recovery of demand and revenue within the Operator's business.*

37.3. *The Operator shall [REDACTED] in carrying out the installation of the Automated Vehicle Inspection System*

(b) the act or omissions which, in the Secretary of State's opinion, constitute or would constitute contraventions of such provision:

- i. Pursuant to paragraph 4.8 of Chapter 7.7 of the Service Contract, If the Operator fails to deliver in full a Business Plan Commitment in accordance with, and by the timeframe specified for its delivery in, the relevant Business Plan, such late, partial or nondelivery shall constitute a contravention of the Contract.*
- ii. On [REDACTED], the Operator requested a derogation on the basis that they would not complete the procurement exercise by [REDACTED] and will not be able to [REDACTED] in carrying out the installation of the Automatic Vehicle Inspection System [REDACTED]. The Operator provided full details of the delay on [REDACTED].*
- iii. Since 16 October 2021, the Operator has engaged in regular bi-weekly meetings with the relevant team at the Department for Transport in respect of fulfilling the BPC. Prior to [REDACTED], the Operator had not provided an indication that there was a risk of the deadline not being met.*
- iv. In the course of discussions with the Operator, it has emerged that the fleet engineering team who were handling the installation were aiming to complete the full installation by [REDACTED]. This significant deviation from the agreed deadline was not agreed by the Secretary of State. On this basis the Secretary of State considers it is likely that the Operator will not be able to meet this deadline and therefore is likely to contravene this element of the BPC.*
- v. As a consequence of the above contraventions, the Operator will also be unable to incur the associated budgeted capital expenditure within the Second Contract Year reflected in BPC 37 paragraph 3.*

(c) the date and time of any meeting that the Secretary of State may require the Operator to attend (which shall be at least five (5) Weekdays from the date the Breach Notice is served) to discuss the causes of the contravention and the measures to be implemented to: (i) remedy the contravention and/or (ii) prevent the occurrence of such contravention

The Operator is unable to remedy the contravention or prevent the same as it relates to a failure to deliver by an agreed and specified deadline. The Department of Transport is currently in the process of preparing the Annual Business Plan for

2023/2024 Financial Year and the above contravention will need to be considered in the course of these discussions before the Secretary of State can engage in further discussions with the Operator regarding this contravention.

5. A copy of this letter shall be placed on the Department’s Contract Management System (CMS) for essential record keeping and to monitor ongoing compliance, in line with our obligations under the Service Agreement.
6. In addition The SoS may choose to publish a copy of this or future ‘Breach Notice’ letters with passenger facing/impacting contraventions on the Rail Public Register where it is deemed in the public interest. In line with our other contract publication activities, although there is no legal obligation to do so.

Yours sincerely,

SIGNED FOR AND ON BEHALF OF The Secretary of State for Transport))))	
Print Name of Authorised Signatory:	Tim Rees	
Position:	Market Lead	
Date:	<div style="background-color: black; width: 150px; height: 15px; margin: 0 auto;"></div>	

Redacted under FOIA 2000 exemption